

COMMISSION OF INQUIRY
INTO FORENSIC DNA TESTING IN QUEENSLAND

Brisbane Magistrates Court
Level 8/363 George Street, Brisbane

On Thursday, 29 September 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: I am not sure whether you are aware of this. I
4 was told there is a non-publication direction you were
5 going to --

6

7 THE COMMISSIONER: Yes. I think it has all been sorted.
8 Mr Hunter, there was a glitch in controlling the partly
9 redacted document, but - there is no need for me to go into
10 it now, but I think it has been sorted. So what I will do
11 is I will withdraw an earlier non-publication order which
12 is redundant now and make a new one which will be posted on
13 the website, and I think that will sort things out.

14

15 MR HUNTER: Thank you. Mr Hodge was good enough to
16 explain that this morning.

17

18 THE COMMISSIONER: Yes, good. And I want to acknowledge
19 the professionalism of The Australian in redacting the
20 identifying features in the story that they published that
21 were not redacted on the document itself.

22

23 MR HUNTER: We are grateful for that.

24

25 THE COMMISSIONER: Yes, thanks. Mr Hodge?

26

27 MR HODGE: Thank you, your Honour. Commissioner, just
28 before we call the first witness for today, can I just
29 clarify or add something to what I said in opening?

30

31 You might recall in opening, I said as of yet we have
32 not identified a precedent within the lab for an Options
33 Paper of this kind?

34

35 THE COMMISSIONER: Yes.

36

37 MR HODGE: And we have now identified some documents from
38 within the lab that refer to options papers having been
39 presented to QPS on other occasions, and so far we think we
40 have identified three references to other options papers -
41 one in about 2010 or 2011, one in about 2016 or 2017 and
42 one, at least under consideration, in about 2019 - in
43 addition to the one that's the subject of this module.

44

45 I just wanted to add that to what I had said in
46 opening and I am going to, as I have indicated to all the
47 parties - I now have a copy of one of those Options Papers

1 and I am going to ask one or two of the witnesses about it
2 today.

3
4 THE COMMISSIONER: So there were precedents for an options
5 paper format?

6
7 MR HODGE: There were precedents for concepts of an
8 options paper.

9
10 THE COMMISSIONER: The reason I am just careful about the
11 use of the word "format" is I am not sure - you will see
12 one this morning. I don't know if you would say it is in
13 the same format.

14
15 THE COMMISSIONER: All right. Thanks.

16
17 MR HODGE: Commissioner, the first witness this morning is
18 Superintendent Frieberg and I understand that she will take
19 an oath.

20
21 THE COMMISSIONER: Yes.

22
23 <SUPERINTENDENT DALE FRIEBERG, SWORN

24
25 <EXAMINATION BY MR HODGE

26
27 MR HODGE: Q. You are Dale Frieberg?

28 A. I am.

29
30 Q. You are a superintendent with the Queensland Police
31 Service?

32 A. Yes, I am.

33
34 Q. You provided a statement to this commission of
35 inquiry?

36 A. I have.

37
38 Q. I will put that up on the screen. That is
39 [WIT.0035.0001.0001_R]. And that's the statement that you
40 provided, Superintendent Frieberg?

41 A. That is correct.

42
43 Q. You signed that statement on 5 September 2022?

44 A. Yes, I did.

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46 Q. Are there any changes you wish to make to it?

47 A. No.

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Q. Is it true and correct?

A. Yes, it is.

MR HODGE: Commissioner, I don't actually need to - I should formally tender that, but I think yesterday you marked it for identification, and in anticipation it has already been allocated an exhibit number. I might just actually hand it up to you now a list which shows the actual numbers.

THE COMMISSIONER: Thank you.

MR HODGE: This is going in as exhibit number 28.

THE COMMISSIONER: Thank you.

**EXHIBIT #28 - WITNESS STATEMENT OF DALE FRIEBERG DATED
05/09/2022**

MR HODGE: I should indicate just for your benefit in relation to the numbering issue, the next exhibit will now be exhibit 36.

THE COMMISSIONER: Whatever you say, Mr Hodge.

MR HODGE: Thank you.

Q. Superintendent Frieberg, you do not have any scientific or biology qualifications?

A. No, I don't.

Q. You commenced policing in 1988?

A. Yes, I did.

Q. You had some investigative roles in the late 1980s and early 1990s?

A. That's correct.

Q. Have you held any investigative roles after 1992?

A. Yes, I have. I went between general duties where we had cause to investigate matters that came to our attention with complaints, and then when I was promoted to commissioned rank in 2009, I was appointed to the Internal Investigations Branch, it was then, at Ethical Standards Command, and I was placed in the Investigations Team. So I was there for three and a half years.

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Q. Thank you. You were promoted in August of 2017 to Superintendent of the Operations Support Command?

A. That's correct.

Q. And the Operations Support Command has in it the Forensic Services Group?

A. That's correct.

Q. When did you finish in that position the first time?

A. It would have been around September of 2018, the end of.

Q. Then did you go back to that position again?

A. Yeah. The substantive superintendent was deployed elsewhere and there was an opportunity late last year to go back down to Forensic Services, so I took that opportunity and I was there until I commenced in the beginning of October of 2021 and I completed my tour there at the end of February of this year.

Q. Thank you. At the time you were promoted to the role in August of 2017, did you have experience with the use of DNA in investigations?

A. No.

Q. At the time you stepped into the role of superintendent in August of 2017, who was the manager of the DNA Management Unit?

A. So there had been some movement within Forensic Services with the inspectors, and that was attributed to the Assistant Commissioner at the time. So Dave Neville actually had been appointed to the DNA Unit, but Ewen Taylor had been relieving in that role while Dave was doing other duties.

Q. I see. How long was Ewen Taylor in that role, as you recall it?

A. I couldn't honestly say the number of months, but I know that Dave returned to the role in June of 2018.

Q. Thank you. What science qualifications did you understand Acting Inspector Ewen Taylor to have?

A. I wasn't aware of what qualifications Ewen specifically had. I know that he has served in Forensic Services for some time, and made a career of it, but I - I couldn't articulate what his qualifications are.

1
2 Q. Thank you. I just want to bring up the organisational
3 chart just to give some sense of the scope of
4 responsibilities. Could we bring up exhibit 7 to
5 Superintendent Frieberg's statement [WIT.0035.0001.0001_R
6 at 0080]. The "exhibit 7" may have confused things. It is
7 just page 0080 from Superintendent Frieberg's statement.
8 I see.

9 A. I have an unredacted copy in my file here, so --

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11 MR HODGE: Commissioner, do you have an unredacted copy?

12
13 THE COMMISSIONER: What exhibit number is it?

14
15 MR HODGE: It is exhibit number 7 of Superintendent
16 Frieberg's statement?

17
18 EPE OPERATOR: Am I to go to the unredacted version?

19
20 MR HODGE: No, I think it has a lot of numbers on it which
21 I think is probably best not to --

22
23 THE COMMISSIONER: Exhibit 7, did you say?

24
25 MR HODGE: Yes, exhibit 7. It should be the page ending
26 in.0080 in the top right-hand corner.

27
28 THE COMMISSIONER: Yes. It is an organisational chart, is
29 it?

30
31 MR HODGE: Yes.

32
33 THE COMMISSIONER: Mine is unredacted.

34
35 MR HODGE: Thank you. And you have the unredacted version
36 in front of you as well, Superintendent.

37
38 I just want you to get you to explain something about
39 the structure of the group that you were in charge of. In
40 this version we see Acting Superintendent Scott McLaren at
41 the top of the organisational chart, but that was the
42 position that you stepped into as the superintendent?
43 A. That's right. Scott McLaren was a Forensic Manager
44 who worked at the south-eastern region at that particular
45 time. With the promotion and shifting of the substantive
46 superintendent, Scott took up an expression of interest and
47 he performed the superintendent role for approximately

1 10 months prior to my promotion and arrival at Forensic
2 Services.

3
4 Q. Thank you. And you see there is effectively two rows
5 of direct reports to you. The top row is of different
6 regional areas.

7 A. Yes.

8
9 Q. And is it the case that there are different regional
10 areas that are allocated to deal with Forensic Services in
11 those areas?

12 A. So I had 13 --

13
14 Q. I am sorry to interrupt you, Superintendent. I am
15 told that the live stream has just been cut. It has been
16 working?

17
18 THE COMMISSIONER: No, I think it might have resumed. Is
19 that right? No, the live stream has not been working this
20 morning, but the proceedings are being recorded and will be
21 uploaded. So in due course this morning the live stream
22 will resume.

23
24 MR HODGE: Thank you. You are content for me --

25
26 THE COMMISSIONER: Thank you. It is all being recorded
27 and we will do our best.

28
29 THE WITNESS: So I had 13 direct reports. So within
30 Police Headquarters on Level 4 there are a number of
31 different units. At this particular time when I was
32 superintendent, we had the Scientific Unit; we had the DNA
33 Management Unit; there was the Fingerprint Unit; there was
34 the Photographics. We also had a Quality Management Unit,
35 which were located on the ground floor; the Coronial
36 Support Unit, which is located here in this building; and
37 then outward from Police Headquarters were various regions.

38
39 So within each region there was an Inspector of
40 Police. So there was an inspector who looked after the
41 scenes of crime for Far Northern and northern regions, so
42 that is right to the top of Queensland, out to the border
43 with Northern Territory, Cairns and Townsville being the
44 primary major centres. Central region, so that was
45 Rockhampton, Mackay, at that particular time, the Sunshine
46 Coast; the inspector there was actually located at the
47 Sunshine Coast.

1
2 Brisbane region, because it's so large it is divided
3 into two. So there is an inspector on the north side of
4 the river, one on the south, and they took in various other
5 areas right up and out to Toowoomba, Longreach,
6 Charleville, all of those areas, and then Ipswich on the
7 south side. And then the Gold Coast, which was the
8 southeastern region. So those inspectors worked out in the
9 field and reported in to me as well.

10
11 Q. I understand. So there were some direct reports you
12 had who managed regional areas of Queensland and then there
13 were some direct reports that managed particular units in
14 relation to Forensic Services?

15 A. That's correct. So, you know, Forensic Services,
16 there was in excess of 500 staff across the State.

17
18 Q. And that includes the Forensic Services officers who
19 are located in different regions?

20 A. That's correct.

21
22 Q. And do they include officers who carry out scene of
23 crime collection?

24 A. That's correct. And in certain centres there would
25 also be scientists, so people from the scientific area.
26 There would be fingerprint experts. So just depending on
27 the nature of the location.

28
29 Q. As a superintendent, did you have a regular
30 performance review?

31 A. Myself? Yes, I did.

32
33 Q. As part of that review, did you have KPIs that your
34 performance was measured against?

35 A. Yes.

36
37 Q. In your role as the Superintendent of the Forensic
38 Services Group, were there any KPIs in relation to DNA
39 matches?

40 A. Not specific to DNA. I think they would have been
41 more general than that. So it would have been around my
42 performance in a leadership role, my performance in
43 relation to supporting frontline police officers and
44 investigators, and then, on the other side, from a more
45 strategic side, there's - I had quite a large budget. And
46 human resources, that sort of thing, injury management.

47

1 Q. Are you familiar with the concept of turnaround times?

2 A. Yes.

3

4 Q. Could you just explain to us your understanding of the
5 measure of turnaround times in relation to DNA?

6 A. So from time to time during the times that I served at
7 Forensic Services, there have been varied turnaround times.
8 So it would be from the moment that, I guess, an exhibit
9 was submitted to when it was returned with an outcome.

10

11 Q. I just want to press you on that a little bit, but
12 tell me if you're not familiar enough with it to be able to
13 or at least can't recall now to be able to answer.

14

15 First, when you talk about it being submitted, you
16 mean submitted to Forensic Services, the Queensland lab?

17 A. Yes, sorry, I should have said that.

18

19 Q. And that is submitted by the QPS to, effectively, the
20 Queensland lab?

21 A. That's correct. So the DNA Unit is made up of three
22 different areas. One of those areas was the conduit
23 between the Queensland Police Service and Queensland
24 Health. So it would be the people who worked in that unit
25 responsibility to submit those.

26

27 Q. And the DNA Unit that you are referring to is the DNA
28 Unit within QPS?

29 A. Yes.

30

31 Q. Within your section of the organisation that you were
32 responsible for?

33 A. That's correct.

34

35 Q. And so the starting point for measuring turnaround
36 time is when does the DNA Unit within the part of QPS that
37 you're responsible for submit a sample to Forensic Services
38 at Queensland Health?

39 A. Sorry, you're asking - sorry, can you repeat that?

40

41 Q. When you are measuring turnaround time, the starting
42 point that you use is when does QPS, through your DNA Unit,
43 or at the time your DNA Unit submitted to Queensland
44 Health?

45 A. That would be my understanding.

46

47 Q. And then the end point, that is, when you judge that

1 there has been turn around, you I thought referred to as
2 the result coming back?

3 A. When we receive a result back from Queensland Health
4 Forensic Services.

5

6 Q. Are you familiar with what is referred to sometimes as
7 NCIDD, the National Criminal Intelligence DNA Database.

8 A. I have heard of it but I am not familiar with it.

9

10 Q. Are you familiar with the concepts of cold links and
11 warm links?

12 A. I am aware of what they are, but only in a layperson's
13 term.

14

15 Q. Perhaps then if you could just tell us what do you
16 understand a "cold link" to be?

17 A. So a cold link is when there's a DNA profile but it
18 can't be matched, and a hot link is - my understanding is
19 when we have an idea of who that person is because they are
20 recorded as having DNA, so whether it's actually been a
21 sample that's been taken by an offender previously.

22

23 Q. I see. I want to then ask you some - sorry, before I
24 go on. I just want to then understand, when you think of
25 turnaround times, do you understand there to be any
26 relevance of whether something is a cold link or a warm
27 link to turnaround time?

28 A. I'd have to leave that to the inspector to answer.

29

30 Q. Do you have any familiarity or understanding of
31 whether turnaround times are connected specifically with
32 submissions and results from NCIDD?

33 A. I can't comment on that.

34

35 Q. Thank you. I want to then ask you some questions
36 about information that you were provided for when you
37 commenced in the role in August of 2017.

38 A. Yes.

39

40 Q. In your witness statement - I think you have a
41 hard copy there which might make it easier for you - if you
42 go to - it is exhibit 3 is the email, I think, that sent
43 you - sorry, it seems to continue on from Exhibit 3. But
44 if you go to page which is [WIT.0035.0001.0001_R at 0048].
45 Could you bring that up, operator. Superintendent, does
46 your version have a 15-character code at the top of the
47 page?

1 A. No. It's just marked "exhibit"?

2

3 THE COMMISSIONER: What exhibit number, is it, Mr Hodge?

4

5 MR HODGE: It looks like it is part of exhibit 3. I think
6 exhibit 3 is a bundle of documents. I just wonder
7 whether --

8

9 THE COMMISSIONER: It is the second sheet of exhibit 3,
10 Superintendent.

11

12 THE WITNESS: Yes, I've got it, Commissioner.

13

14 MR HODGE: Q. I will bring the documents up on the
15 screen, if that helps, Superintendent. You will see that
16 this is a handover briefing document, and as I understand
17 your statement, this was provided to you by the outgoing
18 Acting Superintendent from whom you took over?

19 A. That's correct.

20

21 Q. This deals with a particular area, which is the DNA
22 Management Section?

23 A. That's right.

24

25 Q. If we go over the page to [WIT.0035.0001.0001_R at
26 0049], we can see there is an explanation of the various
27 parts of the DNA Management Unit?

28 A. Mmm-hmm.

29

30 Q. I take it when you took up the role, you would have
31 read reasonably quite thoroughly this handover document?

32 A. I did.

33

34 Q. If we go over the page to [WIT.0035.0001.0001_R at
35 0052]. Now, that version is fully redacted. That's page 5
36 of the hard copy document.

37

38 THE COMMISSIONER: Yes, the bottom right-hand corner has a
39 "5" in a dark square.

40

41 THE WITNESS: Yes, I've got that.

42

43 MR HODGE: Unless QPS tells me there is something
44 confidential about budget figures, which would be
45 surprising, I will ask you some questions about that. My
46 learned friend says that's fine.

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Q. You will see in the middle of the page there is a box which says, "Budget"?

A. Yes.

Q. Effectively, it looks like there are two different lines there. One is the operating budget, which is \$1.912 million for FY-17?

A. Yes.

Q. And then you will see the next one or the next line is \$3 million for crime scene samples?

A. That's correct.

Q. There are some handwritten notes next to that. Are they your handwritten notes?

A. They are.

Q. You identified, in going through this document, that the operating budget for the DNA Management Unit is \$1.912 million, and then there is a separate amount which you have identified remains the same, which is the \$3 million for crime scene samples?

A. That's correct.

Q. And so is it the case that when you took up the role, you familiarised yourself with the fact that every year the QPS was paying \$3 million to Queensland Health for the DNA services?

A. That's correct.

Q. And just to clarify, that is only in relation to crime scene samples?

A. That's correct.

Q. Was it your understanding that there was a separate amount that was charged in relation to reference samples by Queensland Health, or were you not aware of that?

A. Look, I might have been aware of it at the time. My recollection at the moment probably - I couldn't say 100 per cent, so --

Q. Do you see in the next box there is a list of ongoing expenses?

A. Yes.

Q. Do you see the first line item there is:

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DNA testing - Anticipated for [FY-18].

A. Yes.

Q. And the amount there is \$1.871 million?

A. Yes.

THE COMMISSIONER: Excuse me, Mr Hodge. Mr Hunter, the document on the screen is redacted. Do we need to redact this? They are historic figures.

MR HUNTER: I am struggling to understand why it would have been. I can't see any difficulty at the moment.

THE COMMISSIONER: Mr Hodge --

MR HODGE: I have no difficulty with removing the redaction.

THE COMMISSIONER: Yes. Well, let's remove it. Otherwise nobody knows what anyone is talking about.

MR HODGE: Yes.

THE COMMISSIONER: Thank you.

MR HODGE: Q. Perhaps if we just blow up then the part which is "Financial Resources" and also the next box as well. Thank you.

What I had just taken you to was the list of ongoing expenses is \$1.871 million for FY-18. And do you recall whether you knew what that money was for, whether it went to paying for a testing of reference samples with Queensland Health, or whether it went to NATA fees, or something else?

A. I honestly can't recall.

Q. Okay. And in relation to the \$3 million for crime scene samples, were you aware of how long that amount had remained fixed at the same level?

A. I think it's been - my understanding is it has been at that value for some time. I couldn't tell you when it was implemented. My assumption is that it is still similar today.

1 Q. I just for a moment to get you, if you can, to focus
2 on August of 2017 when you started or when you took up the
3 role. Do you recall whether you were aware at that time of
4 how long the amount had remained the same?

5 A. No, I don't.

6

7 Q. But it was the case that sometime soon after you
8 commenced in the role, you became aware that that amount
9 had stayed the same for some time?

10 A. That's correct.

11

12 Q. And you understood that that was the amount for crime
13 scene samples as distinct from other kinds of samples?

14 A. Yes.

15

16 Q. Thank you. If we then go over to page
17 [WIT.0035.0001.0001_R at 0056], that's the handover
18 briefing document in relation to the quality Management
19 Section ?

20 A. Yes.

21

22 Q. I may have misunderstood this, but at the time you
23 took up the role or just before you took up the role, was
24 Inspector Neville part of the Quality Management Section ?

25 A. Yes, he had been in the Quality Management area for
26 some time. I couldn't tell you how long, but he had been
27 there for quite a number of years.

28

29 Q. Thank you. If we then go over the page. I will just
30 check with the operator because I want to go to page .0058
31 but before that gets brought up, when I look at that page,
32 it appears to me that the top half of the page should be
33 redacted because it contains personal confidential
34 information, but the bottom half of the page, which is
35 Financial Resources, I can't see a reason why that should
36 be redacted. And Mr Hunter agrees. I just want it to
37 check. I don't want it to come up so that everyone can see
38 the top half of the page.

39

40 EPE OPERATOR: The whole page is redacted here.

41

42 THE COMMISSIONER: It is redacted from the top of the page
43 down to but not including the subtitle "Financial
44 Resources".

45

46 EPE OPERATOR: The redacted version I have has the whole
47 page. I do have the unredacted, but I have to put it on

1 the screen to redact that portion.

2

3 MR HODGE: All right. Perhaps if you do that very quickly
4 and immediately. It won't come up on the video screen.
5 I don't think we can ask everyone not to look, but we can,
6 if necessary, make a - keep going. Keep going. Thank
7 you. And then if you can blow up "Financial Resources".

8

9 Q. Again, you would have thoroughly read these documents
10 in order to understand the scope of your budget and what
11 was going on?

12 A. Yes.

13

14 Q. In relation to quality management, we can see that
15 what is explained at the top of that budget is that upon
16 the establishment of the Quality Management Section, the
17 Board of Management granted it a budget of \$330,000.

18 A. Correct.

19

20 Q. And there is then a list of the various things that
21 that budget was to be used for to ensure that the Forensic
22 Services Group maintained all of the NATA requirements?

23 A. Yes.

24

25 Q. And you will see that one of those things, about a
26 third of the way down is:

27

28 *-professional development of forensic*
29 *experts ...*

30

31 A. That's correct.

32

33 Q. And the next one is:

34

35 *-conduct of face to face biannual refresher*
36 *training of all SOC Officers*

37

38 And that is scenes of crime officers?

39 A. Yes.

40

41 Q. And then can we then go over the page. And if we just
42 blow up the top part of that you will see a further
43 explanation, which is:

44

45 *In 2015 the budget was reduced to \$230,000*
46 *after FSG management reallocated the funds*
47 *to other areas of business.*

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A. Yes.

Q. And it is said:

As a result the [Quality Management Section] is now no longer able to fulfil all of the above requirements (in particular the delivery of refresher training to [scenes of crime] Officers).

A. Yes.

Q. That is what you understood to be the position when you took up the role in August of 2017, that there wasn't sufficient budget allocated to be able to conduct refresher training for scene of crime officers?

A. Yes.

Q. And during the time that you held the role in 2017 and 2018, was that situation addressed?

A. Not that I can recall.

Q. When you returned to the role in 2021, had that situation been addressed?

A. I - I'm not sure.

Q. Thank you.

A. It's not a conversation that I had.

Q. If we could then go to page [WIT.0035.0001.0001_R at 0062]. The heading is:

Operational/Service Delivery

And you see a heading:

Current Operational Issues and Responses.

And then a heading:

Capacity to respond to major crime.

A. Yes.

Q. And you will see there is an identification here, first that:

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90% of crime scene investigators are [scene of crime] Officers.

A. That's correct.

Q. And they were trained to respond to volume crime matters?

A. Yes.

Q. And then:

The other 10% are Scientific Officers who have enhanced crime scene investigation skills and predominantly respond to major crime matters.

A. Yes.

Q. When you took up the role, were you familiar with the distinction between volume crime and major crime?

A. Yes.

Q. Were you familiar or did you become familiar in the role with the use of the term "Priority 3" to refer to volume crime matters when samples were submitted to Queensland Health for DNA testing?

A. That is correct.

Q. And you were familiar that the term "Priority 2" was used to refer to major crime matters that were submitted to Queensland Health for DNA testing?

A. Yes.

Q. Did you have an understanding of what a Priority 1 matter was?

A. Priority 1, again, is major crime, but the more urgent of the major crime.

Q. Thank you. You will see in the next paragraph it says:

In terms of work effort, 25% of time is now spent on major crime. As a result there is a deficit in our ability to respond adequately.

1 A. That's correct.

2

3 Q. And then it says:

4

5 *CSISEP has been implemented to bridge that*
6 *gap.*

7

8 Can you explain to the Commissioner what CSISEP is?

9 A. I couldn't tell you what it spells out to be, but it
10 is CSISEP, and it was a course that was designed for scenes
11 of crime officers - they had to apply for it - and it gave
12 them the ability to do presumptive testing at a scene. So
13 it gave them skills above and beyond what a regular scenes
14 of crime officer would do.

15

16 Q. Thank you. During that period 2017 to 2018 when you
17 were in the role of superintendent, did you form a view as
18 to whether the deficit in the QPS's ability to respond to
19 major crime matters had been addressed?

20 A. I think that certainly there were some challenges. We
21 had quite a number of officers who, you know, sat in the
22 Injury Management space. As you could imagine, scenes of
23 crime officers see some pretty ordinary things. So there
24 were periods where I would have to shift officers around or
25 ask for volunteers to put them in certain areas to be able
26 to service that area sufficiently.

27

28 Prior to my arrival, Scott McLaren had actually
29 established what was generally referred to as a bit of a
30 flying squad. So people would put their hands up from that
31 space to volunteer to go and work in other areas to help
32 fill the gap.

