

**COMMISSION OF INQUIRY  
INTO FORENSIC DNA TESTING IN QUEENSLAND**

Brisbane Magistrates Court  
Level 1/363 George Street, Brisbane

On Monday, 31 October 2022 at 10.00am

Before: The Hon Walter Sofronoff KC, Commissioner

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

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TRA.500.022.0002

1 THE COMMISSIONER: Yes Mr Hodge.

2

3 MR HODGE: Thank you, Commissioner.

4

5 <CATHERINE JANET ALLEN, recalled, on former oath: [10.05AM]

6

7 <EXAMINATION BY MR HODGE:

8

9 Q. Ms Allen, can you see and hear me?

10 A. Yes, I can.

11

12 Q. I'm not sure if somebody's there who could assist you  
13 but it looks to me like the camera isn't quite on you,  
14 which it's not your fault, it just looks like it quite  
15 hasn't been set up on you?

16 A. Okay. I'll seek some help.

17

18 Q. Maybe if you can just raise it slightly otherwise I  
19 think you're going to feel like you have to bob down.  
20 Thank you Ms Allen.

21

22 I wanted to start by just asking you a couple of questions  
23 about the reports, the Budowle and Wilson-Wilde reports,  
24 which I understood from your evidence last week you'd read?

25 A. Yes, that's right.

26

27 Q. Do you agree with the conclusions that they came to in  
28 those reports?

29 A. Yes, I do.

30

31 Q. Can I ask you then about one particular issue raised by  
32 Dr Budowle and that is, two issues actually, one is in  
33 relation to the elution volume and the fact that within  
34 your laboratory there was an elution to 90 or 100  
35 microlitres, whereas his experience of the same system used  
36 in other labs was of a much lower elution volume. You know  
37 the evidence I'm talking about?

38 A. Yes. Yes, I do.

39

40 Q. And you recall that one of the issues he raises is that  
41 in the - on his review in the original validation it looked  
42 like there had been a problem with the validation because,  
43 to put it very simply, two things had been changed rather  
44 than just one and so you couldn't be certain as to what the  
45 problem was that was confronted in the first place?

46 A. Yes, I understand that, yes.

47

1 Q. And you agree that that was a problem with the original  
2 validation?

3 A. Yes, in hindsight I agree.  
4

5 Q. And do you have a view as to what conclusions, if any,  
6 the Commissioner should draw about the scientific quality  
7 of the lab that that kind of simple error was made in  
8 validation?

9 A. I think that over the course of the Commission of  
10 Inquiry, plus also other validations that we've done, we  
11 certainly look to improve upon everything that we do and  
12 that we may benefit from engaging with external people to  
13 review some of those validations at an early point to  
14 ensure that we are across all of the issues that we want to  
15 check and validate.  
16

17 Q. I understand but if you just come back to the point  
18 that Dr Budowle makes. He looked at the validation and  
19 when he looked at the validation he saw, he identified this  
20 issue, which is quite a simple and fundamental scientific  
21 issue - I'm sorry, are you still there, Ms Allen?

22 A. Yes, I am.  
23

24 Q. We've lost the video connection?

25 A. Okay.  
26

27 Q. I don't know if that's on your side. It's not your  
28 fault, Ms Allen, I just don't know if it's on our end or on  
29 your end?

30 A. Yeah, I don't have video of you either.  
31

32 Q. What we might do, Commissioner, is could we just  
33 adjourn for five minutes while we try and figure that out?  
34

35 THE COMMISSIONER: Yes, certainly.  
36

37 **SHORT ADJOURNMENT**  
38

39 MR HODGE: Thank you Commissioner. I'm sorry about that,  
40 Ms Allen, hopefully everything is working now. I think  
41 what I was asking you some questions about was Dr Budowle's  
42 report and I want to go back to this issue of the elution  
43 from 50 microlitres to 100 microlitres. Perhaps if we can  
44 bring up EXP.0001.0001.0007. I hope that's in front of  
45 you. Can you see that, Ms Allen?

46 A. Yes. Yes, I can.  
47

1 Q. I know you've read this report but I just want to focus  
2 our attention on paragraph 14 and the point that Dr Budowle  
3 makes, which is that when the validation study was  
4 performed for the DNA IQ system that there was this oddity  
5 of the difference between how blood and buccal cells  
6 performed and that when it was further validated there were  
7 two changes that were made. I think from what you've said  
8 you agree as a matter of practice that's bad practice?

9 A. Scientifically we should only make one change and then  
10 assess that, yes.

11  
12 Q. And so the consequence of it was that for some years  
13 your lab has been eluting to a much higher volume than at  
14 least on Dr Budowle's evidence is common amongst other  
15 labs?

16 A. Yes.

17  
18 Q. Is that something that had occurred to you before you  
19 read Dr Budowle's report?

20 A. No, it had not.

21  
22 Q. Specifically you've never turned your mind to whether  
23 the volume to which your lab was eluting was much higher  
24 than other labs?

25 A. No, not at all.

26  
27 Q. Had you ever made any inquiries as to what volume other  
28 labs even just around Australia were eluting?

29 A. No, I don't believe that was a topic of any  
30 conversation at the Biology Specialist Advisory Group  
31 meetings that I had attended.

32  
33 Q. And in terms of your management of the lab, did you  
34 ever reach out to other labs around Australia to see how  
35 the things that you were doing compared to the things that  
36 they were doing?

37 A. There is comparisons regarding the type of extraction  
38 system and instruments and those types of things that are  
39 compared across Australia.

40  
41 Q. I see. Is that at a particular meeting that you  
42 attend?

43 A. Yes, so prior to the meeting when I was a - when I was  
44 the Queensland representative on that particular group we  
45 would provide a report in advance and in that we would talk  
46 about staffing and the different projects that we had going  
47 on and then the types of equipment and things we used. Now

1 I believe - as I'm no longer the Queensland representative,  
2 I believe there's a spreadsheet that captures those same  
3 things but just within a spreadsheet instead of a written  
4 report.

5

6 Q. I see. I suppose then if we just take the two points  
7 that Dr Budowle makes in turn. The first is that there was  
8 an error in the validation itself because two things were  
9 changed rather than one, and I think you agree that that  
10 was an error. My question is what conclusions do you think  
11 can be drawn about the adequacy of the scientific  
12 management of your lab given that that very basic error was  
13 not picked up on until Dr Budowle provided a report for  
14 this Commission?

15 A. I think that a management team can, you know, use this  
16 as a learning experience to ensure that we correct this and  
17 don't make the same mistake in the future.

18

19 Q. I understand your answer but just if you come to my  
20 question, which is not about what happens in the future,  
21 it's about what conclusions do you think we can draw about  
22 the adequacy of the scientific management within the lab  
23 from the fact that this very basic error was not picked up  
24 on within your lab and has only come to light once  
25 Dr Budowle provided an expert report to this Commission?

26 A. Then I think that at the time we focused on other  
27 things and perhaps we didn't give due consideration to  
28 every step, every experiment that was undertaken and ensure  
29 that we were only changing one parameter at a time and that  
30 we should have ensured that we did that at the time.

31

32 Q. Because do you agree with me this particular issue is  
33 quite an important one because the consequence of eluting  
34 to 90 or 100 microlitres is that then it's much more likely  
35 that you will have to concentrate compared to other labs  
36 who are eluting to a lower volume?

37 A. Yes, I understand that the higher - if there is  
38 low-levels of DNA within the sample, eluting into 90 or 100  
39 microlitres will ensure that that is more dilute and that  
40 we will then be relying on a concentration process to try  
41 to get the best outcome for that sample, yes.

42

43 Q. But so, for example, to take the Options Paper. If you  
44 eluted to a volume of only 50 microlitres you might have  
45 many fewer samples that fell within the range of .001 to  
46 .0088 ng/ $\mu$ L?

47 A. That's theoretically possible, yes. I don't have any

1 data to rely on that so I couldn't say what it is  
2 experimentally but theoretically, yes, it's possible.

3  
4 Q. It's more than theoretical, isn't it? It's just a  
5 matter of mathematics. If you elute to half the volume  
6 then that's going to mean that the ratio of DNA to  
7 microlitres is going to increase?

8 A. And that's about the quantity of the DNA within the  
9 sample but I'm not sure about what the quality of the DNA  
10 in that sample would be and so those two things go together  
11 to try to obtain a DNA profile.

12  
13 Q. No, I understand, quality's one thing. But just if  
14 we're focusing on the .0088 ng/ $\mu$ L, that's not a measure of  
15 quality that's a measure of quantity?

16 A. Yes, that's right.

17  
18 Q. I'm just trying to understand whether you disagree with  
19 this. It would seem like just as a matter of mathematics  
20 it must follow you would have many fewer samples within  
21 that range of .001 ng/ $\mu$ L to .0088 ng/ $\mu$ L if you eluted to a  
22 lower volume?

23 A. Yes, if you eluted to a lower volume it's more likely  
24 that you would have less in that range.

25  
26 Q. So to come back to your observation about not having  
27 paid sufficient attention, I'm interested in understanding  
28 whether you think there was some particular aspect of this  
29 validation that you didn't pay - or the scientific  
30 management team didn't pay sufficient attention to or  
31 whether it is reflective of a general failure to  
32 sufficiently consider the adequacy of validations?

33 A. I don't come to that conclusion. I see that we could  
34 have done better with that validation but I don't come to  
35 the same conclusion as you.

36  
37 Q. I see. Well then let's talk then about another  
38 validation issue, and that is the limit of detection issue.

39  
40 THE COMMISSIONER: Before we come to that, would it be  
41 possible to bring up the front page of the validation that  
42 you've been referring to?

43  
44 MR HODGE: It will be but I just need to get the doc IDs.  
45 There's multiple people sending messages, Commissioner. It  
46 will come in a moment.

47

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1 THE COMMISSIONER: Are you going to bring up the next  
2 document, the validation that you're about to refer to as a  
3 document?

4  
5 MR HODGE: No, I was just going to --

6  
7 THE COMMISSIONER: All right. I wouldn't mind seeing the  
8 front cover of the validation.

9  
10 MR HODGE: It's FSS.0001.0001.0084.

11  
12 THE COMMISSIONER: Could you go to the cover sheet please,  
13 the preceding page.

14  
15 OPERATOR: That's the first page, Commissioner.

16  
17 THE COMMISSIONER: Oh is it, right. It's not what I  
18 expected. That's fine. What I was interested in,  
19 Ms Allen, is this, I've seen many several reports and other  
20 documents of that kind with a cover sheet and on the cover  
21 sheet are the names of I assume the scientists who  
22 performed the work and your name as well, I think  
23 invariably your name is on that document. And then with  
24 some of them there's an approval, a page where scientists  
25 in the management team signify their approval of the  
26 document by signing it. You know what I'm talking about?  
27 A. Yes, they endorse it, yes.

28  
29 Q. Yes. I saw, as I've said, your name on the cover sheet  
30 of many of these documents and I didn't imagine that you  
31 actually performed any of the experiments, that you've put  
32 your name on it for some other reason. Can you explain to  
33 me the significance of the names on the cover sheet of  
34 reports and projects, what does that - to a reader in the  
35 lab what does that mean that somebody's name is on the  
36 cover sheet? Leave aside your name for the moment?

37 A. So the names are the people that were involved in  
38 writing the reports and sometimes also doing the  
39 experiments, they may be the same people. But if a staff  
40 member only undertook one particular experiment but didn't  
41 necessarily write the report their name may not appear on  
42 the front cover but that they be acknowledged within the  
43 document.

44  
45 Q. Yes, and why is your name on so many of these  
46 documents, what does your name signify?

47 A. My name's added just because I'm the managing scientist

1 for the group.

2

3 Q. What about the signature acknowledgements inside some  
4 of these documents? I know that when a project proposal is  
5 put forward then the signature signifies that the person  
6 who signs sees no risk in the proposed project, for  
7 example, at an early stage, but then when you get to the  
8 final report it seems to signify a more general approval.  
9 Can you explain to me what the signatures mean, what is the  
10 state of mind of a person signing it?

11 A. The endorser is - so the management team have reviewed  
12 the document, provided feedback, reviewed any other  
13 versions of that particular report and then when they are  
14 satisfied with the contents and everyone in the group is  
15 satisfied with the contents then they'll sign that they  
16 endorse that particular report and then it comes to me to  
17 then approve.

18

19 Q. Does the fact that your name appears on the front cover  
20 signify that you approve or is it your signature inside  
21 that signifies that you approve, or both?

22 A. No, my signature - sorry, my signature inside is  
23 approval.

24

25 Q. So do I take it then that each of the people who sign  
26 one of those documents is assumed to have read the  
27 document, understood it and agrees with its correctness?

28 A. Yes, that's right.

29

30 Q. So more than half a dozen people do that it seems. So  
31 how do we explain, for example with respect to the document  
32 that Mr Hodge was asking about, how do we explain that none  
33 of them picked up this fundamental point?

34 A. I'm unable to explain how any of them didn't pick that  
35 up. That was a large experiment that was being done.  
36 There were many parts to it. Unfortunately that seems to  
37 have been overlooked, that particular part.

38

39 Q. Yes. Mr Hodge.

40

41 MR HODGE: Thank you.

42

43 Q. Ms Allen, what I then wanted to ask you about was  
44 another issue which is in relation to the limit of  
45 detection. You know that the issue that I think first  
46 Dr Budowle raised was that the limit of detection had not  
47 been properly verified as part of the validation of



1 QuantStudio 5?

2 A. Yes.

3

4 Q. And his point, which on its face is a relatively simple  
5 one, is that in order to validate a limit of detection you  
6 have to test samples below the limit of detection?

7 A. Yes.

8

9 Q. Do you understand that point?

10 A. Yes, I do.

11

12 Q. And you agree with that point?

13 A. Yes.

14

15 Q. Do you agree with me again this seems to have been a  
16 failure within the lab to recognise that they had not  
17 applied appropriate scientific practice to verify the limit  
18 of detection?

19 A. The management team didn't pick up on that particular  
20 point as well and yes, they could have put that forward so  
21 that could have been addressed at the time.

22

23 Q. I understand. Just to go back to the point I think the  
24 Commissioner is hoping to show you. Can we bring up  
25 FSS.0001.0005.0767. I don't think this is the final signed  
26 report but this is that validation of QuantStudio 5 and  
27 this is raised as a project, Project 185, and we can your  
28 name is on it?

29 A. Yes, that's right.

30

31 Q. Tell me if you agree with this, this is the validation  
32 where the limit of detection wasn't validated, or properly  
33 validated?

34 A. Yes, I think that's the project that that was looking  
35 at, yes.

36

37 Q. And so again do you take responsibility as the managing  
38 scientist for that failure to pick up what on its face  
39 seems like a very basic error?

40 A. I take responsibility for that but also there is the  
41 management team that reviewed that as well, and given that  
42 we have different strengths from each of the management  
43 team members and we draw on those strengths, that's what  
44 we're hoping to achieve by all of us reviewing this. But  
45 ultimately as managing scientist then I take on that  
46 responsibility and I don't shy away from that.

47

1 Q. So what do you think it says about the adequacy of, to  
2 begin with, your personal management of the lab that you  
3 didn't identify this issue?

4 A. From my perspective I do the best possible job that I  
5 can. I'm reviewing these documents as best as I can and  
6 bearing in mind that I have forensic chemistry as well as  
7 forensic DNA analysis and that this highlights to me that I  
8 should allocate more time and devote more time to really  
9 teasing out the issues that we're trying to address.

10

11 Q. Do you agree with me that this is a very basic error to  
12 have made in the validation?

13 A. It does seem to be a basic error, yes.

14

15 Q. So whilst I understand that you have a lot of demands  
16 on your time, again what does it say that for you  
17 personally when you reviewed this you didn't pick up that  
18 very basic error?

19 A. That I need to improve in that area, that's what - you  
20 know, as a scientist I need to improve in that area.

21

22 Q. And what do you think it says that the authors of the  
23 report under your supervision didn't pick up on that very  
24 basic error?

25 A. The authors aren't necessarily under my direct  
26 supervision. So I don't necessarily engage with those  
27 particular authors, you know, during the writing of that  
28 report or things like that. The feedback goes to one of  
29 those particular people to incorporate into that. So I  
30 just wanted to clarify that particular point.

31

32 Q. What do you think it says that the authors of this  
33 report working in the laboratory for which you are the  
34 managing scientist didn't pick up on this basic issue?

35 A. I think it also is a learning experience for all of us  
36 with that.

37

38 Q. What do you think it says that the senior management  
39 team didn't pick up on this basic issue in signing off on  
40 the report?

41 A. Again, I see that as a learning issue for all of us to  
42 review those documents with a different perspective to  
43 ensure that we are capturing everything that we need to  
44 capture before they endorse and before I approve the  
45 document.

46

47 Q. I want to suggest to you two possible conclusions that

1 the Commissioner might draw from these two particular  
2 issues, the elution volume and the limit of detections.  
3 I'll tell you each in turn, I'll tell you both of them and  
4 then ask you to comment on each of them. The first  
5 conclusion is that the culture that you have established  
6 within the laboratory is one that runs the laboratory like  
7 a factory line so that things are done fast rather than  
8 being done well, with the consequence that in a validation  
9 as to elution volumes they tried to do two things at once  
10 rather than just taking them one at a time, and in the case  
11 of the limit of detection they didn't bother to test  
12 samples below the limit of detection and just went off an  
13 assumed limit of detection. So that's one possible  
14 conclusion. The second is that again within the culture of  
15 the laboratory that you have engendered, that there is no  
16 culture of scientists properly reviewing documents and  
17 being willing to speak up without blame because your  
18 approach has been to punish people who speak up. Now maybe  
19 we can take each of those in turn. Let's start with the  
20 first one. Do you agree that the way in which you have run  
21 the laboratory is akin to a factory line?

22 A. No, I do not.

23  
24 Q. Do you agree with my suggestion that the conclusion  
25 that the Commissioner might draw just from these two  
26 examples is that there is an emphasis on doing things fast  
27 rather than doing things well?

28 A. No, that's not true.

29  
30 Q. You are measured by turnaround times?

31 A. By the QPS, yes.

32  
33 Q. And in turn you put the emphasis with your scientists  
34 on doing things fast, don't you?

35 A. When it comes to reporting results and trying to ensure  
36 that they are provided to the QPS, yes. But not when it  
37 comes to validations and the time that's required for them  
38 to do that. That needs to be done in a time frame that  
39 best suits that particular validation.

40  
41 Q. But when you say that even you I think by your own  
42 acknowledgement have obviously not been spending enough  
43 time reviewing validations that you've signed off on  
44 because you failed to pick up on these basic errors?

45 A. Yes, I agree with the operational work that goes on,  
46 that that has taken too much of my time and I should have  
47 devoted more time to these types of things, which is very

1 difficult because of the large amount of operational work  
2 that goes on. But I can see that that should be a change  
3 for the future.

4  
5 Q. And these scientists when they're performing their  
6 validation, they are also having to take time away from  
7 processing samples in order to undertake that validation  
8 work?

9 A. Depends on the validation. Some validations may mean  
10 that they do a balance of routine laboratory work and also  
11 perhaps report writing and then other validations may take  
12 their time, they may be assigned to that validation for the  
13 whole time.

14  
15 Q. Sorry, it was my bad question. Do you agree with me  
16 when you're performing a validation you're not performing  
17 your ordinary day-to-day work in the laboratory in the  
18 sense that you're not, depending on which team you are in,  
19 either validating or recovering a sample or alternatively  
20 reporting on a sample, you're doing something different?

21 A. Yes.

22  
23 Q. So every time you have a scientist doing that, they are  
24 not contributing to reducing turnaround times?

25 A. Yes.

26  
27 Q. What I'm then suggesting to you is within the culture  
28 that you have established within the laboratory, the  
29 emphasis I'm suggesting is on turnaround times, that's the  
30 thing that matters?

31 A. No, that's not true. We've had feedback from staff to  
32 say that the projects that we run often take too long to  
33 complete.

34  
35 THE COMMISSIONER: But they're not working on them  
36 full-time?

37 A. Depends on what the particular validation is. So if  
38 there is some experimental work, like laboratory work that  
39 they need to do for that particular project they may do  
40 that and then also be able to do some routine lab work and  
41 then be assigned to a day of report writing the next day,  
42 depending on what they've got going on. And in particular  
43 in the analytical team they're able to catch up on any work  
44 a lot faster, you know, if someone is offline, you know,  
45 for a couple of days they're able to push the work a lot  
46 faster with that, so they're able to structure how much  
47 time they can spend on a validation versus on their routine

1 lab samples.

