



# ***LEGAL AFFAIRS AND SAFETY COMMITTEE***

**Members present:**

Mr PS Russo MP—Chair

Mrs LJ Gerber MP

Mr SSJ Andrew MP (videoconference)

Ms JM Bush MP (videoconference)

Mr JE Hunt MP (videoconference)

Mr JM Krause MP

**Staff present:**

Mrs K O'Sullivan—Committee Secretary

Ms K Longworth—Assistant Committee Secretary

Mr R Pelenyi—Assistant Committee Secretary

## **PUBLIC HEARING—INQUIRY INTO THE FORENSIC SCIENCE QUEENSLAND BILL 2023**

### **TRANSCRIPT OF PROCEEDINGS**

**Monday, 29 January 2024**

**Brisbane**

## MONDAY, 29 JANUARY 2024

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### **The committee met at 2.02 pm.**

**CHAIR:** Good afternoon. I declare open this public hearing for the committee's inquiry into the Forensic Science Queensland Bill 2023. My name is Peter Russo, member for Toohey and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today, and pay our respects to elders, past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all share.

With me here today are: Laura Gerber, member for Currumbin and deputy chair; Stephen Andrew, member for Mirani, via videoconference; Jonty Bush, member for Cooper, via videoconference; Jason Hunt, member for Caloundra, via videoconference; and Jon Krause, member for Scenic Rim.

This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee. These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I ask people to kindly either turn your mobile phones off or to silent mode.

### **LINCOLN, Dr Cathy, Medical Director, Forensic Medicine, Gold Coast Hospital and Health Service**

**CHAIR:** I now welcome Dr Cathy Lincoln. Good afternoon, Cathy. Thank you for joining us today. I invite you to make an opening statement of up to five minutes.

**Dr Lincoln:** Thank you, Mr Chair and members of the committee, for this opportunity and for inviting me to answer questions that you might have or expand on the submission that my colleague Dr Maria Nittis and I submitted in relation to the Forensic Science Queensland Bill draft. I will not speak in detail about the submission we made because I presume that you have had a chance to look at that, but we felt strongly that the formal inclusion of a clinical forensic examiner, or a clinician, on the advisory council in relation to this bill was important for a number of reasons, and I wanted to take this opportunity to expand on those reasons if you felt that was necessary. Some of the recommendations that followed from the commission of inquiry into forensic DNA testing were a direct result of evidence from both Queensland and interstate clinical forensic examiners, and many changes that have occurred in this field in Australia have largely been driven by clinicians.

We acknowledge that there is room for a member from forensic services and this, I believe, was amended to include a member who represents forensic services with appropriate qualifications and expertise, but we felt uncertain, given the broad nature of the term 'forensic services', that that might not result in the inclusion of a clinician, and we thought that it was worth us helping you to understand why we feel that is important.

The department of forensic medicine that I have responsibility for at the Gold Coast Hospital and Health Service is a unique, standalone, hospital-based specialty unit. We have five doctors employed within that service at the moment, all of whom have significant clinical frontline case work experience. The two most junior forensic examiners have worked in the field eight years, and the other three have 20, 23 and 30 years experience. All of us have been involved at some level in contributing to policies and procedures in the field of clinical forensic medicine. Our department provides services in forensic examination of complainants and persons of interest in police investigations and also provides opinion evidence in relation to clinical toxicology, driving matters, injury interpretation and coronial information as well, so we provide a full-scope service.

Three of the five doctors have fellowship of the faculty of forensic medicine qualification, which is part of the Royal College of Pathologists Australasia. Three of them have additional medical qualifications in general practice and emergency medicine. Three of them have quite extensive

management experience. So, we have all contributed fairly significantly and have seen the benefits of the changes that can be made to collection of evidence from the person which is what our specialty focuses on and is so important in decisions around such things as sexual assault forensic kits and guidelines for clinicians to use when they are examining complainants and persons of interest in investigatory processes.

I would just like to emphasise what I feel and Dr Nittis feels is the importance of the involvement of clinicians with a lot of experience at the frontline and enough experience to be able to assist the forensic scientists and collaborate such that positive changes can be made in an ongoing way so that we do not ever have to revisit the complete disaster of the recent forensic science problems. I think some of the largest public administration catastrophes have all occurred in an environment where there has been a lack of transparency. It is only with transparency that we can ensure that glaring errors do not go unchecked and are permitted to survive for decades. We would like to be part of a process that where decision-making is centred around quality and we can assist with that process if we can contribute to it. Thank you.