33

34 Q. I see. Just doing the best you can for us, when you -
35 presumably this was an issue that you were very conscious
36 of during the time that you were a Superintendent, that
37 there was a deficit in the ability of the QPS to do, to put
38 it very bluntly, forensics for major crimes. At the time
39 you finished in the role in 2018, did you think that that
40 issue had been addressed?

41 A. No, I don't, and I think even in my return we had some
42 successes in getting additional resources, but Forensic
43 Services over quite a period of time had not seen any
44 growth in staffing.

45

46 Q. Thank you. And then I want to return for a moment to
47 turnaround times. If we can bring up page

1 [WIT.0035.0001.0001_R at 0005] of Superintendent Frieberg's
2 statement and blow up paragraph 16. You see there,
3 Superintendent Frieberg, you make a point that at the time
4 you took over as superintendent in both 2017 and 2021,
5 there were backlogs. And as I understand it, that is
6 referring to backlogs in relation to testing by the DNA lab
7 in Queensland?

8 A. That's correct.

9

10 Q. You refer to your understanding that at one stage the
11 backlog reached 60 days as compared with the 10-day turn
12 around?

13 A. That's correct.

14

15 Q. Do I understand the situation to be looking back now,
16 you can't remember exactly when that was, whether that was
17 in 2017 or 2018 or 2021?

18 A. So prior to Dave Neville returning, it certainly
19 wasn't something that had been raised to me, but certainly
20 with Dave Neville taking up the role in 2018, in that June,
21 and on my return, it is something that he would raise on a
22 regular occasion.

23

24 Q. I had understood, though, from the first sentence of
25 paragraph 16 that there was a backlog even when you took up
26 the role in 2017; is that right?

27 A. At times, yeah. I couldn't tell you exactly what that
28 backlog was.

29

30 Q. You refer there to the 10-day turnaround time. I just
31 want to understand something about that. Is that a
32 specific measure that you remember now, that there was to
33 be a 10-day turnaround time?

34 A. It wasn't a specific measurement. It was a notation
35 that I had made in one of my diaries as a result of,
36 obviously, a conversation that I'd had at a particular
37 time. I noted that the turnaround times were at 10 days,
38 and then the 60 days was another example. So I couldn't
39 definitively tell you exactly what it was each week, but
40 there were moments in time where, through my office,
41 reported up to the Assistant Commissioner on turnaround
42 times when it started blowing out a little bit.

43

44 Q. I just need to ask you something which I think I have
45 already asked you but I just want to make sure there is no
46 ambiguity about it later. You don't recall having known
47 during either of your stints as the Superintendent of the

1 group exactly how turnaround time was measured with
2 anything to do with cold links or NCIDD?

3 A. Oh, look, that is something I would expect the
4 inspector of that unit to handle.

5

6 Q. I then want to move to a related topic. In 2017 when
7 you took up the role, was Scott McLaren an inspector at the
8 QPS?

9 A. Yes, he was.

10

11 Q. What was his role when you took up the role of
12 Superintendent?

13 A. So his background, my understanding, originally was in
14 the Coronial Support Unit, and he worked in the Coronial
15 Support Unit for a - I don't know how many years.
16 Eventually, he was promoted to commissioned rank. He
17 actually - I think he may have worked in the DNA Unit at a
18 particular time, but on my arrival, his substantive
19 position was as the Forensic Manager at the southeastern
20 region, which was the Gold Coast and Logan.

21

22 Q. I see. Do you recall a meeting that you and Scott
23 McLaren had in 2017 with at least Cathie Allen about the
24 processing of volume crime?

25 A. I can't recall. I'd have to refer if it's my
26 statement.

27

28 Q. It's not in your statement. What I might do is I will
29 show you a document first. Can we bring up
30 [FSS.0001.0010.7050]. What I might ask the operator to do
31 is - this hasn't been redacted just, because it has been
32 put forward at the last moment, but you can see - thank
33 you - it is an email that you sent, Superintendent
34 Frieberg, to Cathie Allen. And then it is in response to
35 an email that Cathie Allen sent to you?

36 A. Yes.

37

38 Q. Thank you, operator. If you look first at the email
39 at the bottom of the page, you see Cathie Allen emails you
40 on 6 September 2017.

41 A. Yes.

42

43 Q. And says:

44

45 *Hi Dale*

46

47 *I am following up with you regarding the*

1 *discussion held on the options paper*
2 *regarding DNA profiling kits for*
3 *Volume Crime samples.*

4
5 A. Mmm-hmm.

6
7 Q. Perhaps I will just invite you to read the rest of
8 that email and your response.

9 A. It says:

10
11 *During the meeting, we ...*

12
13 Q. No, just read it to yourself.

14 A. Okay. Sorry. Okay, yes.

15
16 Q. If you just read your response as well.

17 A. Yes.

18
19 Q. Does that bring back to you any memory about a meeting
20 that you held in 2017 about the use of kits for Priority 3
21 or volume crime?

22 A. Can I ask for it just to be scrolled back down to the
23 bottom, if that's okay?

24
25 Q. Certainly. Look, it doesn't bring back a memory, but
26 obviously I have responded to an email after a conversation
27 with Scott McLaren.

28
29 Q. I see. Do you recall having had a meeting with Cathie
30 Allen and Scott McLaren to discuss volume crime and what
31 testing kits would be used?

32 A. I don't.

33
34 Q. Thank you.

35
36 MR HODGE: Commissioner, I will tender that email, that
37 chain of emails. Are you content - I will just say I
38 tender it.

39
40 THE COMMISSIONER: Yeah. Just say you tender it and we'll
41 work out the numbers -

42
43 THE WITNESS: So --

44
45 THE COMMISSIONER: Q. Sorry, go ahead, were you going to
46 say something?

47 A. Sorry, Commissioner, I was just going to ask, just in

1 Cathie Allen's email to me, she actually refers to that:

2
3 *[Inspector] McLaren advised that he would*
4 *discuss the options with you and provide*
5 *advice.*
6

7 So I'm not sure when that meeting actually occurred as to
8 whether or not I was actually there. I may have been
9 there, but the way that reads to me is that the meeting
10 occurred with Scott McLaren.

11
12 MR HODGE: Q. I see. You think it is possible Cathie
13 Allen met with Scott McLaren and then he reported back to
14 you?

15 A. I do. There's a report - I'm not saying that I wasn't
16 there, but reading the way that reads to me, it reads that
17 she's had a meeting with Scott McLaren and that he was
18 going to provide advice.

19
20 Q. Yes.

21 A.

22
23 *... options to [me] and provide advice.*
24

25 Q. I understand. If you look at the email at the top of
26 the page where you write to Cathie Allen, you see you say:

27
28 *Apologies, I have spoken with Scott as a*
29 *result of your email and our visit there in*
30 *late July.*
31

32 A. Yes.

33
34 Q.

35 *We did agree to move forward as suggested*
36 *to use PowerPlex21.*
37

38 A. And it could have been - there was an introduction
39 meeting in my - the week that I started was 7 August, but
40 the week prior to that, I spent with Scott. So - and
41 during that week, we met with Cathie Allen and Paul Csoban.
42 So it may have been the fact that it was raised at
43 particular time, but I would have been oblivious to what
44 PowerPlex 21 was at that particular time.
45

46 Q. All right. I want to show you another document, which
47 is [FSS.0001.0010.7039]. I can hand you a hard copy, but I

1 suspect - I don't know whether one of the lawyers acting
2 for you gave you a chance to look at it?

3 A. I had a glimpse of it, yes.
4

5 Q. Is this a document that you can recall having reviewed
6 in your role as Superintendent, or you're not sure?

7 A. No. I don't recall it. And I'm looking at the date
8 in October 2016, so I don't know if it was forwarded to
9 Forensic Services with the QPS at that particular time or -
10 but I don't recall it, no.
11

12 Q. If we just go over the page to [FSS.0001.0010.7039 at
13 7040] and just if we can just blow up the first three
14 bullet points. I'll just read these out, and then I want
15 to ask whether these are propositions that you were
16 familiar with at the time in your role as superintendent.
17 The first is:
18

19 *Volume Crime processing should be*
20 *intelligence-focussed in that the cases*
21 *largely non-suspect cases and therefore*
22 *profiles to NCIDD with quick TAT ...*
23

24 Which is turnaround time:
25

26 *... should be the service delivery aim*
27

28 That seems to incorporate within it the idea of getting
29 profiles to NCIDD, and that being something that is
30 different in relation to the goals for volume crime as
31 compared to major crime. Is any of that something that you
32 were familiar with at the time you were superintendent?

33 A. No.
34

35 Q. And then you see the second point is:
36

37 *Volume Crime samples comprise approximately*
38 *50% of samples received at FSS.*
39

40 A. I have - I have heard that previously.
41

42 Q. Then you see the next point is:
43

44 *In July 2008, QPS requested no reworks on*
45 *Volume Crime samples (unless not amplified*
46 *at max and not enough alleles for NCIDD*
47 *upload) in order to assist in generating*

1 *quick intelligence through NCIDD*
2 *interaction.*

3
4 Is any of that something that you are familiar with?
5 A. I'm not familiar with that.

6
7 MR HODGE: Commissioner, I will tender that.

8
9 **EXHIBIT #37 DOCUMENT ENTITLED "CONSIDERATIONS FOR A NEW**
10 **DNA PROFILING KIT FOR USE ON CASEWORK SAMPLES IN FORENSIC**
11 **DNA ANALYSIS"**

12
13 I understand that is one of the Options Papers that I
14 referred to earlier before Superintendent Frieberg came on
15 the stand.

16
17 THE COMMISSIONER: All right.

18
19 MR HODGE: Q. Superintendent Frieberg, I then want to
20 just show you a document to build up the chain by which the
21 Options Paper came to you. Can we bring up
22 [WIT.0019.0012.2466]. Thank you. That is a chain of
23 emails within another witness statement. I am only going
24 to tender the email. I'll just note that now. If you look
25 at the bottom of the page, can we blow up that email at the
26 bottom of the page from Cathie Allen. Thank you. You'll
27 see that Ms Allen sends you an email, copied to Mr Taylor
28 and Mr O'Malley and Ms Csoban, on 22 January 2018.

29 A. Yes.

30
31 Q. You will see that the subject is:

32
33 *Volume Crime Samples*

34
35 A. Yes.

36
37 Q. You will see she says:

38
39 *Last year we met with you and Insp Scott*
40 *McLaren regarding processing of Volume*
41 *Crime samples ...*

42
43 A. Yes.

44
45 Q.

46 *... given the discontinuation of Profiler*
47 *Plus kits from Applied Biosystems.*

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47

Just to pause on that. I take it you haven't - nobody has brought this email to your attention as part of your preparation to give evidence to the Commission?

A. I don't recall.

Q. You will see what Ms Allen says is:

From today ...

So that is from 22 January 2018:

... Volume Crime samples will be processed using PowerPlex 21, as directed by the QPS.

A. Yes.

Q. And reflecting on it now, do you have any recollection of either giving that direction or knowing about the change to the use of PowerPlex 21 for volume crime samples?

A. Look, it's familiar, but I - I honestly can't recall.

Q. Then you will see the next paragraph says:

My team has come up with an Options paper regarding further improvements that could be made to Volume Crime workflow and I'll forward that to you later today for your review. Paul and I would like to meet with you to discuss this paper and another item - are you able to advise when you would be available to discuss these with us?

Just pausing on that, do you know what the other item was that Ms Allen is referring to? Can you remember that now?

A. I - I can't recall what the other item is.

Q. If we go to the top of the page, you will see you respond within an hour, saying:

Thank you for your email. I will have my exec sec ...

I assume that is executive secretary:

... organise a time suitable to all to

1 *meet.*

2

3 A. Yes.

4

5 Q. And if I suggest to you that it appears that the
6 meeting that was then organised was the meeting that
7 occurred on 2 February 2018?

8 A. That's correct.

9

10 Q. Thank you. You may not remember now, but in that
11 first email that I just showed you, Ms Allen refers to an
12 Options Paper about volume crime, or improvements to
13 volume crime workflow. Do you remember having seen any
14 Options Paper about improvements to volume crime workflow?

15 A. Obviously, there was an Options Paper that was
16 presented. It was sent to me about - I think around
17 30 January of that year, and it was obviously subject to
18 the discussion on 2 February.

19

20 Q. Yes. We will come to that Options Paper in a moment,
21 but apart from that Options Paper, you don't remember some
22 other Options Paper being provided to you about that time
23 about improvements in work flow?

24 A. I just can't recall. Sorry.

25

26 Q. I understand you only have a very general recollection
27 of being aware that there was this change for volume crime
28 samples to PowerPlex 21. Do you recall whether you had an
29 understanding of what the effect of that change was likely
30 to be for turnaround times?

31 A. I - I couldn't say expertly, no.

32

33 Q. I understand you might not be able to say expertly,
34 but do you have a recollection of knowing whether the
35 change to using PowerPlex 21 for volume crime samples was
36 likely to improve or make worse or not have any effect on
37 turnaround times?

38 A. I'm not aware.

39

40 Q. Thank you. And you weren't aware at the time or you
41 might have been?

42 A. No, I wasn't aware at the time.

43

44 Q. I see. And then if we can then bring up
45 [WIT.0019.0012.0001 at 2468], which is two pages on in this
46 document.

47

1 That is actually two emails. Can you bring up the
2 bottom email first. You will see the first email in time
3 is one that Cathie Allen sends to you and Troy O'Malley and
4 Ewen Taylor and copies to Paul Csoban on 30 January 2018,
5 so that's a week later, at 4:56 pm?

6 A. Yes.

7
8 Q. The subject is:

9
10 *Options Paper for consideration.*

11
12 And it says:

13
14 *Please find attached an Options Paper*
15 *regarding concentration of major crime*
16 *samples that we have prepared for your*
17 *consideration.*

18
19 A. Yes.

20
21 Q. And she said:

22
23 *I'd like to discuss this on Friday with*
24 *you.*

25
26 A. Yes.

27
28 Q. And then if we go to the top of the page, we see you
29 respond at 9:36 pm that night.

30 A. Mmm-hmm.

31
32 Q. And say:

33
34 *Will do. Look forward to seeing you then.*

35
36 A. Yes.

37
38 Q. I want to just pause there for a moment. Do you
39 recall whether you read the Options Paper that night?

40 A. I couldn't tell you whether I read it that night.

41
42 Q. Did you read it at some stage?

43 A. I read it at some stage.

44
45 Q. Did you read it before the meeting with Ms Allen?

46 A. Yes, because I sent it to Ewen Taylor for advice.

47

1 Q. I see. Would you have read it before you sent it to
2 Ewen Taylor?

3 A. Yes.
4

5 Q. Okay. And so you will see that email is 9:36 pm, and
6 then if we can then bring you [WIT.0035.0001.0001_R at
7 0087]. If we just hold the page there. That's been,
8 helpfully, redacted. You see at the bottom of the page, we
9 can see the email that Cathie Allen had sent to you at
10 4:56 pm that day about the Options Paper.

11 A. Yes.
12

13 Q. And then we can see at the top of the page that you
14 then forward the email to Ewen Taylor at 9:37 and say:

15
16 *Can you please take a look and provide*
17 *advice.*
18

19 A. Yes.
20

21 Q. And so it looks like what happens on that day is 4:56
22 Ms Allen sends it to you; 9:36 that night you respond to
23 Ms Allen and say, "Thank you", and at 9:37 you forward it
24 to Mr Frieberg?

25 A. To Ewen.
26

27 Q. Sorry, to Inspector Taylor?

28 A. Yeah.
29

30 Q. I understood what you said a moment ago to me that
31 before you forwarded it to him you would have read it?

32 A. I would have read it.
33

34 Q. So that would suggest that you must have read it on
35 the evening of 30 January 2018?

36 A. Most likely, yes.
37

38 Q. Well, it must be the case if you read it before you
39 then sent it on to Ewen Taylor?

40 A. I wouldn't have sent Ewen something without reading it
41 first.
42

43 Q. Okay. When you say in that email:

44
45 *Can you please take a look and provide*
46 *advice.*
47

1 You don't offer any comment or thought in the email about
2 what you make of the paper?

3 A. To be honest with you, not having a scientific
4 background, reading that paper, I didn't understand it
5 myself.

6

7 Q. You didn't?

8 A. No.

9

10 Q. I am interested in that and we will come to the detail
11 of that in a moment, but when you say you didn't understand
12 it, does that mean you didn't understand any part of it or
13 you didn't understand some parts of it?

14 A. In my - in my view, it was a scientific paper; it had
15 scientific wording in the paper. And not being an expert
16 with a forensic background, no, I didn't understand the
17 paper. So I sent it to Ewen who was in charge of that
18 particular --

19

20 THE COMMISSIONER: Q. You needn't be apologetic about
21 it.

22 A. Oh, no. No. Yeah, so I sent it to Ewen. As I would
23 in any circumstance when I've got subject matter experts
24 working for me, I've sent it to Ewen for advice. He works
25 in the DNA, he's managing the DNA Unit and I asked him for
26 advice in relation to that paper.

27

28 MR HODGE: Q. I see. Inspector Taylor, as you
29 understood it, he didn't have a scientific background
30 either?

31 A. No.

32

33 Q. But are you saying you anticipated that he would
34 understand it?

35 A. No. He's in charge of that area so, you know, if Dave
36 Neville had been there, I would have sent it to Dave
37 Neville. If it was a fingerprint matter, I would have sent
38 it to the Inspector of Fingerprints to give me advice.
39 They are my subject matter experts, and I have trust and
40 confidence in their experience to be able to give me
41 appropriate advice.

42

43 Q. I see. Just before I go on, did you get a response,
44 do you remember, from Inspector Taylor?

45 A. Look, I did get a response at a point in time with
46 advice. I can't recall if I got a response, and I'm not
47 trying to be evasive. I've actually lost a lot of my

1 emails through various means and changes in computers over
2 time. So that's why some of these emails I just don't have
3 myself anymore.

4

5 Q. I understand. And I am not being critical --

6 A. No.

7

8 Q. -- of you, but nobody has - in assisting you, the
9 lawyers - I have to be careful how I put this, but in the
10 course of preparing your statement, nobody brought to your
11 attention any response from Inspector Taylor to you?

12 A. I have seen an email that he sent me and I have
13 replicated that advice, and that's the advice that I sent
14 back to Cathie Allen.

15

16 Q. Yes. I see. Did you see that email from Inspector
17 Taylor after you finalised your statement for the
18 Commission?

19 A. I - I'm not sure.

20

21 Q. Okay. I'll show you then the email that you got back
22 from Inspector Taylor. Could we bring up
23 [QPS.0027.0001.0001_R at 0042]. You will see, if we blow
24 up the email at the bottom of the page, this is an email
25 from Inspector Taylor back to you on 31 January 2018 at
26 1:41 pm?

27 A. Yes.

28

29 Q. That's then the next day. You had sent it to him at
30 9:37 pm that night and he responded the next day?

31 A. Yes.

32

33 Q. You see he says that he has:

34

35 *... reviewed the attached document and*
36 *conferred with senior staff within the DNA*
37 *Unit (mainly Olivia) and Forensic Register*
38 *Tech - Troy O'Malley.*

39

40 A. Yes.

41

42 Q. Who is the "Olivia" that he is referring to?

43 A. Olivia McIntosh. She is a senior unsworn member in
44 the DNA Management Unit.

45

46 Q. And to your knowledge did she have a sciences
47 background?

1 A. I'm not aware.

2

3 Q. And a senior unsworn member, what is the role that she
4 holds? What is the title?

5 A. I - to be honest with you, at the time of working at
6 Forensics in 2017-18, I didn't know what her exact role
7 was, and I still don't.

8

9 Q. And then you see there is a reference to "Troy
10 O'Malley" who is described as "Forensic Register Tech".
11 You were familiar with Troy O'Malley?

12 A. Yes, he was an Acting Inspector when I arrived, and he
13 was the creator and administrator in relation to the
14 Forensic Register. That is, the case management system
15 used by Forensic Services.

16

17 Q. He had an IT background to your knowledge?

18 A. I don't know what his background is.

19

20 Q. But he had developed the software that was used for
21 the Forensic Register?

22 A. Definitely. He did have a forensics background and I
23 know he had worked at Forensics for some time.

24

25 Q. And then you see Inspector Taylor's email goes on to
26 say:

27

28 *From our perspective, we are in agreement*
29 *that:*

30

31 And there are five bullet points that are set out there.

32 A. That's right.

33

34 Q. I want to just pause on this for a moment. You see
35 the first one says:

36

37 *There is clear data that it is not an*
38 *efficient use of time and resources to*
39 *continue the 'auto-microcon' process for*
40 *Priority 2 (Major Crime) samples.*

41

42 A. Yes.

43

44 Q. And so, did you understand at the time that what this
45 Options Paper was concerned with was a change in relation
46 to Priority 2 major crimes?

47 A. I would say that my understanding - no, I wouldn't

1 have understood it the way, in hindsight, I should have
2 understood it.

3

4 Q. I see. We will come back to that in a moment. After
5 you received this email from Inspector Taylor, do you
6 recall whether you discussed it with him?

7 A. I can't recall.

8

9 Q. Do you recall whether you discussed it with anybody
10 else within the QPS?

11 A. I don't recall having any discussions with anyone.
12 When I sent it for advice, and obviously he has sent it
13 back to me the very next day, my expectations would have
14 been that consultation should have occurred, but that's -
15 and obviously he said he conferred with senior staff,
16 mainly Olivia. I am aware that he did send the information
17 out to the other commissioned officers at the very least,
18 the senior leadership team.

19

20 Q. And you got no response?

21 A. I can't comment on that.

22

23 Q. Do you know whether you got a response or not?

24 A. He has told me that he didn't get a great response.

25

26 Q. "By great response" does that mean he told you that --

27 A. Not from everyone, no.

28

29 THE COMMISSIONER: From whom, Mr Hodge?

30

31 MR HODGE: Q. As I understood, from the other officers
32 that he emailed?

33 A. The other commissioned officers. My understanding,
34 Commissioner, was that he sent it out to a number of people
35 within the DNA Management Unit within the Queensland Police
36 Service.

37

38 THE COMMISSIONER: Yes.

39

40 THE WITNESS: And then he also sent it to a number of
41 commissioned officers who make up our senior leadership
42 team.

43

44 THE COMMISSIONER: Thanks.

45

46 MR HODGE: Q. Within the group that you operate, is
47 there - there is something called the monthly Forensic

1 Services Group? There is a meeting which is the monthly
2 Forensic Services Group meeting?

3 A. Yeah. I implemented monthly meetings for all the
4 senior leadership team to come together and share. So we
5 were all on the same page about what was going on within
6 our group and organisationally, if there was anything that
7 needed to be shared in that space.

8

9 Q. Did you take this question of the operation of the
10 Options Paper back to members of the Forensic Services
11 Group, the leadership group?

12 A. I can't recall.

13

14 Q. I see. You then met with Cathie Allen on 2 February
15 2018?

16 A. Yes.

17

18 Q. Do you recall the other people at the meeting were
19 Paul Csoban, Inspector Taylor and Inspector O'Malley?

20 A. Yes.

21

22 Q. I just want to clarify, do you remember that now or do
23 you really have to go off the note that you have made?

24 A. I had to go off the note I made. It is four and a
25 half, nearly five years ago.

26

27 Q. I understand.

28 A. Yeah.

29

30 Q. I will take you to the note then. Can we bring up
31 [WIT.0035.0001.0001_R at 0091]. Perhaps what we will do
32 is put that on one side of the screen and on the other side
33 of the screen put 0092, the next page.

34

35 MR HODGE: It is exhibit 11, Commissioner.

36

37 THE COMMISSIONER: I have it. Thanks.

38

39 MR HODGE: I want 0091 on the left-hand side of the page
40 and 0092 on the right-hand side of the page. Thank you.

41

42 Q. At the very bottom on the left-hand side of the page
43 we can see:

44

45 *1400 - Meeting*

46

47 A. Yes.

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Q. And we can see you've noted who attended the meeting. And I wonder if you could just blow that up for us, operator. This is the meeting:

DNA + [Queensland Health]

And there we see the people I referred to a moment ago. There seem to be some other people that are identified.

A. I can't recall who they were and why --

Q. Okay.

A. -- to be honest.

THE COMMISSIONER: Q. One of them on the right-hand side is Ewen/Troy; is that right?

A. So they were both there.

MR HODGE: Q. The second line, though, seems to refer to Scott, Stephen, Peter, Suzanne, but you're not sure?

A. Yeah. Look, there might have been - Suzanne comes to mind in that at the same time there was a lot of going on in the Forensic Register space. Troy O'Malley had decided to resign from the Queensland Police Service. So Suzanne actually worked at Procurement. They may not have been there for the whole meeting, maybe for some, when we had discussions around the Forensic Register.