2

3 Q. So the work that's done on a validation or some other  
4 project is done by people whose attention is split between  
5 concentrating upon that work and doing a wide variety of  
6 other tasks as I understand what you've just said?

7 A. Yes, so sometimes they do have to split their time, and  
8 sometimes depending on the validation they may be on that  
9 full-time.

10

11 Q. If we take the famous spermatozoa project that started  
12 in August 2016, it took four years to come to a conclusion  
13 on that?

14 A. Yes, that's right.

15

16 Q. So obviously the people involved in working that up had  
17 their attention split between that project and many other  
18 things, perhaps other projects as well, is that right?

19 A. They could be on other projects as well although I  
20 don't think they were but I can't - I don't have any  
21 knowledge about whether they were or they weren't. But  
22 yes, that project did take that long and there were  
23 different people involved with that project as well.

24

25 Q. Mr Hodge, could you bring up the signed approval page  
26 on the document that you were referring to recently? I  
27 think it was the QuantStudio, which was 0001.0005.0767.

28

29 MR HODGE: I think that's not the final version but if we  
30 bring up FSS.0001.0025.4982 and then go to page 2. Is that  
31 what you're looking for, Commissioner?

32

33 THE COMMISSIONER: Yes.

34

35 Q. Can you see that document, Ms Allen?

36 A. Yes, I can.

37

38 Q. Everybody signed their approval on the same day, 5  
39 February 2019. The document was delivered by Mr Kaity in  
40 February. It suggests to me that nobody could have  
41 retained the document for a long time to study it carefully  
42 but that maybe the process had become one where so many  
43 people were signifying their approval and so many people  
44 were thereby taking some responsibility that nobody  
45 actually took any responsibility. You signed it on the  
46 5th. So they gave it to you on the 5th with their  
47 signatures and you signed it that day. I find it hard to

1 believe that you had the opportunity on that day really to  
2 study the document to see whether everything was in order.  
3 Did you even read it?

4 A. Yes, I did. My understanding is that there were  
5 previous versions to that that had been supplied.  
6

7 Q. So? Why does that matter?

8 A. So then feedback had been incorporated within those  
9 previous versions, so then we were able to see what  
10 amendments had been made moving forward to then be able to  
11 sign that final document.  
12

13 Q. Well we'll look at the earlier versions in due course  
14 then just to see how it works, but we needn't do it now,  
15 Mr Hodge.  
16

17 MR HODGE: Thank you, Commissioner. I'll tender that  
18 document, Commissioner, which is the final signed version.  
19

20 **EXHIBIT #177 DOCUMENT FSS.0001.0025.4982.**  
21

22 Q. So, Ms Allen, to come back to the first possible  
23 conclusion I put to you, what I wonder then is if you can  
24 offer an explanation for how such basic errors would be  
25 made in validations, other than the one that I'm  
26 suggesting, which is the emphasis was on doing things fast,  
27 rather than doing them well?

28 A. That we didn't necessarily take the time to review  
29 those and consider all different facets of that particular  
30 validation to ensure that they were covered off on and that  
31 maybe perhaps we were more focused on the outcome of the  
32 experiments that we had undertaken, rather than taking a  
33 more holistic approach and looking at it and saying, well  
34 what didn't we do that we should have done?  
35

36 Q. Isn't that just a way of saying my proposition and  
37 reframing it? Aren't you really just saying we did it  
38 faster than doing it well?

39 A. No. I'm saying that through the course of the process  
40 of the project we do an experimental design and so then  
41 we're looking at the final report to those experiments that  
42 we have done, but we haven't necessarily taken a step back  
43 and sort of said, yes, these are the experiments we've  
44 done, but what other experiments should we have done and  
45 have we covered those things on the balance of the other  
46 side.  
47

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1 Q. Do you agree with me the failure occurs at two levels.  
2 It occurs both with the original scientists who undertake  
3 the experiments and perform the project and also with the  
4 senior scientists who are reviewing the project and  
5 approving it?

6 A. Yes, I think we all take responsibility for that.  
7

8 Q. But at each level it was done without anyone, to use  
9 your words, stepping back to review whether it was being  
10 done well?

11 A. To see whether we'd missed anything, yes, we hadn't  
12 stepped back to have a more holistic view to see that we'd  
13 covered off on everything, yes, that's right, we hadn't  
14 done that.  
15

16 Q. And perhaps then if you think about the second  
17 suggestion that I've made as to a conclusion that could be  
18 drawn. Are you familiar with the idea of a no blame  
19 culture within a laboratory like yours?

20 A. Yes.  
21

22 Q. And do you think that you run a laboratory or have run  
23 a laboratory with a no blame culture?

24 A. Yes.  
25

26 Q. I know you've observed some of the evidence that's been  
27 given. Did you observe Mr Docherty giving evidence?

28 A. Yes.  
29

30 Q. And you know that he gave evidence to the effect that  
31 staff had come to him to say that they were scared to raise  
32 issues because of their fear of the repercussions?

33 A. Yes.  
34

35 Q. And that he communicated that to you?

36 A. Yes, we had a discussion, yes.  
37

38 Q. That is, you have a discussion where he said there are  
39 staff within your laboratory who are scared to raise issues  
40 because they fear the repercussions?

41 A. Yes.  
42

43 Q. And so tell us, if you can, how do you reconcile the  
44 idea that you ran a laboratory with a no blame culture with  
45 the revelation from your Executive Director that scientists  
46 within your laboratory were afraid of the repercussions if  
47 they raised issues?

1 A. My understanding is that some staff members believed  
2 that it was within my delegations to be able to move a  
3 staff member from Forensic DNA Analysis to another work  
4 unit and that's not within my delegations. Some of those  
5 staff members have line managers, team leaders that they're  
6 able to go to. They also have the Senior Scientist for  
7 Quality and Projects, they could seek advice from the  
8 quality manager for FSS, so from my perspective they're  
9 able to also raise an OQI to be able to get, you know, that  
10 issue that they may strongly about resolved.

11  
12 I know that a number of staff members also talked to  
13 Ms Brisotto to help formulate the things that they wished  
14 to look at because some of the things are within either the  
15 Evidence Recovery Team or the Analytical Team so she may be  
16 able to assist them with some of that, and from my  
17 perspective I don't believe that I blame staff because I  
18 also don't want to be blamed, so I want to be a part of the  
19 no blame culture.

20  
21 Q. But to come back to my question, how do you reconcile  
22 in your own mind the idea that you created a no blame  
23 culture within your laboratory if there were staff going to  
24 your Executive Director anonymously, that is anonymously  
25 from you, in order to tell him that they were afraid to  
26 raise issues because they feared the repercussions?

27 A. From my perspective there was a strongly held belief by  
28 particular staff members that had not changed regarding me.  
29 There had been human errors that have occurred in all of  
30 the teams and we've raised an OQI. There's been no  
31 repercussions on that particular staff member about what  
32 that is, so from my perspective I see that I have tried  
33 with a no blame culture.

34  
35 Q. Can you see that if there are scientists within your  
36 laboratory who are afraid to raise issues because of the  
37 repercussions they fear, that that would make it less  
38 likely that they would properly scrutinise experimental  
39 designs like the ones that we've looked at and raise issues  
40 about them?

41 A. Not necessarily, because as I say there are other staff  
42 that they are able to go to talk about those types of  
43 things and, you know, one of the perfect people is  
44 Dr Kirstin Scott because she is the Senior Scientist for  
45 Quality and Projects. From my perspective she's a very  
46 balanced and knowledgeable scientist, so that they can  
47 approach her to discuss that and if they wanted to stay



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1 anonymous with her then I think that she would respect that  
2 and she would bring forward any of those particular ideas  
3 or issues that have been raised to her.

4  
5 Q. Does she have a function independent from you?

6 A. I'm not sure I understand what you mean by that.

7  
8 Q. Is Dr Scott subordinate to you?

9 A. So Dr Scott reports to Ms Brisotto, the team leader,  
10 and Ms Brisotto reports to me.

11  
12 Q. So Dr Scott doesn't have any authority independent from  
13 you?

14 A. With regard to projects, she's been the lead on the  
15 projects and she's been able to put forward things, so from  
16 my perspective her scientific input is separate from me.

17  
18 Q. No, but she can't overrule something that you do?

19 A. I'm not sure we've ever been in that situation  
20 regarding that.

21  
22 Q. I suppose I don't doubt that, but what I'm interested  
23 in is can she overrule, can she in theory overrule  
24 something that you do?

25 A. If she came - if her feedback was that a particular  
26 project validation should not move forward then, yes, we  
27 discuss whatever needed to be done to rectify that so then  
28 we could move forward with it.

29  
30 Q. I think, though, you tell me if this is right, whilst  
31 you're saying that if Dr Scott was ever to come to you and  
32 bring an issue which she said she disagreed with, that you  
33 would take into account. She doesn't have any authority to  
34 overrule you?

35 A. I think when it comes to the scientific - sorry?

36  
37 Q. Sorry, go on. I hadn't meant to talk over you. Please  
38 keep going?

39 A. When it comes to the scientific portion of it, each of  
40 the management team members can give feedback to the  
41 project leader. If they're uncomfortable about doing that  
42 they're able to, from my perspective they're able to find  
43 other ways to be able to bring that forward, so - and they  
44 are also able to, when it comes to the final document,  
45 they're able to say that they don't want to endorse that  
46 document and --

47

1 Q. I see. Let's just take - sorry, keep going?

2 A. So from my perspective I see that there are avenues  
3 that people are able to utilise, rather than, you know,  
4 particularly saying that I have certain control over things  
5 because from my perspective that's not true. I want the  
6 lab to be the best that it can be scientifically so we  
7 should learn from all of these experiences to be better  
8 every day.

9  
10 Q. Just focusing for a moment, one moment further on  
11 Dr Scott's role. Dr Scott has no independent authority,  
12 she is subordinate to Ms Brisotto, who is subordinate to  
13 you, do you agree with that?

14 A. Yes.

15  
16 Q. And are you familiar with quality management systems in  
17 other labs around Australia?

18 A. The basics of their quality system, yes. I wouldn't  
19 say that I'm very knowledgeable about their detail.

20  
21 Q. Do you have a view as to whether best practice for a  
22 lab like yours is to have an independent quality control  
23 function?

24 A. Yes, that could be a good way forward, yes.

25  
26 THE COMMISSIONER: That wasn't the question, Ms Allen. The  
27 question was whether you're aware that that's the best  
28 practice?

29 A. I'm not necessarily aware that's the best practice, but  
30 I can see how - like I'm not aware from other laboratories  
31 saying that that's what they have done because it is best  
32 practice, but I can see that it is best practice.

33  
34 MR HODGE: And then just to come back to the question of  
35 the consequences of staff fearing repercussions, I want to  
36 just break this down for you. I'm assuming you can see  
37 that one consequence might be that if staff reviewed  
38 something and identified an issue, if they feared  
39 repercussions from raising an issue that they would be less  
40 likely to raise the issue, do you agree with that?

41 A. They may be less likely but I also think that they do  
42 have colleagues on the management team that will listen to  
43 their perspective, so whilst they may fear me, I do see  
44 that there are others on the management team that they are  
45 confident will give them a good hearing about their  
46 particular issue.

47

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1 Q. And can you see also that a further consequence may be  
2 that if staff fear the repercussions of raising an issue,  
3 that they will not devote the necessary care to reviewing  
4 documents and turning their minds to things that might  
5 raise issues because they know that ultimately if they come  
6 up with something then they're going to be afraid to raise  
7 it?

8 A. Can you say that again, I'm sorry, I was a bit  
9 (indistinct) sorry.

10  
11 Q. No, no, it's my question. What I'm trying to  
12 understand is whether you can see that the consequence of  
13 staff being afraid of the repercussions of raising an issue  
14 is not just that when they identify an issue they will not  
15 raise it, but also that they will not take the time or put  
16 in the effort to identify issues in the first place?

17 A. From my perspective I feel like everyone on the  
18 management team does devote as much time and effort to the  
19 reports as possible and I haven't seen any evidence of  
20 someone not putting forward - and I guess this is, you know  
21 - I haven't seen any evidence or heard any evidence where  
22 people haven't put something forward because, you know,  
23 they have found an issue and they don't think that will be  
24 looked at.

25  
26 Q. Now do you agree with me that the problem of scientists  
27 within your lab feeling afraid of reprisals or the  
28 repercussions if they raise an issue is something that  
29 you've been aware of for some years?

30 A. I'm aware that there are staff that have a strongly  
31 held belief regarding me and that I've been unable to  
32 change that strongly held belief, and I've engaged with my  
33 line manager regarding different options that we may have  
34 around trying to improve the culture within the lab so that  
35 we can move forward and also trying to work on the Work for  
36 Queensland survey results to try to increase, you know, the  
37 culture and those types of things within the lab.

38  
39 Q. I'll show you a document. Can we bring up  
40 FSS.0001.0024.0888. So this is a PowerPoint presentation  
41 setting out the results of interviews conducted by  
42 Workplace Edge in 2017?

43 A. Yes.

44  
45 Q. And I think, tell me if - is this the presentation that  
46 ultimately you and Mr Csoban gave to staff in January of  
47 2018?

1 A. Mr Csoban gave the presentation, I did not, I was there  
2 within the audience.

3  
4 Q. The two of you didn't chair the meeting together, it  
5 was just him?

6 A. Yes, I believe - yes, it was just Mr Csoban.

7  
8 Q. If we go to p5 of that document. You see there the  
9 third bullet point is:

10  
11 *Management culture discourages dissent and*  
12 *dissent risks reprisal?*

13  
14 A. Yes.

15  
16 Q. So that was the beginning of 2018, and then when  
17 Mr Docherty was there from I think 2019 through to 2021 he  
18 told you that staff were coming to him and telling him that  
19 they were afraid of the repercussions of raising issues,  
20 we've talked about that already?

21 A. Yes.

22  
23 Q. And so I'm interested then: did you take some steps to  
24 attempt to allay the fears of staff that they would face  
25 repercussions or reprisals if they raised issues or  
26 dissented?

27 A. I worked with the management team regarding different  
28 aspects around the Work for Queensland surveys to try to  
29 get a, from like a bottom up process so that what things  
30 could we improve around that, how could we make - you know,  
31 what small changes could we make with some of those things  
32 to progress forward. I also spoke to Mr Docherty regarding  
33 how could we embark on a cultural change program that would  
34 assist with trying to, you know, move us forward with that.

35  
36 Q. Did you express any enthusiasm for reviewing the  
37 behaviour or the approach of management?

38 A. Sorry, could you be a bit more specific, I'm not sure  
39 what you mean.

40  
41 Q. Did you express any enthusiasm to anyone within the  
42 laboratory about reviewing the approach of management  
43 within the lab?

44 A. And when you say management, do you mean me or me and  
45 the team leaders or the management team?

46  
47 Q. Perhaps we'll start with you and the team leaders. Did

1 you express any enthusiasm for reviewing the approach of  
2 you and the team leaders to managing the lab?  
3 A. I've undergone two different 360 Degree feedback  
4 processes and - actually, no, I'm sorry, I've actually  
5 undergone three, because Mr Docherty also ran one as well  
6 towards the end of his tenure. I have tried to engage with  
7 HR to ensure that the policies and procedures that I'm  
8 working under are - that my understanding is correct. From  
9 my perspective I didn't necessarily approach any of these  
10 people directly to discuss that, because I didn't think  
11 that that would necessarily be a good exercise to undertake  
12 of my own volition because if they did fear me then, you  
13 know, it was unlikely that they may want to meet to discuss  
14 these things.

15  
16 Q. I'll show you a document in a moment. Just while I'm  
17 waiting for that to come up can I just bring up another  
18 document, which is EXP.0003.0001.0001. This is the report  
19 that was prepared by Duncan Taylor. I was just wondering  
20 have you read this report?

21 A. No, I have not.

22  
23 Q. I see. Let me then try to explore this issue of the  
24 culture of repercussions in a slightly different way. You  
25 recall that at the beginning of 2016 Ms Reeves raised an  
26 issue which was about the process of ER slides in relation  
27 to sperm?

28 A. Yes.

29  
30 Q. And the concern that she raised was that - sorry, I  
31 withdraw that. The concern that she raised was not coming  
32 directly from her, it was originally raised by scientists  
33 reporting to her?

34 A. Yes, I found that out later, yes.

35  
36 Q. And the concern that she was raising was that the  
37 ER slide methodology seemed to in some instances be  
38 identifying no sperm, when in fact there was sperm within  
39 the sample?

40 A. Yes, that was my understanding, yes.

41  
42 Q. And the consequence of identifying no sperm was that  
43 the sample would not be further tested?

44 A. The sample may be tested as, for cellular material  
45 which then may not be able to get a DNA profile from any  
46 spermatozoa that was within that sample.

47

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1 Q. At what time did you first become aware of the concern?

2 A. When it was a management team item in, I believe, the  
3 middle of May 2016.

4

5 Q. And you had a very difficult relationship with  
6 Ms Reeves?

7 A. Yes.

8

9 Q. And when she raised the issue did you regard it as  
10 serious?

11 A. Yes.

12

13 Q. And do you agree with me the potential consequence of  
14 the issue that she was raising was that for the period when  
15 this process had been in place, which had been since about  
16 2010, that there might have been samples where in fact  
17 there was sperm but your lab hadn't picked up on it and  
18 therefore hadn't tested it properly?

19 A. Yes, I understand that was the concern, yes.

20

21 Q. And tell me if you agree: if you're looking at samples  
22 looking for sperm, the reason you are doing that is because  
23 you are looking at some form of offence that involves  
24 sexual violence?

25 A. Sexual assault, yes.

26

27 Q. Or a rape?

28 A. Yes.

29

30 Q. So you must have regarded it as a process that would  
31 affect samples for one of the most serious kinds of crimes?

32 A. Yes.

33

34 Q. And then in about August of 2016 you know that a work  
35 around was introduced?

36 A. Yes, I understood it was referred to in the lab as a  
37 risk mitigation step.

38

39 Q. And tell me if this is your understanding, but the risk  
40 mitigation step or work around was that all of these  
41 samples that had previously gone through the ER slide  
42 process would now go through diff lysis?

43 A. Yes.

44

45 Q. And that was introduced for samples on an ongoing  
46 basis?

47 A. Yes, that's right.

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Q. And do you agree with me that no one ever went back to review whether there was an issue with all of the samples that had been processed from 2010 through to some time in the second half of 2016 when you weren't using this diff lysis method?

A. Yes, I don't think a case review was done for those samples.

Q. And no one ever went back to analyse whether this problem that Ms Reeves had identified at the beginning of 2016 was some sort of aberrant one off or two off instances, or whether it was a consequent problem over that more than six year period?

A. That's where we had engaged with New Zealand and ESR to review the Standard Operating Procedure that was in place between 2010 and 2015.

Q. Now, we'll come to that ESR review but you tell me if you agree with my proposition: no one ever went back to determine whether over that more than six year period there was some sort of consistent regular problem or whether the results that had been identified by Ms Reeves were just aberrant results?

A. No, I don't think that was undertaken as a specific project, no.

Q. It's not just that it wasn't undertaken as a specific project, it just wasn't done at all?

A. Yes.

Q. And tell me if you agree: it was an obvious thing to do given the seriousness of the issue?

A. When this began I was on leave for three months from June, July, August and didn't return until early September and another staff member was undertaking the role of managing scientist, so when I returned, I returned to a very different landscape.

Q. That's not an answer to my question. I'm asking if you agree that going back and undertaking a review of the kind I've suggested was an obvious step to take given the seriousness of the issue?

A. Yes, that would have been a good step to take.

Q. It's not just that it would have been a good step, it was obvious step to take, wasn't it?

1 A. I say that it was a, it would have been a good step for  
2 it to have been taken to review that so that you could see,  
3 like you said, whether it was aberrant or systemic.  
4

5 Q. Do you say it never occurred to you to undertake that  
6 kind of step?

7 A. When I returned from leave, no, it didn't occur to me  
8 because there were many other things that were going on  
9 that needed to be attended to.  
10

11 Q. Now, the problem, I want to suggest to you, with that  
12 answer is that after you returned from leave you devoted  
13 time, and a significant amount of time, to dealing with the  
14 issue that had been raised by Ms Reeves. Do you agree with  
15 that?