**Mrs GERBER:** For clarity, your main objection of the bill is around the composition of the advisory council. The council consists of 11 members. More specifically your concern is that the minister must appoint council members who are: one from the Police Service, one from the Director of Public Prosecutions, one from Legal Aid Queensland, one relating to supporting victims of crime, one relating to forensic services—therein lies your concern—and one who is a practising lawyer, but not employed by the state. Turning to the forensic services requirement, your concern is that forensic services is not necessarily a clinician? I am not sure I fully understand the distinction yet, so I am sorry if I am labouring the point, but is the concern that the clinician is registered under Ahpra, that there is registration associated with a clinician, that there are CPD points associated with a clinician, whereas someone who has experience relating to forensic services does not necessarily have to have any of that?

**Dr Lincoln:** No, a clinician would be a doctor, a medical practitioner, or a nurse,

**Mrs GERBER:** Registration required.

**Dr Lincoln:** Yes, or Ahpra registered. Doctors and nurses are the ones who are responsible for the forensic examination process, examining for injury and documenting and collecting samples. We are able to provide quite clear information back to scientists if we have that sort of visibility, I suppose, and collaborative relationship with the scientists which certainly does exist in some states, but I do not think existed as well as it could have in this state. I think that disconnect and that lack of a formal link between the clinicians and the scientists has led to problems, some of which I think contributed to the problems that were identified in the inquiry. We were seeking some sort of formal recognition of that within the advisory council. Forensic services, to my mind, could encompass a range of professional groups: scientists—

**Mrs GERBER:** Could you list them out so that I have a conceptual idea of what you are talking about who might be included in that definition?

**Dr Lincoln:** Yes, to my mind a forensic scientist would be someone who provides forensic services. Some of the police are forensic technical professionals. Then you would have forensic pathologists. Again, they are Ahpra registered. They would not see themselves as clinicians, but they are also doctors who work at the interface of medicine and the law, much like clinical forensic physicians, but they are responsible for the coronial aspects. It is forensic medicine to do with the deceased and other scientists such as those who might deal with bones and those who might deal with other forensic aspects, human forensic aspects.

We felt strongly that without the term 'clinician' there may be the potential for clinicians to not be involved in the process or to not be connected with the scientists in such a way that we were allowed to feed back any problems that might arise and receive information about analysis and the ability to collate results that would lead to an ability to review trends or patterns—just another pair of eyes from another group that might be able to detect a problem.

To date, the changes around evidence collection from patients—if you want to call them that because examiners are doctors and nurses, but they could be complainants or persons of interest in investigations—have been largely clinician led. A clinician identified that, for example, the swab from a mouth actually had a very poor yield in relation to DNA, so that clinician was able to work with the scientist to look at other better ways of collecting evidence. That is how the oral rinse was identified as a better means of collecting evidence and that has now been introduced into all the kits that are in use in Queensland, New South Wales and Victoria. Likewise, it was a clinician who had the idea of early evidence kits, so a means of collecting evidence from patients in remote areas of states. In WA and in

Queensland we have not got the early evidence kits as yet, but they were part of the recommendations of the commission of inquiry. Again, it takes a clinician to think of things like that because we are the people who are interacting with the patients and understand how we are collecting samples. It may seem semantic, but we just do not want that group to be invisible in the process.

**Mrs GERBER:** Just for clarity, there are currently six members of an 11-member advisory committee that must be appointed. Are you asking for a seventh, or are you asking that ‘forensic services’ be changed to ‘clinician’?

**Dr Lincoln:** I am not quite sure what the intention of the word ‘forensic services’ is. It does not appear there is a scientist in that six. It may be that ‘forensic services’ is to encompass ‘scientist or clinician or other’. I would think a scientist might be important in that six in which case the clinician should be a seventh.

**Mrs GERBER:** This bill has come out of recommendation 121, which says that—

The government should pass legislation creating a forensic science institute for Queensland. The legislation should provide for:

- a. The creation of the institute as an independent office within the Department of Justice and Attorney-General, similar to the Office of the Director of Public Prosecutions;

Do you have any concerns in relation to the independence of the office in the way that the bill is currently drafted?

**Dr Lincoln:** I am not sure I have spent a lot of time considering that. I am happy to turn my mind to it and let you know.

**Mrs GERBER:** You are welcome to take that question on notice, turn your mind to it and then come back to us.

**Dr Lincoln:** Yes, I can do that.

**Ms BUSH:** Thank you, Dr Lincoln, for your responses. I am looking at the Queensland Health notes to us which say that—

If the Bill is passed, Queensland will be the first jurisdiction in Australia that establishes, promotes and protects key elements of its forensic services delivery model through legislation.

Obviously it is a really important piece to get right. I was thinking along the same lines as the member for Currumbin. Originally I thought your submission was saying that we need to ensure we have some kind of forensic clinician embedded in the constitution of the council. However, listening to you now, it sounds like what you might be saying is it should be embedded in every part of the process that there are systems for clinical review and support. Have I heard that correctly or have I misunderstood?