Q. If we blow up the top of the right-hand side of the page, this seems to be the note you made:

*Discussion re: Options Paper.
Re: 'Auto -microcon' process for.
Priority 2 (Major Crime) samples.*

A. Yes.

Q. And then what is the next word there?

A. "Selection".

Q. "Option 2"?

A. Yes.

Q.

*Followed up with email to Cathie/Paul
confirming.*

1 A. That's right. And then I did that after the meeting.

2

3 Q. This was a note that you would have made after -
4 probably at the end of the day or something like that?

5 A. Yes.

6

7 Q. If we then bring up the email that you sent, which is
8 [WIT.0035.0001.0001_R at 0093]. And we can see you sent an
9 email at 3:38 pm on 2 February to Cathie Allen, Inspector
10 O'Malley, Inspector Taylor and copied to Paul Csoban where
11 you say:

12

13 *Thank you for your time this afternoon and*
14 *for discussion around this options paper.*
15 *Thank you also to both Troy and Ewen with*
16 *your assistance and expertise/advice around*
17 *the paper.*

18

19 *As discussed, I am in agreement that:*

20

21 And then you have five bullet points?

22 A. That's correct.

23

24 Q. Just pausing there for a moment, apart from doing the
25 best you can for us, can you remember what was said during
26 the course of the meeting that you had with Cathie Allen?

27 A. I obviously did not take extensive notes which is
28 something that I ordinarily do. So I truly cannot recall
29 the content of the conversation that occurred, and I have
30 not been provided with any minutes or any notes that anyone
31 else may have taken.

32

33 THE COMMISSIONER: Q. But we know from the notes that
34 you did make that those present included Ms Allen,
35 Ewen Taylor and Troy O'Malley and you, of course?

36 A. That's correct.

37

38 Q. That's step one. Step two is you talked about the
39 Options Paper and what was proposed in it?

40 A. That's correct.

41

42 Q. And that what was proposed in it, we see from the
43 third line of your note concerned Priority 2 major crime
44 samples and not anything else?

45 A. That's correct, and I sent this email directly
46 following.

47

1 Q. Yes.

2 A. So that's reaffirmed the position of --

3

4 Q. Yes, that's right. In the email, you copied Ms Allen,
5 Troy O'Malley and Ewen Taylor. And you referred to both of
6 those gentlemen in your email as having given assistance,
7 expertise and advice. So the position is that something
8 was being proposed by Ms Allen and you were relying upon
9 the independence and impartiality of Troy O'Malley and
10 Ewen Taylor in giving you advice about the wisdom or
11 unwisdom of what was proposed; is that right?

12 A. That is correct, Commissioner.

13

14 Q. Thank you.

15 A. And I guess as part of my role as a superintendent
16 and, you know, in any government department, it's about
17 relationships and it's about trust. We pay \$3 million a
18 year to Queensland Health to provide us with expert advice.
19 So the Options Paper has come from people who are experts,
20 and I trusted that advice.

21

22 Q. And you trusted the advice that you got from - was it
23 Inspector O'Malley?

24 A. Yes, I did.

25

26 Q. And Inspector Taylor?

27 A. Yes, I did.

28

29 Q. Thank you.

30

31 MR HODGE: Q. Why do you say you paid \$3 million a year
32 to Queensland Health for advice?

33 A. We paid \$3 million to Queensland Health for a service.
34 We are a client. We are only one stakeholder, however, in
35 something, in my view, like, in an Options Paper, around
36 the process that was put forward to us as an organisation.
37 My assumption would be that, yes, there is an agreement to
38 an option, but I don't see myself as the ultimate
39 decision-maker.

40

41 So my assumption, whether it was wrong at the time,
42 would be that there would be further consultation before
43 anything was implemented.

44

45 Q. There is quite a lot of that I will have to unpack.

46 A. Yep..

47

1 Q. I want to just come back to where I started, which is
2 the question I asked you: why do you say you paid
3 \$3 million to Queensland Health for advice? Because you
4 know, don't you, that what you paid \$3 million for was
5 testing of crime scene samples.

6 A. That's correct, but what comes with that is the expert
7 advice around the testing. So Cathie Allen is an expert in
8 this field. So, yes, they perform a service for us as a
9 client, but part of that service is advice around which way
10 to proceed or if there are issues that need to be
11 considered. And part of that advice would be in a client
12 relationship, or just generally in a client relationship
13 that if we raised issues, she could give us that expert
14 advice. So that's where the relationship and the trust
15 comes in, in my view.

16
17 Q. I want to be very careful about this, because you are
18 probably aware of this. You know that Queensland Police
19 have paid \$3 million a year for an extended period of time
20 for crime scene sample DNA testing?

21 A. That's correct.

22
23 Q. And you know that Queensland Police pays separately in
24 relation to reference sample testing?

25 A. Yes.

26
27 Q. And you know or your understanding is that,
28 unsurprisingly, Queensland Health DNA Unit are the experts
29 in relation to DNA testing?

30 A. That's right. The police aren't.

31
32 Q. You are not an expert in relation to DNA testing?

33 A. No. We gather. We - we respond, we investigate, we
34 gather the evidence and we hand it to the expert to provide
35 us with advice and outcomes.

36
37 Q. You agree that Queensland Police are the experts in
38 relation to policing?

39 A. Definitely in relation to investigation, in relation
40 to collecting evidence to support their investigation, and
41 hopefully with the outcome of being able to prosecute the
42 offender. And everything we do is victim-centric, and it
43 should be. We're about prevention and response and making
44 sure - you know, obviously the DNA and the outcomes of DNA,
45 for us to be able to finalise our investigation
46 successfully, stops crime.

47

1 Q. I understand. No one disagrees that Queensland Police
2 are interested in stopping crime. Tell me if you agree
3 with this: that as between the DNA Unit of Queensland
4 Health and Queensland Police, that the DNA lab will be able
5 to give you advice as to the likelihood that they will be
6 able to extract a profile from a sample?

7 A. I would accept that because I trust that advice from
8 the expert.

9
10 Q. Yes. But in terms of the utility of whatever it is
11 that the DNA lab can do for investigations, it must be the
12 Queensland Police are the experts in relation to that?

13 A. Oh, look, most definitely. And they should be working
14 together, collectively, for a positive outcome.

15
16 Q. Yes. And you understood at the time this Options
17 Paper was brought to you that what you were going to have
18 to evaluate was how this would affect investigations?

19 A. Definitely.

20
21 Q. Okay. And you understood, didn't you, when you had
22 this meeting and you got this paper, that to some extent
23 this would reduce Queensland Police's capacity in relation
24 to investigations?

25 A. I don't know that I understood that or believed that.
26 There is a line in there also around the request of
27 additional processing when required from investigators. So
28 in my mind, at the time, I didn't believe that the option
29 would close off that avenue.

30
31 Q. I understand. Tell me if you agree with this: you
32 understood at the time that the consequence of agreeing to
33 Option 2 in the Options Paper would be that, as a matter of
34 routine, certain testing in relation to serious cases would
35 not occur?

36 A. If it didn't meet a certain value.

37
38 Q. And you understood that - tell me if you understood
39 this - that testing in relation to those samples that met a
40 certain value did produce a result on occasion for the
41 benefit of an investigation?

42 A. That's right. And I had left already by the time it
43 became apparent and Dave Neville raised it in November of
44 2018 when he became - it became known to him certain
45 information where it warranted a request to further test,
46 and on my return to Forensic Services, certainly there had
47 been some discussions about that, and I submitted an

1 Executive Briefing Note in February this year outlining
2 those concerns.

3
4 THE COMMISSIONER: Q. So your understanding was that as
5 a matter of routine, a certain category of samples would
6 not be tested fully, but that the door was open to test
7 those --

8 A. That's correct.

9
10 Q. -- if in the exercise of somebody's discretion --
11 A. Yes.

12
13 Q. -- it was thought that they ought to be tested?
14 A. That's right. And I didn't - I was of the view at the
15 time that, you know, there would be benefit for, obviously,
16 examining those DNA samples that would provide a higher
17 yield.

18
19 THE COMMISSIONER: Is this a convenient time, Mr Hodge?

20
21 MR HODGE: Could I just have five minutes?

22
23 THE COMMISSIONER: Go ahead.

24
25 MR HODGE: I just want to finish off some things that
26 Superintendent Frieberg has said before we break.

27
28 Q. The question that the Commissioner asked you, which
29 was if somebody requested further testing, looking at your
30 email, the people that you envisaged as requesting further
31 testing would be the investigators?

32 A. Through the DNA staff.

33
34 Q. And I just want to clarify that. When you refer to
35 the "DNA staff" there, that is referring to the DNA staff
36 within the QPS?

37 A. That's correct.

38
39 Q. So that what you were anticipating was that there
40 could be additional processing if the DNA staff received a
41 request from police investigators?

42 A. That's correct.

43
44 Q. I see. And so you put in place a training program or
45 an alert for the investigators as to the change that you
46 just agreed to?

47 A. I don't recall. I don't believe so.

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Q. No you didn't do it, did you?

A. No.

Q. And the other question I wanted to ask you about was in an earlier answer you gave, you said you thought that there would be consultation with other stakeholders?

A. That's right.

Q. And I want to test you on this. Do you say that anywhere in your statement?

A. No, I don't.

Q. Did you write it down at the time?

A. No, I didn't.

Q. Did you put it in any email that you sent to Ms Allen?

A. No, but I should have.

Q. Did Ms Allen say to you there would be consultation with other stakeholders?

A. I can't recall.

Q. She didn't, did she?

A. Look, I didn't take extensive notes and I - I have - I'm not going to say that she didn't. She - I don't know.

Q. Who were the stakeholders that you thought would be consulted?

A. I would have thought Justice.

Q. You thought the Justice - JAD?

A. DPP, Coroner's Office.

Q. But you would consult with DPP, wouldn't you?

A. We are a client and a stakeholder. So if there were going to be changes, in my view, that occurred, then it's not just the Queensland Police Service that's impacted by that. So I would think that Queensland Health would have had some of those conversations.

Q. I understand, looking back in hindsight, it looks like somebody undoubtedly ought to have consulted with other people.

A. Most definitely.

Q. But as I understood it, your evidence was that at the

1 time you thought that consultations were going to be
2 undertaken with other people?

3 A. I've made an assumption.

4
5 Q. Do you say you made that assumption at the time?

6 A. Yes. Yeah. I haven't put it in my statement.

7
8 Q. And it wasn't written down in any contemporaneous
9 document.

10 A. It's not written down and --

11
12 Q. And no one said to you, "We're going to consult with
13 other people"?

14 A. I don't recall anyone saying they were going to
15 consult with other people.

16
17 Q. Isn't it more likely that at the time no one turned
18 their mind, including you, to consultation with other
19 groups because this was treated as something where it was
20 you were the client and the DNA lab was providing a service
21 to you?

22 A. They are providing a service to me, but there are
23 other - and I'll say with the benefit of hindsight there
24 are other impacts. But we aren't the only stakeholder in
25 this.

26
27 Q. I understand. But what I am suggesting to you is that
28 you are mistaken that no one at the time, including you,
29 turned their mind to the idea that other stakeholders ought
30 to be consulted?

31 A. I didn't consult anybody at that particular time.

32
33 THE COMMISSIONER: Q. What Mr Hodge is putting to you --

34 A. However --

35
36 Q. -- is that when you said earlier that you thought
37 others would be consulted, that you're mistaken in your
38 recollection about that?

39 A. That's correct. And, you know, like I said, it's just
40 an assumption on my part. But that said - I've lost my
41 train of thought, sorry. But, yes, I do agree with that.

42
43 THE COMMISSIONER: Yes. Is that a convenient time?

44
45 MR HODGE: Thank you.

46
47 THE COMMISSIONER: We will adjourn for 20 minutes.

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SHORT ADJOURNMENT

[11.05am]

THE COMMISSIONER: Yes, Mr Hodge.

MR HODGE: Commissioner, could you just hold one moment.
Just before you came in --

THE COMMISSIONER: Sorry?

MR HODGE: Just before you came in, both counsel for QPS
and counsel for the superintendent --

THE COMMISSIONER: We will just wait.

MR HODGE: There they are. I apologise.

THE COMMISSIONER: It is all right, Mr Hodge.

MR HODGE: Sorry, I --

THE COMMISSIONER: I just did it the old fashioned way.
Go ahead.

MR HODGE: Thank you.

Q. Superintendent, we had up on the screen just before
the break the email that you sent to Cathie Allen.

A. Yes.

Q. I want to just ask a few more questions about this.
The first is if we can have up on one side of the screen
that email and on the other side have up the email that
Inspector Taylor sent you, which was [WIT.0035.0001.0001_R
at 0087]. Sorry, my fault. It should be
[QPS.0027.0001.0001_R at 0042]. Thank you. The other one
to have on the screen is [WIT.0035.0001.0093].

On the left-hand side of the screen we have the email
that Inspector Taylor sent to you on 31 January at 1:41 pm,
and on the right-hand side of the page we have the email
that you sent to Cathie Allen on 2 February at 3:38 pm
after the meeting. It looks to me like the bullet points
are identical between them. Is that right?

A. It's exactly the same.

Q. Yes. So you copied the bullet points from Inspector

1 Taylor and pasted them into the email that you sent to
2 Cathie Allen?

3 A. That's correct.

4

5 Q. Do we take it that there was no new information that
6 emerged in the meeting that happened with Cathie Allen that
7 was relevant to your decision, or there was?

8 A. Look, I can't recall, but I certainly accepted the
9 advice that was provided to me by Ewen Taylor and adopted
10 that to send to Cathie Allen.

11

12 Q. Okay. Do you recall whether in the meeting on
13 2 February there was any dominant speaker?

14 A. I really can't recall. I - I can't recall the meeting
15 or what was discussed.

16

17 Q. Do you recall in the meeting whether Cathie Allen
18 recommended a particular option in the Options Paper?

19 A. My view at the time when I sent that, and certainly I
20 still hold that view, is that Option 2 was the option that
21 Queensland Health certainly were recommending out of the
22 two options.

23

24 Q. Yes. I just want to test, if I can, where that comes
25 from. It might have come from reading the paper and
26 forming the view that that was clearly the option they were
27 tending to?

28 A. Yeah, certainly Option 2 - there is a lot more to
29 Option 2 to Option 1.

30

31 Q. In the paper, you mean?

32 A. In the paper, yes.

33

34 Q. But it might also be the way in which it was conveyed
35 to you in the meeting made it clear that that was the
36 outcome that was being pushed by Queensland Health?

37 A. Certainly, the fact that we have gone down the path of
38 that option is the view that that was the preferred option
39 by Queensland Health also.

40

41 Q. Yes. I want to suggest to you, you understood at the
42 time when you sent your email to Cathie Allen that by you
43 on behalf of the QPS agreeing to Option 2, that would mean
44 that Option 2 would occur?

45 A. I would believe that Option 2 would occur, but it - it
46 was an option. I don't know - I mean obviously I made a
47 decision around the option.

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Q. Yes. And conversely, do you recall whether you had a view as to what would happen if you didn't agree to Option 2?

A. I can't recall.

Q. Okay. And you will see in the email that you sent, which you have copied from Inspector Taylor, all of the references are to Priority 2 cases?

A. That's exactly right.

Q. And so, you understood that the samples that would be affected by what you were agreeing to were Priority 2 samples?

A. That is correct.

Q. And you understood that to mean the most serious cases - major crimes - rather than volume crimes?

A. That's correct.

Q. And you understood that, at the time, that it was possible that if those samples were processed that they would produce a useful result?

A. Yes. I think that certainly the way that those dot points are worded, I was under the assumption at the time that we were doing the right thing and that we would be - I was of the impression that there was nothing that we would be missing out on as far as an outcome. So we would be prioritising matters that were going to yield more DNA, but that there was also an option to go back and ask for further testing. So I have made the conclusion from the advice that I've received that we have left ourselves open to be able to continue to test as requested.

Q. I understand what you are saying.

A. Sorry.

Q. No, no, I think that's an important point, which is you understood that this did not mean that those samples could never be tested; it just meant that as a matter of routine they would not be tested?

A. Yeah, on the advice of Queensland Health that there would be no - there had to be a certain threshold to get an outcome.

Q. Oh, sorry, I don't understand that.

A. So there had to be a certain value in the sample that

1 was provided to get an outcome. So - I'm just trying to
2 work out how I could phrase it. Not understanding the
3 science behind it, I was of the belief that this option
4 would provide us with a better outcome and that there would
5 be no disadvantage to us by going down this avenue.
6

7 Q. I just need to understand some aspects of that. Can
8 we bring up the Options Paper, which is
9 [FSS.0001.0001.0891]. And then if we go to the page ending
10 in 0900, which is page 9. You will see the heading there:
11

12 *Options for consideration.*
13

14 A. That's right.
15

16 Q. And this is the conclusion of the Options Paper?
17

18 A. That's correct.
19

20 Q. I have understood from your evidence that you read the
21 Options Paper and so would have read the conclusion?
22

23 A. Yes.
24

25 Q. And you identified that, from reading the Options
26 Paper, that it set out two options. One was to continue
27 with the process for Priority 2 cases and the other was to
28 cease the process for Priority 2 cases?
29

30 A. Yes.
31

32 Q. And then you see there is a subparagraph (a) which
33 refers to Priority 1 samples?
34

35 A. That's right.
36

37 Q. Do you remember any discussion at the meeting with
38 Ms Allen on 2 February about Priority 1 samples?
39

40 A. I don't recall the discussion around Priority 1
41 samples.
42

43 Q. Are you aware that an issue arose later between
44 Inspector Neville and Ms Allen about whether QPS, by you,
45 had also agreed to cease the process for Priority 1 samples
46 at the meeting on 2 February?
47

48 A. So I understand that she has reported that there was
49 conversation about it, but that is not the position that I
50 sent back to her. There may have been discussion, and like
51 I indicated to you, I don't have comprehensive notes and I
52 have not been provided with any minutes of that
53 conversation. You know, it might have been discussed. It

1 may have been put forward by Queensland Health that that
2 was part of that, but certainly that is not the email that
3 I sent back. There's no mention in my email around
4 Priority 1 samples. So --

5 Q. Yes. Can I summarise it back to you, and you tell me
6 if you agree: you can't remember what, if anything, was
7 discussed about Priority 1 cases in the meeting on
8 2 February 2018, but you can say with absolute certainty
9 that your diary note of that meeting does not refer to
10 Priority 1 samples and the email that you sent an hour and
11 a half after the meeting started does not refer to Priority
12 1 samples?

13 A. Exactly right.

14
15 Q. And then on that page, you see there is then a
16 paragraph that says:

17
18 *In considering continuing or discontinuing*
19 *the automatic concentration of DNA extracts*
20 *for Priority 2 ... samples, some key*
21 *elements to consider include, but are not*
22 *limited to:*

23
24 And then there are various dash points?

25 A. Yes.

26
27 Q. The very first one is:

28
29 *- The opportunity to link DNA profiles on*
30 *NCIDD would not be initially possible*
31 *(without automatic concentration) for*
32 *approximately 1.45% of samples that would*
33 *qualify for this process.*

34
35 I am interested in understanding, when you read the paper
36 at the time, as you said you did, did you have an
37 understanding of what this reference to "linking DNA
38 profiles on NCIDD" meant?

39 A. I didn't understand the paper, and I had sent it to
40 Ewen Taylor who is in charge of DNA, seeking advice. So I
41 think in my response not all of those dot points are
42 included in that response. But I know what NCIDD is, but I
43 don't know the workings of the laboratory and I don't know
44 the intimate workings of the DNA Management Unit. So no.

45
46 Q. I understand, and I am not trying to criticise you for
47 this.

1 A. Oh, no.

2

3 Q. What I am just trying to understand is you said that
4 you read the paper. When you read this first dot point, do
5 you have a recollection of whether you had this
6 understanding of what this very first dot point of pros and
7 cons actually meant?

8 A. No. I sent it for advice.

9

10 Q. Then you see the next three dashes are all in one way
11 or another about the time and cost for processing these
12 samples?

13 A. Yes.

14

15 Q. And then you see the fifth dash at the bottom of the
16 page is about the opportunity to conserve DNA extract for
17 further processing with other technologies, "should that be
18 considered"? And do you recall whether you had any
19 understanding at the time of what this issue was about,
20 about the conserving of extract and other testing
21 possibilities?

22 A. No.

23

24 Q. And then over the page, if we can go over the page,
25 you see the next dash is again about, effectively, time,
26 which is improving the ability to return quick results to
27 QPS?

28 A. Yes.

29

30 Q. Presumably, each of these four dash points that relate
31 to time and cost, you must have understood them at a
32 general level in a sense of --

33 A. At a general level.

34

35 Q. -- what was being said was: it would mean that we
36 either save time and cost or we are faster at this if we
37 take Option 2?

38 A. Yes.

39

40 Q. Then the last dash says:

41

42 *The continued ability to process the DNA*
43 *extract on client request or depending on*
44 *priority (eg Priority 1 - Critical*
45 *Priority).*

46

47 And presumably, it would seem to me, you must have

1 understood the idea that Priority 1 samples would still be
2 processed from that, though you may not remember now?

3 A. I - you know, obviously in my email, there's no
4 mention of Priority 1. So, yes, I agree with what you're
5 saying.

6

7 Q. Did you make any inquiries, do you remember, about
8 what proportion of the Total Priority samples that were
9 submitted by QPS to Queensland Health this would represent?

10 A. No, I didn't.

11

12 Q. Okay. So you didn't have in your mind any idea as to
13 whether this was a quarter of all Priority 2 samples or
14 50 per cent of Priority 2 samples?

15 A. No.

16

17 Q. Did you make any inquiries of anyone about, in a
18 meaningful way, what savings of time there would be for
19 QPS?

20 A. No.

21

22 Q. You didn't ask what specific effect will this have on
23 turnaround times?

24 A. I certainly don't recall.

25

26 Q. And did you make any inquiries as to what exactly were
27 the cost consequences of choosing Option 1 versus Option 2?

28 A. No, I didn't.

29

30 Q. I suppose then there's a few other questions that flow
31 from that, and perhaps we need to deal with this in
32 hindsight.

33

34 In hindsight, were you the best person to be making
35 this decision?

36 A. In hindsight, there should have been more
37 consultation. And, you know, perhaps I should have been
38 part of that consultation process, as in doing it myself.
39 My expectation, in hindsight, would be that Queensland
40 Health would also consult. In hindsight, I think I have
41 placed too much trust in Queensland Health to provide us
42 with advice, you know, that I trusted at the time. I had
43 no reason not to.

44

45 I would think as a client and an organisation that
46 Queensland Health, being the experts providing a service,
47 would provide the best advice to guide us to get the best

1 outcome.

2

3 Q. I understand. The difficulty - and I just want you to
4 say whatever you can about this, but the difficulty with
5 that proposition seems to be this: that Queensland Health,
6 whatever advice that they are giving, is about - is advice
7 to assist you to assess the consequence for policing?

8 A. Mm.

9

10 Q. And as I think we're already agreed, the DNA Unit in
11 Queensland Health are the experts on DNA, but Queensland
12 Police are the experts on policing.

13 A. That's right.

14

15 Q. And they couldn't give you advice about what was the
16 best thing for policing, you agree with that?

17 A. Yes.

18

19 Q. And making this decision, do you agree, required an
20 evaluation - it might be that there are lots of other
21 stakeholders that have an interest as well, but for police
22 it required an evaluation of what was the best thing for
23 policing?

24

25 THE COMMISSIONER: Mr Hodge, I don't think this is adding
26 anything, in that the Superintendent has said that she
27 delegated the task of considering the virtue of the Options
28 Paper to the unit that she manages that has the expertise
29 to perform that task, and she accepted the advice. She
30 didn't conduct her own analysis of the policing
31 implications because she delegated that question to
32 Mr Taylor.

33

34 MR HODGE: And it may be that that is the answer that
35 Superintendent Frieberg will now give to the question I am
36 asking. The way in which this line began was when I asked
37 about whether Superintendent Frieberg was in the best
38 position, in hindsight, to be making this decision, her
39 response was to frame it as she relied upon the advice of
40 Queensland Health.

41

42 I understand what you are saying, Commissioner, which
43 is that she has earlier said she relied upon advice given
44 by people within the DNA Unit, and it may be that, as I am
45 asking her to reflect on this in hindsight, she will say
46 not her, but relying upon advice of people in the DNA Unit
47 was the best way to make a decision about what is best for

1 policing. But I think it is important for the issues that
2 you will have to consider for her to give that response, if
3 that is a response.