16 A. From my perspective Project 181 had started while I was  
17 away and had been moving forward. When I returned I was  
18 aware of the negative interaction that had occurred between  
19 Ms Reeves and Mr McNiven and that there were allegations  
20 that were outstanding and that there hadn't been any  
21 mediation or resolution between - you know, for Ms Reeves  
22 and Mr McNiven and so we, from my perspective that wasn't a  
23 good place to be in given that had been happening, you  
24 know, that particular issue had happened three months  
25 before.  
26

27 Q. Yes. And you became involved both in the workplace  
28 management of Ms Reeves, but also in the review that ESR  
29 was asked to undertake?

30 A. Yes. So there were - I was involved with Mr Csoban and  
31 at the time Mr Jade Franklin, the HR advisor, on best steps  
32 to take regarding the negative interaction and then  
33 following that regarding the issues that had been raised by  
34 Ms Reeves.  
35

36 Q. And so it can't be the case that the reason that it  
37 didn't occur to you to do a review was because you weren't  
38 involved in the issue or playing any role in relation to  
39 it?

40 A. From my perspective I was focused on other things  
41 because of, you know, the huge impact that had the negative  
42 - sorry, I'll start again. I was involved in other things  
43 because the negative interaction between the two staff  
44 members had had a big impact on a number of staff and was,  
45 had been ongoing for three months and that it needed some  
46 action on that to try to bring that to a resolution and to  
47 try to move forward with, you know, Project 181 and get a



1 review done of what the process that was being undertaken  
2 and at that time I did not consider a review of those  
3 samples between 2010 and 2015 because the starting point  
4 was asking ESR to review the Standard Operating Procedures  
5 that were in place at the time.  
6

7 Q. Well we'll come back to that then if that's your  
8 explanation. By December or in about December of 2016 you  
9 became aware that Ms Reeves was contemplating making a  
10 public interest disclosure?

11 A. I'm not sure if it was December or whether it was in  
12 the January. My feeling was that it was in the January.  
13

14 Q. I'll show you an email. Can we bring up  
15 FSS.1000.0080.7296. So this is an email that you sent to  
16 Mr Csoban on 12 December 2016?

17 A. Okay, yes. Okay, it was December, yes, I agree.  
18

19 Q. And you say:  
20

21 *Hi Paul. I've considered the situation*  
22 *with Amanda over the weekend and I have a*  
23 *few questions for Jade and yourself.*  
24

25 Jade is Jade Franklin?

26 A. Yes, that's right.  
27

28 Q. And you see the first item is:  
29

30 *Given Amanda has raised the topic of PID*  
31 *with her lawyer, should we advise*  
32 *Queensland Health Ethical Standards of this*  
33 *situation, given that Amanda has discussed*  
34 *internal processes that relate to criminal*  
35 *work with someone from outside the*  
36 *organisation?*  
37

38 A. Yes.  
39

40 Q. And then the second is:  
41

42 *If the answer is yes to the above, then I*  
43 *would recommend that QPS Ethical Standards*  
44 *is also advised?*  
45

46 A. Yes.  
47

1 Q. And then:

2

3

4

5

6

7

8

9

A. Yes.

10

11

Q. And then you also ask a question about how Mr Howes should deal with Ms Reeves?

12

13

A. Yes.

14

15

Q. You see in that first item, though, where you say:

16

17

18

*Should we advise Queensland Health Ethical Standards of this situation?*

19

20

Do you see that?

21

A. Yes.

22

23

Q. Was what you had in mind to try to punish Ms Reeves for having raised the topic of a PID with her lawyer?

24

25

A. No. I didn't necessarily understand all of the processes around a PID. I had never had to deal with anything like that before. They were questions that I was asking Mr Csoban and Mr Franklin around those topics, because that's what came to my mind around some of those things, what are our obligations?

26

27

28

29

30

31

Q. But when you say "what are our obligations", isn't what you were suggesting, that it might have been unethical for Ms Reeves to tell her lawyer about the subject matter of the potential PID that she was considering lodging?

32

33

34

35

36

A. My question was around what - yes, there has been information disclosed, does that mean that we need to advise Ethical Standards Unit around that because I was concerned about what we needed to do.

37

38

39

40

41

Q. You weren't concerned about whether you had breached an ethical standard, you were suggesting that Ms Reeves had by discussing it with somebody outside of the organisation, that is her lawyer?

42

43

44

A. Yes, I wanted to get clarity on that.

45

46

47

Q. When you say you wanted to get clarity, wasn't what you

1 were hoping for, to try to have Ethical Standards apply  
2 some kind of pressure or undertake some investigation of  
3 Ms Reeves for telling her lawyer about the thing that she  
4 was concerned about what you were doing in the lab?

5 A. No. I was just asking questions around what our  
6 obligations were, what next steps we needed to do, because,  
7 as I say, I'm not familiar with a PID process and I haven't  
8 been through a PIS process. Whilst I've undergone training  
9 on it, I haven't actually had the experience with it, so I  
10 was asking Mr Csoban and Mr Franklin those questions.

11

12 Q. Now you knew at this time that a concern for Ms Reeves  
13 was that not enough action had been taken to investigate  
14 the issue with the examination slides?

15 A. Yes.

16

17 Q. Just so we can try to understand how you approached  
18 this, your thoughts on discovering that Ms Reeves was  
19 contemplating making a PID was not to think maybe we should  
20 actually go back and take some action to review whether  
21 there has been a consequence of the issue with the  
22 examination slides, but instead to ask questions about  
23 whether you might refer Ms Reeves to Ethical Standards?

24 A. Project 181 had been proceeding with doing particular  
25 experiments, the risk mitigation step had been put in in  
26 the August, so from my perspective there was progress on  
27 that and this particular email was just highlighting some  
28 of the things that I had thought about with respect to the  
29 PID. It wasn't necessarily all of the things that I'd  
30 thought about but at that point no, I did not consider  
31 going back and looking at those cases from 2010 to 2016.

32

33 Q. And you knew that Project 181 wasn't going back to do  
34 that review?

35 A. Yes, that's right.

36

37 Q. So it can't be thought that you thought:

38

39 *I don't need to worry about that because*  
40 *Project 181 is doing it.*

41

42 A. No, sorry, I didn't mean to say that it was. I'm just  
43 saying that Project 181 was progressing and so therefore  
44 there was progress on the issue, and at this particular  
45 point the thing that I was thinking about was around the  
46 obligations regarding a PID and what we needed to do and  
47 was there people that needed to be aware of this because

1 they'd never been through that before.

2

3 Q. What I want to suggest to you, as we'll see as we come  
4 to the documents, is you were concerned about the  
5 reputation of the lab if Ms Reeves' complaints became  
6 public knowledge?

7 A. I was concerned that the laboratory would be viewed in  
8 a negative light.

9

10 Q. And you were concerned about the prospect that  
11 Ms Reeves in particular would be willing to make those  
12 complaints public?

13 A. I didn't know how that would move forward. I'd been  
14 through other negative media before and I didn't  
15 necessarily want to go through negative media. I would  
16 like to have tried to resolve the situation.

17

18 Q. What I suggest to you is rather than seeking to resolve  
19 the situation by undertaking an investigation to determine  
20 whether there had been a problem over a number of years  
21 with how your laboratory was handling samples from sexual  
22 violence cases, that instead you set about trying to crush,  
23 to put it colloquially, Ms Reeves, didn't you?

24 A. No, I did not.

25

26 Q. I tender that email, Commissioner.

27

28 THE COMMISSIONER: Exhibit 178.

29

30 **EXHIBIT #178 EMAIL FROM MS ALLEN FROM MR CSOBURN OF 12**  
31 **DECEMBER 2016.**

32

33 MR HODGE: If we then go to FSS.00009.0004.0001.

34

35 THE COMMISSIONER: We should adjourn soon, Mr Hodge.

36

37 MR HODGE: Thank you, Commissioner.

38

39 Q. You see this is a page from your notebooks?

40 A. Yes.

41

42 Q. You see there's an entry on the bottom half of the page  
43 which says:

44

45 *Jade Franklin 16 January 2017.*

46

47 A. Yes.

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Q. You see the last bullet point or dash is:

*ESR probably need to review AJR's material  
so that they consider all concerns put  
forward so report can cover off on this.*

A. Yes.

Q. By this time, that is by mid-January of 2017, ESR or the engagement of ESR was already obviously under contemplation?

A. Yes.

Q. And you're making a note that Mr Franklin was saying to you that ESR would probably need to review all of Ms Reeves' material?

A. Yes.

Q. And that way they could consider all of the concerns that she had put forward?

A. Yes.

Q. Did you have any interest in having ESR review all of Ms Reeves' concerns?

A. Yes.

Q. All right. I tender that diary note, Commissioner.

THE COMMISSIONER: Exhibit 179.

**EXHIBIT #179 MS ALLEN'S DIARY NOTE OF 10 JANUARY 2017.**

MR HODGE: You drafted the Terms of Reference for ESR?

A. Yes, I did.

Q. You identified what documents would go to them?

A. Yes.

Q. And I'll bring up the email where you send the draft and the draft. Could we bring up FSS.1000.0080.5308. This is your email on 1 February to Mr Csoburn with your draft Terms of Reference?

A. Yes.

Q. If we bring up FSS.1000.0080.5309, this is the draft Terms of Reference that you much attached. Then if we go

1 over to the next page. These are your Terms of Reference?  
2 A. Yes.

3  
4 Q. Perhaps we'll start with this. Is there somewhere in  
5 the draft Terms of Reference where Ms Reeves' material is  
6 put forward for ESR to consider?

7 A. In the middle of January Mr Csoburn and Mr Franklin had  
8 met --

9  
10 Q. I'd really appreciate if you - no, no, I'm sorry, I  
11 don't think there was any ambiguity in my question. We're  
12 look at a document. Is there somewhere in the draft Terms  
13 of Reference where Ms Reeves' material is put forward for  
14 ESR to consider?

15 A. Yes.

16  
17 Q. Where?

18 A. The one - the third dot point small report titled AP  
19 Paper False Positive Investigation.

20

21 Q. Have you looked at that paper recently?

22 A. Not recently, no.

23

24 Q. When you say that, what basis do you have for saying  
25 that that dot point refers to Ms Reeves' material?

26 A. Mr Csoburn and Mr Franklin met with Ms Reeves in  
27 mid-January and she provided some material to them  
28 regarding her concerns and that was one of the things that  
29 she provided as a concern.

30

31 Q. I see. You know though what that paper is about, don't  
32 you?

33 A. Yes. I haven't read it recently but I think I still  
34 understand the overview of it, yes.

35

36 Q. I can bring it up. Can we bring up  
37 FSS.12000.0076.6242. I'm sorry about that, Ms Allen. Can  
38 we bring up FSS.0001.0066.9267. This is the false positive  
39 investigation?

40 A. Yes.

41

42 Q. That's the paper that's referred to?

43 A. Yes.

44

45 Q. We can see in the first paragraph what this is about,  
46 which is a one-off incident in November of 2016 when a  
47 negative control gave a false positive?

1 A. Yes.

2

3 Q. Tell me if you agree with this, the potentially  
4 systemic issue that Ms Reeves was raising was not about  
5 false positives, it was about false negatives?

6 A. Yes, that's right.

7

8 Q. And if we go back to the draft Terms of Reference,  
9 FSS.1000.0080.5309 and go to the second page. Is there  
10 anywhere in those Terms of Reference which direct ESR to  
11 the material in relation to the potentially systemic issue  
12 of false negatives?

13 A. From my perspective we were asking them to review the  
14 process to determine whether the process was fit for  
15 purpose, and if they came back and said it wasn't then  
16 that's where we would ask them to do more work or we would  
17 do more work.

18

19 Q. Can you just answer my question? Is there anywhere in  
20 the draft Terms of Reference that direct ESR to material or  
21 even the issue of potentially systemic false negative  
22 results?

23 A. No.

24

25 Q. There is though, as you've noted, a document that  
26 refers to a one-off incident of a false positive?

27 A. Yes.

28

29 Q. And what I suggest to you is you deliberately drafted  
30 these Terms of Reference so as not to direct ESR to the  
31 issue that had been raised by Ms Reeves?

32 A. No, that's not true.

33

34 Q. It is I want to suggest to you inexplicable other than  
35 by deliberate action that you would not tell them that the  
36 reason that this is happening is because there were  
37 incidents of false negatives being observed that gave rise  
38 to a concern about this being a systemic problem for more  
39 than six years?

40 A. From my perspective we had said that there was an issue  
41 and that we had wanted them to come across to the lab to  
42 review that in person but they were unable to come. So we  
43 provided them with the Standard Operating Procedures and  
44 from my perspective within that there would be areas that  
45 they would be able to assess around false positives not  
46 being detected and I didn't want to bias them in any  
47 direction regarding that.

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Q. That makes no sense. Why would you provide them with a paper about a false positive if you didn't want to bias them in any way?

A. Because Ms Reeves had put that forward when she was discussing with Mr Csoburn and Mr Franklin and so that's what I put forward as well.

Q. Ms Allen, you must see the problem with that answer is that she'd also put forward the issues about false negatives and you didn't include that information, so that can't be an explanation?

A. Well from my perspective --

THE COMMISSIONER: Why didn't put anything about false negatives, Ms Allen? Why didn't include any information or even any reference to the fact that the lab was encountering false negatives in sperm microscopy? Why?

A. Because as I say the Standard Operating Procedure that we were working under at that time was what I provided to ESR for them to review.

Q. I know that. I'm asking you why - we know you provided that. I'm asking you why the problem having been raised about samples may be being missed for evidentiary value because of false negatives, and in particular because of a problem in sperm microscopy, why is it that you didn't mention the subject matter of the problem that the lab had encountered?

A. Because I didn't want to bias the ESR review in any way. I wanted them to review the Standard Operating Procedures as a whole and not focus on any particular area to give us the best outcome.

Q. If you didn't to bias them, do you mean you thought that if you referred to a problem with false negatives you might bias them into thinking there was a problem with false negatives?

A. I might bias them into looking at one particular area of the process rather than the process from end-to-end.

Q. So why do you include the paper about false positives?

A. Because that had been put forward from Ms Reeves that she also thought that that was an issue, so we put that forward as well for them to review.

Q. Why didn't you put forward the rest of the material



1 that Ms Reeves gave you? Do you see how you're not making  
2 sense, Ms Allen?

3 A. From my perspective my understanding of the issue was  
4 that the processes that were undertaken in evidence  
5 recovery were not up to standard. So our first approach  
6 was that if ESR could come across and do an audit of that  
7 process then we would be able to detect from their  
8 experience what issues may be there. Unfortunately they  
9 couldn't spare anyone to come across. So then by looking  
10 at the Standard Operating Procedures they would be able to  
11 see what we did and how we did it and whether that had  
12 adequate risk mitigation steps within that. If I put  
13 forward - my feeling at the time was if I put forward  
14 regarding false negatives that that would then perhaps bias  
15 them to look in a particular direction when we actually  
16 wanted them to review that holistically from end-to-end,  
17 because was there any other issues that may have  
18 contributed to that? But if they only focused on one area  
19 we may not have found that. So I was trying to ensure that  
20 that was done in an unbiased way.

21  
22 MR HODGE: Just before we adjourn I just need to put  
23 something to you, Ms Allen. The evidence that you've just  
24 been giving, which makes no sense as to why it is that you  
25 didn't put this or refer this issue to ESR, this evidence  
26 is a lie, isn't it? You are making it up?

27 A. No, it's not a lie.

28  
29 Q. To try to avoid responsibility for what you did?

30 A. No, that's not true.

31  
32 Q. Is that a convenient time, Commissioner?

33  
34 THE COMMISSIONER: Yes. We'll adjourn until five past 12.

35  
36 **SHORT ADJOURNMENT**

37  
38 THE COMMISSIONER: Mr Hodge.

39  
40 MR HODGE: Thank you.

41  
42 Q. Ms Allen, can you see and hear me?

43 A. Yes, I can.

44  
45 Q. I want to then move forward slightly. You got the ESR  
46 report back and it didn't identify any issue with the SOP?

47 A. No, it did not.

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Q. But it was obvious to you that it hadn't engaged with or dealt with the issue raised by Ms Reeves because it didn't on its face say anything about the issue raised by Ms Reeves?

A. From my perspective checking the process from end to end and then investigating the types of tasks that we had undertaken, to me would highlight where we had any deficiencies which may also be around the false negatives, and that was the perspective that I had at that time.

Q. Ms Allen, you know that's nonsense. You know that if it was the case that the written process had been reviewed and revealed no issue but in fact there was an issue because Ms Reeves had been raising it, then you've simply not explored at all what the cause of that issue is?

A. From my perspective we did the ESR review of the Standard Operating Procedures plus we were also doing Project 181 as well.

Q. Now again, the problem with that answer is you're in this bind, aren't you, you know the ESR report doesn't address at all the issues raised by Ms Reeves, it doesn't attempt to answer the question was there a systemic issue over the last six years, and you know that Project 181 doesn't do that?

A. At the time that was my perspective on how we could review those particular issues around what was occurring, the mitigation step had been put in in August 2016, and we were still undergoing more experiments within Project 181 to try to determine what the issue was.

Q. No, no. Now that's not quite right, is it? Project 181 was not trying to determine what the issue was that had created the results that Ms Reeves had identified?

A. My understanding is that Project 181 had looked at the evidence recovery slides versus the analytical slides and had attempted to find the root cause of the differences.

Q. Was it found?

A. No, my understanding is that they were unable to identify that.

Q. Again though, tell me if you agree, none of this then is a review of whether there had been an ongoing problem for six years given that, and particularly in circumstances where ESR has not been told about the issue and Project 181

1 had not identified a root cause of the issue?  
2 A. From my perspective they were the two avenues that we  
3 were looking at to try to address the issues and, you know,  
4 continue with Project 181 to ensure that, you know, to look  
5 into the issue and also look at process improvement within  
6 that particular process and have the process that we had  
7 been using before the risk mitigation step had been put in  
8 reviewed by ESR to see if it was deficient in any  
9 particular areas.

10  
11 THE COMMISSIONER: Ms Allen, you've used the expression  
12 "from my perspective" many times now and I had been  
13 approaching this evidence on the basis that the perspective  
14 of a managing scientist ought to be one that places  
15 scientific integrity above everything and that regard to  
16 the scientific integrity of the work that's being done is  
17 the paramount consideration. So against that kind of a  
18 standard, if I'm right in it, I might not be right in it,  
19 if I'm right in that against that standard one would think  
20 that there's a concern because of what people had shown  
21 Ms Reeves, that evidence in sexual offence investigations  
22 had been lost and it was also possible that the losses had  
23 persisted over a number of years. So if the managing  
24 scientist's perspective is one that seeks scientific  
25 integrity in the processes then it would follow, I would  
26 think, that you need to find out whether this has been  
27 happening for a period of time, for how long and whether  
28 anything has been lost, and if it has been lost how much  
29 has been lost so that the position can be rectified if  
30 that's at all possible. You've said that from your  
31 perspective you didn't see that. I'd like to know what  
32 your perspective was?

33 A. My understanding --

34  
35 Q. If it wasn't the perspective I put. Sorry, you go  
36 ahead now?

37 A. My understanding of the issue was when it was first  
38 raised that there was differences between the evidence  
39 recovery slides and the analytical slides, and so therefore  
40 what process was being undertaken in the evidence recovery  
41 team that may be deficient. So to look at that Project 181  
42 was started to investigate whether there was some issues,  
43 what were staff, you know, doing, et cetera. And then the  
44 other part was looking at the Standard Operating Procedure  
45 from end to end to see if they could identify where we may  
46 not have been doing things that their lab had been doing  
47 and were there extra steps that we needed to take that

1 would remedy our process to be better within that. So  
2 that's the two things that were under way at that  
3 particular time.

4  
5 Q. Well let's assume that ESR or Project 181 found that  
6 there was a defect, either in the Standard Operating  
7 Procedures or in the way that the procedures had been  
8 carried out, contrary to the Standard Operating Procedures,  
9 for example. Let's assume they found that. How would that  
10 assist you in finding out how long this had been going on  
11 for and how it was lost, how would any of that address  
12 those problems?

13 A. For either of those two things, if they had identified  
14 that, because ESR was reviewing the Standard Operating  
15 Procedure that was in place prior to the risk mitigation  
16 step, then that would have highlighted where the laboratory  
17 process was deficient, which then we may be able to then  
18 track back to when was that implemented, why was that  
19 changed, what other things were about that that had  
20 contributed to that and perhaps narrowed down a time frame  
21 where a change had been made that may have been subtle that  
22 we hadn't accounted would have a big effect, those sorts of  
23 things. So in the ESR report they did give some  
24 recommendations which are put back on as comments on the  
25 Standard Operating Procedures that they related to and  
26 continued with Project 181 to again still review the  
27 processes that were being undertaken with the sexual  
28 assault kits.

29  
30 Q. Mr Hodge.

31  
32 MR HODGE: Ms Allen, the ESR report wasn't obtained as part  
33 of a general review of the lab process, was it? It was  
34 obtained for the purpose of meeting Ms Reeves' complaints?

35 A. The ESR review was done regarding the Standard  
36 Operating Procedures that were in place.

37  
38 Q. No, no, sorry, I need you to answer my question. The  
39 ESR report was obtained for the purpose of undertaking a  
40 general lab review, it was obtained for the purpose of  
41 meeting Ms Reeves' complaints or concerns?

42 A. It was for both of those things.

43  
44 Q. Now that is another lie, isn't it, Ms Allen? The only  
45 reason that ESR was engaged was because Ms Reeves had  
46 raised an issue and was suggesting that she might make a  
47 PID?

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1 A. So one of the things to do is to review the Standard  
2 Operating Procedure around how we are obtaining results.

3  
4 Q. I'll show you - can we bring up - sorry, you go on?

5 A. It's okay.

6  
7 Q. Can we bring up FSS.0001.0024.0920. You see this is a  
8 draft brief for approval?

9 A. Yes.

10  
11 Q. And you prepared this?

12 A. If you could scroll down to the last page then I could  
13 confirm.

14  
15 Q. Can we go to the last page, or the second last page.  
16 You're the author?

17 A. Yes, that's right.

18  
19 Q. And if we go to the page before. Can we blow up  
20 paragraphs 12 and 13 of this document.

21  
22 THE COMMISSIONER: What's the date of this, Mr Hodge?

23  
24 MR HODGE: I believe it's December of 2016. I'll just  
25 check the date. 20 December 2016. You see in paragraph 12  
26 it raises the issue of the PID and in 13 it then goes on to  
27 say that:

28  
29 *Whilst there's an internal investigation*  
30 *being undertaken Mr Csoburn will make*  
31 *contact with ESR to undertake an external*  
32 *review of the issue.*

33  
34 A. Yes.

35  
36 Q. Wasn't it being undertaken to address the concern  
37 raised by Ms Reeves?

38 A. I see them as being one and the same. If Ms Reeves'  
39 issue was true, then the Standard Operating Procedures that  
40 we worked under needed to be reviewed to reveal that  
41 particular issue.

42  
43 Q. Can we blow up paragraph 14. You see there it refers  
44 to the possibility of the damage to Queensland Health's  
45 reputation as a consequence of Ms Reeves going forward with  
46 the PID?

47 A. Yes.

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Q. Wasn't the reason that the ESR report was being obtained in an attempt to defend or - well, fend off a potential PID by Ms Reeves?

A. No.

Q. Wasn't it the case that you deliberately chose not to have ESR engage with the issues raised by Ms Reeves because you wanted ESR to come back and say there was nothing wrong with the SOP?

A. No, that's not true.

Q. No one had ever said that on the face of the SOP document there's a problem with the SOP, had they?

A. No, but that's the process that staff undertake.

Q. That's right. They'd said the outcome of this process is problematic?

A. Yes, so what within the Standard Operating Procedure makes that process?

Q. But you know, you know, Ms Allen, the only way you could do that is to know what the problematic outcome is, you know that?

A. The problematic outcome as I understood it was regarding the slides that were created within evidence recovery.

Q. Yes. The only way to evaluate whether the SOP is the cause - as drafted is the cause of the problem is to know what the problem is?

A. But we didn't know what the problem was as to why there were different --

Q. I'm sorry, go on?

A. We didn't know what the problem was as to why there were differences and that's what we were looking into, why are there differences?

Q. Do you recall after ESR provided the report that Mr Franklin gave some feedback identifying that it didn't actually address the issue raised by Ms Reeves?

A. I remember the email that Mr Franklin sent, yes.

Q. I'll bring that up, it's FSS.0001.0079.3297. You see Mr Franklin's email begins at the bottom of the page on 28 March, and then if we go over the page to see the rest of

1 his comments. You see he says:

2

3

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9

A. Yes.

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11

Q. Now Mr Franklin, he's not a scientist?

12

A. No.

13

14

Q. He's a human resources manager?

15

A. Yes.

16

17

Q. And he had read the ESR report and it was obvious to him on its face it didn't address the thing that Ms Reeves had raised?

18

19

20

A. What I took from that is that he wanted to say that Ms Reeves was incorrect in her thinking, which I didn't think would be a part of the ESR review report.

21

22

23

24

Q. Why?

25

A. Because that would be disparaging and that's not what this was about.

26

27

28

Q. It's not - the point of the ESR report was to determine whether the issue raised by Ms Reeves was correct or incorrect?

29

30

31

A. Yes.

32

33

Q. You don't seriously suggest, do you, to the Commissioner that you have at any time felt some reluctance to disparage Ms Reeves? That's not evidence that you're honestly giving to the Commissioner, is it?

34

35

36

37

A. Not within that ESR report, no. That was not - from my perspective that's not professional, that's not what the ESR report was about.

38

39

40

41

Q. You knew that the point being made by Mr Franklin was that it just doesn't deal with the false negative issue at all?

42

43

44

A. Because as I said the Standard Operating Procedure, and I guess this is where perhaps we're talking at two different purposes, from the perspective of science, going through the Standard Operating Procedure and checking to

45

46

47

1 see does each step lead you in the right direction to get  
2 an outcome, whether that's sperm or no sperm, and so for me  
3 regarding the false negatives, the steps leading up to that  
4 point are very important as to whether you are going in the  
5 right direction or whether you deviate, so that's why the  
6 Standard Operating Procedure was important to provide to  
7 them and, as I said before, I didn't want to bias them in  
8 any particular way but ask them is this Standard Operating  
9 Procedure good or it does it have deficiencies that need to  
10 be resolved?

11  
12 THE COMMISSIONER: Ms Allen, granting that, if you receive  
13 a report from ESR that says your Standard Operating  
14 Procedures are perfectly in order, then you still have the  
15 problem that Ms Reeves raised, namely, that they were false  
16 negatives. So all you know is that the defect is not in  
17 the Standard Operating Procedures. If there is a defect it  
18 must be somewhere else. Isn't that right?

19 A. Yes, and that's where Project 181 from my - you know,  
20 was confident in that.

21  
22 Q. And so it would follow that it wouldn't be possible to  
23 say that the ESR report has resolved the issue, would it,  
24 you'd still have more work to do?

25 A. Yes, and to me the ESR report had looked at Standard  
26 Operating Procedures and Project 181 was still proceeding  
27 forward.

28  
29 Q. So the ESR report had merely resolved that the Standard  
30 Operating Procedures were in order, that they should not  
31 lead to any false positives, and that excluded one possible  
32 cause, but it didn't resolve the problem. It didn't answer  
33 Ms Reeves' observations that there was something wrong with  
34 the process, did it?

35 A. It gave one perspective around the Standard Operating  
36 Procedures and then project --

37  
38 Q. No, no, please. I don't know what you mean by  
39 "perspective", so that answer's not helping me. It's true,  
40 isn't it, having received the report you had not resolved  
41 the problem that Ms Reeves had raised? The report did not  
42 resolve it because it remains to be answered: is there a  
43 problem and, if so, what's causing it?

44 A. Yes.

45  
46 Mr Hodge.

47



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1 MR HODGE: You were using your claim that Ms Reeves was  
2 doubting the science to justify keeping her from returning  
3 to her reporting job?

4 A. No.

5

6 Q. I'll show you a document. Can we bring up  
7 WIT.0019.0016.0001 at p.1554. You see this is an email you  
8 sent which has another draft briefing note?

9 A. Yes.

10

11 Q. And if we go over the page. You see it's about  
12 Ms Reeves?

13 A. Yes.

14

15 THE COMMISSIONER: And what's the date of this, Mr Hodge?

16

17 MR HODGE: This is a draft that's sent on 7 February 2017.

18

19 THE COMMISSIONER: Thank you.

20

21 MR HODGE: And if we blow up 1.8 and 1.9. So here you say:

22

23 *Ms Reeves has threatened a public interest*  
24 *disclosure on the issue regarding*  
25 *processing of sexual assault investigation*  
26 *kits?*

27

28 A. So whilst I had drafted this some of those words may  
29 have changed by others who were reviewing it. So at this  
30 point I don't remember whether I used that word  
31 "threatened" or not.

32

33 Q. This is your draft that you've said, it's not the final  
34 version?

35 A. Is this draft 1?

36

37 Q. This is, if we go back, this is the attachment to the  
38 email that you sent. If we go back two pages. Sorry, no,  
39 go back just one page. You see you sent an email,  
40 version 1?

41 A. Okay, yes.

42

43 Q. And then go over the page. Blow up 1.8 and 1.9 again.

44 A. Yes.

45

46 Q. And then you see you say in the second sentence of 1.9:

47

1                    *Additionally a scientific review into the*  
2                    *processing of sexual assault investigation*  
3                    *kits has commenced with ESR?*

4  
5                    A. Yes, yes.

6  
7                    Q. Now, you must have known when you drafted this, because  
8                    you'd drafted the terms of reference by now, that you  
9                    weren't asking ESR to investigate the processing issue that  
10                    was raised by Ms Reeves?

11                    A. The Standard Operating Procedures that we supplied to  
12                    ESR were around the sexual assault investigation kit  
13                    process.

14  
15                    Q. I don't think we're going to gain anything by going  
16                    over that. Can we go over the page. So you see if we blow  
17                    up paragraphs 2 and 3 - actually, 2, 3 and 4. You see you  
18                    say:

19  
20                    *Ms Reeves has obtained medical clearance to*  
21                    *return to her duties and wishes to be*  
22                    *placed back in her substantive role.*

23  
24                    A. Yes.

25  
26                    Q. And then you say:

27  
28                    *An offer of alternative employment has been*  
29                    *extended to Ms Reeves until both the*  
30                    *external investigation and the scientific*  
31                    *review have been completed, however*  
32                    *Ms Reeves is insistent on returning to her*  
33                    *substantive role.*

34  
35                    A. Yes.

36  
37                    Q. And then you say:

38  
39                    *If Ms Reeves is returned to her substantive*  
40                    *role prior to the conclusion of the*  
41                    *external review and scientific review, she*  
42                    *may be called to provide expert testimony*  
43                    *on a sexual assault case. She would be*  
44                    *under oath. She might highlight her*  
45                    *misgivings in the process and this will be*  
46                    *detrimental to Ms Reeves and the work unit.*  
47

1 A. Yes.

2

3 Q. Then you say:

4

5 *If Ms Reeves were to provide evidence that*  
6 *processing of sexual assault evidence was*  
7 *inadequate this would be detrimental to*  
8 *Queensland Health, the QPS, the Queensland*  
9 *Government and the community would lose*  
10 *faith in the scientific work that is*  
11 *conducted in the forensic areas of Forensic*  
12 *and Scientific Services.*

13

14 A. Yes.

15

16 Q. And just to be clear, the scientific review that you  
17 referred to in your draft, that's the ESR review?

18

19

20 Q. And then if we blow up paragraph 5. This is your draft  
21 recommendation:

22

23 *It is recommended that Ms Reeves undertakes*  
24 *alternate duties until the outcomes are*  
25 *known for the two reviews currently under*  
26 *way.*

27

28 A. Yes, based on information that Mr Csoban and  
29 Mr Franklin had given me.

30

31 Q. Ms Allen, the reason you're offering that extra  
32 explanation is because you know a moment ago when I said to  
33 you you were using the ESR review as a way of avoiding  
34 Ms Reeves coming back to her substantive role and you  
35 denied that, that was a lie, wasn't it?

36

37 A. No. This was a very complicated situation and at the  
38 time that this was done I had not had any conversations  
39 with Ms Reeves. The conversations had occurred between  
40 Mr Csoban and Mr Franklin and they provided updates and  
41 requested that I do this.

42

43 Q. Well then we can put it in a more general way. You  
44 knew that the ESR report was being used as a basis for  
45 excluding Ms Reeves from returning to her role, didn't you?

46

47

48 Q. Ms Allen, please. You knew, didn't you, in 2017 that

1 the ESR report was being used as a basis for excluding  
2 Ms Reeves from her role on the premise that she wouldn't  
3 accept the science?

4 A. Sorry, when was the date of this brief?

5

6 Q. It's February of 2017?

7 A. I don't think at that point that we had the ESR review  
8 report back.

9

10 Q. No, I'm sorry, you're quite right, I'll break it down.  
11 Before the ESR report was obtained, the fact that she was  
12 doubting the science and that there was going to be a  
13 scientific review, was used as a basis, to your knowledge,  
14 for excluding Ms Reeves from her role?

15 A. That was information that was put forward to the  
16 delegate as part of that, yes.

17

18 Q. And after the ESR report was delivered you knew, didn't  
19 you, that Ms Reeves' apparent refusal to accept the ESR  
20 report was relied upon as a reason for excluding her from  
21 her role?

22 A. I was made aware of that after. I don't know that I  
23 was aware of that at the time.

24

25 Q. When you became aware of that did you say, "That's  
26 highly problematic because I drafted those terms of  
27 reference for ESR and they didn't actually look into the  
28 issue that was raised by Ms Reeves"?

29 A. No, because, as I said, the review of the Standard  
30 Operating Procedures would or could (indistinct) the issue.

31

32 Q. Do you take responsibility for the failure of the lab  
33 to review whether there was a problem with sexual assault  
34 investigation kit processing between 2010 and 2016?

35 A. I don't solely take that responsibility, I think that's  
36 the responsibility of our management team.

37

38 Q. Do you accept that you are the managing scientist, that  
39 you drafted the terms of reference to ESR, that you  
40 presented the view that this addressed the issues raised by  
41 Ms Reeves and that it is therefore your failure?

42 A. I don't accept that it's a failure. I accept that we  
43 got particular information back from ESR and we needed  
44 still further information from Project 181.

45

46 Q. You didn't provide the report to anyone in the lab  
47 until January - sorry, you didn't provide the ESR report to

1 anyone in the lab until January of 2018?

2 A. I don't believe I did, no.

3

4 Q. Sorry, you don't believe you, what, did?

5 A. I honestly can't remember when it was provided, I'm  
6 sorry, I don't, I don't remember when that happened. If  
7 there's emails saying January 2018, then that's when it  
8 was.

9

10 Q. Do you recall that Ms Reeves had made an RTI  
11 application to obtain various documents?

12 A. Yes.

13

14 Q. And you recall that that included the ESR report?

15 A. Yes.

16

17 Q. And do you recall that it was only after Ms Reeves had  
18 made an RTI application for the ESR report that you  
19 provided a copy of the ESR report to Mr Howes and  
20 Ms Brisotto?

21 A. I don't specifically remember that but that may have  
22 been the case.

23

24 Q. Why, if this report was of significance for the general  
25 operation of the lab, would you not have provided it as  
26 soon as it was available to people within the lab?

27 A. Because there was a legal process going on for this and  
28 from my - it was a very complex situation, it was very  
29 stressful. It was being led by HR. We needed their  
30 assistance and then there was also legal advice within  
31 that.

32

33 THE COMMISSIONER: What's so complicated about it? You're  
34 examining a scientific issue, you ask ESR to give you some  
35 advice on a scientific issue. They give you some advice on  
36 a scientific issue. Why, in the ordinary course, in order  
37 to ensure that your scientists are working with full  
38 information, wouldn't you think it an instinctive matter to  
39 give them the ESR report for their information,  
40 particularly the scientists involved in the project that  
41 you've just mentioned, to whom it would be vital to know  
42 that they needn't look in the SOPs? Why didn't you do  
43 that, what's so complicated?

44 A. From my - from the things that we were undertaking  
45 there was a legal process with Crown law, there was a legal  
46 process with Clayton Utz. I was taking direction from HR,  
47 from legal perspectives, et cetera, around providing that.

1 It was a very tumultuous time within the laboratory as well  
2 and it wasn't provided at that time, it was then provided  
3 later.

4  
5 Q. Well I can understand you wanting to get advice from HR  
6 or Clayton Utz about it, so what did they advise you about  
7 revealing it to your scientists?

8 A. At that stage my recollection is that as they were  
9 dealing with Ms Reeves, that that was the first point that  
10 needed be put forward and that that was around,  
11 you know, her --

12  
13 Q. No, no, you were taking advice you said. You were  
14 taking advice you said. So did you ask them whether you  
15 could show your other scientists this report about the  
16 ongoing processes in the lab so that they could be properly  
17 informed, particularly the project workers?

18 A. I don't whether I did. I don't remember whether I did  
19 specifically ask that question, I'm sorry, I don't  
20 remember.

21  
22 MR HODGE: I want to show you another document. Can we  
23 bring up WIT.0019.0016.0001 at .0844. I think that might  
24 even be within that same document but at a different page.  
25 This is - sorry, we should just go to the page before just  
26 so you can see what this is. This is an email that you  
27 sent on 9 March 2017?

28 A. Yes.

29  
30 Q. By this stage I think you had already been given an  
31 oral briefing by ESR?

32 A. I think so, yes.

33  
34 Q. And then can we go over the page. And then can we blow  
35 up, can we blow up the paragraph that is now the  
36 second-last paragraph from the bottom "I've attached". You  
37 see here you say:

38  
39 *I've attached the Australian and New*  
40 *Zealand Forensic Science Society code of*  
41 *conduct. I'm fairly sure that Amanda is a*  
42 *current member. The code discusses acting*  
43 *truthfully and objectively. Given that ESR*  
44 *have said that we have a sound scientific*  
45 *procedure, if Amanda were to not accept*  
46 *this, then perhaps she's not being*  
47 *objective. I understand that she would*

1                   *need to have access to the report or a*  
2                   *summary thereof.*

3  
4           A.   Yes.

5  
6           Q.   I just want to put this to you bluntly: you were  
7           trying to use the ESR report as a way of damaging or  
8           attacking Ms Reeves, weren't you?

9           A.   No, I was trying to put forward all information to the  
10          lawyers so that they had every aspect of that to be able to  
11          deal with the situation.

12  
13          Q.   And you knew that the ESR report didn't address the  
14          specific problem that had been raised by Ms Reeves?

15          A.   As I said before, the Standard Operating Procedure was  
16          reviewed end to end to see if there were deficiencies that  
17          would highlight whether there is any false negatives. That  
18          didn't highlight that and Project 181 was still continuing.

19  
20          Q.   Sorry, sorry, what did you say, the ESR was to  
21          highlight what about false negatives?

22          A.   The ESR review was to look at the process end to end to  
23          highlight any deficiencies and as that hadn't revealed  
24          around the false negatives, then Project 181 was also part  
25          of that, to review that as well.

26  
27          Q.   They didn't know about it, Ms Allen, you just didn't  
28          tell them. Again, you just - you didn't tell ESR about  
29          what the problem was.

30  
31          THE COMMISSIONER: Did you anyone that the ESR report did  
32          not answer Ms Reeves' issue? You accepted a little while  
33          ago that it didn't answer her issue. Did you tell anyone  
34          that orally or in writing and, if so, who?

35          A.   No, I don't believe I did.

36  
37          Q.   Why not?

38          A.   Because from - as I said, the Standard Operating  
39          Procedure that leads up to making the Evidence Recovery  
40          Slides was reviewed to see whether there was a deficiency.  
41          Given that they said it was a sound practice, then we  
42          needed to look at Project 181 to find where that issue was  
43          or was it able to be detected.

44  
45          Q.   So the person then that most needs to know it from the  
46          answer you've just given is the team leader of Project 181.  
47          Hello, team leader, we've got the ESR report. The SOPs are

1 clear, you needn't trouble about that, the problem will be  
2 found elsewhere. Isn't that true?