4
5 THE COMMISSIONER: But I would also need the alternative,
6 what - you have to put to the Superintendent what she ought
7 to have done, instead of asking Mr Taylor.

8
9 MR HODGE: Yes, I am happy to do that.

10
11 THE COMMISSIONER: If there is some alternative course
12 that should have been pursued, that might be helpful to me.

13
14 MR HODGE: Yes.

15
16 Q. I will frame it generally to begin with,
17 Superintendent Frieberg. Do you think there was some
18 alternative course that ought to have been pursued within
19 QPS in hindsight?

20 A. Ordinarily, as a superintendent - and just, you know,
21 my general practice, I am someone who briefs up regularly.
22 And I've always done that. So, you know, I guess with the
23 benefit of hindsight and maybe with some naivety, I have
24 made an assumption that this wasn't a decision, it was an
25 option, and --

26
27 THE COMMISSIONER: Q. Superintendent, I am sorry to
28 interrupt you. What happened, happened.

29 A. Yeah. Yeah. I was getting to what I was going to do.

30
31 Q. No, no. What I wanted to put to you was this: a
32 problem like this, if I could define it as a problem, where
33 a proposition is put by one unit of Public Service to
34 somebody within the Public Service to consider, but which
35 contains technical considerations which are beyond the
36 scope of the knowledge or experience of the decision-maker,
37 will arise from time to time in the future. And this is an
38 interesting case study to use, to consider whether as a
39 matter of principle, as a matter of general principle
40 having regard to your experience in management, you think
41 that when such a decision comes up for consideration by
42 somebody in a senior position who has to make a decision,
43 whether a course of action can be taken to ensure that a
44 mistake isn't made in decision-making outside the scope of
45 the experience and qualifications of the decision-maker.
46 So that's really the area we looking at. Not what you
47 did --

1 A. Yeah.

2

3 Q. -- or could have done personally. But if you consider
4 the question in that light, I think it would be useful to
5 me in making a recommendation. I might not be able to, but
6 you might assist me with that.

7 A. In future if it was to happen now, I would brief up
8 with an Executive Briefing Note. I would think all the
9 stakeholders should come to the table and be a party to a
10 working group or a committee to look at what the best
11 option would be to move forward.

12

13 MR HODGE: Q. I understand. And perhaps that might
14 include consulting with the Forensic Services Management
15 Group within the unit?

16 A. Most definitely. And on my return to Forensics late
17 last year, you know, there were a number of different
18 issues and we did exactly that. We brought all the
19 stakeholders together and we had a conversation and a
20 working group to work through the issues to resolve into
21 the future.

22

23 Q. And might it also involve or require consultation with
24 members of the Service outside of the Forensic Services
25 Group like investigators or homicide, or something like
26 that?

27 A. Yes, I - yes, I - I definitely agree with that. You
28 talked earlier around the meetings that we would have, and
29 the Forensic Managers and Forensic Coordinators were
30 involved in those. So I can't say they would have had
31 conversations with investigators at the scene around the
32 changes, but that would be my expectation as a
33 superintendent there.

34

35 Q. I want to ask you about just one other topic. Can we
36 bring up in your witness statement [WIT.0035.0001.0001_R at
37 0010]. We are at paragraph 39. You see halfway through
38 the paragraph, you say:

39

40 *I was also under the impression that DNA*
41 *staff would continue to request additional*
42 *processing as it was received by*
43 *investigators, therefore did not anticipate*
44 *an impact on DNA testing results.*

45

46 And you say:

47

1 *As a result of the choice, I was also under*
2 *the impression it would provide the*
3 *opportunity to concentrate on samples*
4 *yielding more DNA to assist in the*
5 *solvability of cases.*

6
7 A. Yes.

8
9 Q. What I want to do is just focus on the two sentences
10 that I have read you, the first sentence, and this is a
11 point that you picked up in your - that Inspector Taylor
12 had picked up in his email to you and that you picked up in
13 your email to Cathie Allen --

14 A. Yes.

15
16 Q. -- which is the idea that there wouldn't be a loss for
17 investigation because, investigators could still request
18 through the DNA unit for testing to occur?

19 A. That's right.

20
21 Q. Do you agree with me that the premise of that
22 impression must be that you thought that investigators
23 within QPS would be able to, and would, request the testing
24 of samples that had been described as "DNA insufficient"
25 where that was helpful?

26 A. Can you say that again, sorry?

27
28 Q. Let me break it down for you.

29 A. Yep.

30
31 Q. The first proposition is the reason that you thought
32 that there wouldn't be an impact on DNA testing results was
33 because you thought that investigators would make requests
34 through DNA staff for testing to occur?

35 A. Yes.

36
37 Q. And that must mean that what you were anticipating was
38 that the investigators would request the testing of samples
39 that were initially not tested because they fell within
40 this range?

41 A. I don't know that I can comment on, you know, what
42 investigators might have thought. I know that - and I
43 wasn't involved in this, but I know that there is messaging
44 in QPRIME specific to that, and that there had been some
45 amendments to that to help clarify for investigators what
46 they can do.

47

1 Q. I understand. What I am interested in just testing
2 with you is what consideration, if any, you gave to the
3 consequences for investigators within QPS of this decision,
4 because what you say in your statement is that you were
5 under the impression that there wouldn't be an impact on
6 DNA testing results because investigators could be able to
7 request testing. You agree with that?

8 A. Through the DNA staff, yes.

9

10 Q. And so you must have been assuming that investigators
11 would be informed and equipped to be able to make requests
12 as appropriate?

13 A. Yes.

14

15 Q. And did you turn your mind to how they would do that?

16 A. No, and I didn't do it myself. I don't know if Ewen
17 did that at all. As I mentioned, we have Forensic Managers
18 and Forensic Coordinators. Whether or not that would have
19 been communicated to them through that avenue, I can't
20 comment, but I know that the team at Forensics would talk
21 often on occasions and share information. So I - I just
22 can't comment as to whether or not it's actually happened.

23

24 Q. You knew, though, at the time that you were already
25 budget-constrained in terms of even being able to provide
26 ongoing training to your crime scene investigators?

27 A. There were some impacts, and Forensic Services
28 traditionally has not been an area, particularly over the
29 last decade, where there has been a lot of growth. So, you
30 know, your hands are tied to some extent with budget and
31 decision-making and certainly, you know, growing positions.

32

33 We would have two scenes of crime officers courses a
34 year and I think, just off the top of my head, there might
35 be eight participants on each of those. So certainly there
36 is training being done, and anything that had been
37 implemented or changed, I would imagine would be included
38 in that training for those incoming. As far as additional
39 training, I know that there were scenes of crime officers
40 from time to time - like, for example, the CSISEP
41 initiative where there was training provided. But ongoing,
42 I can't comment any further than that.

43

44 Q. Did you ask Inspector Taylor to undertake any work or
45 a project in relation to this issue of making sure that
46 investigators were adequately informed and equipped to make
47 requests in light of the change that you had agreed to?

1 A. Not that I recall.

2

3 Q. When you referred to changing to the wording of
4 QPRIME, was that something that you were aware of at the
5 time?

6 A. No, and I was not involved in it.

7

8 Q. That's just something you have been told more
9 recently?

10 A. Yeah. That's something that's come to my attention in
11 more recent times.

12

13 Q. I understand. Is that something that Inspector
14 Neville had raised with you? Or it's come to you from a
15 different direction?

16 A. I've probably learnt it, with my return to Forensics
17 late last year and early this year.

18

19 Q. I see. Again, reflecting in hindsight, was there a
20 failure, do you think, within QPS to give sufficient
21 attention to what it needed to do to inform and educate
22 investigators and crime scene technicians about the change
23 that had been agreed to?

24 A. I think that there is always room for improvement.
25 Yes, definitely.

26

27 Q. And I think the way I framed it was, was there a
28 failure. Perhaps I will put it in a slightly more neutral
29 way. Do you agree with me, but for changing the wording on
30 QPRIME, the QPS did nothing to inform and educate
31 investigators and crime scene technicians about this change
32 that had been agreed to?

33 A. I am not sure, but I'm not going to dispute what
34 you're saying.

35

36 Q. And do you think that in terms of the decision-making
37 within QPS that a good governance process within QPS would
38 mean that this issue of informing and educating
39 investigators and crime scene technicians would be
40 something that would be identified and acted upon to
41 remedy?

42 A. I think there are already initiatives around to assist
43 and better the work that scenes of crime officers do and
44 investigators. There's a lot of organisational change
45 occurring at the moment, and there is a Forensic First
46 Project which I think highlights a lot of the work that
47 Scenes of Crime are doing. So certainly I think that there

1 is always an opportunity to improve and change our
2 training, improve our training, and share information.

3
4 Q. Perhaps I can come at it in a slightly different way.
5 Within QPS, like many other organisations, there is an
6 attempt to identify risks for different parts of the
7 business and to identify ways of managing those risks.

8 A. That's right.

9
10 Q. Do you think that a good governance process within
11 QPS, if it had been in effect at the time, would have
12 identified this issue of investigators and crime scene
13 technicians being informed and educated of the change as a
14 risk for the business and something that needed to be
15 addressed to be mitigated?

16 A. Yes.

17
18 Q. Thank you. Commissioner, those are all the questions
19 I have.

20
21 THE COMMISSIONER: Thank you. Mr Hunter?

22
23 MR HUNTER: I have no questions.

24
25 THE COMMISSIONER: Mr Rice?

26
27 **<QUESTIONS BY MR RICE**

28
29 MR RICE: Q. Just one matter of detail, Superintendent.
30 You were taken carefully through the sequence from the time
31 that the Options Paper was emailed to you and then later
32 that day you emailed it to Inspector Taylor?

33 A. Yes.

34
35 Q. And then he came back with advice by way of email the
36 following day?

37 A. That's right.

38
39 Q. Which was the Wednesday?

40 A. That's right.

41
42 Q. And the meeting was scheduled for the Friday?

43 A. That's right.

44
45 Q. I'm not sure if this was made clear in your evidence,
46 but I will just ask you this. In between the advice you
47 got by email from Inspector Taylor and the meeting on the

1 Friday --

2 A. Yes.

3

4 Q. -- do you recall whether there was any additional
5 advice from him or from any other source concerning the
6 decision you were being asked to make?

7 A. I really can't recall, no.

8

9 Q. Having received, in effect, a recommendation from
10 Inspector Taylor, and you can't recall whether you got any
11 other advice, but certainly that email was tending towards
12 acceptance of what was being proposed by way of Option 2,
13 do you agree?

14 A. Yes.

15

16 Q. Did you go then to the meeting on the Friday with at
17 least an inclination to accept that option?

18 A. I can't - I really can't recall what was in my mind at
19 the time.

20

21 Q. All right. Thank you.

22 A. Sorry.

23

24 THE COMMISSIONER: Ms Mckenzie?

25

26 MS MCKENZIE: No questions.

27

28 THE COMMISSIONER: Mr Hickey?

29

30 MR GNECH: Just one question, Commissioner.

31

32 <QUESTIONS BY MR GNECH

33

34 MR GNECH: Superintendent, between getting the options
35 paper and making the final decision, was there any urgency
36 to change things so quickly?

37 A. I know it appears like it's a quick turnaround.
38 Personally, you know, from time to time we would get
39 options from other jurisdictions like the (indistinct),
40 asking for our opinions. I would do the same thing; I
41 would send it to someone. And sometimes there are quick
42 turnarounds. I don't know whether - I really can't recall
43 whether there was a timeframe attached to it.

44

45 Q. So your evidence is at this point in time, you can't
46 remember whether there was any urgent need to make the
47 decision so quickly?

1 A. No, and I certainly didn't indicate that to Ewen in
2 that email that I sent him.

3
4 Q. Thank you.

5
6 MR GNECH: Thank you.

7
8 MR HICKEY: I have no questions.

9
10 THE COMMISSIONER: Nothing, Mr Hodge, obviously? Thank
11 you for your assistance, Superintendent, you are free to
12 go.

13
14 THE WITNESS: Thank you, sir.

15
16 **<THE WITNESS WAS RELEASED**

17
18 THE COMMISSIONER: Who is next, Mr Hodge?

19
20 MR HODGE: Inspector Taylor, and Mr Jones will be calling
21 him.

22
23 MR JONES: I call Senior Sergeant Ewen Taylor.

24
25 **<SENIOR SERGEANT EWEN TAYLOR, SWORN**

26
27 **<QUESTIONS BY MR JONES**

28
29 THE COMMISSIONER: Mr Jones.

30
31 MR JONES: Q. You are Ewen Taylor?

32
33 A. Yes.

34
35 Q. You are a senior sergeant in the Queensland Police
36 Service?

37
38 A. That's correct.

39
40 Q. And ordinarily, you are the officer-in-charge of the
41 Hendra Scenes of Crime?

42
43 A. Yes.

44
45 Q. You provided a statement to the Commission of Inquiry?

46
47 A. Yes, I have.

48
49 Q. And you signed that on 23 August 2022?

50
51 A. I believe so.

1 Q. Would [QPS.0027.0001.0001_R] be brought up, please,
2 Mr Woolridge. Did you want to check the date on your
3 hard copy or are you comfortable with that? Senior
4 Sergeant, you have a hard copy?

5 A. The first page - yeah, whatever date is on the
6 statement was the date I signed it.

7
8 Q. That's a copy of your statement?

9 A. Yes, it is.

10
11 Q. It's true and correct?

12 A. Yes.

13
14 Q. And do you have any changes you wish to make to it?

15 A. No.

16
17 MR JONES: I tender that.

18
19 THE COMMISSIONER: Thank you. Mr Hodge, I think I should
20 number the exhibits as we go so we can see them on the
21 transcript for reference.

22
23 MR HODGE: Yes.

24
25 THE COMMISSIONER: So what number will this be?

26
27 MR HODGE: They are hyperlinked by a clerk sitting to your
28 right.

29
30 THE COMMISSIONER: I will mark that exhibit 41.

31
32 **EXHIBIT #41 WITNESS STATEMENT OF EWEN TAYLOR DATED**
33 **23/08/2022**

34
35 THE COMMISSIONER: Yes, go ahead, Mr Jones.

36
37 MR JONES: Thank you, Commissioner.

38
39 Q. You don't have any tertiary qualifications, senior
40 sergeant?

41 A. No, I don't.

42
43 Q. Or any other diplomas in science qualifications?

44 A. I have a diploma in crime scene, as a scenes of crime
45 officer.

46
47 Q. That's part of the scenes of crime training that you

- 1 do with the Queensland Police Service?
2 A. Yes, it is.
3
4 Q. And then you get recognition through the Queensland
5 Police Service as it having been part of a diploma?
6 A. Yes.
7
8 Q. You completed an FSG crime scene management course?
9 A. Yes, I have.
10
11 Q. Is that a Forensic Services Group crime scene
12 management course, is that what that stands for?
13 A. Yes.
14
15 Q. You completed an NCTC forensic coordinators' course?
16 A. Yes , I have.
17
18 Q. What does NCTC stand for?
19 A. National Crime Committee.
20
21 Q. Is that a course provided by the Police Service to
22 become a Forensic Coordinator?
23 A. That's a national course that is provided to all
24 police services in Australia with enhanced training with
25 regard to crime scene management.
26
27 Q. You have completed NCTC CBRN course?
28 A. Yes, I did.
29
30 Q. Can you tell us what that is?
31 A. Once again, that is a national course that is offered
32 to all Australian police jurisdictions. Advanced training
33 with respect to chemical, biological, radiation, nuclear
34 threats, and crime scene examination involving those
35 potential hazards.
36
37 Q. With the exception of some training in your diploma in
38 crime scene examination, you have not had any educational
39 training in DNA?
40 A. No, I haven't.
41
42 Q. And the training that you have had in DNA is a
43 training in best practice for collection of biological
44 samples for forensic testing?
45 A. That's correct. So as a scenes of crime officer, I
46 received training and have significant experience regarding
47 DNA, regarding to identifying, collecting, recording, and

1 preserving the integrity of the DNA.

2

3 Q. When you say "significant experience DNA", you are
4 talking about the collection - identifying what best
5 samples at a crime scene to collect?

6 A. Yes.

7

8 Q. And preserving it and packaging it correctly and so
9 forth? That's correct? Thank you. You became a police
10 officer in 1990?

11 A. Yes.

12

13 Q. Or thereabouts?

14 A. Yeah.

15

16 Q. And between 1990 and 1996, you performed general
17 duties at various police stations?

18 A. Yes.

19

20 Q. And in 2003 is when you were promoted to senior
21 constable and commenced at Scenes of Crime?

22 A. I was already a senior constable, but I commenced with
23 Scenes of Crime in 2003, yes.

24

25 Q. Since then, with the exception of having relieved in
26 certain positions, you have remained in Scenes of Crime?

27 A. Yes, I have.

28

29 Q. In October of 2017, you relieved as an Acting
30 Inspector in the DNA Management Unit?

31 A. Yes, I did.

32

33 Q. I will just take you back one. On 22 July 2017, you
34 relieved as a senior sergeant in that same unit?

35 A. That's correct.

36

37 Q. And then on 2 October 2017, you relieved as the Acting
38 Inspector of the DNA Management Unit?

39 A. Yes.

40

41 Q. What role does the senior sergeant in the DNA
42 Management Unit play?

43 A. So my roles at that time involved liaising with
44 investigators with regards to DNA matters, consulting with
45 Queensland Health. Also I was tasked to review some
46 operational procedures and analyse those and also,
47 obviously, looking after staffing.

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47

Q. And what role did the Acting Inspector of the DNA Management Unit involve?

A. So the inspector's role at that time once again involved running of the unit, managing the different sections which is at the resultant management section, the liaison section and the sample management section. Once again it involved liaison with Queensland Health.

Q. The three sections you have just referred to, the Results Management Section --

A. Yes.

Q. -- their primary function is receiving results from Queensland Health --

A. Yes.

Q. -- reviewing them in an anonymised fashion and then allocating them to a QPRIME entry; is that right?

A. Essentially, I believe that was their role, yes.

Q. Looking at barcodes and matching them to samples and pushing them through to the investigating officers --

A. Yes.

Q. -- via QPRIME and the Scenes of Crime or the scientific officers would have access to the Forensic Register?

A. Of course. And QPRIME as well.

Q. The Liaison Section, is that --

A. So the Liaison Section was involved with liaising with investigators, providing advice to them with regards to their samples. Also, they would review samples that had been submitted to ensure that they were still required to be tested.

Q. Does it work like this: Scenes of Crime officers and scientific officers collect biological material from a crime scene or person?

A. Yes.

Q. They lodge them in a property point?

A. Yes.

Q. And investigators or scientific officers or scenes of crime officers submit those to the lab?

- 1 A. The scenes of crime officers would submit them to
2 Queensland Health for testing.
3
- 4 Q. And investigators and forensic officers - I'll group
5 the scenes of crime and scientific officers together as
6 forensic officers --
7 A. Yes.
8
- 9 Q. They enter information into QPRIME and the Forensic
10 Register?
11 A. Scenes of crime and the forensic officers would update
12 the Forensic Register, yes.
13
- 14 Q. And the DNA Management Unit does not have any
15 involvement in that aspect of collecting and submitting
16 samples?
17 A. No. The only involvement that the DNA Management Unit
18 have with regards to DNA samples are receiving and
19 reviewing the reference samples; that is, the buccal swabs
20 that are collected from the defendant.
21
- 22 Q. Yes. When you refer to the liaison unit then, and
23 speaking to investigators, that's when results are
24 published to the investigators. If they call the liaison
25 unit about a result, they will receive advice about options
26 available to them and so forth?
27 A. That's one reason why an investigator might ring the
28 unit, or it might be to obtain advice with regards to
29 additional testing.
30
- 31 Q. You received the Options Paper when you were reading
32 in copy to an email to your Superintendent on 30 January
33 2018?
34 A. That was when the email was sent to me, yes.
35
- 36 Q. But then you were specifically tasked by the
37 Superintendent Frieberg to provide advice about it?
38 A. That's correct.
39
- 40 Q. Could [QPS.0027.0001.0001_R at 0024] be brought up,
41 please? At the bottom of that screen is the email from
42 Ms Allen on 30 January 2018 at 16:56 attaching the Options
43 Paper, and you were reading in copy to that email?
44 A. Yes, I was.
45
- 46 Q. Then above is the task you received by the
47 superintendent to provide advice?

- 1 A. That's correct.
2
- 3 Q. You have never worked in a DNA lab before, have you?
4 A. No, I have not.
5
- 6 Q. You went on to seek advice from people in the
7 Queensland Police Service?
8 A. Yes, that's correct. So as you can see, the request
9 for advice was sent to me at just after 9 o'clock on the
10 evening of the 30th, so the following morning when I
11 received the email, I forwarded that email immediately to
12 all senior members of the DNA Management Unit for comment.
13
- 14 Q. That was at about 7:05 am on 31 January 2018?
15 A. That sounds about right.
16
- 17 Q. Could [QPS.0027.0001.0001_R at 0040] be brought up,
18 please, and could you, Mr Woolridge, zoom in to the bottom
19 email there. That's perfect. That's the email you are
20 referring to?
21 A. Yes.
22
- 23 Q. Over the page you write:
24
25 *For your advice please.*
26
- 27 A. Yes.
28
- 29 Q. And then back over to [QPS.0027.0001.0001_R at 0040],
30 and could you zoom in on the address bar of the email below
31 that one, please. The address bar, Mr Woolridge, of the
32 email just below there. That's it. From Taylor to - you
33 have sent the email to Ruben.
34 A. Yes.
35
- 36 Q. Who is Ruben?
37 A. Ruben Colloppen at the time was a senior manager within
38 the DNA Management Unit. His role involved quality
39 management and dealing with interstate matters.
40
- 41 Q. Do you know anything about his training or
42 qualifications?
43 A. No, I don't. I don't believe that he has a science
44 degree, but I don't know. I shouldn't comment.
45
- 46 Q. What about Ken? Who is Ken?
47 A. Ken generally as a standard position was sergeant

1 charge of the liaison unit. I can't recall if he was in
2 that role at the time or relieving as the senior sergeant
3 in the unit.
4

5 Q. And Libby Harris?

6 A. Libby Harris is a sergeant in charge of the DNA
7 Management Results Section . Once again, I can't recall if
8 she was fulfilling that role at the time or if she was the
9 one who was acting in the vacant senior sergeant position.
10

11 Q. Are you aware of whether Ken or Libby had any science
12 or DNA experience?

13 A. I'm not aware, no.
14

15 Q. Olivia McIntyre, who is Olivia McIntyre?

16 A. Olivia McIntyre is one of the senior administrative
17 officers attached to the unit.
18

19 Q. Ms McIntyre has been in the DNA Management Unit for
20 15 or more years?

21 A. I suspect Olivia has been at the unit since the unit
22 commenced.
23

24 Q. Do you remember when that was?

25 A. No, sorry.
26

27 Q. Her role is an A03 or A04 administrative officer, but
28 she assists with investigations, large investigations,
29 compiling spreadsheets of samples taken and results
30 given --

31 A. Yes, she does.
32

33 Q. -- received, sorry. Thank you. Of those people that
34 you sent the Options Paper to seeking advice from, you
35 received a response from only two of them?

36 A. I received an email response from only two, yes.
37

38 Q. Did you have a conversation with someone, did you?

39 A. I had a conversation with all those senior members.
40

41 Q. At the time of that conversation, had you read the
42 Options Paper?

43 A. Yes.
44

45 Q. Do you recall, between 31 January 2018, having forward
46 the email on to them to look at, how soon after that email
47 you had a conversation with them?

- 1 A. It would have been on that day, on the Wednesday.
2
- 3 Q. So you sent it to them at 7:05 am and you provided
4 your advice to the Superintendent later that day at about
5 1:41 pm?
6 A. Yes.
7
- 8 Q. You say that between that time you had a conversation
9 with Ruben, Ken and Libby?
10 A. Yes.
11
- 12 Q. Do you recall what each of their respective advice was
13 to you?
14 A. I haven't made notes of those conversations, but the
15 conversations were all in agreement that it would appear
16 that the best course of action would be to adopt the second
17 option on the Options Paper. Certainly none of - no one
18 that I consulted with raised any concern.
19
- 20 Q. You did get a response back from Ms McIntyre?
21 A. I had a conversation with Ms McIntyre, and also I
22 received an email response.
23
- 24 Q. Did the conversation reflect what she either had
25 emailed you or later emailed you?
26 A. That's correct, yes.
27
- 28 Q. That was at 8:17 am on that day, so an hour and a bit
29 after you provided it to her?
30 A. Yes.
31
- 32 Q. If we look above there on page 40, is that the advice
33 you received from --
34 A. That's correct. That's the email.
35
- 36 Q. And she makes reference to the conversation that you
37 had had with her?
38 A. Yes.
39
- 40 Q. And makes reference to the statistics provided that it
41 would not seem worthwhile continuing with the auto-microcon
42 process for Priority 2 samples?
43 A. Yes.
44
- 45 Q. Did you speak to any of these people that you were
46 seeking advice about whether it should or should not, that
47 is, microcon/auto-microcon should or should not be

1 discontinued for Priority 1 samples?

2 A. No. The Options Paper specifically involved Priority
3 2 samples only.

4
5 Q. Do I take it from that at no stage have you ever
6 understood the Options Paper, or representations from
7 members of the Queensland Health about the Options Paper,
8 to include it applying to Priority 1 samples?

9 A. No, it never involved Priority 1 samples. It only was
10 with regards to Priority 2.

11
12 Q. Ms McIntyre goes on to give some advice that if they
13 cease doing the auto-microcon for Priority 2 examples, you
14 would imagine QPS can still request certain examples that
15 are pertinent to investigation to be submitted through for
16 auto-microcon if required?

17 A. Yes.

18
19 Q. And then she proffers two ways in which that would
20 apply?

21 A. Yes.

22
23 Q. One is:

24
25 *If an investigating police officers*
26 *contacts the DNA Management Section to*
27 *inquire about testing, [the] staff can*
28 *facilitate the 'auto-microcon' process on*
29 *[request] that have been validated as "DNA*
30 *insufficient ...*

31
32 That is, results that have been received, an investigator
33 can ring up and ask, or email and ask, the DNA Management
34 Unit ask for it to be further worked?

35 A. Yes.

36
37 Q. The other one is:

38
39 *Results that are 'DNA insufficient for*
40 *further processing', from unsolved*
41 *occurrences are sent to a worklist for*
42 *assessment by staff from the [DNA*
43 *Management Unit] ...*

44
45 A. Yes.

46
47 Q.

1 ... to determine whether further testing
2 should be initiated.

3
4 A. Yes.

5
6 Q. That second option, was that ever implemented?

7 A. No. My recommendation was that for every time a
8 result came back with "DNA insufficient", that the
9 investigator would be advised via QPRIME with an option to
10 have the exhibit retested.

11
12 Q. So if we move forward to after the Options Paper, you
13 took some steps with Troy O'Malley to implement a message
14 to investigators about the option to further work samples
15 in this --

16 A. No, I had no liaison with Troy O'Malley or any
17 involvement with that process. That was just part of my
18 recommendation.

19
20 Q. Did you have any involvement in arranging that to
21 occur, as in direction to somebody that that needs to
22 occur?

23 A. No, but I was aware that it was occurring.

24
25 Q. Okay. Did you make any other arrangements to inform
26 investigators or Scenes of Crime or scientific officers
27 about the change?

28 A. Other than that I was aware that the investigators who
29 were impacted or involved, that it was their sample that
30 had returned that result, I was aware that they were (a)
31 advised by email; and, (b) a report was uploaded to QPRIME
32 advising them.

33
34 Q. That was the only way?

35 A. Yes.

36
37 Q. Is it Inspector Keating or Inspector Pobar who was in
38 charge of the quality management section of the DNA
39 Management Unit at the time, do you know?

40 A. At the time, the Quality Management Section was
41 previously under the management of Inspector Neville. He
42 then left to relieve in a projects role, which is the
43 reason while I was relieving the at the DNA Management
44 section while he was away. I know that, yes, his
45 position within quality management was then replaced by
46 Inspector David Keating.

47

1 Q. Was any attempt made to consult with the Quality
2 Management Section about the change?

3 A. Not by me, no.
4

5 Q. You also received some advice from Libby Harris at
6 [QPS.0027.0001.0001_R at 0039], just up a little further,
7 which in effect just concurs with Olivia's advice and
8 identifies adding a comment would be more appropriate?

9 A. So, yes. Libby essentially advises that she agrees
10 with Olivia, and then she confirms my previous statement
11 was that adding a comment for the investigator would be a
12 recommended course of action.
13

14 Q. Sorry, yes, that's just below there.

15 A. Yeah.
16

17 Q. That can scroll down there, operator, I will just skip
18 that. You thank Olivia and express your agreement and then
19 you say you are inclined to recommend Option 1 with the
20 additional line to QPRIME which we have just spoken about.

21 A. Yes.
22

23 Q. Sorry, I forget your answer. Did you say you weren't
24 involved with tasking someone to do that but you know it
25 was done?

26 A. That's right.
27

28 Q. You responded at 12:48 to Libby, and then an hour
29 later, or thereabouts, you took the advice had you been
30 given and added to it and provided it to the
31 superintendent.

32 A. That's correct.
33

34 Q. That's at [QPS.0027.0001.0001_R at 0042]. Do we take
35 it from that email that your consultation with the senior
36 staff was brief?

37 A. All consultation happened that day both with senior
38 staff within the DNA Management Unit and I also had a
39 conversation with Acting Inspector Troy O'Malley.
40

41 Q. I say that, do we take it as brief, because you have
42 in brackets there, "(mainly Olivia)", when you refer to who
43 you were consulting with?

44 A. Most of the conversations that I had was mainly with
45 Olivia, as indicated on the email, yes. And I was also
46 aware that the advice was required prior to a meeting on
47 the Friday.

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Q. Was there some urgency, was there?

A. No urgency was conferred to me other than the fact that I was aware that the superintendent was requesting these recommendations prior to the meeting.

Q. And you have listed there as one of your dot points:

Scientists time and resources would be better spent working samples with a higher DNA yield and more potential.

A. That was our understanding, yes.

Q. Where did that understanding come from on 31 January 2018?

A. From my reading and my understanding of the Options Paper and also the consultation that I had with the senior staff within the unit.

Q. At the time of you reading it and having consulted with your staff, what was your understanding of what the police would be missing out on if they took the option, Option 2 of the Options Paper, which was to cease (indistinct)?

A. So at the time I read the Options Paper, the only negative or impact that I understood was that a very low percentage of samples - in fact, what is referred to on the Options Paper as the "pertinent value for the client to consider", being 1.45 per cent, which was mentioned many times on the Options Paper, that that low percentage would not be retested unless it was specifically requested by the investigator.

Q. And when you say, "what was pertinent to the client to consider", are you talking about the sentence [QPS.0027.0001.0001_R at 0033] that says:

If samples were not processed through the 'auto-microcon' process, what DNA Intelligence would the client miss out on?

A. What I mean by "pertinent exhibit", when all DNA exhibits are submitted for testing at that time, they're all being triaged and they're considered as important exhibits, but during the course of an investigation the priority of those exhibits may change. And if I could give

1 an example, where perhaps an identification is being made
2 from other DNA exhibits or perhaps a police fingerprint
3 identification or CCTV or an admission might have been
4 received by the investigations and the value of that
5 exhibit may no longer be as high, and retesting might not
6 or will no longer be required.

7
8 Q. You attended a meeting - perhaps if
9 [QPS.0027.0001.0001_R at 0047] could be brought up, please.
10 And just highlight the first one, the first five lines,
11 please. You attended a meeting with the Forensic
12 Scientific Services on 1 February 2018?

13 A. That's correct.

14
15 Q. That was with Cathie Allen?

16 A. Yes, Justin Howes and Paula Brisotto.

17
18 Q. Okay. Was there a very brief discussion on that day
19 about the Options Paper?

20 A. Yes, there was. I had arranged this meeting several
21 days earlier, and the intention, the original intention of
22 this meeting, was to discuss other matters with regards to
23 liaison between the QPS and Queensland Health. This was
24 something I felt had been missed due to the retirement of
25 the previous substantive inspector.

26
27 Obviously, at the time I organised this meeting it was
28 never my intention to discuss the Options Paper as the
29 Options Paper hadn't been presented to me at that time.
30 I do recall that the scientists raised the Options Paper at
31 that meeting and that we did have a brief discussion about
32 it.

33
34 Q. Just help me with the dates. You were provided with
35 the Options Paper in late January and this meeting was on
36 1 February?

37 A. Yes.

38
39 Q. Oh, I see. So you say when the meeting was
40 organised --

41 A. That's correct, yes. Yes, you're right. When I
42 attended the meeting I was aware of the Options Paper, but
43 when I organised the meeting, I was not aware.

44
45 Q. Yes, I understand. Nonetheless, there was some brief
46 discussion --

47 A. Yes, there was.

- 1
2 Q. -- about the Options Paper?
3 A. Yes.
4
5 Q. Was that with one, two or all three?
6 A. All - everyone was present.
7
8 Q. Who was doing the speaking about the Options Paper?
9 A. From recollection - and I can't remember who - one of
10 the outsiders asked if I had read it and what my thoughts
11 were.
12
13 Q. One of the outsiders?
14 A. One of the scientists.
15
16 Q. One of the scientists. Thank you.
17 A. I can't - I have not made notes with respect to that
18 conversation, but I do recall commenting similar to the
19 fact that the senior members and myself within the unit had
20 read it and that there appeared to be only one option or
21 one best course of action, and everyone at that meeting
22 agreed.
23
24 Q. And by that do you mean that the report made it seem
25 to you that there was in fact only one option to be made?
26 A. Yes.
27
28 Q. There were two options, of course, in the report?
29 A. That's correct.
30
31 Q. But you say that the report drove you to the
32 conclusion that there was only one sensible option?
33 A. Yes, that's right.
34
35 Q. Over the page at [QPS.0027.0001.0001_R at 0048] is
36 another diary entry you have, at the top there. Another
37 meeting was organised, this time with the superintendent
38 and Paul Csoban and Cathie Allen?
39 A. That's correct.
40
41 Q. And yourself?
42 A. Yes.
43
44 Q. And Troy O'Malley?
45 A. Troy O'Malley was at that meeting, yes.
46
47 Q. Do you recall if anyone else was at that meeting?

1 A. I do not recall anyone else being there. If there was
2 someone else there, I would suggest it might have been an
3 administrative officer organised by the superintendent to
4 take minutes, but I can't remember that and that isn't in
5 my notes.

6
7 Q. You did take notes of this meeting, though, didn't
8 you?

9 A. I did take notes, yes.

10
11 Q. Your notes, however, are on 4 February 2018 over the
12 page?

13 A. That's correct, yes.

14
15 Q. Can you explain why there is a gap under 2 February.

16 A. Yes, and I can understand the confusion, and it
17 confused me at the time too. My diary I use in a certain
18 way. Firstly, to make notes of any meetings that I have or
19 discussion with staff, and secondly, to write dates and
20 times of future meetings, which is what I'd done on the
21 2nd. I then - what's not visible, I made other notes on
22 that page on the 2nd, and in fact the page on the 3rd was
23 completely full of other notes, so I've then gone to the
24 next blank page of my diary which was on the 4th.

25
26 Q. Would you just read those notes for us, please.

27 A. Okay:

28
29 *DNA [Forensic Scientific Services] meeting.*
30 *Paul CSOBAN, Cathie ALLEN, Supt FRIEBERG,*
31 *Insp O'MALLEY. 90% doesn't improve ...*

32
33 And these notes are with respect to advice provided to us
34 by Health.

35
36 *1.5% Results of remaining 10 per cent*
37 *Provide a result. [It was] decided to*
38 *invest Time + Resources into exhibits with*
39 *higher DNA yield. Superintendent to*
40 *Forward Email to advise Cathie of approving*
41 *Option 2.*

42
43 Q. During the meeting of 2 February, do you recall if
44 there was a dominant speaker at that meeting; that is, a
45 person who took charge and spoke to you about the paper?

46 A. I believe that would be Cathie Allen.

47

1 Q. Do you recall - and I am not suggesting you recall
2 word-for-word, but do you recall the thrust of what she was
3 saying or where the emphasis was placed?
4 A. Once again, the conversation carried on from the
5 meeting I had the previous day that her advice was the best
6 option was Option 2. She explained that exhibits that
7 underwent that Microcon process, 90 per cent didn't
8 improve. Of the remaining 10 per cent that did improve or
9 were a success, only 1.5 per cent of those or 1.5 per cent
10 of the 100 per cent returned a result.

11
12 Q. At the conclusion of that meeting or after having had
13 that presentation from Ms Allen about the Options Paper,
14 what did you understand the 1.5 per cent or 1.48 per cent,
15 4 or 5 per cent, to represent?

16 A. So my understanding of the 1.45 per cent was that it
17 represented a DNA result, which would be a usable DNA
18 profile.

19
20 Q. Did you express that understanding to Ms Allen --

21 A. Yes.

22
23 Q. -- and Mr Csoban.

24 A. Yes, and they're the notes that I've made.

25
26 Q. Did anyone suggest to you that in fact that was not
27 correct?

28 A. Not at that meeting.

29
30 Q. Was there - do you recall any discussion about the
31 National Database?

32 A. I can't recall.

33
34 Q. It doesn't stand out in your mind?

35 A. No.

36
37 MR JONES: That's the evidence-in-chief. Thank you, your
38 Honour.

39
40 THE COMMISSIONER: Thank you. Who is next?

41
42 MR RICE: I just have a couple of things, Commissioner.

43
44 THE COMMISSIONER: Yes, Mr Rice.

45
46 **<EXAMINATION BY MR RICE**

47

1 MR RICE: Q. I just want to ask you a couple of things
2 on your notes of the meetings that you were asked about,
3 Inspector.
4 A. Yes.
5
6 Q. I think if that document - in fact, that's Inspector
7 Taylor's statement, is still open, it is page 47,
8 Mr Operator. These are the notes, are they not, of your
9 meeting of 1 February?
10 A. Yes.
11
12 Q. Recorded correctly against the diary, the printed
13 diary date for that day?
14 A. That's correct.
15
16 Q. From the looks of it, there was a range of subjects
17 discussed?
18 A. Yes, there was.
19
20 Q. Could you direct me to the portion of your note that
21 records any discussion about the Options Paper?
22 A. As I've previously mentioned, I did not make notes
23 with regards to that discussion. That was not my intention
24 of why I was having that meeting.
25
26 Q. No, I know, but it cropped up in the course of the
27 meeting, did it not?
28 A. Yep.
29
30 Q. But is there any note about it?
31 A. Not at that meeting, no, as I was aware that the
32 Options Paper was going to be formally discussed by the
33 meeting that's on the following day that Queensland Health
34 had arranged.
35
36 Q. Well, you say there was discussion at some level.
37 Your statement does not indicate that you took any such
38 discussion back to Superintendent Frieberg?
39 A. With regards to that meeting on the 1st?
40
41 Q. Yes.
42 A. No, I did not have a conversation with the
43 superintendent with regards to anything that was discussed
44 in the meeting on the 1st.
45
46 Q. Well, she was the decision-maker and you were her
47 principal advisor; isn't that right?

- 1 A. I'm not sure if I was her principal advisor, but she
2 had requested advice from me, yes.
3
- 4 Q. Okay. But you were the Inspector in charge of the
5 area?
6 A. Yes, I was.
7
- 8 Q. And the primary port of call of advice to her on
9 matters within your province, right?
10 A. Yes.
11
- 12 Q. May we take it that whatever discussion was had at
13 this meeting was not of sufficient depth to warrant you
14 reporting it back to Superintendent Frieberg as being
15 relevant to her decision making for the next day?
16 A. You are talking about the meeting on the 1st?
17
- 18 Q. Yes.
19 A. Nothing came up at that meeting on the 1st that was in
20 any contravention or contradiction to the advice that I
21 already had with the superintendent. So there was nothing
22 to update her.
23
- 24 Q. If the exchange that you say occurred, would it not be
25 relevant for you to report back to her the fact that you
26 had had a discussion and --
27 A. I only --
28
- 29 Q. Just let me finish, please.
30 A. Sorry.
31
- 32 Q. -- and received information from a number of
33 scientists relevant to her decision?
34 A. I would only advise her if I had received some further
35 information that was in contradiction to what I had already
36 talked to her about.
37
- 38 Q. But the further information that you had is that, so
39 you say, three scientists were in support of it. Is that
40 not important for her to know?
41 A. Once again, I was aware that they had arranged a
42 meeting with the superintendent and that it would be
43 discussed with her on the following day.
44
- 45 Q. Is it right to say that you had not been asked to
46 recall the content of that meeting until you received a
47 notice from the Commission to provide a statement in July

1 this year?

2 A. That's a fair comment.

3

4 Q. So without having any note of what occurred, you are
5 giving your best recollection, are you, of something that
6 occurred about four and a half years ago?

7 A. Yes, that's correct.

8

9 Q. Could it be that by describing it as a "discussion",
10 you have elevated its importance, having regard to the
11 absence of any note that you made about it?

12 A. Sorry, can you repeat?

13

14 Q. By describing it as a "discussion" --

15 A. Yes.

16

17 Q. -- I am suggesting perhaps you are elevating the
18 importance of it beyond what in fact occurred?

19 A. I'm not sure I agree with that statement.

20

21 Q. You have given us already, have you, your total recall
22 of what the exchange was?

23 A. Yes.

24

25 Q. Just explain if you would, just going forward,
26 Mr Operator, at [QPS.0027.0001.0001_R at 0048], there
27 appears to be a notation on 2 February of the fact that the
28 meeting --

29 A. Yes.

30

31 Q. -- but no entry attaining to that meeting for that
32 day?

33 A. No, that's correct. And as I have previously
34 explained, when I attend - and there are numerous examples
35 throughout all of my diaries - when attend a meeting I
36 usually look for a blank page to make notes, which is what
37 has occurred.

38

39 Q. All right. Did you take your diary to both meetings?

40 A. Yes. Yes, I did.

41

42 Q. May we take it from what you have said that although
43 the notation that you have got recorded against 4 February,
44 being the Sunday --

45 A. Yes.

46

47 Q. -- do you say it was in fact made contemporaneously

1 with the meeting that was had on the 2nd?

2 A. That's correct.

3

4 Q. It may be a small point but if you look at page 48
5 [QPS.0027.0001.0001_R at 0048] is there not sufficient
6 space on page 48 to have noted on that day --

7 A. You see half that page has been filled in with notes
8 in regards to other meetings and other conversations I've
9 had with staff. I had no idea how long our conversation or
10 the conversation with the superintendent and Cathie would
11 go for, how many pages it would take, which is why I have
12 started the notes on a blank page.

13

14 Q. Okay. Thanks, inspector.

15

16 THE COMMISSIONER: Thank you, Mr Rice. Mr Hunter?

17

18 MR HUNTER: Just one very quick matter

19

20 <EXAMINATION BY MR HUNTER

21

22 MR HUNTER: Q. Mr Operator, can you please go to
23 [QPS.0027.0001.0001_R at 0056].

24

25 You say in your statement, and we can go there if
26 needs be, but take it from me that in your statement you
27 refer to a meeting that you chaired of 14 February 2018?

28 A. That's correct, yes.

29

30 Q. And at that meeting there were - perhaps you can tell
31 us. Who?

32 A. So I arranged a meeting with all members of the DNA
33 Management Unit. I think there were only a few staff that
34 were unable to attend, but they were advised the results of
35 the meeting via email and I forwarded the minutes, which is
36 essentially what we are looking at at the moment.

37

38 Q. And these minutes record that you drew to the
39 attention of that meeting the outcome of the meeting that
40 you had been to with Ms Allen?

41 A. That's correct.

42

43 Q. Including the third dot point on the page, which then
44 goes over to the following page - sorry, the fourth dot
45 point on the page:

46

47 *It would be beneficial to amend the*

1 *Forensic Register to provide an automated*
2 *Q-Prime update advising the Investigators*
3 *of the option request further*
4 *'Auto-microcon' processing for those*
5 *samples for unsolved crime ...*
6

7 A. That's correct, yes.

8
9 Q. To your knowledge, was that done?

10 A. Yes, I was aware it was done because during my time at
11 DNA Management Unit I received numerous requests from
12 investigators for additional testing.

13
14 MR HUNTER: No further questions.

15
16 THE COMMISSIONER: Thank you. Is anybody else going to
17 ask the senior sergeant any questions. Gnech?

18
19 MR GNECH: No questions.

20
21 THE COMMISSIONER: Mr Hickey?

22
23 MR HICKEY: No questions.

24
25 THE COMMISSIONER: Ms Mckenzie?

26
27 MS MCKENZIE: No, thank you.

28
29 THE COMMISSIONER: Any re-examination, Mr Jones?

30
31 MR JONES: No, thank you.

32
33 THE COMMISSIONER: Thank you, senior sergeant.

34
35 <THE WITNESS WAS RELEASED

36
37 THE COMMISSIONER: Mr Hodge?

38
39 MR JONES: Commissioner, if it is a convenient time,
40 I think the next witness is Mr Csoban, who is scheduled for
41 2.15.

42
43 THE COMMISSIONER: Right. We shall adjourn then until
44 2.15 pm then, shall we? Thank you.

45
46 LUNCHEON ADJOURNMENT

[12.46pm]

47

1 THE COMMISSIONER: Mr Csoban, do you wish to take an oath
2 or affirmation?

3
4 MR CSOBAN: I am happy to take the oath.
5

6 <MR PAUL CSOBAN, SWORN

7

8 <EXAMINATION BY MR HODGE

9

10 MR HODGE: Q. Your name is Paul Csoban?

11 A. You.

12

13 Q. Am I pronouncing your is your surname correctly?

14 A. You are.

15

16 Q. You are currently the general manager of operations in
17 Victoria, for Possability Victoria?

18 A. That's correct.

19

20 Q. And you have provided a statement to this Commission
21 of Inquiry?

22 A. I have.

23

24 Q. I will get that brought up on the screen for us and I
25 hope also for you. That is [WIT.0029.0001.0001]. Do you
26 see that on the screen?

27 A. Yes, I do.

28

29 Q. I think you have also got a hard copy there with you,
30 have you?

31 A. Yes, I have.

32

33 Q. You signed that statement on 15 September 2022?

34 A. Yes, I did.

35

36 Q. Are there any changes you wish to make to it?

37 A. No.

38

39 Q. Is it true and correct?

40 A. It is.

41

42 MR HODGE: I tender that, Commissioner.

43

44 THE COMMISSIONER: Thank you. That is exhibit 42.

45

46 **EXHIBIT #42 - WITNESS STATEMENT OF PAUL CSOBAN DATED**
47 **15/09/2022**

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47

MR HODGE: Q. Mr Csoban, you were an Executive Director with Queensland Health Forensic and Scientific Services in 2016 to 2018?

A. Yes, I was.

Q. And when in 2018 did you finish up in that role?

A. July, I believe.

Q. In that role, a number of people reported directly to you?

A. That's correct.

Q. One of the people who reported directly to you was Cathie Allen?

A. That's correct.

Q. She was the manager, Police Services Team?

A. That's correct.

Q. As far as you know, she still holds that position?

A. Yes.

Q. Are you able to, as best you understand it, explain to us what you understood to be her role?

A. Yes. She was responsible for the management and function of all the Police Services, which included DNA and I think it was forensic toxicology, from memory. Forensic chemistry, yes.

Q. Are you able to tell us, during the course or during period of time when you were the Executive Director, how regularly would you be in contact with Ms Allen?

A. Daily. She had an office, from memory, two offices down from mine in the corridor. So I would be in contact with her daily.

Q. Did you have some kind of formal weekly or quarterly/monthly catch-ups?

A. Yes, we did.

Q. What were they?

A. We had many ad hoc meetings. As I said, we had quite an open door policy, so we had a lot of interaction. But we had formal meetings, I believe, from memory, at least once a month, but as required we would meet and I would call a meeting as required to serve the circumstances.

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Q. Does that mean in your role - did you say you were two offices down from her?

A. Yes.

Q. Are you able to tell us was Justin Howes then also in close physical proximity to you?

A. No. Justin was working in the labs and that was quite a distance away from me.

Q. I see. How often would you go down to the labs?

A. I tried to get there, to all the labs, at least once a month just to go walk around. Sometimes more, sometimes less.

Q. Do you recall in 2016 being involved in relation to an Options Paper presented to QPS about what kits to use for Priority 3 samples after Profiler Plus reached the end of its life?

A. I vaguely recall it but I don't have any clear recollection in detail about it.

Q. I will show you a document to see if this assists you. Can we bring up [FSS.0001.0010.7039]. Are you able to see that on your screen, Mr Csoban?

A. Yes, I am.

Q. You will see that's a document titled:

*Considerations for a new DNA profiling kit
for use on casework samples in Forensic DNA
Analysis*

And the author identified is Justin Howes and the date is 25 October 2016.

A. Yes.

Q. I appreciate you don't have a hard copy of this document, and if you ask the operator he can flip through the pages for you, but on the face of it is that a document of a kind you can recall having seen before?

A. I can't recall the actual document, to be honest, but I can recall, vaguely, discussion around this matter. But not in any great detail, again.