3 A. That's probably true but at the time this was within  
4 legal spheres and I was taking direction from others and I  
5 was unsure about what was the right steps or not right  
6 steps given the complex situation that we were in and given  
7 the stress and anxiety that was going on with each of the  
8 teams and within the management team and that this was a  
9 stressful situation.

10  
11 Q. The problem with my accepting that answer, Ms Allen, is  
12 that you say you're under other's guidance and you weren't  
13 sure, but you didn't seek guidance, you didn't seek  
14 clarity, so that doesn't wash, does it? Am I wrong about  
15 that?

16 A. Well the ESR report was provided to Clayton Utz  
17 regarding this and HR were aware of the documents and we  
18 were working closely with HR as well as Clayton Utz, so the  
19 steps that were being taken were being, I was being, I was  
20 following what their steps were. Perhaps it was naive of  
21 me at the time and I should have been more expressive in  
22 that (indistinct words).

23  
24 Q. We were discussing why you didn't provide it to the  
25 team leader of the project, not whether or not you provided  
26 it to Clayton Utz and HR, but it doesn't matter. Thank  
27 you, you go ahead, Mr Hodge.

28  
29 MR HODGE: Ms Allen, isn't this the case, that even though  
30 you knew that - I'm sorry, I withdraw that. Do you agree  
31 with me that you knew that if the issue raised by Ms Reeves  
32 was a real issue within the lab, then there could be  
33 serious reputational harm to your lab?

34 A. Yes.

35  
36 Q. And do you agree that if the issue raised by Ms Reeves  
37 was a real issue within the processing within the lab, then  
38 it would mean that the lab had for six years been, to put  
39 it very bluntly, failing victims of sexual offences in  
40 Queensland?

41 A. It would mean that we would have to do a review of  
42 those cases to ensure that they were appropriately  
43 examined.

44  
45 Q. That's right, that is, if the issue that Ms Reeves  
46 raised was a real issue within the lab, then it means that  
47 for the previous six years you hadn't been adequately



1 processing the samples in relation to offences against  
2 victims of sexual offences?

3 A. But if there was a proportion of those cases that may  
4 have been missed for spermatozoa because of the Standard  
5 Operating Procedure or the way that the staff went about  
6 that, that would have been missed for that period.

7  
8 Q. And do you agree with me that what you did in 2017 was  
9 to prefer trying to win over Ms Reeves, rather than  
10 addressing the question of whether there was an issue with  
11 the processing that the lab was doing and had been doing  
12 over six years in relation to sexual offences?

13 A. No, that's not true.

14  
15 Q. But that's what happened, isn't it, you focused  
16 yourself on trying to defeat Ms Reeves, a person that you  
17 didn't get along with, and who you regarded as difficult,  
18 rather than doing what was the scientifically and  
19 managerially correct thing to do?

20 A. No, I disagree with that.

21  
22 THE COMMISSIONER: Did you tell Mr Csoban or give him to  
23 understand that Ms Reeves was a divisive person in the lab?

24 A. I discussed with Mr Csoban that I had a difficult  
25 relationship with Ms Reeves but as to - but I never used  
26 the word divisive with him.

27  
28 Thank you.

29  
30 MR HODGE: By 2018, or the beginning of 2018, Ms Reeves was  
31 to be reassigned to a different part of Queensland Health?

32 A. Yes.

33  
34 Q. And immediately after she'd left the DNA Unit you had  
35 heard a report from some employee about documents being  
36 thrown into a confidential bin?

37 A. The information that came to me was that there was a  
38 shredding party occurring in that area.

39  
40 Q. Just to be clear, it wasn't that there was actually a  
41 shredder there, it was that documents were being thrown  
42 into the confidential bin?

43 A. Yes, that's right.

44  
45 Q. And you went to Mr Csoban and told him about this?

46 A. Yes.

47

1 Q. And am I right in thinking at that point one of the  
2 things you wanted was to see if you could have Ms Reeves  
3 fired?

4 A. No, that's not true.

5

6 Q. And then you were also looking at whether there was  
7 action you could take at some of the other scientists in  
8 the lab who you regarded as allies of Ms Reeves?

9 A. No, that's not true.

10

11 Q. And you set about trying to see if you could, to put it  
12 very bluntly, bring about retribution against them?

13 A. No, that's not true.

14

15 Q. And so you and Mr Csoban took the confidential bin into  
16 his office?

17 A. Mr Csoban and I sought advice from Ms Andria  
18 Wyman-Clarke and Mr Riddell on that particular day. We  
19 advised them what we had, what the staff member had said.  
20 Ms Wyman-Clarke advised us that she had advised Ms Reeves  
21 of the things that needed to stay within the workplace such  
22 as diaries, notebooks, work books, anything that was  
23 work-related needed to stay within that, and she advised  
24 that we needed to check the confidential bin to see if that  
25 was true.

26

27 Q. So she told you you needed to open it up ?

28 A. Yes, she said that we needed to verify whether it was  
29 true or not.

30

31 Q. I'll show you an email. Can we bring up  
32 WIT.0019.0023.0001.

33

34 THE COMMISSIONER: To verify if what was true, Ms Allen?

35 A. That documents from Ms Reeves was in the confidential  
36 bin.

37

38 Q. Why shouldn't they be in the confidential bin? If  
39 they're confidential documents that should be shredded  
40 that's where they should be, isn't it?

41 A. But if there were documents that had been discarded  
42 that should have been retained under the retention policy.

43

44 Q. But why would you think that such documents would be  
45 there?

46 A. The staff member indicated that there was a lot of  
47 documents going in there.

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Q. Yes, but why would you think that --

A. And so that was --

Q. Why would you think that Ms Reeves would be destroying documents that should not be destroyed?

A. We didn't know whether she was or not so it was to clear up that particular thing.

Q. But you had no reason at all to suspect that she was doing that, is that right?

A. We didn't, we didn't know what was going on, we only had one staff member --

Q. Exactly, that's what I'm putting to you. You had no reason to suspect that she was doing any such thing, did you?

A. Not from my perspective, no.

Q. So have you ever opened up the confidential bin to see if anybody's throwing documents in there that should not be shredded? Have you ever before done that?

A. I have opened up the confidential bin in a particular area to retrieve a document that I have discarded, yes.

Q. That's not what I asked you. I asked whether you've ever opened up the confidential bin to see if it contained documents put in by anyone that shouldn't be there?

A. I don't remember doing that, no.

Q. So why did you do it now when you had no reason to suspect that anything was wrong?

A. I did that on the basis of Ms Wyman-Clarke's advice.

Q. Did Ms Wyman-Clarke tell you to look in the bin?

A. Yes.

Q. What did you tell her that might have justified that kind of advice, that somebody had seen Ms Reeves putting things into the bin, is that enough?

A. That's what we advised her of and she said that she had advised Ms Reeves of what to leave behind and that, you know, we needed to check what was in the bin. It could have just been documents that were correctly, you know, placed in the bin and that's what we wanted to ensure had occurred.

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1 Yes.

2

3 MR HODGE: Now, do you recall having called Ms Wyman-Clarke  
4 and said something to the effect to her of, "If someone has  
5 broken the law can I sack them, even if they've left"?

6 A. No, I don't remember saying that.

7

8 Q. Anything like that?

9 A. No, because I don't have that delegation to be able to  
10 do that so I --

11

12 THE COMMISSIONER: No, but you can take steps to achieve  
13 that end?

14 A. I could put forward information and the delegate needs  
15 to decide on that information, but I myself can't, can't do  
16 that.

17

18 MR HODGE: Did you tell her that you wanted to bring in the  
19 three scientists who you thought had assisted Ms Reeves and  
20 sack them?

21 A. No, I did not. I sought advice.

22

23 Q. And she told you you didn't have the authority to do  
24 that?

25 A. No, because I already know that I don't --

26

27 Q. Because you didn't have any delegation?

28 A. I already know that I don't have a delegation around  
29 where that delegation sits. I sought advice from  
30 Mr Riddell about what next steps to take regarding that and  
31 he provided me with advice on what next steps to do.

32

33 Q. So in this email that we've got up on the screen, you  
34 see you send this on the Friday afternoon?

35 A. Yes.

36

37 Q. So you say some time on the Thursday Ms Wyman-Clarke  
38 had told you you should open the bin and review what  
39 documents there were that were there?

40 A. Yes, Ms Wyman-Clarke was on campus because Ms Reeves  
41 was on campus as well.

42

43 Q. And what you've set out in your email are the steps  
44 that you and Mr Csoban had taken over the Thursday and the  
45 Friday?

46 A. On the Thursday. The Friday was Good Friday of the  
47 Easter.

1  
2 Q. So you're sending this email on the afternoon of Good  
3 Friday?

4 A. Yes.

5  
6 Q. Do I take it then from what you're saying you don't  
7 believe that - I'm just trying to understand because you  
8 see it says:

9  
10 *Briefly below are the actions that were*  
11 *taken late on Thursday afternoon and*  
12 *Friday.*

13  
14 A. Yes.

15  
16 Q. Does that mean - just help me out here - does that mean  
17 you and Mr Csoban were in there on campus on Good Friday  
18 going through the confidential bin?

19 A. No, I should have been more clear about the steps that  
20 we did on the Thursday versus the steps that I did on the  
21 Friday.

22  
23 Q. What were the steps you did on the Friday?

24 A. Was around the - all the case files removed from the  
25 desk and stored appropriately.

26  
27 Q. And you see you've set out what you've found to date.  
28 Tell me if you agree with this: nothing that you identify  
29 there shows that you have yet determined whether, for  
30 example, there were documents that were put into the  
31 confidential bin of which there weren't electronic copies  
32 stored on Aus Lab?

33 A. That's right, at that point, yes.

34  
35 Q. You did that later?

36 A. Yes.

37  
38 Q. And so at this point you're going through - and the  
39 things you've done are, you've gone through the  
40 confidential bin, you've identified documents in the bin  
41 and you've taken various photographs of Ms Reeves' desk  
42 area?

43 A. So at this point we went to the area, I took  
44 photographs of the area, we opened the confidential bin as  
45 Paul had the key for that. We identified that there was  
46 documents in the bin. We weren't, we didn't determine  
47 whether they should or shouldn't have been discarded. We

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1 then locked the bin up again and that was placed into  
2 Paul's office, which was locked, and then on the Friday  
3 that's when I came into work and removed the case files and  
4 stored them to be filed within the filing system at work.

5

6 Q. We might just bring up some of the photographs. Can we  
7 bring up WIT.0019.0024.0001, along with .0025.0001,  
8 .0026.0001 and 0027.0001. So that's one, and then the  
9 others are .0025, thank you, .0026 and .0027.

10

11 THE COMMISSIONER: It's after 1 o'clock, Mr Hodge, when  
12 you're ready.

13

14 MR HODGE: Thank you, Commissioner. Just tell us, if you  
15 can, why was it significant that Ms Reeves had left a  
16 pamphlet titled "What can I do if I am assaulted at work"  
17 on her desktop?

18 A. It seemed very pointed to me because the allegation in  
19 June 2016 was that she was assaulted.

20

21 Q. And why did it seem significant to you that there was a  
22 calendar page which says "If I'm too strong for some people  
23 that's their problem"?

24 A. To me that showed that Ms Reeves was sending a message  
25 and in that moment I acted as a human being, given the past  
26 almost two years of tumultuous times.

27

28 Q. When you say you acted as a human being in that moment,  
29 it's not just that you took a photo of these things on  
30 Thursday, you then on Friday uploaded these photos in order  
31 to email them to a HR manager, do you agree?

32 A. Yes, because I was aware that Ms Wyman-Clarke had a  
33 number of dealings with Ms Reeves and she had very limited  
34 dealings with me, so my perspective was to take  
35 photographs, provide them to Ms Wyman-Clarke and she was  
36 able to then make up her own mind regarding what she saw in  
37 those photographs, rather than me describing any of that.

38

39 Q. When you reflect on it, what do you think it says about  
40 your management of the lab that you took the time to  
41 photograph and email that pamphlet and that page from a  
42 yearly diary or yearly calendar, but you've never bothered  
43 to take the time to review whether sexual assault  
44 investigation kits had not been adequately processed for  
45 six years ?

46 A. I think that I'm a human being that had gone through  
47 some traumatic times within that past 18 months and other

1 times and that's why the photographs were to provide  
2 Ms Wyman-Clarke with that information. I do take on board,  
3 as the management team should also take on board, that we  
4 should have reviewed those cases around false positives  
5 from 2010 to 2016.

6  
7 Is that a convenient time?

8  
9 THE COMMISSIONER: Yes. We'll adjourn until 2.30.

10  
11 **LUNCHEON ADJOURNMENT**

12  
13 THE COMMISSIONER: Mr Hodge.

14  
15 MR HODGE: Thank you. Ms Allen, before the break - sorry,  
16 I should check can you see and hear me?

17 A. Yes, I can.

18  
19 Q. Thank you. Before the break we were looking at this  
20 issue in relation to the confidential bin. Can you tell us  
21 what your intention was as to what would happen to  
22 Ms Reeves?

23 A. My intention of looking in the confidential bin was to  
24 secure any documents that should not have been discarded  
25 and ensure that they were kept on file, provide information  
26 around what documents that we had found within the bin and  
27 provide that to Ms Wyman-Clarke for her to deliberate  
28 regarding what were next steps.

29  
30 Q. Just again though focusing on my question. In doing  
31 all of this what was the outcome that you were hoping to  
32 achieve in relation to Ms Reeves?

33 A. I didn't attempt to - it was not my position to hope to  
34 achieve anything. I put forward information and then it  
35 was at the delegate's discretion about what needed to  
36 happen. I followed up to make sure that I'd undertaken the  
37 necessary steps that they needed me to and that was my part  
38 of it.

39  
40 Q. You agree with me what you hoped to achieve was that  
41 there would be some form of disciplinary outcome for  
42 Ms Reeves?

43 A. No, that's not true.

44  
45 Q. And if we bring back up the email that we were looking  
46 at just before the break, which is WIT.0019.0023.0001. You  
47 see you refer there, it's about - now that it's blown up

1 it's about a third of the way down the page you refer to  
2 diaries?

3 A. Yes.

4

5 Q. You see you say in that large bullet point:

6

7 *Attached is a request for a 2018 diary.*

8

9 A. Yes.

10

11 Q. Tell me if you agree with this, the extent to which  
12 you'd gone was you'd gone back through your emails to find  
13 a copy of an email recording that Ms Reeves had requested a  
14 diary for 2018 so that you could demonstrate she must have  
15 had such a diary?

16

17 A. Yes.

18

19 Q. And that wasn't something that you'd found in the

20

21 confidential bin?

22

23 A. No, it wasn't.

24

25 Q. But you hadn't been able to locate a 2018 diary and you  
26 were putting this forward as an issue that ought to be  
27 pursued by Queensland Health against Ms Reeves, weren't  
28 you?

29

30 A. I was putting it forward because Ms Wyman-Clarke had  
31 advised that she had let Ms Reeves know what was to be left  
32 behind in the workplace and diaries was mentioned as part  
33 of that so I was providing her with information of what we  
34 had located and what we hadn't located.

35

36 Q. And then you see further on in your email you say:

37

38 *QIS records should indicate that Amanda and  
39 Kylie has line managers have undertaken  
40 record keeping training.*

41

42 A. Yes.

43

44 Q. Tell me if you agree with this, Ms Wyman-Clarke, she  
45 would have access to the QIS records?

46

47 A. I assume she would, yes.

48

49 Q. And she never sent you an email saying:

50

51 *Would you mind going and checking those  
52 records for me?*

53



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A. No.

Q. You see at the end of your email you say:

*I await your advice on any next steps that I should take.*

A. Yes.

Q. She never sent you an email saying:

*You should take these next steps.*

A. No, she didn't.

Q. And you were dissatisfied, weren't you, with the absence of evidence that she was doing something to take disciplinary action against these employees?

A. No, that's not true.

Q. Then if we bring up WIT.0019.0029.0001.

THE COMMISSIONER: Ms Allen, while that's being brought up, to some degree somebody might understand that you're concerned to ensure that documents that ought not be shredded were not in the confidential bin. But by the time you wrote this email that we were looking at a moment ago it seems that you had not discovered that anything was in the bin that shouldn't have been there, because you didn't mention it, and so the next step is to find out if there really was anything there before you start thinking about disciplinary processes or any kind of steps to be taken, because at that stage you had nothing to concern you?

A. Yes, that's right.

Q. And yet in that email you're already talking about collecting the kind of evidence that somebody who's minded to begin a prosecution and prove to the hilt wrongdoing would do, namely proof that a diary was requested, proof that these people knew or ought to have known the standards to be applied because they undertook a course about document retention, and yet at that stage there was no call for any of that so far as I can see. Why were you looking for that kind of peripheral evidence of that kind before you had found that anything that had happened justified any concern?

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TRA.500.022.0058

1 A. That's why I had to put forward all of the information.

2

3 Q. Why did you want to put forward all that information,  
4 why? Why was that information in your mind?

5 A. Because I wanted to move on past this. I just wanted  
6 to do what I needed to do to provide the information and  
7 move past this.

8

9 Q. Well the kind of - anyway, doesn't matter. You go on,  
10 Mr Hodge.

11

12 MR HODGE: The problem you see, Ms Allen, with that  
13 explanation is that none of your behaviour evidences  
14 somebody trying to move on from a past issue in the  
15 workplace that was unpleasant, and we see now in this email  
16 on the screen, 19 April 2018, that you hadn't had a  
17 response from Ms Wyman-Clarke so you sent a further email  
18 three weeks later, do you agree?

19 A. Yes.

20

21 Q. And you forwarded again the photographs that you'd  
22 taken and the diary order and you'd also gone through and  
23 gone through each of the documents that you'd found in the  
24 confidential bin to determine whether or not you had a  
25 basis for saying they should have been retained?

26 A. Yes.

27

28 Q. And I can bring up the document but you tell me if you  
29 haven't looked at it recently and need to look at it, but  
30 do you agree with me after pouring over the documents and  
31 spending three weeks looking at it, you were able to  
32 identify only two documents that you could say with any  
33 certainty ought to have been retained because you could be  
34 confident they were not on AUSLAB?

35 A. There was examination notes from one particular case  
36 and then I'm not sure how many intelligence reports that  
37 had handwritten signatures on them for that. So there were  
38 those two categories.

39

40 Q. But you itemise many documents that you speculated may  
41 or may not be things that ought to have been kept but you  
42 hadn't been able to ascertain?

43 A. Yes, that's right.

44

45 Q. And that extended to the point where you were  
46 identifying that there were some moot questions that had  
47 been put in the confidential bin?

1 A. Yes.

2

3 Q. And you didn't - you tell us, but did you seriously  
4 think that there was some meaningful issue about moot  
5 questions being thrown into the confidential bin?

6 A. I was just explaining that those moot court questions  
7 were there, they could have been used by someone else and  
8 that was my opinion on that.

9

10 Q. And then you see in the third paragraph of your email  
11 you say at the end of the paragraph:

12

13 *Attached is the QIS record which shows that*  
14 *Amanda undertook the record keeping*  
15 *training in 2011.*

16

17 A. Yes.

18

19 Q. So even though Ms Wyman-Clarke hadn't asked you for it  
20 and even though Amanda Reeves wasn't working in your unit  
21 any more, you had gone to the extent of looking up the QIS  
22 record for what record keeping training she'd undertaken at  
23 that stage seven years earlier?

24 A. Yes, that's right.

25

26 Q. Why?

27 A. Because I felt that that was relevant for  
28 Ms Wyman-Clarke to have a full appreciation of everything  
29 that had been done, and I put forward that information to  
30 her for her to make a decision about.

31

32 THE COMMISSIONER: You were helping her build a case for a  
33 prosecution, a disciplinary prosecution, isn't that what  
34 you were doing?

35 A. No, that's not what I was trying to do because I'm  
36 aware that HR processes change. There are different things  
37 that are taken into consideration in particular cases. So  
38 I just wanted to provide all the information that I could  
39 and that was the end of what I wanted to do. I just wanted  
40 that to be there and I could move on.

41

42 MR HODGE: But why not just leave it to her at the most  
43 basic level to decide whether was interested in looking at  
44 what record keeping training Ms Reeves had undertaken?