Q. Okay. And do you recall that there was an issue that arose in about 2016, which was that at some point in the

1 future it would be necessary to switch to something else
2 other than Profiler Plus for Priority 3 cases?

3 A. Yes, I recall there was discussion around changing
4 kits. Again not in any great detail, but I do recall it
5 was being discussed with me, yes.

6
7 Q. And do you recall having had any meetings with QPS
8 about that issue?

9 A. No, I can't recall any meetings with QPS around this
10 one.

11
12 Q. I take it when you say, "around this one", that's to
13 distinguish between you can recall a meeting or meetings
14 with QPS around the other Options Paper that you address in
15 your statement?

16 A. That's correct.

17
18 Q. Just focusing for a moment on the idea of an options
19 paper, you have referred to one Options Paper in your
20 statement. Can you recall whether you were involved in
21 other options papers being presented to QPS?

22 A. No. I don't believe I was involved in the other
23 options papers being presented.

24
25 Q. If we just go to the second page of that document
26 [FSS.0001.0010.7039 at 7040], I just want to ask you about
27 the first three bullet points to understand whether they
28 reflect your understanding from the time. You see the
29 first bullet point is:

30
31 *Volume Crime processing should be*
32 *intelligence-focussed in that the cases are*
33 *largely non-suspect cases and therefore,*
34 *profiles to NCIDD with quick TAT ...*

35
36 Which is turnaround times:

37
38 *... should be the service delivery aim*

39
40 Now, I will start with a general question, which is: is
41 that a proposition that you agree with?

42 A. I don't believe - I can't recall discussion around it
43 and I don't think I've got the technical expertise to be
44 able to comment whether I agree with it or not.

45
46 Q. Okay. That's helpful. Let me ask you about some
47 individual parts of that. Are you familiar with the

- 1 concept of volume crime?
2 A. Yes.
3
4 Q. Do you recall the term "Priority 3"?
5 A. Yes.
6
7 Q. Do you understand that "Priority 3 samples" refer to
8 samples in relation to volume crime?
9 A. Yes.
10
11 Q. Do you have an understanding of what volume crime is?
12 A. Yes. I believe I do.
13
14 Q. What is that understanding?
15 A. That would be a larger amount of samples either taken
16 from Queensland's break-ins and situations like that, as
17 opposed to Priority 1, Priority 2 samples, which were
18 assaults, murder, rapes, et cetera. That's my
19 understanding.
20
21 Q. And I take it - you correct me if I am wrong - but
22 insofar as you have any understanding of these types of
23 things, it is from your time in the role as Executive
24 Director?
25 A. That's correct.
26
27 Q. You haven't done other work, had other roles, in
28 relation to these kinds of concepts?
29 A. Not forensics, no.
30
31 Q. You see then there is another concept which is
32 referred to there, which is "profiles to NCIDD"?
33 A. Yes.
34
35 Q. Is that a concept that you had an understanding of?
36 A. A broad understanding, yes.
37
38 Q. Can you just explain to us what your broad
39 understanding is?
40 A. The DNA profile can be uploaded - if it's of a certain
41 standard can be uploaded into NCIDD, which is the National
42 Crime Discussion Database, from memory, something like
43 that, to be able to be compared either to a known profile
44 there or in case, as I understand it, a cold case which can
45 be linked to another case down the track or mixed samples.
46
47 Q. You see there is a reference to "TAT", which is

1 turnaround times?

2 A. Yes.

3

4 Q. Is that something that you were familiar with being
5 measured or monitored in relation to the DNA laboratory at
6 Queensland Health?

7 A. I can't honestly say that I am aware of it being
8 actually measured or wanted in numerical terms, but I know
9 that it certainly high on the agenda of both QPS and the
10 labs.

11

12 Q. Do you remember whether there was a way that either
13 QPS or Queensland Health had of defining what was a
14 turnaround time?

15 A. No, I do not know that.

16

17 Q. Okay. And then you see the next bullet point says:

18

19 *Volume Crime samples comprise approximately*
20 *50% of samples received at FSS.*

21

22 A. Yes.

23

24 Q. Is that something that you had any knowledge of, what
25 proportion of samples that were received by the DNA lab
26 were volume crime samples?

27 A. I don't have a detailed knowledge of the actual
28 number, but I know it was a very high volume.

29

30 Q. At the time, would you have known more about what the
31 break-up was between volume crime and other types of crime?

32 A. It might have popped up in conversation and I might
33 have known it at the time, but I certainly can't recollect
34 an actual figure.

35

36 Q. And then you see the third bullet point says:

37

38 *In July 2008, QPS requested no reworks on*
39 *Volume Crime samples ... in order to assist*
40 *in generating quick intelligence through*
41 *NCIDD interaction*

42

43 Is that something you are aware of now, which must mean
44 that you were aware of at the time you were in the
45 Executive Director role?

46 A. I do recall that that was the case, that we were asked
47 not to test as per that dot point, but that's as far as my

1 knowledge goes.

2

3 Q. Okay. We can take that document down now. Can you
4 recall that a decision was made in about 2017 as to what
5 kinds of kits would be used to replace Profiler Plus for
6 Priority 3 samples?

7 A. I do recall that there was discussion around the
8 change of kits, yes.

9

10 Q. Do you recall that the decision was made to use PP21
11 kits for Priority 3 samples?

12 A. Yes, I believe I can recall that.

13

14 Q. Can you recall who made the decision?

15 A. No, I would have got that information from Cathie.

16

17 Q. Can you recall being aware that the change to using
18 PP21 kits for Priority 3 samples would increase the time
19 required to process Priority 3 samples?

20 A. No, I was not aware of that. I can't recollect that
21 being a factor given to me.

22

23 Q. I see. Can you recall in general having any awareness
24 of what the consequence for turnaround times would be of
25 the change from using Profiler Plus kits to PP21 kits?

26 A. No, I can't.

27

28 Q. You are, as you say in your statement, familiar with
29 the Options Paper that was presented in 2018. I was hoping
30 you could explain to us when did you first become aware of
31 consideration within the lab of ceasing to process
32 Priority 2 samples which had a quantitation between 0.001
33 and 0.0088?

34 A. I can't give you an exact time or date. As I said, I
35 had frequent meetings with Cathie and the matter was
36 discussed that it was being looked at, but I can't give you
37 the exact time or date when it was decided, or pushed
38 forward.

39

40 Q. I see. Were you aware in 2017 of a project being
41 undertaken within the lab to examine this issue?

42 A. Yes.

43

44 Q. Would you have been aware of it because you were being
45 provided with drafts or written updates or would it only
46 have been oral updates from Cathie Allen?

47 A. It was only oral updates. I was not given any written

1 document or drafts around it. The first document that I
2 saw was the Options Paper.

3

4 Q. Did you ever have any direct discussion with
5 Justin Howes about the Options Paper or issues related to
6 the Options Paper?

7 A. I spoke with Justin on a number of occasions, but I
8 can't recall this being specifically a topic of
9 conversation.

10

11 Q. I see. Is the only person that you can recall who you
12 discussed the Options Paper with from the lab Cathie Allen?

13 A. I can recall I definitely discussed it with Cathie
14 Allen prior to the meeting with QPS. As I say, I can't
15 recall if Justin was involved in that discussion as well.

16

17 Q. I see. What I might do then is I'll just show you
18 some emails to see if we can put some of this in context.
19 Can we bring up [WIT.0019.0012.0001 at 2466]. We might
20 blow up the bottom half of the email first. And operator,
21 if you could, could you just redact the email addresses as
22 we go.

23

24 Mr Csoban, you see that is an email that Cathie Allen
25 sends to Dale Frieberg, but it is copied to a number of
26 people including you?

27 A. Mmm-hmm.

28

29 Q. You see it is dated 22 January 2018?

30 A. Yes.

31

32 Q. You see that in the second paragraph Cathie Allen
33 says:

34

35 *My team has come up with an Options paper*
36 *regarding further improvements that could*
37 *be made to Volume Crime workflow and I'll*
38 *forward that to you later today for your*
39 *review.*

40

41 Can you see that?

42 A. I do.

43

44 Q. And then it says:

45

46 *Paul and I would like to meet with you to*
47 *discuss this paper and another item - are*

1 *you able to advise when you would be*
2 *available to discuss these with us?*

3

4 A. Yes.

5

6 Q. Just pausing then on this email, would you have
7 received a copy of the Options Paper before Ms Allen wrote
8 to Superintendent Frieberg?

9 A. As I stated, I can't remember the actual time and date
10 I received the Options Paper. I certainly received it
11 prior to the meeting with Dale.

12

13 Q. Doing the best you can for us, can you remember
14 whether the meeting had already been arranged before you
15 received the Options Paper?

16 A. I can't - I can't recall whether that was the case or
17 not.

18

19 Q. I see. You see there is a reference there to "discuss
20 this paper and another item"?

21 A. Yes.

22

23 Q. Do you know what the "other item" was?

24 A. At this point in time I can't recall what or if there
25 was another item or what it was.

26

27 Q. Can you see the Options Paper being described in this
28 email is said to be one regarding "further improvements
29 that could be made to Volume Crime workflow"?

30 A. Yes.

31

32 Q. Do you agree with me that that's not a description
33 that could be applied to the Options Paper that you have
34 dealt with in your statement?

35 A. That's not the one I've dealt with in my statement,
36 no.

37

38 Q. Are you aware or do you have a memory of an Options
39 Paper regarding further improvements that could be made to
40 volume crime workflow?

41 A. I can't recall any such paper.

42

43 Q. If we could then bring up [WIT.0019.0012.0001 at
44 2468]. Again, if we can blow up the email on the bottom
45 half of the screen. You see this is an email that Ms Allen
46 sends to Superintendent Frieberg, again copied to you, this
47 time on 30 January 2018?

1 A. Yes.

2

3 Q. It is attaching the Options Paper for Superintendent
4 Frieberg?

5 A. Yes.

6

7 Q. Again, doing the best you can for us, can you recall
8 whether you had seen the Options Paper before it was sent
9 to QPS?

10 A. I definitely saw the Options Paper before it was sent
11 to QPS. Sorry, let me rephrase that. To the best of my
12 recollection, I would have seen it before it was sent to
13 QPS because I gave approval for it to be submitted.

14

15 Q. I see. As you recall the process, did Ms Allen bring
16 the Options Paper to you and you approved it being sent to
17 QPS?

18 A. That's correct. She brought it to me, I was briefed
19 on it, I had discussions around the content, questioned
20 some of the issues around it, some of the figures, and then
21 gave approval for it to be sent, yes.

22

23 Q. Was it provided to you, as best you can recall, in
24 hard copy? Or was it provided by email, or you're not
25 sure?

26 A. I'm not sure.

27

28 Q. But you have a memory that you read it?

29 A. Yes.

30

31 Q. And you gave feedback to Ms Allen in the sense that
32 you raised questions about some of the figures and the
33 content?

34 A. Yes.

35

36 Q. Were there changes made in response to your feedback?

37 A. Not to my knowledge. Rather than feedback, it was
38 more questioning the actual figures and the data so that I
39 understood its origins and what they meant.

40

41 Q. Doing the best for us now, can you remember what the
42 questions were that you had about the data?

43 A. Yes. I certainly had difficulty understanding the two
44 figures of 1.4 per cent and, I think, 1.8 per cent. That
45 was one of the questions I had. There were some others,
46 but that was one that I wanted to be absolutely clear on.

47

1 Q. Was there some clarification that was provided to you
2 by Ms Allen about those figures?

3 A. There was.

4
5 Q. And so, what did you come to understand was the
6 significance of those figures?

7 A. The summary of that was that the 1.4 per cent was the
8 figure for information that would be missed out if we went
9 to Option 2.

10
11 Q. I just want to explore that with you a little bit and
12 I wonder if we might do it by bringing up the Options Paper
13 which is [FSS.0001.0001.0891_R]. And perhaps if we go to
14 page 7 of that document which is [FSS.0001.0001.0891_R at
15 0898]. And if we blow up the paragraph from, "If samples",
16 including the chart.

17
18 We can see there in the last sentence above the
19 figure:

20
21 *This represented 1.86% of all*
22 *'auto-microcon' samples.*

23
24 So that is the 1.86 per cent you were talking about?

25 A. That's correct.

26
27 Q. And then we see a little bit further on:

28
29 *In looking at samples that provide new*
30 *Intelligence, ... this equated to 1.45% of*
31 *all 'auto-microcon' samples ...*

32
33 A. Yes, that's correct.

34
35 Q. Just so we understand, when you first read it, is it
36 your recollection that what you were uncertain about was
37 the significance of the 1.86 per cent as compared to the
38 1.45 per cent?

39 A. That's correct.

40
41 Q. Just tell me if this is accurate, but by the time you
42 had finished speaking to Ms Allen, you understood that both
43 the 1.86 per cent and 1.45 per cent reflected the results
44 from submission of the sample to NCIDD?

45 A. Can you just repeat your question? I'm sorry.

46
47 Q. Yes. I will go about it in a slightly different way.

1 Are you familiar with the concept of reference samples?

2 A. Not entirely, no.

3

4 Q. Is this an idea or a concept that you were aware of in
5 your role of Executive Director that when it comes to
6 matching crime samples, you could match them against either
7 a cold link or a warm link?

8 A. Yes, I've heard that expression.

9

10 Q. Do you know what the difference is between a cold link
11 and a warm link?

12 A. I used to know it. I'd only be guessing now. I have
13 an idea, but I'd only be guessing. I mean, I can give you
14 my understanding, but it may not be accurate now.

15

16 Q. Perhaps I will suggest something to you and you tell
17 me if this reflects your understanding. That a "warm link"
18 is when a match is made between a crime scene sample and
19 the DNA of a person who is already known to the case?

20 A. Yes.

21

22 Q. And a "cold link" is when a match is made between a
23 crime scene sample and a person who is not yet known to the
24 case?

25 A. Yes.

26

27 Q. Do you recall that for matching a cold link, that
28 would be made through submission to NCIDD?

29 A. Yes.

30

31 Q. And do you recall that for matching a warm link,
32 whilst that made be made through submission to NCIDD, more
33 commonly that was made by matching it against the reference
34 sample that police had obtained for a person?

35 A. Yes.

36

37 Q. So to come back to my question, do you remember
38 whether you came to understand after speaking to Ms Allen
39 that both the 1.86 per cent and the 1.45 per cent were
40 concerned with submission of samples to NCIDD as opposed to
41 separate matching of a crime scene sample to a reference
42 sample by the lab?

43 A. I'm sorry, I can't answer that with any degree of
44 certainty. I can't say "Yes" or "No" to that, I'm sorry.

45

46 Q. Okay. Do you recall whether you had an
47 understanding - if we go back to the preceding page,

1 [FSS.0001.0001.0891_R, at 0897], page 6, that the
2 consequence of the ceasing of processing would be that what
3 you would miss out on is the obtaining of a profile?

4 A. Yes.

5
6 Q. Do you recall this figure that we see on the page
7 here, that the examination by the laboratory suggested that
8 within that 0.001 to 0.0088 quantitation range, across the
9 whole range, in 10.6 per cent of cases, they were obtaining
10 a profile?

11 A. Yes.

12
13 Q. Do you recall whether you had an understanding of the
14 significance of that for matching against reference samples
15 in Priority 2 cases?

16 A. No, I don't recall a detailed knowledge of that now.

17
18 Q. Do you recall understanding that there was a
19 difference between, on the one hand Priority 2 cases and on
20 the other hand Priority 3 cases, as to whether there was a
21 known suspect?

22 A. Can you repeat that question, please?

23
24 Q. Yes. Do you recall whether you were aware at the time
25 of a difference between Priority 2 cases on the one hand
26 and Priority 3 cases on the other hand as to the likelihood
27 that there was already a known suspect?

28 A. No, I don't recall that detail.

29
30 Q. Do you recall whether you were aware that for
31 Priority 3 cases, it was more usual or more likely than in
32 the case of Priority 2 cases that if a DNA match was made
33 to identify an offender, it would be a match made by cold
34 link through the NCIDD database?

35 A. Again, I can't answer that.

36
37 Q. Do you recall whether you're aware that, outside of
38 any NCIDD matching, there was another way in which the
39 obtaining of a sample could be of value to police in
40 relation to Priority 2 cases?

41 A. No, I don't recall that.

42
43 Q. Okay. Was it the case that, as you understood it, the
44 only significance for Police, in terms of samples, was
45 through submission to NCIDD, or you're not sure?

46 A. That would have been my understanding, yes.

47

1 Q. I see. When Ms Allen spoke to you about the paper, do
2 you recall whether she told you about any controversy
3 within the lab about the paper?

4 A. I never heard anything about a controversy in the lab
5 about the paper.

6

7 Q. By that, do you mean Ms Allen didn't tell you that
8 there was any issue that any of the scientists within the
9 lab had about the project that had led to the paper?

10 A. No, I did not hear anything of that sort.

11

12 Q. And Ms Allen didn't tell you that the project that had
13 led to the paper had not actually been formally completed
14 or signed off on?

15 A. I don't recall it, no.

16

17 Q. And --

18

19 THE COMMISSIONER: Excuse me, Mr Hodge.

20

21 Q. If there had been controversy or even opposition from
22 scientists in the lab to the process proposed in the
23 Options Paper, would you have expected to have been told
24 about it?

25 A. Yes, I would.

26

27 Q. Thank you.

28

29 MR HODGE: Q. And had you been told, for example, that
30 Kylie Rika and Amanda Reeves had issues with the
31 conclusions that had been reached that led to the Options
32 Paper, what do you say to the Commissioner that might have
33 caused you to do?

34 A. I would have investigated further and sought external
35 advice, external expertise, to get further details on it
36 and to assess fully the objections, as I did in another
37 case regarding DNA.

38

39 Q. I see. As you weren't informed of anything, from your
40 perspective, you assumed that the reasoning within the
41 paper was sound?

42 A. Yes.

43

44 Q. As you understood it, the consequence of the adoption
45 of Option 2 - and just so it is clear, I will just bring
46 that up on the screen. That is [FSS.0001.0001.0891_R at
47 0900], page 9. You understood that if option 2 was

1 adopted, the consequence would be that as a matter of
2 routine, Priority 2 samples within the 0.001 to 0.0088
3 range would no longer be processed.

4 A. Yes, correct.

5

6 Q. You understood that --

7 A. Can I clarify?

8

9 Q. Yes.

10 A. They would not undergo concentration. They were
11 already processed once; they would not undergo
12 concentration.

13

14 Q. I just need to understand what you mean by that. You
15 understand there are a number of stages to obtaining a DNA
16 profile?

17 A. Yes.

18

19 Q. Are you familiar with the idea that a stage of the
20 obtaining of a profile is to measure the quantity of DNA?

21 A. Yes.

22

23 Q. And then the next stage after you measure the quantity
24 of DNA is either amplification or, alternatively,
25 concentration and then amplification?

26 A. I understood there was concentration, yes.

27

28 Q. And was it your understanding - I want to just test
29 this. Did you understand that some further testing of the
30 sample would be undertaken after quantitation, there just
31 wouldn't be concentration? Or was it your understanding
32 that the process for these samples would stop at
33 quantitation?

34 A. I'm aware of the process in terms of amplification.
35 To be honest, I did not stop to think about whether that
36 would take part. All I was aware of was that there would
37 be no concentration.

38

39 Q. Just looking at the Options Paper that's on the
40 screen. And if we blow up paragraph 2 there of the
41 options. You see it says:

42

43 *2. Cease the 'auto-microcon' process by*
44 *Priority 2 (Major Crime) casework and*
45 *report the exhibit result of 'DNA*
46 *insufficient for further processing' based*
47 *on Quantification result.*

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A. Yes.

Q. Did those words reflect your understanding of what was going to be involved in Option 2?

A. My understanding of Option 2 was that there would be no concentration. That's as far as my understanding went.

Q. I see. Did you know what the auto-microcon process was?

A. Only in broad terms, that it involved concentration of a sample.

Q. Did you know that the stage of concentration occurred before any DNA profile was obtained?

A. Yes, that was my understanding.

Q. And so this is what I am just trying to understand. Did you understand that the consequence of Option 2 would be that the process would stop so that no DNA profile would ever be obtained, or did you think it was still possible that a DNA profile would be obtained without concentration, or do you just not know now?

A. No. My understanding was that there would be no DNA profile obtained.

Q. Okay. So you understood, then, that in respect of these major crime cases if the quantitation range fell within 0.001 to 0.0088, then as a matter of routine, the DNA lab would cease trying to obtain a profile from them unless a specific request was made?

A. That was my understanding.

Q. Did you ask Ms Allen about what proportion of Priority 2 samples fell within this 0.001 to 0.0088 range?

A. No, I did not. I can't recall asking her specifically that.

Q. Do you recall having an understanding of what proportion of the total samples would now no longer be processed if this option was adopted?

A. Sorry, just repeat that question, please?

Q. Do you recall whether you had an understanding of what proportion of the total sample submitted to the lab would now no longer be processed if this option was adopted.

A. No, I don't recall having an understanding of what

1 proportion of the total samples would be involved in this.
2 The only understanding, as I said, that I had was that
3 1.4-something per cent would not give any new information.
4

5 Q. I will come to that in a moment, but just focusing on
6 this issue of the proportion of samples, why didn't you
7 have an understanding of that?

8 A. Well, I may have at the time. I don't recollect
9 having an understanding now.

10
11 Q. I see. Do you think it's possible that you sought
12 that information from someone?

13 A. I can't answer that.
14

15 Q. Did you have an understanding at the time of what
16 effect this was expected to have on turnaround times?

17 A. If Option 2 was adopted, do you mean?
18

19 Q. Yes.

20 A. Yes. I understood that that would increase turnaround
21 time because it would allow more focus of scientists' time
22 and resources to Priority 1 cases.
23

24 Q. Just again pausing on that, how much increase in
25 turnaround times were you expecting?
26

27 THE COMMISSIONER: Decrease in turnaround times.
28

29 MR HODGE: Decrease in turnaround times.
30

31 THE COMMISSIONER: You said "increase"; you meant
32 "decrease" in turnaround times?
33

34 MR HODGE: I think he meant improvement, to be fair.
35

36 THE COMMISSIONER: Yes, yes.
37

38 MR HODGE: Q. How much improvement in turnaround times
39 or decrease in turnaround times did you understand was to
40 be expected?

41 A. I don't recollect an actual figure being given.
42

43 Q. I see. Did you expect it to be substantial?

44 A. Yes.
45

46 Q. Why?

47 A. Because I understood that this process involved a lot

1 of scientists' time and a lot more resources and by ceasing
2 this, unless required, it will allow the scientists to
3 spend more time and focus on the Priority 1 samples.
4

5 Q. But what proportion of the scientists' time did you
6 understand was being spent processing Priority 2 cases
7 where the sample was between 0.001 and 0.0088?

8 A. I don't have an actual figure, but I understood it was
9 significant.

10

11 Q. Does that mean 50 per cent? 25 per cent?
12 10 per cent? What's significant?

13 A. I - I - again, I can't put an actual figure on it, but
14 it was significant.
15

16 Q. I just want to understand. Did anyone put a figure on
17 it, as you recall?

18 A. No.
19

20 Q. Did you make any inquiries as to how significant it
21 would be?

22 A. Not that I can recall.
23

24 Q. I see. So whether it was going to be a 5 per cent
25 improvement in turnaround times or a 50 per cent
26 improvement in turnaround times, you didn't know?

27 A. Well, intuitively I would have had in my mind that it
28 was certainly more than 5 per cent, but I wouldn't have
29 been able to put a definite figure on it. All I was told
30 is there was a significant saving.
31

32 Q. But why? Why would you have assumed it was more than
33 5 per cent?

34 A. Because I don't consider 5 per cent to be significant.
35

36 Q. Did you ask Ms Allen about that?

37 A. Not specifically, no, that I can recall.
38

39 Q. I see.
40

41 THE COMMISSIONER: Q. Was it your understanding that
42 this reasonably significant change was being suggested to
43 Operations with a view to saving resources, and it wouldn't
44 be proposed unless the change was worthwhile because the
45 improvement would be of significance, that it would matter?

46 A. Yes, that's my understanding.
47

1 Q. Is that right?

2 A. Both resources and scientists' time.

3

4 MR HODGE: Q. Your understanding was that if Ms Allen
5 was proposing it, it must have been significant in terms of
6 turnaround time?

7 A. Yes.

8

9 Q. And you understood that the consequence of making the
10 change would be that as a matter of routine, information
11 about the most serious of cases would be missed out on by
12 police?

13 A. I understood that approximately 1.4 per cent of new
14 information would not be available to police on the DNA
15 profiling.

16

17 Q. Yes. Does that mean the answer to my question is
18 "yes", you understood that as a matter of routine,
19 information would be missed out on by police?