45 A. Yes, I could have done that, yes, I agree.

46

47 THE COMMISSIONER: But the question is why didn't you? Why

1 this zealousness to provide all the evidence to support a  
2 disciplinary case as it seems to me at the moment?

3 A. I didn't necessarily view this as a disciplinary case.  
4 I was putting forward that documents that should have been  
5 retained weren't retained and that there were diaries and  
6 things that hadn't been retained either. Were they of  
7 consequence? You know, that was up to her. I was aware  
8 that Amanda had undertaken the training and put that  
9 forward. So for me it was just providing the information  
10 for them to consider and whatever action they took was up  
11 to within their delegations.

12  
13 MR HODGE: But it wasn't something where you had this  
14 knowledge and you were just sending an email with the  
15 knowledge. You went back to search the QIS records to find  
16 a record of Ms Reeves having undertaken the training, and  
17 then you made a copy of it and you sent it to  
18 Ms Wyman-Clarke, isn't that what happened?

19 A. Yes. Equally Ms Reeves may not have undertaken that  
20 course as well so I wouldn't have been able to find that.

21  
22 Q. Do you remember that you spoke to Ms O'Connor about  
23 what you wanted to do?

24 A. I asked Ms O'Connor about attending meetings with  
25 particular staff members and asked her if there was any  
26 follow up that needed to be done in one of the first  
27 meetings I had with her when she began her role at FSS.

28  
29 Q. Did you watch her give her evidence to the Commission?  
30 A. No.

31  
32 Q. Are you aware that Ms O'Connor said that you had said  
33 to her words the effect of:

34  
35 *I want to discipline them.*

36  
37 A. I did not say that to her.

38  
39 Q. Notwithstanding your claims that you just wanted to  
40 move on, you then required three of the scientists to come  
41 and be interviewed by you?

42 A. I did not require that. I liaised with Mr Andrew  
43 Riddell from HR and he provided the path forward, which was  
44 - gave me the email that I needed to send to the staff  
45 members and he attended the first meeting with the staff  
46 members and then for the other two meetings Ms O'Connor  
47 attended with me.

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Q. Yes, but they were doing this because this is what you wanted to do, wasn't it?

A. No. I was guided by their HR advice.

Q. Did they tell you you have to investigate what those other scientists did?

A. My recollection is that Mr Csoburn had delegated that because HR advice had advised that it should be - the question should be asked of the staff members.

Q. Sorry, I'm not sure I understand that answer. Do you say that Ms O'Connor or somebody else from HR said to you you have to investigate what the other scientists did, that they said that to you?

A. Mr Riddell provided me with the email and I believe we had a discussion together about what steps needed to --

Q. Why did he provide you with the email?

A. We had a discussion about the events that had occurred and he provided advice that the next step would be to ask each of those staff members what they remembered regarding that particular day.

Q. Did you go to him and say what you wanted to do?

A. Mr Riddell was in the room when Mr Csoburn and I asked Ms Wyman-Clarke on that Thursday about the situation. So he was aware of the situation. I don't remember whether I followed up with him or he followed up with me but it was to discuss what next steps were to happen and that's what he - he provided the email template for me to send.

Q. Ms Allen, just stop and think about this. You sent an email to Ms Wyman-Clarke at the end of March of 2018. She didn't even bother to respond. Because after three weeks she hadn't responded you sent another email to her on 19 April 2018. She still didn't respond. You don't seriously suggest to the Commission, do you, that you felt like Ms Wyman-Clarke was intent on you pursuing your scientists for interviews as to what had occurred?

A. I didn't know what Ms Wyman-Clarke was intending. She was the manager of Mr Andrew Riddell and it was Mr Riddell that I was dealing with because he was on the FSS campus.

Q. All right. Maybe just focus on this. Did anyone tell you that you needed to go and interview the scientists?

A. From my recollection Mr Csoburn had said that from HR

1 advice that we should, with HR inclusion, should interview  
2 the staff members.

3

4 Q. So Mr Csoburn told you to go and do it?

5 A. With the assistance of HR.

6

7 Q. I understand. But do you say this is not something  
8 that you wanted to do, you did it because you were directed  
9 by Mr Csoburn to do it?

10 A. Yes, Mr Csoburn delegated that to me to do.

11

12 Q. So you say you wanted to move on but Mr Csoburn  
13 directed you to interview the scientists?

14 A. Yes.

15

16 Q. This is nonsense, isn't it, Ms Allen? We can see in  
17 the emails it is you who are intent on pursuing this issue?

18 A. I wanted to ensure that I had provided everything that  
19 I needed to provide. I wanted to find out if there was any  
20 other next steps that I needed to be aware of from  
21 Ms Wyman-Clarke. I was dealing with Mr Riddell regarding  
22 the other staff members.

23

24 Q. And then I put it to you that you approached  
25 Ms O'Connor because you wanted to bring some disciplinary  
26 action or cause these three scientists to be disciplined?

27 A. I did not approach Ms O'Connor and say that I wanted  
28 them disciplined. I was aware that Ms O'Connor was working  
29 in the Department of Health and had worked on Ms Reeves'  
30 case. So I was aware that she had been privy to a lot of  
31 information and so therefore I didn't necessarily have a  
32 strong relationship with her. I didn't necessarily have a  
33 trust relationship with her. So I did not ask her - did  
34 not tell her that I wanted staff to be disciplined.

35

36 Q. And then you send an email to each of Ms Rika, Ms Caunt  
37 and Ms Moeller requiring them to attend an interview with  
38 you?

39 A. Yes, that's right.

40

41 Q. And I'll bring up one example of that, which is  
42 WIT.0011.0023.0001. You see this is a chain of emails.  
43 Could we go down to the last page, and could we bring up  
44 just so Ms Allen can see the whole of the page. This is  
45 the email you sent to Dr Moeller requiring her to attend an  
46 interview with you?

47 A. Yes, that's right.

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Q. By this stage you knew what the issue was that you claimed had arisen, that is you knew that the only issue was about information that went into a confidential bin?

A. That's right, yes.

Q. Presumably you didn't think that they were responsible for you not being able to find Ms Reeves' diaries?

A. No, I didn't think that they had done anything with Ms Reeves' diaries, no.

Q. And you thought, what, that they had somehow assisted her to throw some documents in the confidential bin?

A. My intent from this based on HR advice was to ask them some questions about what they had remembered regarding that incident.

Q. Why not tell them what the incident was?

A. That template was provided to me by Mr Andrew Riddell as the template that I should sent to the staff members regarding this. So I followed the HR advice and the template that he provided.

THE COMMISSIONER: His template didn't use the words a workplace matter relating to compliance with workplace record keeping practices matters, did it?

A. As far as I remember I just copied and pasted his email into a fresh email for each of those staff members.

MR HODGE: Did you think that this was completely mad, that you were summoning three employees in to have an interview with you, with this kind of menacing email in order to ask them what they could remember about documents going into a confidential bin?

A. I was following Mr Riddell's advice with the email and with the --

Q. Please, my question is - please, you heard my question. Did you think it was completely mad?

A. I didn't necessarily think it was mad. I thought it was the process.

Q. Isn't it the case that you were pursuing these scientists because consistent with the culture that you had established in the lab somebody who spoke out, somebody who didn't agree with you, somebody who you didn't agree was on your team, would be subject to recriminations?

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1 A. No, that's not true.

2

3 Q. And that's what this was about, this was retribution  
4 because you regarded them as being on Ms Reeves' side?

5 A. No, that's not true.

6

7 Q. And when they got into the interview did you tell each  
8 of them exactly what it was that you were investigating?

9 A. My recollection is that yes, I advised them on a  
10 particular date that some documents had been discarded and  
11 were they aware of what documents had been discarded and  
12 did they know anything about it.

13

14 Q. Did you ask any of them a question like did you see  
15 anyone near the confidential bin?

16 A. I don't remember what I - whether I did ask them that.  
17 I have notes that I've taken from that that were in my  
18 notebook.

19

20 Q. And then what did you do with the notes afterwards,  
21 after you'd finished the interviews?

22 A. I scanned the notes and sent them to Ms O'Connor.

23

24 Q. And she just refused to do anything about it?

25 A. I don't know what she did about it. I followed up with  
26 her and I don't know what she did.

27

28 Q. You followed up because you wanted some form of  
29 disciplinary action against these people?

30 A. No, I followed up to see if there was anything else I  
31 needed to do with that particular process and she didn't  
32 advise me of anything so that was the end for me.

33

34 Q. This was three months after you'd had the Workplace  
35 Edge Survey which referred specifically to the fact that  
36 members of staff feared the idea of recriminations for  
37 speaking up?

38 A. I understand that. I engaged with HR for this process.

39

40 THE COMMISSIONER: But they didn't drive it, you were the  
41 one driving it, weren't you?

42 A. No, I asked them what needed to happen and this is the  
43 advice that they provided to me.

44

45 MR HODGE: I'm going to move to another topic. I want to  
46 show you a document. Can we bring up FSS.0001.0003.4315.  
47 You see these are the minutes of a management team meeting



1 on 5 February 2016?

2 A. Yes.

3

4 Q. Tell me do you agree with this: you know that one of  
5 the issues of concern for scientists within your lab was  
6 the way in which you would try to manage and control  
7 personal aspects of their workplace, whether they were  
8 given the ability to work from home, when they could take  
9 leave?

10 A. There's a process around working from home - at that  
11 point this is pre-pandemic - and also there's a process  
12 around the taking of leave that goes through line managers  
13 and team leaders.

14

15 Q. Could you tell us what your attitude was to scientists  
16 in the lab getting pregnant?

17 A. I was happy for them to extend their families.

18

19 Q. Can we bring up .4316. And can we show Ms Allen item  
20 5.5, which continues over the page, and blow that up. This  
21 seems to be recording you requiring senior managers to  
22 provide you with the names of staff that may be trying to  
23 get pregnant?

24 A. This was in the lead up to budgetary things. I was  
25 trying to help forecast that if anyone was aware that a  
26 staff member was pregnant, that we would need to try to  
27 forecast for that in the following year. I wasn't trying  
28 to discourage any of that, I was just trying to, from a  
29 budgetary perspective, have that included.

30

31 Q. Do you see it goes on to say:

32

33 *There aren't any ramifications if the*  
34 *pregnancy doesn't eventuate, however large*  
35 *ramifications if not accounted for.*

36

37 A. From a budgetary perspective is what I was meaning  
38 regarding that.

39

40 Q. Do you regard it as acceptable management practice to  
41 be asking your senior managers to speculate as to which  
42 scientists on the staff are thinking about getting  
43 pregnant?

44 A. Some of the line managers were already aware in the  
45 early pregnancy ---

46

47 THE COMMISSIONER: Please answer the question, Ms Allen.

1 The question was whether you thought it was good management  
2 practice?

3 A. From my perspective I was trying to ensure that the  
4 budget was there for us to keep moving forward. At that  
5 point in time I didn't see an issue asking people if they  
6 were aware that someone was pregnant and that we could  
7 factor it into the budget.

8  
9 Trying to get pregnant I think is the expression, isn't it?

10  
11 MR HODGE: Yes, trying to get pregnant.

12  
13 Q. Did any of your superiors at Queensland Health know  
14 about the fact that you had asked senior managers to  
15 speculate as to which scientists on staff were trying to  
16 get pregnant?

17 A. I'm not sure if they were aware or not. I'm sorry, I  
18 don't know.

19  
20 Q. Had you ever received any training from Queensland  
21 Health about how to manage a staff of the size you were  
22 managing?

23 A. I have been to some leadership courses since 2008  
24 regarding management.

25  
26 Q. Did you seek HR advice as to whether it was appropriate  
27 to be asking senior managers to be speculating as to which  
28 members of the staff were trying to get pregnant?

29 A. No, I didn't seek any HR advice on that, no.

30  
31 I tender that document, Commissioner.

32  
33 **EXHIBIT #180 MINUTES OF MEETING OF 5 FEBRUARY 2016**

34  
35 Then, Mr Operator, there should be an email that was sent  
36 to you. Thank you. This is a chain of emails from 2017  
37 between you and Vicki Jarrett, but I want to go to the  
38 last, or the earliest email in the chain, which should be  
39 the last email in the document. Just scroll up. You see  
40 this is an originally an email that you sent on 10 March  
41 2017 to - and it's all blocked out but I think you probably  
42 know it's all of the staff within the lab?

43 A. Yes.

44  
45 Q. You see the last line of your email on 10 March 2017  
46 you say:

47

1                    *Unfortunately funding for parental leave*  
2                    *was not included in the current budget but*  
3                    *has been included for the next financial*  
4                    *year so that coverage can be made available*  
5                    *for parental leave.*

6  
7                    A. Yes.

8  
9                    Q. I'm interested in understanding what it was you were  
10                    trying to achieve by this. Were you suggesting to your  
11                    staff that they couldn't take parental leave because you'd  
12                    left it out of the budget?

13                    A. No, not at all. Staff had asked for more engagement  
14                    from me around budget things and this was one of those  
15                    things that I was letting them know that it hadn't been  
16                    included but would be included in the following year. So  
17                    it was just an update for them on that.

18  
19                    Q. And the budget that you're referring to, is that the  
20                    budget for the DNA lab or for something wider?

21                    A. To be honest, I can't recall whether that was the  
22                    budget for DNA or whether it was the budget for Police  
23                    Services Stream.

24  
25                    Q. Do you control the budget for the Police Services  
26                    Stream?

27                    A. At this point in time the budget is allocated to me to  
28                    manage.

29  
30                    Q. And so was it up to you to make sure that there was an  
31                    allocation for parental leave?

32                    A. In previous years I would be asked if there were any  
33                    upcoming parental leave that we could factor into the  
34                    budget so that we could ensure that we were back-filling  
35                    staff that may be off on parental leave.

36  
37                    Q. Do you agree with me that to ask senior managers to  
38                    speculate about which members of staff were likely to be  
39                    trying to get pregnant is an invasion of privacy?

40                    A. It could be seen as that, yes, but that was not  
41                    necessarily my intention at the time but I recognise that  
42                    now, yes.

43  
44                    Q. Do you agree with me that it is an unfair thing to ask  
45                    of the senior managers?

46                    A. It puts them into a difficult position, I recognise  
47                    that, yes.

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Q. Do you agree with me that it carries the implication that decisions about staff and employment will be made on the basis of staff fertility?

A. No, that was not the intention at all. The intention was to ensure that the budget accounted for that.

Q. The problem is, what it implies, do you agree, is that it's some significant budgetary imposition on you if a staff member takes parental leave?

A. If a staff takes parental leave they're entitled to, I think it's 13 weeks paid parental leave, and during that period that money comes from Operational budget and then after that if they move into using recreation leave or long service leave, that budget is from a different, it's not from Operational, and then we can back-fill that person whilst they're on recreation or long service leave.

Q. Can you see how somebody hearing about this requirement by you asking for senior managers to speculate about which members of staff were attempting to get pregnant might interpret it as a suggestion that young women would not be hired or be less likely to be hired within the DNA lab?

A. No, because we had existing staff members and it was regarding those particular positions and what we could best do to ensure that we had budget to keep moving forward with the work that we had to do.

Q. Do you now, having had the time to reflect on it, see that it was a fundamentally misconceived thing to do?

A. I can see that that, asking those questions were not in the best way and that I should have handled that in a different way for that.

Q. Do you think, again reflecting on it, you can offer to the Commissioner a reason why you didn't, to use your expression, handle it in the best way?

A. At that particular time there was pregnancies in the laboratory which, you know, meant that staff were absent. I was trying to ensure that we could get budget for that so that we had a complement of staff that was able to handle the workload. That's what we were doing and trying to forecast was just a way of trying to include that in the budget and I now see that in this light of day, that asking those questions, I shouldn't have done it, even though I was trying - my intention was good but I see that now it doesn't, it doesn't look like a good intention.

1  
2 Q. At any stage did you raise issues with your budget with  
3 more senior managers?

4 A. Yes.

5  
6 Q. And of the Executive Directors that you reported to,  
7 did you say to any of them at any time, "We need more money  
8 for the lab"?

9 A. Yes.

10  
11 Q. And which of the Executive Directors did you say "we  
12 need more money" to?

13 A. All of them that I had.

14  
15 Q. And what was the response that came back from them?

16 A. That there wasn't, that there were hard financial times  
17 and that there wasn't going to be any and that I needed to  
18 manage the budget in the best way that I could and attempt  
19 not to go over budget.

20  
21 Q. At any stage did Queensland Health offer any managerial  
22 assistance to you in thinking about your budgetary issues?

23 A. When you say managerial assistance, what, what do you  
24 mean, I'm sorry?

25  
26 Q. Did somebody more senior come and talk you through how  
27 you might manage your budget or, alternatively, did they  
28 bring in anyone as a consultant to help you look at how you  
29 might manage your budget?

30 A. So the finance advisor would come and discuss things  
31 like reducing transport costs, trying to buy cheaper  
32 consumables, those types of examples. We had already been  
33 doing those types of things. We had attempted costing with  
34 Finance group but that had never gone to 100 per cent  
35 completion, so I wasn't able to have data that showed how  
36 much it cost from end to end to do the testing that we were  
37 doing. So that didn't help me in being able to provide  
38 that forward and each financial year there is an Enterprise  
39 Bargain Agreement that comes in with a percentage of wage  
40 increase and that wage increase wasn't included in the  
41 labour costings so we needed to find an extra 2.5 per cent  
42 saving on that labour portion.

43  
44 Q. And to go back to the 2018 Options Paper, can you  
45 remember whether you explained to anyone more senior than  
46 you that having to do this could be avoided if you were  
47 given some more money by Queensland Health?

# Official Release Subject to Proofing

TRA.500.022.0070

1 A. No, because the Options Paper was around ensuring that  
2 the testing that was done for QPS was necessary.

3  
4 Q. Well it was expressly called out as a cost saving  
5 measure in the Options Paper?

6 A. That was one of the (indistinct). Yes, that's right,  
7 it was highlighted.

8  
9 Q. So rather than saving costs, one possibility would be  
10 to have more money to be able to perform the tests?

11 A. If QPS wished us to continue with that testing then,  
12 again, I would have asked for additional funding, but I had  
13 not been successful in getting any additional funding.

14  
15 Q. And then I just want to ask you about a few other small  
16 things. Perhaps I should say a few other short things  
17 rather than small. The first is about retesting. I think  
18 you know that there's some evidence that Mr Docherty gave  
19 about retesting and you also have given an explanation in  
20 your statements as to the circumstances in which  
21 restrictions were put on when working? Are you aware of  
22 what I'm talking about?

23 A. After a final result had - so you mean reworking a  
24 sample after a final result had been issued to QPS?

25  
26 Q. Yes?

27 A. Yes.

28  
29 Q. And your evidence was in your statement that it was a  
30 direction from Mr Docherty to implement a policy that in  
31 order to request a rework somebody needed permission from  
32 you?

33 A. Yes.

34  
35 Q. Tell me if you're aware of this, Mr Docherty's evidence  
36 was to the effect that you came to him with a proposal a  
37 couple of weeks after he'd become the Executive Director  
38 and he agreed?

39 A. That's not my recollection of how that went.  
40 Mr Docherty came to my office and said that given the  
41 oversight that QPS had over that particular portion, that  
42 we should put in place a process so that I or someone could  
43 be aware of how many were requested after a final result  
44 had gone so that when we met with the QPS we were across  
45 the numbers and why that had occurred.

46  
47 Q. And so had scientists been coming to you seeking

1 permission for a rework?

2 A. Yes.

3

4 Q. And do you grant permission for a rework?

5 A. Yes.

6

7 Q. And how do you make the decision?

8 A. I ask Justin for his advice - sorry, Mr Howes for his  
9 advice regarding this and he'll provide advice and they  
10 have - there is not one sample that I have declined to  
11 rework.

12

13 Q. Is one of the criteria that you take into account  
14 whether there'll be a negative impact on the case?

15 A. It can be, just to be aware of what that might have on  
16 the particular case so that we're forewarned of that.

17

18 Q. But why would you be wanting to have information about  
19 a potential negative impact on the case in order to decide  
20 whether there should be a rework or not?

21 A. It's just part of the risk of doing the rework could be  
22 a negative outcome for that and so then I would be aware  
23 that that particular sample may not be able to have the  
24 same result as what we had already issued to the QPS and  
25 Inspector Neville may contact me regarding that particular  
26 sample and I would be aware of the surroundings or the  
27 context of that.

28

29 Q. Can I bring up WIT .0005.1459.0001. This is a chain of  
30 emails where Ms Rika is sending to you a request from  
31 Ms Entwhistle for authorisation to rework samples?

32 A. Yes.

33

34 Q. And your response is:

35

36 *I've read your email, reviewed the results,*  
37 *and based on your advice that reworking of*  
38 *both of these samples will not negatively*  
39 *impact the case, I approve of a rework for*  
40 *each of ...*

41

42 and then the samples are identified?

43 A. Yes.

44

45 Q. When you said a moment ago that you just sought that  
46 information just so you'd know what the consequence would  
47 be and whether it was likely to prompt a complaint from

1 Inspector Neville, that wasn't true, was it?

2 A. Yes, that's true. I wanted to be across --

3

4 Q. Ms Allen, in your email you are approving a rework  
5 expressly on the basis that it won't negatively impact the  
6 case?

7 A. Yes, that's the wording I've used in the email, yes.

8

9 Q. Because, tell me if you agree, it must follow that if  
10 it would negatively impact the case you would be either  
11 less likely to agree to a rework or you just wouldn't agree  
12 to a rework?

13 A. No, that's not true.

14

15 Q. So why would you say:

16

17 *Based on your advice that reworking both of*  
18 *these samples will not negatively impact*  
19 *the case I approve of a rework*

20

21 unless one of the things that you took into account in  
22 deciding whether or not you'd permit a rework is whether it  
23 would negatively effect the case?

24 A. It could have been that there were only a small number  
25 of samples within that case so therefore two out of a small  
26 number may be significant. The results that we already had  
27 obtained in the first instance could have been quite  
28 significant for that case. I could have made that decision  
29 based on that, given that I've said I've reviewed the  
30 results.

31

32 Q. You haven't answered my question. Why would you say:

33

34 *I've approved reworking of both of these*  
35 *samples based on your advice that it will*  
36 *not negatively impact the case*

37

38 other than because one of the factors that you take into  
39 account in deciding whether to permit a rework is whether  
40 it will negatively impact the case?

41 A. It's a risk factor to take into account but it's not  
42 necessarily a reason why I would not approve a rework.

43

44 Q. You agree with me that in sending an email to give one  
45 of your scientists permission to attempt a rework if the  
46 only factor that you call out is whether it will negatively  
47 impact the case, and if you say that you permit the rework



1 based on the advice that it will not negatively impact the  
2 case, that necessarily that scientist would understand that  
3 reworks are okay only if they don't negatively impact the  
4 case?

5 A. I understand what you're saying and I can see that I  
6 should have been more transparent in what I was saying in  
7 my feedback to them and should have included all of the  
8 things that I had considered regarding that.

9  
10 THE COMMISSIONER: Mr Hodge, I'm not sure I understand what  
11 a negative impact on a case means.

12  
13 MR HODGE: Why don't you explain that, Ms Allen?

14 A. So if a rework is undertaken for a particular sample  
15 after it's been, the final result has been issued to the  
16 QPS, the QPS may have acted on that final result and if  
17 it's reworked, that final result may change, so it may go  
18 from being, for example, a three person mixture which they  
19 were able to use STRMix to provide some statistics, it may,  
20 on the rework it may go to a complex mixed DNA profile that  
21 they're unable to say anything about and that may have an  
22 impact on the QPS case.

23  
24 THE COMMISSIONER: And why is that negative?

25 A. Because they want to be able to use that result and  
26 they may have already acted upon that particular piece of  
27 information already.

28  
29 Q. So why is that a negative impact on the case?

30 A. Because there may not be anything else in the case for  
31 that particular suspect, there may not be many samples in  
32 that case that have provided information for QPS, so that  
33 particular sample being reworked and then being called  
34 complex and not being able to assist with statistics and a  
35 reference sample may impact, may be a negative impact for  
36 the QPS.

37  
38 Q. Well what's wrong with that?

39 A. The QPS had already expressed that they were not happy  
40 that results, final results would be issued and then the  
41 results may change after that. There'd been discussions  
42 between myself, Mr Doherty, Superintendent McNab and  
43 Inspector Neville and they wanted to ensure that that did  
44 not occur very often because it did have a negative impact  
45 for them.

46  
47 Q. I want you to think about this carefully, Ms Allen,

1 because it seems to me that what you've said is if in the  
2 terms you've described a rework might have a negative  
3 impact on a case, that is destroy the cogency of the DNA  
4 evidence in the hands of police so that the case is  
5 affected, it's better not to take the risk of a rework  
6 which might have that effect, is that right?

7 A. I guess it also depends on the context of the case,  
8 what other kinds of DNA results --

9  
10 Q. Yes, so it's better not to learn the truth, it's better  
11 to let evidence that might be incorrect go forward?

12 A. No, it's not necessarily about the evidence being  
13 incorrect. It may be that a staff member has been  
14 allocated a case but they haven't necessarily input the  
15 results or been a peer reviewer of the results, so when  
16 they get that case and they're reviewing all of the results  
17 they may see that one particular mixture, for example, they  
18 look at that and think that it should be a two person  
19 mixture or a three person mixture instead of what it's been  
20 called, and so they may request a rework to be able to  
21 ascertain the number of contributors for that.

22  
23 Q. You better deal with this, Mr Hodge, it seems pretty  
24 important to me.

25  
26 MR HODGE: Yes.

27  
28 Q. Can we go down to the next page of that email. Can we  
29 just block out the - thank you, the sample numbers in the  
30 email addresses. Just to give an example, in this case  
31 Ms Entwistle is asking for a rework of samples in relation  
32 to a rape case?

33 A. Yes.

34  
35 Q. In this case she's saying that - if you look at the end  
36 of - just to take the first example - the first sample, she  
37 says:

38  
39 *I would consider rework and the opportunity*  
40 *to provide more clarity and/or improve the*  
41 *profile overall to be the best option. I*  
42 *consider it unlikely that a rework would*  
43 *result in an interpretation of complex and*  
44 *there has been no NCIDD load from this*  
45 *sample.*

46  
47 A. Yes.

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Q. You tell me if you agree with this: what you understood from that information she was providing was that she didn't think that there was a risk that the result of the profile would change so that it would now be said to be complex and incapable of being matched to a reference sample?

A. Yes.

Q. She was saying she thought it might improve the profile, that is it might - I assume, you tell me if you agree, allow you to say more confidently that the reference sample matched the profile from the crime scene sample?

A. Yes, she considers that it would be of benefit to do that, yes.

Q. And by contrast what's implicit in what she's saying is that what could happen is that the initial result before rework might have seemed to provide a partial match or a match, but that when it was reworked it would instead become complex, meaning not able to be a match to a reference sample?

A. For the same one we're talking about, the middle paragraph?

THE COMMISSIONER: No hypothetically.

MR HODGE: Hypothetically, that is - the hypothetical --

A. Sorry.

Q. No,no, it's okay. It's my question. But the hypothetical of the situation that Ms Entwistle was putting forward is that instead of it being more likely to enable a match to a reference sample, that instead the consequence might be that you would end up with a complex profile and you wouldn't be able to say with any certainty that there was a match to anyone?

A. I still would have approved that and been aware that there could be a change on the result.

Q. Tell me if you agree with this: the change on the result was the thing that you understood the QPS were unhappy about?

A. Yes.

Q. And was the specific scenario that they were unhappy about one where they were initially told by the DNA lab that there was a match or a partial match and then after

1 rework told:

2

3

*It's a complex profile and we can't make a match.*

4

5

A. Yes, that could be one of the things that happened, yes.

6

7

Q. And that was what the QPS were unhappy about?

8

9

A. There was also other instances where there had been a rework due to possibly human error or there had been a review of the DNA profile because new reference samples had come in so they had - the scientists had redone the STRmix process which would have amended the result.

10

11

12

13

14

15

Q. I understand. Perhaps if we look at it in this way. One of the scenarios we're talking about is where the lab has initially provided a result and it has led the police towards a particular suspect and then after rework the lab has had to say:

16

17

18

19

20

*Actually we can't offer you certainty about that.*

21

22

23

24

That's one scenario?

25

26

27

A. Yes.

28

29

30

31

32

33

Q. Is there another scenario where the lab has initially said we can't point to a particular suspect but then after rework it has been possible to - sorry, the lab has said we can't point a particular suspect and the police have proceeded on that basis and then after rework the lab has been able to say:

34

35

36

37

*Actually we can point to a particular suspect.*

38

39

A. Yes.

40

41

Q. And when those kinds of changes happened, the police were unhappy about it?

42

43

A. Yes.

44

45

Q. And was it more commonly the first type or more commonly the second type?

46

47

A. More commonly the first type where the result had changed from them being able to use that result to move

1 their investigation forward and it had then become, for  
2 want of a better word, unusable.

3  
4 Q. I'll tender that document, Commissioner.

5  
6 THE COMMISSIONER: Exhibit 181.

7  
8 **EXHIBIT #181 EMAIL FROM MS ENTWHISTLE TO MS RIKA 21**  
9 **FEBRUARY 2020.**

10  
11 MR HODGE: There should be a document I think that may have  
12 just been sent to you, Mr Operator, or alternatively it may  
13 be in our private book. It's FSS.0001.0085.4217. This is  
14 an email, Ms Allen, you sent to Mr Howes on 25 January  
15 2019?

16 A. Yes.

17  
18 Q. You say to Mr Howes:

19  
20 *John Doherty has requested that I implement*  
21 *a process where any reported sample is not*  
22 *reworked without my authorisation so that*  
23 *this issue is not encountered again. This*  
24 *is effective immediately.*

25  
26 A. Yes.

27  
28 Q. The issue you can see it relates to reworks on reported  
29 mixtures?

30 A. Yes.

31  
32 Q. That issue then that you're referring to in your email,  
33 to go back to the two kinds of situations I referred to  
34 earlier, which kind of situation does that refer to?

35 A. Where the result had changed and been, for want of a  
36 better word, unusable after the first result had been  
37 usable.

38  
39 Q. I'll just put it in my words and you tell me if I'm  
40 identifying it correctly. This particular issue that's  
41 being referred to in your email is the issue where  
42 initially the lab provides information based on its DNA  
43 profiling that points the police towards a particular  
44 suspect or allows them to advance the investigation and  
45 then after rework it said:

46  
47 *Actually we can't offer any certainty about*

1                    *that, it's a complex mixture.*

2

3                    Or something like that?

4

5

6                    Q.    So it looks like from this email what you are saying to  
7                    Mr Howes is that issue of first telling the police that  
8                    here's come information that's useful for them to advance  
9                    their investigation and then having to say actually it's a  
10                    complex profile after a rework, won't arise again now that  
11                    you will have control of whether or not samples get  
12                    reworked?

13

14

15

16

17

18

19

20                    Q.    You tell me if you agree but it doesn't look like in  
21                    your email that that's what you're saying. It looks like  
22                    you're saying this issue, and we just described what the  
23                    issue is, won't be encountered again, and it's hard not to  
24                    read that along with the email that you sent to  
25                    Ms Entwistle saying you'd approved the rework because  
26                    there wouldn't be any negative consequence for the case.  
27                    Can you see that?

28

29

30

31

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41

42                    Q.    I want to put two propositions to you. The first is if  
43                    the concern was just about you being informed about why  
44                    reworks had occurred, then the obvious way to address that  
45                    would be for the scientist requesting the rework to provide  
46                    you with some information as to why they were requesting  
47                    the rework rather than having to get your authorisation to

1 undertake a rework, do you agree with that?

2 A. I understand what you're saying and from my point of  
3 view that's what Mr Doherty had asked me to do was around  
4 the authorisation.

5

6 Q. I want to suggest to you given your email with  
7 Ms Entwhistle, the way in which it appears that you  
8 approached the question of whether you should authorise a  
9 rework depended upon whether or not you thought it would  
10 negatively impact the case?

11 A. And I agree that I should have been more transparent in  
12 the factors that I did use rather than just simply using  
13 that one particular factor.

14

15 THE COMMISSIONER: What else did you consider?

16 A. So I reviewed the results in that particular case, so  
17 the things that would I look at is what other types of  
18 results had been issued to QPS, whether there was, you  
19 know, the case context. Those types of things I would  
20 consider.

21

22 Q. Well they don't bear upon the scientific need for  
23 rework, they bear upon whether there'd be a negative impact  
24 on the case, would you agree?

25 A. I guess it also means that there may not have been any  
26 other things within the case which is why the rework was  
27 definitely necessary.

28

29 Q. Just while we're on the subject of scientists coming to  
30 different views. You instituted this system where there'd  
31 be a work list after the profile had been generated by the  
32 genetic analyser, so that the reporting scientists would be  
33 required to pick a sample off the work list one-by-one,  
34 work through them and then pick the next sample, is that  
35 right? Did you institute that in 2008 or did somebody do  
36 that before you took the job?

37 A. No, in 2008 my recollection is that the major crime  
38 team were divided up into different types of teams. So  
39 there was a sexual assault team, a simple case team and a  
40 complex team and that they needed the results to go to  
41 those particular work lists rather than filtering through  
42 others, they wanted particular work lists for themselves so  
43 that they could review those results.

44

45 Q. Yes. And then did you institute a process where  
46 instead there'd be a work list and the reporting scientist  
47 would analyse samples one-by-one as they came off the work

1 list?

2 A. So then when development work was being undertaken for  
3 forensic DNA analysis to move across to the  
4 forensic-register there were subject matter experts from  
5 across forensic DNA analysis, including the reporting  
6 scientists who helped then to develop that process. I went  
7 to a few of the first meetings but the decisions around the  
8 workflow were left to those subject matter experts that  
9 were included.

10

11 Q. Right. So the result in any event by 2019 was that a  
12 reporting scientist would have access to a work list of  
13 samples that are now ready for interpretation, correct?

14

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Q. Yes.

Q. And so, for example, Ms Quartermain would take a particular sample on a morning, work on that and her colleague Dr Moeller happens to take the next sample off the work list and she'd work on that, and so the work goes on, with the result that perhaps for a case with a dozen samples three, four or five different reporting scientists might be interpreting samples pertaining to that particular police investigation; is that right?

A. Yes.

Q. And then each of those interpretations would be uploaded to the forensic-register and a similar list is then generated so that a reviewing scientist will then peer review the initial view of the scientist taking it off the work list, and again there might be one, four or six scientists working as peer reviewers on a particular police investigation?

A. Yes, that's right.

Q. And then finally if a witness statement is required, it's not always required, but if it's required for that particular case that we're hypothesising, a scientist whose duty it is that week or that day to be preparing witness statements will take that case from a similar computerised list on the forensic-register and develop a witness statement by looking at the results the previous scientist had generated, which had been reviewed by other scientists, and form an opinion about whether she agreed with that and if she did then she would write it up in the witness statement, and then yet another scientist would look at a list that's been generated of witness statements, or perhaps the witness statement is handed over to yet another



1 scientist to review the witness statement maker's  
2 interpretations, is that how it works?

3 A. Yes.

4

5 Q. And so we have then a position where in some cases  
6 there might be three, four, five or a dozen scientists  
7 working on samples pertaining to a single investigation up  
8 to the point where the last scientist in the line, the  
9 reviewer of the witness statement, finally makes an  
10 adjudication whether she agrees with what's in the witness  
11 statement; is that right?

12 A. Yes.

13

14 Q. And are you surprised that you might get differences of  
15 opinion of the kind that police complain about?

16 A. Not necessarily surprised, and that's where we need to  
17 work on the differences of opinion so that we could ensure  
18 that they were - that one, we had a process to be able to  
19 do that and, two, did we need to do additional training or  
20 discussions so that staff were closer together in mixture  
21 interpretation.

22

23 MR HODGE: Ms Allen, just on the reworking, you see in that  
24 email from the page it says in the next line:

25

26 *So staff need to be aware that once a*  
27 *result is peer reviewed then reworking*  
28 *shouldn't be an option - major crime.*

29

30 A. Yes.

31

32 Q. Am I right in thinking that the stage at which  
33 reworking was commonly being requested was at the reporting  
34 stage, that is when a report was being prepared for a court  
35 proceeding or something like that?

36 A. Yes, most likely because that's when they would review  
37 all of the results within that and may request reworking at  
38 that stage.

39

40 Q. And so it seems like to Mr Howes you were very  
41 explicitly saying not that now there won't be an issue with  
42 me not knowing about these things when I come to speak to  
43 police, it seems like you're explicitly saying to him staff  
44 need to know that after the result is peer reviewed we  
45 won't be reworking it?

46 A. I was attempting to let Mr Howes know that it shouldn't  
47 necessarily be the first option, that maybe they should -

1 you know, the scientists could discuss things with each  
2 other regarding the first reporting scientist that had  
3 entered the result and the peer reviewer, discuss what that  
4 result was, what their interpretation is, how did they get  
5 to a difference of opinion, but I agree, I'm not being  
6 explicit in what I was trying to say to Mr Howse in that  
7 email.

8  
9 Q. But you have been explicit, it's just that you haven't  
10 said the thing that you are now saying. You've said  
11 something different, you've said reworking shouldn't be an  
12 option, not reworking shouldn't be the first option?

13 A. I agree and that's what I should have put in that  
14 email.

15  
16 Q. But isn't the reason you didn't put it in the email  
17 because that wasn't how you were dealing with this issue.  
18 The way you were dealing with it was to say reworking isn't  
19 an option if it's going to negatively impact the case?

20 A. No, that's not true.

21  
22 Q. Do you agree with me about this. The police never  
23 asked you not to rework?

24 A. The police wanted a surety around the final result that  
25 had been given to them, that's what they wanted a surety  
26 around that and that there weren't going to be changes  
27 after that final result had been issued to them.

28  
29 Q. Yes, the police were looking to be able to be confident  
30 in the information that you provided to them?

31 A. Yes.

32  
33 THE COMMISSIONER: So then why did you adopt it? Was  
34 instead of getting a result that was reliable and that  
35 wouldn't be - from which there would be no deviation by  
36 anybody who looked at it later, instead of examining the  
37 issue from that point of view, the solution you adopted was  
38 that you wouldn't allow an occasion to arise where a  
39 difference of opinion might result because you wouldn't  
40 allow the retesting to be done, see email of 25 January  
41 2019, isn't that the position?

42 A. No. When the QPS had provided us with a spreadsheet  
43 regarding samples that had final results and wanted  
44 assurances around whether they would change or not, that's  
45 where a lot of discussion had occurred within the reporting  
46 team around consistency and the line managers were aware of  
47 that. So this email was later and that other discussion

1 regarding the spreadsheet and the changes, et cetera, was  
2 work done by the reporting team so they were aware of the  
3 QPS not wishing for things to change and so then it was  
4 incumbent on them to try to come to resolutions to think  
5 about how they could do those sorts of things.

6  
7 MR HODGE: Ms Allen, tell me if you agree with this: what  
8 the police were asking you to do was to improve the quality  
9 of the initial reporting of your results so that they could  
10 have confidence that they weren't later going to be changed  
11 when they were reviewed?

12 A. The QPS wanted us to minimise that because one of the  
13 things that I had said to them is that human error is  
14 likely to occur and I can't rule out human error, but they  
15 wanted us to minimise that as much as possible.

16  
17 Q. Yes, they wanted you to produce high quality results  
18 that they could rely upon?

19 A. Yes.

20  
21 Q. And rather than making any change to try to address why  
22 it was that these issues were arising in the first place,  
23 your approach was to, to put it very bluntly, try to  
24 prevent the issues coming to light by exercising a veto on  
25 reworks that would negatively affect the case?

26 A. No, that's not true. Mr Howes had worked with Ms Rika,  
27 Ms Johnstone, those staff members around the changes. They  
28 were aware of the QPS and their dissatisfaction around  
29 amended results. So they were taking on board those  
30 operational aspects and after the meeting with  
31 Superintendent McNab and Inspector Neville, that's where  
32 Mr Doherty asked to put in place a process so we were able  
33 to let them know why particular changes had occurred.

34  
35 Q. Commissioner, I tender that email.

36  
37 THE COMMISSIONER: Exhibit 182.

38  
39 **EXHIBIT # 182 EMAIL FROM MS ALLEN TO MR HOWES OF 25 JANUARY**  
40 **2019.**

41  
42 MR HODGE: I'm going to move to another topic. Do you  
43 agree with me that one of the problems that you had in your  
44 laboratory was that you had an inability to undertake data  
45 mining from the forensic-register?