20 A. DNA profile information, yes.

21

22 Q. For the most serious cases?

23 A. Well, yes. Priority 2 cases.

24

25 Q. Yes. From your perspective then, were you in any
26 position to form a view as to whether that was a worthwhile
27 trade-off for police?

28 A. I believed that that was a decision for the police to
29 make.

30

31 Q. That is, it was for them to decide whether the
32 improvement in turnaround times was worth losing the
33 information that they would lose?

34 A. Yes. Because on a number of occasions, or I should
35 say on occasions, we were told that the DNA evidence wasn't
36 the sole evidentiary factor.

37

38 Q. I understand. Again to come back to my question, from
39 your perspective it was a matter for police to decide
40 whether the loss of information would be worthwhile when
41 judged against the benefit in terms of turnaround times.

42 A. Yes, that's my understanding.

43

44 Q. Do you recall whether you conveyed that view to
45 Ms Allen?

46 A. Which view? That there was a police - there was a QPS
47 decision? Or that they would lose - lose the information?

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Q. Did you convey to Ms Allen it was your view that it was a matter for police to decide whether the loss of information was worth the improvement in turnaround times?

A. I don't recall I ever made that specific observation to Ms Allen. I think - no, I don't believe I made that specific statement.

Q. Did you have a view as to whether the Options Paper contained sufficient information for police to be able to judge the benefit in terms of turnaround times?

A. Yes, I believe the paper contained information that would enable police to make that decision.

Q. Just focusing on my question, did you believe that the paper contained sufficient information for police to be able to understand the benefit in terms of turnaround times?

A. I can't answer that. I'm not sure whether the police would have thought that was enough information or not.

Q. When you turned your mind to whether this paper should be presented to Police --

A. Yes.

Q. -- so did you consider whether it contained sufficient information for Police to be able to evaluate the benefit in terms of turnaround times?

A. I can't - I can't answer that, I'm sorry.

Q. Did you turn your mind to whether the paper was sufficiently clear in explaining the downsides of adopting Option 2 in terms of the loss of information?

A. The paper outlaid clearly the loss of information and I believe that was - again I can't - can't confirm 100 per cent, but that was certainly a topic of discussion at the meeting.

Q. We might do this in two stages then. In terms of your understanding about the loss of information, you understood the loss of information was in 1.46 per cent of samples?

A. Yes. Of new information.

Q. I'm sorry, say that again?

A. Of new information.

Q. Yes. You were describing the meeting, so we might

1 move to that. You attended a meeting on 2 February 2018?
2 A. Yes.
3
4 Q. That was a meeting that was attended by, amongst
5 others, Ms Allen?
6 A. Yes.
7
8 Q. And Superintendent Frieberg?
9 A. Yes.
10
11 Q. And Inspector O'Malley?
12 A. Yes.
13
14 Q. Inspector Taylor?
15 A. I can't recall that name being there, but possibly.
16
17 Q. Can you remember how many people were at the meeting?
18 A. I thought there was three.
19
20 Q. I see.
21 A. Sorry, three from QPS and Cathie Allen and myself.
22 That's to the --
23
24 Q. Doing the best you can - I'm sorry.
25 A. I'm sorry. Go on.
26
27 Q. I didn't want to interrupt you. Doing the best you
28 can for us, what can you remember having been discussed at
29 the meeting?
30 A. There was a range of issues discussed, the pros and
31 cons from memory. Some explanation of the data, but I
32 can't recall the specifics. It was a detailed discussion
33 where Cathie answered a lot of their questions.
34
35 Q. Do you recall whether anyone was the dominant speaker
36 at the meeting?
37 A. Cathie certainly answered all the questions as she had
38 the technical expertise. I cannot recall a dominant
39 speaker from QPS, but I believe that Superintendent
40 Frieberg was the decision-maker. That was my
41 understanding.
42
43 Q. Is it your recollection that there was a discussion
44 about the extent to which there would be a loss of
45 intelligence as a consequence of adopting Option 2?
46 A. My recollection was that it was certainly mentioned
47 and discussed, but I can't remember in what detail.

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Q. When coming out of the meeting, your understanding that the significance of the loss was 1.46 per cent remained?

A. Sorry, repeat that question, please?

Q. Yes, I will put it a different way. Going into the meeting, you understood that the measure of the loss of intelligence was 1.46 per cent?

A. Yes.

Q. And coming out of the meeting, you still understood that the measure of the loss of intelligence was 1.46 per cent?

A. Yes.

Q. But what exactly was said during the meeting about what intelligence was lost, you can't now remember?

A. I can't recollect the detail. There was a range of discussions going on.

Q. Who did you understand to be the decision-maker as to whether Option 2 would be adopted?

A. My understanding was it was Superintendent Frieberg.

Q. Was it your view that, from the Queensland Health perspective, sufficient information had been provided to Superintendent Frieberg to make that decision?

A. Yes.

Q. In relation to that decision, did you have a view as to whether or not you should brief up before permission or agreement was sought from QPS?

A. I think as I've said in my statement, I believed that this was a matter for QPS decision; it was not a matter for Queensland Health to make that call. And I say this because very frequently we were told that the Police have the final say on the samples and how they were treated and what was being tested.

Q. I understand. But just to come back to my question, did you understand or think that this was something that you ought to brief up to somebody above you within Queensland Health before seeking the permission from QPS?

A. I certainly would have briefed up to my CO at the time, Gary Uhlmann. I had regular meetings with him every fortnight, from memory, and I briefed him on what was going

1 on that affected FSS. I can't specifically remember what
2 or when, but I certainly would have briefed him on that
3 because I briefed him on everything.

4
5 Q. Just so I understand, would that be briefing him
6 orally or in writing?

7 A. Orally.

8
9 Q. I see. Did you turn your mind to whether other
10 stakeholders ought to be consulted before a decision like
11 this was made?

12 A. No.

13
14 Q. Did you turn your mind to whether a decision like this
15 might have wider ramifications for the criminal justice
16 system in Queensland other than just for police in terms of
17 their investigations?

18 A. No.

19
20 Q. As you understood it in your discussions with QPS -
21 sorry, I withdraw that. As I understand it, you only had
22 one discussion with QPS about this decision. That was that
23 meeting on 2 February?

24 A. Yes, that's correct.

25
26 Q. Do you recall whether anyone in that meeting raised
27 the question of whether other stakeholders should be
28 consulted?

29 A. No, I don't recall that being raised.

30
31 Q. Did you in your own mind regard this as a significant
32 decision to cease to process samples between 0.001 and
33 0.0088 for Priority 2 cases?

34 A. Yes.

35
36 Q. Was it sufficiently serious in your mind to warrant
37 some kind of formal documentation?

38 A. I'm just trying to think back. My understanding at
39 the time was this was the first step in the process, and
40 the fact that we gave the document to the police to
41 consider, I expected that there would be further
42 documentation formally.

43
44 Q. I will show you another document. Can we bring up
45 [WIT.0035.0001.0001_R at 0093]. Can we just blow up the
46 text of the email. You see this is an email from
47 Superintendent Frieberg to you and Ms Allen. It was sent

1 on that same afternoon that you had the meeting?

2 A. Yes.

3

4 Q. You see Superintendent Frieberg says:

5

6 *Thank you for your time this afternoon and*
7 *for discussion around this options paper.*

8

9 And then she goes on and says:

10

11 *As discussed, I am in agreement that:*

12

13 And then she has five bullet points?

14

15

16 Q. And beyond that email, were you expecting any further
17 documentation or evaluation?

18

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1 Q. How?

2 A. I'm sorry?

3

4 Q. How? How did they appear to do so?

5 A. Well, they didn't raise any objections to it or raise
6 any - any great contra-view. They looked at - they read
7 the paper, obviously, asked questions, discussed it, and
8 there was no - no great pushback on it.

9

10 Q. Reflecting on the process in hindsight by which
11 Option 2 was agreed - sorry, I should - before I do that,
12 there is one other thing I have to ask you.

13

14 At that meeting on 2 February, do you recall any
15 discussion about ceasing the auto-microcon process for
16 Priority 1 samples?

17 A. I don't recall any discussion around that at all.

18

19 Q. Is it your view that it was highly unlikely that
20 anyone agreed at that meeting on 2 February to cease the
21 auto-microcon process for Priority 1 samples?

22 A. As I said, that wasn't - to my recollection, that
23 wasn't discussed at all. The discussion was around
24 Option 2.

25

26 Q. As I understood your evidence earlier, you said that
27 you understood that one of the benefits of ceasing to
28 undertake the process for Priority 2 samples was that it
29 would allow more time to be devoted to Priority 1 samples?

30 A. Yes, that's correct. I'm sorry, I must have
31 misunderstood your question. I thought you were asking was
32 there a discussion around ceasing the concentration steps
33 on Priority 1. Did I misunderstand the question?

34

35 Q. No, that was my question. I'm asking you if you
36 recall such a discussion. I am not suggesting such a
37 discussion occurred. I am just asking if you recall such a
38 discussion?

39 A. I do not recall any discussion about ceasing
40 concentration steps for Priority 1 cases.

41

42 Q. And I am suggesting to you to go a step further.
43 Based on what you do recall in your understanding, it would
44 seem highly improbable to you that there was such a
45 discussion about ceasing Priority 1 processing?

46 A. Yes. As I said, I have no recollection of that even
47 being discussed.

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Q. In terms of looking back with hindsight and reflecting on what happened, do you regard the process by which the decision was made to adopt Option 2 from the Options Paper as satisfactory?

A. Well, I take the view it was satisfactory for QPS to take that option. And, further, the whole thrust of the discussion and the Options Paper was to ask QPS how we could best served their purposes, and it was their decision that this was the way.

Q. I understand. Again in hindsight, do you see any inadequacy in the content of the Options Paper in terms of the way of the information that it provided to the QPS?

A. Well, in hindsight your suggestion of a more detailed figure of the time savings or resource savings would have been - would have been appropriate.

Q. Did the thought occur to you at any stage to seek more money for the DNA lab rather than stopping testing?

A. Budget discussions were never easy and budgets were always on the side of cutting. But, no, I did not ask for more - sorry, I cannot specifically recollect asking for more money for DNA. I did ask for more money in other areas and was refused.

Q. I see. Just to clarify some aspects of that, in terms of the internal Queensland Health budget, you never sought in the time you were in the role an increase for the funding of the DNA lab?

A. Not specifically for the DNA lab, no.

Q. Did you seek it for Forensic Services in a way that would benefit the DNA lab?

A. That's an arguable point, because I sought more funding for the Clinical Forensics Medical Unit lab to be able to cope with the increased volume of rape cases and the subsequent processing of those samples.

Q. You just broke up a little bit, Mr Csoban. It's not your fault. You sought funding?

A. I sought funding for an increase for the Clinical Forensic Medical Unit. These were the doctors who attended rape cases and how that processing would have been assisted by at least another clinician, and that was refused.

Q. I understand. That's the section that does the SAIKs?

1 A. I'm sorry, you broke up that time?

2

3 Q. That's the section that does the SAIKs, that
4 administers the sexual assault kits?

5 A. Yes. They take the samples and they submit it for
6 processing, both DNA.

7

8 Q. You sought more funding for that unit or that section?

9

A. I did.

10

11 Q. Do you recall being aware that QPS paid an amount of
12 \$3 million per year for crime scene sample processing?

13 A. I can't recollect that, but I can recollect they paid
14 money, from memory, for processing on roadside alcohol
15 testing, from memory. But, again, that's from memory.

16

17 Q. Did the thought occur to you to present to the QPS a
18 further option, which is that the QPS could pay more money
19 so that there would be more scientists in order to improve
20 turnaround times without losing information?

21

A. No, that did not occur to me.

22

23 MR HODGE: Thank you, Commissioner. I don't have any
24 further questions.

25

26 THE COMMISSIONER: Thank you. Mr Hunter?

27

28 **<EXAMINATION BY MR HUNTER**

29

30 MR HUNTER: Q. Sir, you have spent much of your career
31 in the management of laboratories, correct?

32

A. Correct.

33

34 Q. You, as part of your role of managing laboratories,
35 would ensure that the laboratories devise proper procedures
36 whereby they were operated?

37

A. Correct.

38

39 Q. And an important part of managing the work of a
40 laboratory is devising methods by which you can assess the
41 performance of the laboratory?

42

A. One of the ways that we safeguard the quality of a
43 laboratory is the use or having a Quality Manager and
44 resource to ensure all of the quality parameters are met.

45

46 Q. Sure?

47

A. And one of the things from when I went to FSS was to

1 upgrade that function and bring the Quality Manager into
2 the Executive team.

3
4 Q. But my point is that if you are going to run a lab,
5 you need to be able to continually assess how it's
6 performing - continuously assess how it's performing, I'm
7 sorry. Yes?

8 A. That would largely fall on the person who ran that
9 lab.

10
11 Q. But you understand that from your long experience in
12 the management of laboratories, correct?

13 A. Yes.

14
15 Q. Am I right in assuming that there were means available
16 to those in charge of the lab that we're talking about to
17 continuously monitor its performance?

18 A. Yes.

19
20 Q. You understood, didn't you, that the impetus for
21 Option 2 in this Options Paper was to improve the
22 timeliness of reporting?

23 A. Yes.

24
25 Q. Correct?

26 A. Yes.

27
28 Q. You wanted to prioritise the saving of scientists'
29 time and resources, correct?

30 A. Yes.

31
32 Q. And so Option 2 was ultimately accepted by the Police
33 and implemented - yes?

34 A. It was accepted. I can't recall whether it was
35 implemented in the time that I was there, but I can't
36 actually recall that being firmly fixed.

37
38 Q. Do you recall whether any steps were taken to see
39 whether the implementation of Option 2 actually achieved
40 the objectives that lay behind it?

41 A. No.

42
43 Q. Do you stand by the content of your statement, in
44 paragraph 34 of your statement [WIT.0029.0001.0001 at
45 0006], that:

46
47 *It was made abundantly clear and fully*

1 *agreed that there would be no preferred*
2 *option put forward by FSS nor favoured by*
3 *FSS and it was entirely at the discretion*
4 *and choice of QPS as to the options to be*
5 *endorsed by them.*

6
7 A. Yes.

8
9 Q. So you would reject, I take it, the suggestion that
10 the Options Paper was heavily weighted in favour of the
11 acceptance of Option 2?

12 A. Yes, I would reject that.

13
14 MR HUNTER: They are the only questions I have. Thank you.

15
16 THE COMMISSIONER: Thank you. Mr Rice?

17
18 MR RICE: No questions.

19
20 THE COMMISSIONER: Ms Mckenzie?

21
22 MS MCKENZIE: No, thank you.

23
24 THE COMMISSIONER: Mr Gnech?

25
26 MR GNECH: No questions.

27
28 THE COMMISSIONER: Mr Hickey?

29
30 MR HICKEY: I just have a few questions, please,
31 Commissioner.

32
33 **<EXAMINATION BY MR HICKEY**

34
35 MR HICKEY: Q. Mr Csoban, my name is Hickey. I appear
36 for Cathie Allen and Justin Howes. I have a few questions
37 for you. Can you hear me all right?

38 A. Yes, I can.

39
40 Q. Would you agree that you and Ms Allen had an excellent
41 working relationship?

42 A. Yes, I would.

43
44 Q. And would you agree with me that you and she shared
45 many of the same values in respect of your approach to
46 work?

47 A. Yes, I would.

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Q. Would you agree with me that she was a person who worked hard?

A. Yes, I would agree with that.

Q. And your observation of her in the workplace was that she endeavoured always to do the right thing?

A. Yes.

Q. And she was motivated by attempting to do the best thing by the community?

A. Yes, absolutely.

Q. It's right that you and she respected each other, as far as you were aware?

A. As far as I'm aware, yes.

Q. You had a high level of trust in her ability?

A. I did.

Q. And you were confident to only ask her to undertake your role while you were on leave?

A. Correct.

Q. It's true, isn't it, that Ms Allen confided in you about aspects of negative work culture that were occurring within the laboratory?

A. Yes.

Q. It's not your observation, is it, that she was responsible for that negative work culture?

A. It was not my observation, no.

Q. Nor was it the case that it was Mr Howes who was responsible for a negative work culture within the professional environment?

A. That is also correct.

Q. You were responsible for the process of removing a person called Amanda Reeves from the workplace?

A. In conjunction with our HR Department.

Q. Yes. Would you agree with me that she was a divisive character within the workplace?

A. I would, and that was substantiated by the firm that was appointed by the DG's HR department to bring her back into the workplace.

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Q. Would you agree with me that others - well, let me try again. Would you agree with me that you observed Ms Kylie Rika to be aligned with Ms Reeves?

A. That was my understanding.

Q. And it was your experience also, wasn't it, that Ms Rika was a divisive person within the workplace?

A. Yes.

Q. And would you agree that to the extent that Ms Rika experienced a toxic culture within the forensic laboratory, that was a culture of her own making?

A. I think she contributed heavily to that, yes.

Q. You were asked by my learned friend Mr Hodge some questions about your reasons for - whether you had asked for more money for forensic - particularly for DNA testing, do you recall that?

A. Yes.

Q. One of your answers was that you had asked for money for other areas but were refused. Do you recall that?

A. Yes.

Q. Was that the reason that you didn't ask for more money for DNA testing?

A. I don't think that was the sole reason. I think I was very much under the impression that asking for more money in a budget had to be heavily substantiated and I felt the other areas were more heavily substantiated than the DNA Unit.

Q. That's not to say, though, that you didn't consider the DNA Unit could have benefited from more funds?

A. Oh, absolutely.

Q. Thank you.

MR HICKEY: Those are my questions, Commissioner.

THE COMMISSIONER: Thank you, Mr Hickey. Any further questions, Mr Hodge?

MR HODGE: Yes, I do have some further questions

<FURTHER EXAMINATION BY MR HODGE

1
2 MR HODGE: Q. Mr Csoban, I would first just ask you
3 about something, an answer you gave to Mr Hunter, which is
4 about paragraph 34 of your statement. We might just bring
5 that up. [WIT.0029.0001.0001 at 0006]. This is where you
6 say:

7
8 *It was made abundantly clear and fully*
9 *agreed that there would be no preferred*
10 *option put forward by FSS.*
11

12 And you said you maintained that. I just want to
13 understand, when you say it was made abundantly clear and
14 fully agreed, does that mean made abundantly clear by you
15 to Cathie Allen?

16 A. I was made abundantly clear by me to Cathie Allen and
17 it was also made abundantly clear to QPS.
18

19 Q. We will just take those in turn. Did you speak to
20 Cathie Allen before the meeting with QPS to say to her, "We
21 are not to favour any particular option"?

22 A. Yes, but that certainly was her view of it as well.
23

24 Q. You understood she did favour an option?

25 A. Why - that is my understanding.
26

27 Q. And you favoured an option, which was Option 2?

28 A. Sorry?
29

30 Q. I will break it down. You understood that she
31 favoured Option 2?

32 A. No. I understood that that was an option that she put
33 forward. I don't know - I can't say that she favoured it.
34

35 Q. You didn't know which option she favoured?

36 A. I was under the impression she put forward a range of
37 options and allowed the QPS to make a decision.
38

39 Q. Sorry, you know she didn't put forward a range of
40 options. You know she put forward two options. You knew
41 she put forward two options. Do you say to the Commission
42 that you didn't know which of those two options she
43 favoured?

44 A. I cannot say she favoured either of those two options.
45

46 Q. And did you favour one of the two options?

47 A. No.

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Q. Are you saying you made it abundantly - I'm sorry, go on.

A. I said no, I recognised there was a shortcoming in Option 2. But that was again, I reiterate, I felt that was a matter for QPS to determine whether that was a good enough offset for the benefits to the (indistinct).

Q. You say you made it abundantly clear to QPS as well?

A. Yes.

Q. And when did you do that?

A. Sorry, you broke up?

Q. When did you do that?

A. At the meeting.

Q. So you remember at some point in the meeting saying, "We don't favour any particular option"?

A. Yes.

Q. When in the meeting do you remember having done that?

A. I can't remember a specific time, but I do remember doing it because I felt it was a significant change in the way we processed samples.

Q. Do you say that you understood that the Options Paper itself was entirely neutral as to which option was to be preferred?

A. Yes. I felt that the Options Paper put forward all the required data for a decision to be made.

Q. You have already agreed with me that that's - as I understood it, that's not quite right, because it certainly didn't identify any meaningful change in terms of turnaround times. It just asserted it generally.

A. Yes.

Q. So to go back to my question, do you say you thought the Options Paper was even-handed as to which option was to be preferred?

A. Yes. I still say that. At the time that was my understanding.

Q. And then you say that in the meeting, although there were questions asked by QPS, as far as you were concerned, neither you nor Ms Allen favoured any particular option?

1 A. That is correct.

2

3 Q. If we just go back to the email that came from
4 Superintendent Frieberg, which is [WIT.0035.0001.0001_R at
5 0093], and you see she says:

6

7 *As discussed, I am in agreement that:*

8

9 *There is clear data that is not an*
10 *efficient use of time and resources to*
11 *continue with the 'auto-microcon' process*
12 *for Priority 2 (Major Crime) samples.*

13

14 THE COMMISSIONER: Where are you reading from, Mr Hodge?

15

16 MR HODGE: Sorry, that is an email on the screen,
17 Commissioner. It is an exhibit to Superintendent
18 Frieberg's statement.

19

20 THE COMMISSIONER: I see. Thank you, yes.

21

22 MR HODGE: Q. So you see Superintendent Frieberg emailed
23 you, this must have been 40 minutes after the meeting
24 concluded and said:

25

26 *Hi Cathie and Paul,*

27

28 And then she says:

29

30 *As discussed, I am in agreement that:*

31

32 And her first bullet point is:

33

34 *There is clear data that it is not an*
35 *efficient use of time and resources to*
36 *continue with the 'auto-microcon' process*
37 *for Priority 2 (Major Crime) samples.*

38

39 A. Yes. So what is - I'm sorry, I --

40

41 Q. Who do you understand she is agreeing with?

42 A. Well, I took it that she agreed with her colleagues,
43 the other police officers there.

44

45 Q. I see. You say you didn't think that she was agreeing
46 with you and Ms Allen?

47

A. I can't say what she was saying, but as I said, to

1 reiterate, we made it abundantly clear that it was not a
2 decision for us to make, and we weren't going to be putting
3 one option over another. And we didn't. I can
4 categorically say that.
5
6 THE COMMISSIONER: Q. Sorry, you categorically say what,
7 Mr Csoban?
8 A. That we did not favour any particular option and we
9 did not forward any particular option as a favoured one for
10 FSS.
11
12 THE COMMISSIONER: Yes, thank you.
13
14 MR HODGE: Q. I have to suggest some things to you,
15 Mr Csoban. The first is that it is not correct that you
16 said at the meeting that you did not favour any particular
17 option?
18 A. My recollection was that I did, and I'm pretty adamant
19 about that.
20
21 Q. I want to suggest to you that it was obvious to you
22 that Ms Allen favoured Option 2?
23 A. I can't agree with you.
24
25 Q. I want to suggest to you that it was obvious to you on
26 reading the Options Paper that it favoured Option 2?
27 A. No, I can't agree with you on that one either.
28
29 Q. And, regrettably, this idea that you were neutral as
30 between the two options is a --
31
32 THE COMMISSIONER: When you say "you", do you mean FSS
33 or --
34
35 MR HODGE: Well, as I understand it, it is Mr Csoban. He
36 says he was neutral as between the two options on behalf
37 of --
38
39 THE COMMISSIONER: You are putting that Mr Csoban was
40 neutral?
41
42 MR HODGE: Yes. I will withdraw that and put it another
43 way.
44
45 Q. That it is a reconstruction by you to suggest that the
46 way in which FSS presented this to the QPS was neutral as
47 between the two options?