46 A. Yes, that's right.

47

1 Q. And do you accept that prevented your lab from being  
2 able to conduct its own inquiries and understand trends  
3 that were happening within the results you were obtaining?

4 A. Yes.

5

6 Q, And do you accept that the inability to perform that  
7 kind of data interrogation would act as a deterrent for  
8 managers and scientists to be able to check issues or raise  
9 issues?

10 A. Maybe considered a deterrent, we just needed to ask for  
11 that data to be run.

12

13 Q. Would that involve getting a quote from BDNA and then  
14 having BDNA extract data?

15 A. In the period where there was a tender process going on  
16 there was limited ability to do that, but then once that  
17 tender process was finalised yes, it just required a quote  
18 from BDNA regarding costings to gather that report or  
19 construct that report within the forensic-register so that  
20 it was done on a weekly, monthly basis, et cetera.

21

22 Q. And then I want to ask about another issue which is  
23 YSTR. In your lab you've been trying to validate YSTR  
24 since 2015?

25 A. Yes.

26

27 Q. And you were aware that almost every other lab in  
28 Australia has YSTR technology?

29 A. Yes.

30

31 Q. And you're aware that it's a significantly improved  
32 process for obtaining male DNA?

33 A. Yes, it can be.

34

35 Q. And what measures have you put in place to ensure that  
36 that validation is completed promptly?

37 A. When Mr Docherty was the Executive Director and we  
38 created the strategic meetings, the YSTR process was  
39 considered one of those strategic projects that we needed  
40 to progress.

41

42 Q. Yes, but what steps have you taken to actually get it  
43 done?

44 A. The project's been allocated to staff members and their  
45 line manager's responsible for ensuring that they can have  
46 time to do particular aspects of that project.

47

1 Q. The staff members who are working on YSTR aren't  
2 working on it full-time, are they?

3 A. No, they're not, we don't have enough resources to be  
4 able to do that.

5

6 Q. And so you haven't taken any staff off line from their  
7 usual duties to try to stand up YSTR?

8 A. No, I haven't.

9

10 Q. And you haven't sought assistance from other labs to  
11 try to stand up YSTR in your lab?

12 A. No, I did not.

13

14 Q. Do you regard that as a failing in your lab that you  
15 have fallen so far behind other labs around Australia?

16 A. Yes, it's very disappointing that we don't have that  
17 technology, yes.

18

19 Q. Do you regard it as a failure by you personally as the  
20 managing scientist that you have not been able to manage  
21 your lab so that it has YSTR testing?

22 A. I don't consider it a personal failing. As I discussed  
23 in attempting to get additional budget, looking at a  
24 research funding that we had to try to get funding for  
25 that, for the YSTRs. As I said, I've discussed it with  
26 every Executive Director to try to get additional funding  
27 for us to be able to do that and I haven't been able to  
28 secure that.

29

30 Q. Then there are some other types of testing that other  
31 labs have, not all of them but some other labs, that you  
32 don't have. For example, MiniFiler, LCN, five plus person  
33 testing of mixtures and mitochondrial DNA?

34 A. Yes, that's right.

35

36 Q. And in your statement, or one of your statements, you  
37 say that hasn't been adopted due to the cost of maintaining  
38 accreditation and competency for a small number of samples?

39 A. Yes.

40

41 Q. And the premise of that seems to be that it would only  
42 be useful for a small number of samples?

43 A. Yes.

44

45 Q. Now, I just want to ask about that. Where that kind of  
46 testing is undertaken in relation to samples obtained by  
47 the QPS, it's because the QPS send those samples away to

1 other labs to have them tested using those particular  
2 processes?

3 A. Yes, that's right.

4

5 Q. And do you agree with me that within your lab, because  
6 those tests aren't available, when scientists within your  
7 lab come to review a sample, they never turn their mind to  
8 considering would it be best for the sample to use one of  
9 these other kinds of processes that a different lab around  
10 the country has?

11 A. I can't say for certainty whether they consider that or  
12 not. I haven't had discussions with them about it.

13

14 Q. But you have SOPs. Do you have any SOP that requires a  
15 scientist to consider whether what would be best for the  
16 testing of a sample is for it to be sent to another lab  
17 around the country in order to use, for example, LCN or  
18 mitochondrial DNA testing?

19 A. There's cooperation between the QPS and the reporting  
20 scientists, particularly when it comes to cold cases,  
21 around the type of sample that it is and the scientists can  
22 put forward what they think would be the best technology  
23 that could be used for that particular sample.

24

25 Q. I understand, but setting aside cold cases, for most  
26 cases do you agree with me you don't have, you don't  
27 believe that your scientists as a matter of ordinary  
28 practice consider whether what would be most useful for the  
29 sample is to send it to another lab where they could use,  
30 for example, mitochondrial DNA analysis?

31 A. It's not that I don't believe that, I just don't have  
32 any evidence of their, what their thinking is around that,  
33 and I don't think it is in our Standard Operating  
34 Procedure.

35

36 Q. And so do you agree with me, you're not in a position  
37 to judge whether or not those particular kinds of testing  
38 that are not available to you in your lab would be useful  
39 in a meaningful way because they're just not something that  
40 as a matter of convention is considered by the scientists  
41 in your lab?

42 A. No, I wouldn't say that. The QPS will send samples  
43 from particular cases to other laboratories for that type  
44 of testing, so we are aware of the number of samples that  
45 they do send for different types of testing.

46

47 Q. Yes, but the QPS are not the experts in DNA analysis

1 that the scientists in your lab are?

2 A. The QPS also have built up information around other  
3 technologies. They've utilised some of those technologies.  
4 There's a large body of scientific staff members within the  
5 Forensic Services Group. The forensic coordinators are  
6 across those sorts of things. They also call Forensic DNA  
7 Analysis staff members and discuss those types of  
8 technologies.

9  
10 Q. But to come back to my question: the QPS are not the  
11 experts in DNA analysis that the scientists in your lab  
12 are?

13 A. To the same level of training and review of DNA  
14 profiles, no, they're not.

15  
16 Q. And so what you don't have the benefit of knowing is if  
17 your scientists had access to these other types of testing,  
18 how often they would consider that to be the best testing  
19 method for different samples if they were able to use it as  
20 a matter of business as usual?

21 A. Yes, I don't have any data on that, that's right.

22  
23 Q. I don't have any further questions, thank you,  
24 Commissioner.

25  
26 THE COMMISSIONER: Yes. Mr Hunter.

27  
28 **<EXAMINATION BY MR HUNTER: [4.09 pm]**

29  
30 Q. Ms Allen can you see and hear me?

31 A. Yes, I can.

32  
33 Q. I act for the Queensland Police Service. I just want  
34 to ask you some questions about this issue of rework, all  
35 right?

36 A. Yes.

37  
38 Q. I think you were asked a moment ago by Mr Hodge about  
39 whether the police had ever asked you not to test and I  
40 think your answer was that you agreed they had never asked  
41 you not to do that?

42 A. To not rework a sample after an electronic final  
43 result, yes, that's right, they had not asked us to - they  
44 hadn't specifically said do not do that.

45  
46 Q. The concern that was being expressed by the QPS was  
47 that particularly in the case of mixtures, they would be

1 given particular advice about whether someone was or was  
2 not a contributor and if they'd been given advice if  
3 someone was a contributor, they might act on that advice  
4 and charge somebody?

5 A. Yes, that's right.

6

7 Q. But then later on they'd be told that that opinion had  
8 been withdrawn and replaced with one that was inconclusive?

9 A. Yes, that's right.

10

11 Q. And you can readily understand why the police might be  
12 concerned about that, do you agree?

13 A. Yes.

14

15 Q. And when that happened, it wasn't necessarily the  
16 result of a sample being reworked, was it?

17 A. In a small number of cases, of samples, I should say, I  
18 think it was also that there may have been a difference of  
19 opinion at the outcome and so they may have then amended  
20 the result because of that.

21

22 Q. Can I suggest to you that the explanation that was  
23 given, not by you I should say, I think you were on leave,  
24 but the explanation that was given to Inspector Neville was  
25 that it was a consequence of there being two levels of  
26 reporting scientists. Does that ring any bells for you?

27 A. So a trainee scientist and a competent scientist?

28

29 Q. Well, that there would be a scientist who was  
30 authorised to interpret results and express opinions but  
31 that if the matter was going to court, the matter would  
32 then be reviewed by one of the more reporting scientists  
33 for the purposes of the preparation of a statement,  
34 correct?

35 A. I'm not sure what that two level means because most of  
36 the staff members are competent to write a statement of  
37 witness document. We do have staff members under training,  
38 so if it was a trainee that had reviewed a result and  
39 another competent scientist had released that result but  
40 then there was some type of human error within that, that  
41 could mean the two levels.

42

43 Q. Just bear with me a moment. Do you know Craig Russell?

44 A. Yes, I do.

45

46 Q. He was the Acting ED at one point?

47 A. Yes, he was.



1  
2 Q. And in particular he was Acting ED in September of  
3 2018?

4 A. Yes.

5  
6 Q. Did you see an email that Craig Russell sent to  
7 Inspector Neville in September of 2018 whilst you were on  
8 leave?

9 A. I'm sorry (indistinct words).

10  
11 THE COMMISSIONER: A bit of a hard question, Mr Hunter.

12  
13 MR HUNTER: On this issue, that is the inconsistent  
14 reports?

15 A. I'm assuming that (indistinct words).

16  
17 Q. Could we see, it's Exhibit 89 to Inspector Neville's  
18 statement. The pinpoint reference is WIT.0020.0003.0253.  
19 Could we have the large paragraph to the centre of the page  
20 highlighted, please. Do you see there the passage that  
21 commences:

22  
23 *Samples are routinely interpreted, reviewed*  
24 *and reported by two separate scientists.*

25  
26 A. Yes.

27  
28 Q. And that's correct?

29 A. Yes.

30  
31 Q.  
32 *If a statement request is received at a*  
33 *later time the statement may be prepared*  
34 *and reviewed by different scientists, i.e.*  
35 *not the initial interpreting and reviewing*  
36 *scientists.*

37  
38 A. Yes.

39  
40 Q. It then goes on to say:

41  
42 *As DNA profile interpretations are*  
43 *subjective, in some instances these*  
44 *interpretations will differ and the initial*  
45 *result is updated.*

46  
47 A. Yes.

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Q. And with respect to the particular query that Inspector Neville had raised, that's what had happened, it was initially interpreted to have three contributors but then that was revised?

A. Okay, yes.

Q. And that was something that occurred from time to time?

A. Yes.

Q. And in circumstances where the police had acted on the initial interpretation, they were unhappy when that initial interpretation was withdrawn, correct?

A. Yes.

Q. Nothing was ever said to you by anyone at the Queensland Police Service that might operate as any sort of discouragement to you or any scientist in the lab to rework a sample if the scientist thought that it was necessary?

A. There wasn't discouragement, no.

Q. Thank you. We'll come to the meeting that you went to concerning the Options Paper. This was the meeting at which you say that Superintendent Freiberg told you that you need not micro concentration P1 samples?

A. Yes.

Q. You know the one I'm talking about?

A. Yes, I do, yes.

Q. Now the people who were present for that meeting were yourself, Superintendent Freiberg, Inspector Ewan Taylor and Paul Csoban, yes?

A. And also Acting Inspector Troy O'Malley.

Q. Did you watch the evidence of any of the first three people that I mentioned, Superintendent Freiberg, Inspector Taylor or Mr Csoban?

A. No.

Q. Have you seen a transcript of their evidence concerning the suggestion that P1 samples were discussed?

A. No, I haven't seen their transcripts, no.

Q. Can I suggest to you that the topic of not micro concentrating P1 samples simply did not arise in that meeting at all?

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1 A. My recollection is that when we were discussing the  
2 Options Paper I asked the Superintendent how P1 samples  
3 should be handled and her response was that they should be  
4 treated the same as P2 samples.

5

6 Q. I'm suggesting to you that that's completely untrue and  
7 that she never said any such thing?

8 A. That's my recollection of the meeting and what was  
9 discussed regarding priority 1 samples.

10

11 Q. Can I ask you about the Options Paper itself. Do you  
12 maintain that the Options Paper was not a misleading  
13 document?

14 A. I think - yeah, I don't think it was a misleading  
15 document.

16

17 Q. Do you think that it transparently placed before the  
18 Queensland Police Service the pros and cons of not micro  
19 concentrating samples in the DIFP range?

20 A. In hindsight I can see that we could have done a better  
21 job in ensuring that that was within the paper easily read,  
22 rather than it being very scientific as it was.

23

24 THE COMMISSIONER: Ms Allen, do you think when you were  
25 appointed to this position you were properly qualified to  
26 assume the position and execute its duties?

27 A. Yes, I do.

28

29 Q. You see, I've heard you say repeatedly when faced with  
30 the content of a document and its implications that you  
31 could have phrased it better. One of the requirements of  
32 the position contained in the role description that you've  
33 annexed to your affidavit, Exhibit 4, is a demonstrated  
34 high level of oral and written communication and you keep  
35 saying you didn't phrase things well. For example, the  
36 email to Mr Howes about reworking said they have to know,  
37 words to the effect, they have to know that reworking is  
38 not an option. Well, according to you you could have  
39 phrased that better. But how is Mr Howes to understand it,  
40 according to what you intended or according to what you  
41 wrote? You see, that's why I ask you, do you think you  
42 were probably not qualified for this position when you took  
43 it?

44 A. Mr Howes was aware of --

45

46 Q. No, I asked you whether you thought you were not  
47 qualified for this position when you took it?

1 A. I am qualified for this position, I went through a  
2 (indistinct) process.

3  
4 Q. You had started as a scientist and you had four or five  
5 jobs between 1995 and 1999 and in 1999 you joined  
6 Queensland Health working in the DNA lab as a lab  
7 technician; that's right, isn't it?

8 A. Yes.

9  
10 Q. You were there for two years and then you became a  
11 forensic scientist doing analyses in case examinations and  
12 attending court to provide testimony and you did that for  
13 two years; that's right, isn't it?

14 A. Yes.

15  
16 Q. Then you were promoted to - perhaps not. In any event  
17 - yes, you were promoted you became a senior scientist and  
18 you say in your curriculum vitae that you provided expert  
19 advice to the team leader and managing scientist, so you  
20 were in the position of senior scientist, as Ms Rika is  
21 currently; that's the equivalent position, isn't it?

22 A. Yes.

23  
24 Q. Then you did that for two years and then for two years  
25 you were the team leader again but this time of the Volume  
26 Crime Team, is that right?

27 A. Yes.

28  
29 Q. And Queensland Health has a numbering system, HR1, HR2,  
30 HR2 to designate the seniority of people. In your position  
31 as team leader Volume Crime Team, what was your HR number,  
32 was it 3 or 4 or 5? What was it?

33 A. It was a HP6 for Health Practitioner level 6.

34  
35 Q. As Volume Crime Team team leader, HP6, is that right?

36 A. Yes.

37  
38 Q. And then in July 2008 you were appointed managing  
39 scientist of the DNA Analysis Unit?

40 A. In a temporary capacity, yes.

41  
42 Q. And you occupied that role from 2008 to 2013, yes?

43 A. Yes.

44  
45 Q. According to your CV?

46 A. Yes, specific --

47

1 Q. Role of managing scientist, DNA Analysis Unit, 2008 to  
2 January 2013?

3 A. Yes, that's right.

4

5 Q. And HP what in that role?

6 A. HP7.

7

8 Q. And the job description that you've furnished required  
9 the occupant to do, among other things, be accountable for  
10 establishing and maintaining effective working  
11 relationships with Government agencies to lead and inspire  
12 a multi-disciplinary team, establish management and  
13 reporting systems and to provide strategic advice. Had you  
14 ever done any of that?

15 A. Yes.

16

17 Q. Where had you provided strategic advice on a State and  
18 national and international level?

19 A. Within the Biology Specialist Advisory Group providing  
20 strategic direction regarding a change from the Profiler  
21 Plus kit to another kit with the group, providing that  
22 strategic advice to Superintendent Michael Keller regarding  
23 the next steps forward for that.

24

25 Q. You think that's strategic advice, do you?

26 A. From my perspective, yes.

27

28 Q. All right. And you were obliged to provide strategic  
29 direction, high level leadership and strategic management  
30 across a large Forensic DNA Analysis Service And Forensic  
31 Chemistry Service, both of which provide a statewide  
32 service. You don't appear to have had any relevant  
33 experience to fit you for doing that. You tell me what it  
34 is you had?

35 A. (Indistinct).

36

37 Q. To provide high level leadership, strategic management  
38 across a large Forensic DNA Analysis Service, both of which  
39 provide - and Forensic Chemistry Service, both of which  
40 provide a statewide service. What was your previous  
41 experience that qualified you to do something like that?

42 A. My experience within the laboratory, my experience with  
43 the Ministerial Task Force Review that I'd been a part of,  
44 my experience with the issue that we had within the  
45 laboratory around the automated platforms that we had used  
46 which had caused inadvertent contamination, for briefings.

47

1 Q. On the role description, Exhibit 4 to your statement,  
2 the person who had to fill the role had to have  
3 demonstrated competence to provide leadership and  
4 conceptual analytical and innovative management skills to  
5 implement, support and manage organisational change within  
6 a service delivery organisation involving diverse work  
7 units. Have you ever worked with diverse work units and  
8 acted to implement support and manage organisational change  
9 before you took this job?

10 A. So within the Volume Crime Team was about managing the  
11 workload of the team, overseeing the training of each of  
12 the new staff members, preparing the moot court process for  
13 them so that they could be deemed to write statement of  
14 witness documents, managing the backlog that we had at that  
15 time.

16  
17 Q. So you think that fulfils that, all right. And  
18 demonstrated competence in liaising with business clients  
19 and stakeholders within and outside the organisation.  
20 Where had you had experience of that?

21 A. Within the organisation we liaise with other work  
22 groups such as forensic pathology for the Scientific  
23 Services Liaison Unit regarding inquiries to police.  
24 Outside of Queensland Health contact with investigating  
25 officers for particular cases that may be going forward,  
26 liaising with the Forensic Coordinator regarding, you know,  
27 cases that I still had from when I was a case scientist  
28 that may have been going to court, liaising with them  
29 regarding that, liaising with DPP regarding court.

30  
31 Yes, thank you. Mr Hunter.

32  
33 MR HUNTER: I'll just come back to this issue of the two  
34 tiers of scientists. Did you tell me a little earlier that  
35 there weren't two tiers of reporting scientists within the  
36 laboratory?

37 A. I was trying to work out what that actually meant.

38  
39 Q. Okay. Well, did you ever tell Detective Neville that  
40 there were two levels of forensic DNA scientists, there was  
41 type 1, trained and deemed competent to interpret results,  
42 enter results and peer review DNA results entered by other  
43 scientists. Type 2 is trained and deemed competent to  
44 interpret results, enter results and peer review DNA  
45 results entered by other scientists, in addition to  
46 providing evidence on the results in court. Type 2 have  
47 undergone additional training in court reporting?

1 A. Yes, I understand those two levels, yes.

2

3 Q. And does that reflect the position as at October of  
4 2018?

5 A. Most likely, yes.

6

7 Q. Could the witness see the pinpoint reference, it's 120  
8 to Inspector Neville's statement but it's  
9 WIT.0020.0003.0431. Perhaps if we could scroll down the  
10 page to the preceding page so we can see - Inspector  
11 Neville sent you an email on the 8th at 11.34 asking if you  
12 would confirm the language that appears on that second  
13 page, correct?

14 A. Yes.

15

16 Q. And then if we go to the top page, that's it, that one  
17 there, 431. You confirmed that the words he'd provided you  
18 with were correct?

19 A. Yes.

20

21 Q. You understood that those words were taken from an  
22 executive briefing note that the QPS had prepared in  
23 connection with this issue of results being withdrawn?

24 A. Yes.

25

26 Q. Thank you. Commissioner, I note the time.

27

28 THE COMMISSIONER: Yes, we'll adjourn until 9.30 tomorrow  
29 morning.

30

31 <THE WITNESS WITHDREW

32

33 AT 4.31 PM THE COMMISSION ADJOURNED UNTIL TUESDAY, 1  
34 NOVEMBER 2022 AT 9.30 AM