- 1 A. Sorry, what the question was, there? I'm confused.
2
- 3 Q. You have retrospectively gone back and suggested that
4 it was neutral when you know that it wasn't.
5 A. No. My recollection is that --
6
- 7 Q. And this is to pass responsibility to QPS, isn't it?
8 A. I refute that completely.
9
- 10 Q. I am sorry you are breaking up, Mr Csoban?
11 A. I refute that completely. My view was that it was
12 always a decision for QPS.
13
- 14 Q. I then want to ask you some questions about - no, I'm
15 sorry. Let me withdraw that. I am not suggesting that
16 your view was that it wasn't a matter for QPS to agree.
17 What I am suggesting to you is that you could not have
18 believed that FSS was presenting it to QPS neutrally?
19 A. Well, my recollection is that I firmly believe that.
20
- 21 Q. And what I am suggesting to you is that when you look
22 back on it in retrospect, you are passing responsibility to
23 QPS by suggesting that you presented it neutrally?
24 A. I disagree with you that I'm passing responsibility
25 for the fact that I'm misconstruing what I remembered. I
26 remembered very clearly that it was, in my view, a paper
27 balanced on the data and it was up to QPS to make that
28 decision, and I would have been happy to - equally happy to
29 implement the decision otherwise if required.
30
- 31 Q. I want to then ask you some questions about the
32 questions Mr Hickey asked you. You gave some evidence, as
33 I understood it, that you regarded Ms Reeves and Ms Rika as
34 divisive figures. I withdraw that. Sorry, you said that
35 Ms Reeves was a divisive figure?
36 A. Yes.
37
- 38 Q. And apart from Ms Reeves and Ms Rika, were you aware
39 of other staff within the laboratory having issues with the
40 management of Ms Allen?
41 A. Yes. I believe there were other staff who had issues
42 in line with Amanda and the other lady, yes.
43
- 44 Q. Was it the case that, as between on the one hand those
45 staff and on the other hand Ms Allen, that you sided with
46 Ms Allen?
47 A. I think it should be remembered that there were other

1 staff there who were equally as opposed to Amanda's
2 activities. So it wasn't just the one set of staff members
3 against Cathie. And I don't think that's a fair
4 assumption, to say that I sided with Cathie. I looked at
5 all the facts, I was involved very much in the proceedings
6 and I made my own judgment on it.

7
8 Q. And you had, as I understand it, it a negative view of
9 Ms Reeves?

10 A. I had a negative view of some of her actions and her
11 statements, yes.

12
13 Q. And you had a negative view of Ms Rika?

14 A. Ms Rika I only knew of peripherally towards the end,
15 but I didn't - I did know her as well. I didn't have as
16 much to do with her as I did with Amanda.

17
18 Q. If you come back to my question, you had a negative
19 view of Ms Rika as well?

20 A. Yes.

21
22 Q. And I asked you - actually, I withdraw that. In your
23 statement at paragraph 40, [WIT.0029.0001.0001 at 0007],
24 you say:

25
26 *To my knowledge no concerns were raised by*
27 *staff at FSS, and none were ever expressed*
28 *to me [after the process change].*

29
30 A. That's correct.

31
32 Q. I just want to understand that then. Does that mean
33 you did know that there was a process change that occurred
34 whilst were you there?

35 A. No, I didn't know for sure there was a process change.

36
37 Q. In your statement, you say:

38
39 *I would further stipulate that I would*
40 *expect that if there were concerns raised*
41 *and not satisfactorily addressed by*
42 *Line Managers, all staff had the capacity*
43 *to escalate to me.*

44
45 A. That goes on to state further, "to me or in other
46 avenues," yes.

47

1 Q. No, it doesn't. In your statement, we can bring it
2 up, it is [WIT.0029.0001.0001 at 0007], and that's at the
3 bottom of that paragraph. And the top of the paragraph is
4 [WIT.0029.0001.0001 at 0008]. You see it says:

5
6 *I would further stipulate that I would*
7 *expect that if there were concerns raised*
8 *and not satisfactorily addressed by*
9 *Line Managers, all staff had the capacity*
10 *to escalate to me.*

11
12 A. Yes, and I would further continue on to number 41
13 where I further stressed that there were other avenues
14 staff could raise objections.

15
16 Q. I see. I think what you are actually raising in 41 is
17 that there is a formal process which is an OQI process?

18 A. Okay. Can I just have your question again which you
19 want me to answer, please?

20
21 Q. Well, just tell me if you agree. Paragraph 41 is
22 about an OQI process for raising quality issues about
23 processes?

24 A. Or direct - direct referral to the Manager of Quality
25 or to senior management.

26
27 Q. Then in paragraph 40, though, this is what I am
28 interested in understanding, you say:

29
30 *I would further stipulate that I would*
31 *expect that if there were concerns raised*
32 *and not satisfactorily addressed by*
33 *Line Managers, all staff had the capacity*
34 *to escalate to me.*

35
36 A. That is correct, and that has occurred in other areas
37 of --

38
39 Q. And - sorry, I didn't mean to cut you off, Mr Csoban.
40 Go on.

41 A. Yes. I agree, and it has occurred in other areas
42 where staff has raised concerns directly to me after not
43 getting satisfactorily dealt with by their manager.

44
45 Q. Can I just clarify something about that, when it's
46 referring to FSS there. Does that mean staff within the
47 DNA lab or does that mean something broader?

1 A. I remember there was one staff in the DNA lab - I'm
2 pretty sure that is where she came from - that raised it to
3 me, yes. But not about the processes; it was more around
4 training for her, but it wasn't around processes of a
5 technical nature.

6
7 Q. I see. When in your statement you say:

8
9 *This happened a number of times (not in*
10 *reference to this matter) so it was a*
11 *well-accepted process.*

12
13 That's not in relation to the DNA lab, that's in relation
14 more generally?

15 A. No. Amanda Reeves actually did escalate to me on
16 another matter, not this matter.

17
18 Q. Just again, I just want to understand. There was one
19 person in relation to the DNA lab that was escalated to
20 you?

21 A. There is one matter, yes.

22
23 Q. Was that Amanda Reeves?

24 A. Yes. That was a very long complex procedure, which
25 changed several times, about the source of discontent.

26
27 Q. Yes, I understand you have a very negative view about
28 Amanda Reeves, but I just want to understand when in your
29 statement you say this happened a number of times, not in
30 reference to this matter, I want to understand the number
31 of times. Is it once in relation to the DNA lab, which is
32 Amanda Reeves, and the other times are in relation to areas
33 of FSS outside of the management of Cathie Allen?

34 A. Yes.

35
36 Q. And then I want to go back to the preceding sentence
37 where you say:

38
39 *I would further stipulate I would expect*
40 *that if there were concerns raised and not*
41 *satisfactorily addressed by line managers,*
42 *all staff had the capacity to escalate to*
43 *me.*

44
45 Do you say to the Commission that you would have expected,
46 if Kylie Rika or Amanda Reeves had concerns in relation to
47 the Options Paper, that they would escalate it to you?

1 A. They certainly had the capacity. Whether they would
2 or not is their choice, but they had the capacity. And in
3 fact, that is exactly what occurred in another situation in
4 DNA lab.

5
6 Q. Amanda Reeves left the DNA lab sometime in early 2018;
7 is that right? Or do you not remember?

8 A. I wasn't - sorry, I didn't realise it was a question.
9 I thought it was a statement. I can't remember exactly
10 when she left, but she left not because of this incident,
11 but because of another set of complex matters.

12
13 Q. In relation to Kylie Rika, you had a negative view of
14 her. Do you think there would be any reason why she
15 wouldn't be aware of your negative view?

16 A. I have no idea whether she was aware of my views at
17 all.

18
19 Q. Can you see why there might be an issue with staff
20 within the laboratory escalating concerns to you if they
21 formed the view that you were taking the side of Cathie
22 Allen?

23 A. I can't speak for staff, but I've certainly proved
24 that when it was escalated to me I discounted what Cathie
25 Allen said and sought external advice on whether the
26 grievances were legitimate or not.

27
28 MR HODGE: I don't have any further questions.

29
30 **<QUESTIONS BY THE COMMISSIONER**

31
32 THE COMMISSIONER: Q. I have a couple of questions,
33 Mr Csoban.

34 A. Yes.

35
36 Q. You refer to the Quality Manager in paragraph 41 of
37 your statement.

38 A. Yes.

39
40 Q. What did you understand was the role of a Quality
41 Manager while you were there?

42 A. She was responsible for complying with all our
43 numerous legislation - legislative requirements,
44 (indistinct) requirements, agreements to (indistinct). She
45 received and she had meetings and was exposed nearly all
46 members of the - all senior members of FSS. She would
47 receive any complaints, if you like, or concerns around any

1 quality functions of the entire unit.

2

3 Q. What did you understand was the authority of the
4 Quality Manager to deal with quality issues?

5 A. She would bring anything serious to my attention. She
6 had the authority to deal with anything that wasn't major,
7 but anything major she would bring to my attention and we
8 would discuss the options of what to do about it.

9

10 Q. If you take your mind back to the Options Paper and to
11 the discussion that you had at the meeting that you have
12 been asked about --

13 A. Yes.

14

15 Q. -- you understood that the proposal was that a certain
16 new process would be undertaken in relation to major crime
17 investigations which were Priority 2 category; is that
18 right?

19 A. Yes.

20

21 Q. Did you understand that micro-concentration and "no
22 further testing", that that regime would also apply to
23 Priority 1 samples?

24 A. No, I did not understand that at all. That was not my
25 understanding at all. This was purely in relation to --

26

27 Q. Can you tell me - all right. I am going to read you a
28 statement of fact and ask you whether that accords with
29 your recollection and whether you say that statement is
30 true or false.

31 A. Okay.

32

33 Q. The statement is this: During the discussion - at
34 that meeting that you were asked about when the Options
35 Paper was discussed with police.

36

37 During the discussion, the second part of Option 2,
38 Section A, was discussed, which related to Priority 1
39 samples and the superintendent - that is, Superintendent
40 Dale Frieberg - indicated that Priority 1 samples should be
41 processed the same as Major Crime, P2, and Volume Crime
42 samples, P3, which is not to be automatically processed
43 through the Microcon process.

44

45 And further, this:

46

47 The Microcon process was no longer automatically

1 undertaken for P1 or P2 samples from 12 February 2018.

2

3 Now, does that accord with your recollection? Is what I
4 put to you true or false?

5 A. It does not accord with my recollection, so false.

6

7 Q. Now, you were in that position until, I think, July
8 2018 when you left to do other things. Were you involved
9 in the latter part of that financial year until you left
10 with preparing the budget for --

11 A. No, I was not. I actually ceased working as of May
12 for various reasons, part of which was personal leave for
13 certain surgery. So, no, I was not involved from May
14 onwards.

15

16 Q. Do you know if the budget was altered, insofar as the
17 DNA section was concerned, to take into account the new
18 process?

19 A. No, I do not know that.

20

21 Q. All right. I think you said that you had some direct
22 dealings with Ms Reeves, but you were aware that Ms Rika -
23 Kylie Rika - was friendly with Ms Reeves; was a supporter
24 of Ms Reeves. But as I understood, you said that you came
25 to know about Ms Rika or you had few dealings with her,
26 except at the end of your time there you had some dealings
27 with her. Have I understood you correctly?

28 A. No, I did not have many dealings with her. At the end
29 I had some dealings with the unit in terms of meetings.

30

31 Q. Yes. What was the source of your information about
32 Ms Rika so far as her character and your appreciation of
33 her character and her behaviour was concerned?

34 A. There were many meetings with Ms Reeves and her
35 lawyers and our lawyers. There was a number of meetings
36 with external consultants in this matter and her name
37 cropped up frequently in conjunction with Amanda Reeves.

38

39 Q. But I understood you to say that your view of Ms Rika
40 came to be adverse. Is that right? Or have I put it
41 wrongly?

42 A. No, no, you put it correctly.

43

44 Q. Yes. And what was the source of your information that
45 allowed you to form that view?

46 A. As I said, in my numerous discussions with Amanda and
47 in reference to meetings held with the unit, she seemed -

1 she was always a very staunch supporter of Amanda Reeves.
2 And further, there was other members of staff who relayed
3 their concerns to me as well.
4

5 Q. I see. And broadly, in what section of the laboratory
6 did those members of staff work to whom you just referred?
7 I don't want their names?

8 A. I believe they were a similar section to Amanda in the
9 Reporting and Reviewing section.

10
11 THE COMMISSIONER: Anything arising out of that, any of
12 you? Mr Hodge?

13
14 MR HODGE: No, thank you.
15

16 THE COMMISSIONER: Thank you for your evidence and for
17 attending today, Mr Csoban. Thank you for your assistance.
18 You are free to turn off your computer now, or turn off the
19 video feed at least.
20

21 THE WITNESS: Thank you, Commissioner.
22

23 <THE WITNESS WAS RELEASED
24

25 THE COMMISSIONER: Yes, Mr Hodge?
26

27 MR HODGE: Commissioner, can we just have a short break
28 for five minutes so we can set up the video-link. There
29 are two short witnesses we will be able to deal with this
30 afternoon.
31

32 THE COMMISSIONER: Yes. That's all right. We will take a
33 10-minute break then.
34

35 **SHORT ADJOURNMENT**

[4.00pm]

36
37 THE COMMISSIONER: Mr Jones?
38

39 MR JONES: I call [REDACTED] and he will take
40 an oath.
41

42 <MR [REDACTED], SWORN
43

44 THE COMMISSIONER: Yes, Mr Jones.
45

46 <EXAMINATION BY MR JONES
47

1 MR JONES: Q. You are [REDACTED]?
2 A. I am.
3
4 Q. You are a detective sergeant attached to a Criminal
5 Investigation Branch?
6 A. That's correct.
7
8 Q. You provided a statement to the Commission of Inquiry
9 dated 20 September 2022?
10 A. I did.
11
12 Q. That is the document that is on the screen in front of
13 you now?
14 A. Yeah, that's the document.
15
16 Q. Is it true and correct?
17 A. Yes, to the best of my knowledge.
18
19 Q. Do you have any changes you wish to make to it?
20 A. No.

21
22 MR JONES: I tender that, Commissioner.

23
24 THE COMMISSIONER: Yes, exhibit 43.

25
26 **EXHIBIT #43 STATEMENT OF [REDACTED] DATED**
27 **20/09/2022**

28
29 MR JONES: Q. As a detective sergeant in the Criminal
30 Investigation Branch, your role is to provide management of
31 criminal investigations within the district in which you
32 operate?

33 A. That is correct.

34
35 Q. That includes to investigate all major crimes,
36 including sexual offences, assaults, property crimes, armed
37 robberies, drug trafficking and homicides?

38 A. That is correct.

39
40 Q. In [REDACTED] you became involved in a [REDACTED]
41 investigation?

42 A. Yes, I did.

43
44 [REDACTED]
45 [REDACTED]

46
47 [REDACTED]

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THE COMMISSIONER: Well, do you know, Mr Jones? You can look at the statement.

MR JONES: Q. Was it seven items that came back with "DNA insufficient for further processing"?

A. That was some of them, yes.

[REDACTED]

Q. It was originally reported [REDACTED] as "DNA insufficient"?

A. Yes, that's correct.

Q. In [REDACTED] it came back with a three-person mix DNA profile?

A. Yes, that's correct.

Q. And one of those profiles matched the accused 1 million - you have got here 1 million to 1 billion. Is that right? 1 million to 1 billion? Or is it --

A. That's the ratio, yes.

[REDACTED]

Q. And they were resubmitted for further work, and [REDACTED], a three-person mix profile was developed?

A. That's correct.

Q. Discovered. And one of those matched the accused?

A. That's correct.

Q. Prior to the commencement of the Commission, and at the time of that investigation, you understood "no DNA detected" result was that the sample that had been submitted could not be processed as no DNA was detected

1 during the examination?

2 A. That's correct.

3

4 Q. You are now aware, following advice from a Forensic
5 Coordinator during that investigation that those types of
6 results, or that type of result, can be reworked or further
7 worked and requested for analysis, further analysis?

8 A. Yes. Yes.

9

10 Q. At the time of that investigation, your understanding
11 of "DNA insufficient for further processing" - sorry, prior
12 to that investigation, your understanding of "DNA for
13 insufficient processing" was that samples that returned a
14 result of "DNA insufficient for further processing" had not
15 returned a profile for an individual?

16 A. That's correct.

17

18 Q. And prior to that investigation, you were not aware
19 that they could be further tested --

20 A. That's correct.

21

22 Q. -- or further worked? And the way in which the
23 results were being reported to you, you found
24 counterproductive?

25 A. Yes, that's correct.

26

27 Q. Because the result lines did not actually reflect the
28 true forensic value of the sample, as it could potentially
29 identify an individual who was involved in an offence, or
30 exclude them?

31 A. That's correct.

32

33 Q. The two samples that I took you to from that
34 investigation, did they have some significance to the
35 investigation?

36 A. They did.

37

38 Q. What was that significance?

39 A. Significance of the one [REDACTED]
40 [REDACTED] and we had very little forensic evidence
41 gathered from around to the deceased.

42

43 Q. Thank you.

44

45 MR JONES: That's the evidence in chief.

46

47 THE COMMISSIONER: Mr Jones, was the testing completed as

1 a result of Inspector Neville's sweep of samples that were
2 returned with that result? Is that why they came to be
3 retested?
4

5 MR JONES: I don't believe so. I understand the
6 Detective's evidence to be that prior to the investigation
7 he was unaware that things could be further worked, but a
8 Forensic Coordinator during this investigation was aware of
9 that and informed him, and then they were ordered or
10 requested to be further worked.
11

12 THE COMMISSIONER: Yes
13

14 THE COMMISSIONER: Thank you. This is the [REDACTED]
15 [REDACTED]
16

17 MR HODGE: This is the [REDACTED] trigger for
18 Inspector Neville's --
19

20 THE COMMISSIONER: Yes, I remember now. Yes, yes. Thank
21 you. Yes, I remember it. Now, Mr Rice?
22

23 MR RICE: No thank you.
24

25 THE COMMISSIONER: Does anybody have any questions of
26 Detective Sergeant [REDACTED]?
27

28 MR HUNTER: No, thank you, Commissioner.
29

30 THE COMMISSIONER: Thank you, Detective Sergeant, for your
31 assistance. You are free to go.
32

33 <THE WITNESS WAS RELEASED
34

35 THE COMMISSIONER: Mr Jones, who is next?
36

37 MR JONES: I call [REDACTED]
38

39 THE COMMISSIONER: Thank you.
40

41 < [REDACTED], SWORN
42

43 THE COMMISSIONER: Mr Jones?
44

45 <EXAMINATION BY MR JONES
46

47 MR JONES: Q. You are [REDACTED]?
48

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A. Yes.

Q. That's how you say your surname?

A. Yep.

Q. You are a plainclothes senior constable?

A. Yes.

Q. You are attached to [REDACTED]
[REDACTED]

A. Yeah.

Q. That position covers the district you are from?

A. Right. Yes, that's right.

Q. You are currently part of a work group that investigates sexual and physical violence committed against vulnerable persons?

A. Yes.

Q. You were the lead investigator in relation to [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

- 1 Q. The complainant was taken to a hospital and a doctor
2 performed a sexual assault investigation kit?
3 A. Yes.
4
- 5 Q. A control swab was included as part of that kit?
6 A. Yes.
7
- 8 Q. An inner labial swab was taken?
9 A. Yes.
10
- 11 Q. One low vaginal swab was taken?
12 A. Yes.
13
- 14 Q. One high vaginal swab was taken?
15 A. Yes.
16
- 17 Q. And two endocervical swabs were taken?
18 A. Yes.
19
- 20 Q. You took a complaint from the complainant?
21 A. Yes.
22
- 23 Q. And you arrested the accused?
24 A. Yes.
25
- 26 Q. The next day?
27 A. Yes.
28
- 29 Q. For that? And he denied to you raping the
30 complainant?
31 A. Yes.
32
- 33 Q. Did he deny any sexual contact with the complainant,
34 do you recall?
35 A. Yes, he denied.
36
- 37 Q. As distinct from the rape, did he deny any sexual
38 contact?
39 A. Yes, he denied sexual contact, yeah.
40
- 41 Q. The samples that were taken, did they all come back in
42 the result lines as "DNA insufficient for further
43 processing"?
44 A. Yes.
45
- 46 Q. The swab low vaginal location was resubmitted?
47 A. Yes.

- 1
2 Q. And it came back with, excluding the complainant, two
3 profiles?
4 A. Yes.
5
6 Q. One of those was a cold link to the accused?
7 A. Yes.
8
9 Q. And that was the person the complainant had said raped
10 her?
11 A. Yes.
12
13 Q. The swab, the high vaginal location, came back with
14 one - upon retesting, came back with one male, which was a
15 cold link to the accused?
16 A. Yes.
17
18 Q. The endocervical swab came back after retesting as one
19 male cold link to the accused?
20 A. Yes.
21
22 Q. The low endocervical swab came back with two, or more,
23 people and one cold link to the accused?
24 A. Yes.
25
26 Q. At the time that you were investigating that and you
27 received those results, you did not request any further
28 work to those samples?
29 A. No.
30
31 Q. And at that time you understood "no DNA detected" to
32 indicate a suspect could not be identified?
33 A. Yes.
34
35 Q. And you were not aware of any other options available
36 after receiving that result type?
37 A. No.
38
39 Q. You had come across that result type previously for
40 property-related offences?
41 A. Yes.
42
43 Q. And your understanding has not changed about that
44 result type?
45 A. (Witness nods).
46
47 Q. At the time of the investigation you understood "DNA

1 insufficient for further processing" result line meant that
2 the sample may have been tainted in some way?

3 A. Yes.

4
5 Q. And you had not previously seen that result
6 line previously, before?

7 A. No.

8
9 Q. You provided a second statement on 26 - I haven't
10 tendered any of the statements.

11
12 THE COMMISSIONER: Do you want to tender that second
13 statement, Mr Jones.

14
15 MR JONES: I don't think I tendered the first one. No, I
16 haven't.

17
18 THE COMMISSIONER: All right. That will be exhibit 44,
19 the first statement.

20
21 **EXHIBIT #44 - WITNESS STATEMENT OF [REDACTED]**
22 **DATED 21/09/2022**

23
24 THE COMMISSIONER: The second one will be exhibit 45.

25
26 **EXHIBIT #45 - SECOND WITNESS STATEMENT OF [REDACTED]**
27 **[REDACTED] DATED 26/09/2022**

28
29 MR JONES: Q. Your statements are true and correct?

30 A. Yes, yes.

31
32 Q. And at the time of receiving "DNA insufficient for
33 further processing", you were not aware of any options
34 available to having that further worked?

35 A. Yes, that's correct.

36
37 Q. You did not request the reworking of those samples at
38 all, did you?

39 A. No.

40
41 Q. It was the DNA Management Section as part of their
42 retrospective review of cases?

43 A. Yes.

44
45 Q. And then it was alerted to you that it had received a
46 profile?

47 A. Yes.

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Q. You informed the complainant of that?

A. Yes.

Q. She became particularly emotional and broke down in tears?

A. Yes.

Q. And it strengthened her resolve to persist with her complaint?

A. Yes.

Q. Thank you.

MR JONES: That is the evidence-in-chief.

THE COMMISSIONER: Does anybody have any questions?

Q. Senior constable, I just want to ask you: you arrested the defendant on [REDACTED] and you then received the negative DNA results in [REDACTED]?

A. Yes, yes.

Q. Upon receiving those negative results, the brief that you were preparing for the criminal proceedings that would follow was a brief that would have as its central evidence the complainant's evidence?

A. Yeah, her statement and the first person she told, which is --

Q. And of course fresh complaint and matters of that kind, yes, but it would depend upon her direct evidence?

A. Yes.

THE COMMISSIONER: Yes, thank you. Anything arising out of that? No. Thank you, Senior Constable. Thank you for your assistance. You are free to go.

<THE WITNESS WAS RELEASED

THE COMMISSIONER: Mr Hodge?

MR HODGE: Commissioner, I think that finishes us for the day and we are commencing at 9.30 tomorrow.

THE COMMISSIONER: Would you like to just tell me who is being called tomorrow?

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MR HODGE: I would. The first witness is Bruce Budowle and I think the second witness is Paula Brisotto.

THE COMMISSIONER: Is who?

MR HODGE: Paula Brisotto. If you give me one moment Mr Jones will pass me the list I sent him earlier and then Michael Walsh, Michel Lok, Darren Pobar and Stephen Foxover.

THE COMMISSIONER: Walsh. Who is the next one?

MR HODGE: Lok, Pobar and Foxover.

THE COMMISSIONER: All right. And Dr Budowle is an expert from the United States appearing by video?

MR HODGE: And he will be at 9.30. Let me just check. Yes, that's right.

THE COMMISSIONER: Ms Brisotto works at the lab?

MR HODGE: She does.

THE COMMISSIONER: Mr Walsh, who is he? Mr Walsh and Mr Lok are associated with Queensland Health anyway, aren't they?

MR HODGE: They are. One of them is a former DG, but they were in the position back in 2018.

THE COMMISSIONER: All right. Queensland Health officers. And Mr Pobar and Mr Foxover?

MR HODGE: I believe they are both police officers, and their evidence relates to this year.

THE COMMISSIONER: All right. Thank you. Is that it? Nothing else? No? Thank you. We will adjourn till 9.30 am tomorrow then.

**AT 4.35 PM THE HEARING WAS ADJOURNED TO 9.30 AM ON FRIDAY,
30 SEPTEMBER 2022**