**Dr Lincoln:** Yes, but I consider that both things are important. I have worked in two states and my colleague has worked in two other states. We have both held senior management positions as well as worked on the front line for nearly 60 years between us. We have certainly been involved in operational groups that have allowed that to happen—not in Queensland as yet, but we are anticipating and are hopeful about that.

Without a formal acknowledgement at a higher level—and I am concerned that it may not happen. Where it has happened in other states it has happened almost accidentally in some ways—perhaps not accidentally, but it was through the efforts of certain people who may not always be around. An example—and this is not a criticism necessarily of the forensic science service—is when I moved to take up my position to direct the Gold Coast service in 2004 I came from Western Australia with a number of ideas about improving the kits in Queensland. I went to Forensic and Scientific Services in about 2006 with a number of suggestions to introduce new kits and new records, most of which are exactly the same as what we have just been able to do in 2023, but I was not able to get traction. I do not think that was necessarily a malicious thing. I think it was just that the structures were not in place to support that. I think there was a bit of a blind spot about clinicians that was not present in other states.

Western Australia, New South Wales and, to a lesser extent, Victoria have acknowledged the role that clinicians can play but that has not been the culture in Queensland. I have now worked here for 20 years and it has not been easy to engage with some of the other agencies. I think there are perhaps some misperceptions around that, but this discipline is a specialty area and there are people with qualifications in it and extensive experience who can contribute very valuably. I think it would be a tragedy if that experience were not drawn upon to try to avert a similar thing ever happening in the future.

**Ms BUSH:** Thank you so much for your service. You are saying that you see an opportunity in this legislation to either design something that captures that clinical oversight and inclusion or at least acknowledges and affirms the importance of it?

**Dr Lincoln:** Yes.

**Ms BUSH:** I understand. Thank you. That is great.

**CHAIR:** When you were giving your evidence just then, you mentioned something about when you came up with the ideas that you brought with you from South Australia about the kits—

**Dr Lincoln:** Western Australia, yes.

**CHAIR:** Western Australia, sorry—and that there was an issue with engaging with other agencies. Are you able to expand on that or would you prefer not to?

**Dr Lincoln:** I can say it was with the forensic science laboratory. I am not critical of those people necessarily at that time other than to say that there was not a sort of culture of working collaboratively with clinicians whereas I had done that in Western Australia and my colleague Dr Nittis had done that very effectively in New South Wales to come up with internationally aligned guidelines for evidence collection. It has just seemed to me to be something that is sadly lacking. That is why I think the inclusion of a clinician on the advisory council will ensure that that culture can be changed—that involvement of forensic clinicians. I am not talking about any medical practitioner. We want forensic clinicians with a wealth of frontline experience and qualifications—appropriate qualifications—to enable them to engage with the scientists to improve the kits. It is a dynamic process. It is something that needs to be happening all the time. Results need to be fed back, shared, discussed and looked at for patterns and trends. We need to always be able to modify and improve the kits because these kits are the things that define how we interact with patients for a start—the things that we have to do in a forensic examination. We want to make sure that we need to do them and that they are valuable evidentially and not just tick a box and take 15 different things that do not necessarily yield—

**CHAIR:** Do not amount to any—

**Dr Lincoln:**—that do not give you any yield at the end of it, yes.

**CHAIR:** In relation to what you do at the Gold Coast, are you basically a standalone forensic lab?

**Dr Lincoln:** No, sorry, that word might be confusing. What I meant was we are a specialist medical department; so we sit within the division of medicine within the hospital alongside the department of neurology, renal medicine and cardiology. We provide that full scope of clinical forensic medicine services, which includes sexual assault examinations of patient-complainants but also sexual assault examinations of persons of interest investigations and give opinions in relation to injury interpretation and toxicology in driving matters.

**CHAIR:** You deal with DNA?

**Dr Lincoln:** We collect the samples for the DNA analysis. For example, I would be called to see a patient in the emergency department who had made a report to police about a sexual assault. The police would ask for a forensic examination, so I would examine her for injury. I would document that injury and then collect a range of samples that are defined by what we call forensic medical examination kits, FMEKs. That is done in a defined process with a chain of custody process to adhere to and then handed back to the police who submit it to the lab for analysis. That is our involvement with the DNA. We are not analysing, but we are sometimes questioned about the results in court. We write reports and we appear in court to give evidence. We are dealing with the injury documentation, interpretation and collection of DNA samples.

**Mr ANDREW:** I am going back to the situation about time and having trained physicians to apply the tests in a timely manner. Do we have that? When you were in Western Australia did you have outreaches into the rural areas? I know the Gold Coast—

**Dr Lincoln:** Could you ask that question again? When I was in WA—

**Mr ANDREW:** Obviously these kits have to be used in a timely manner. Physicians have to understand that because of the nature of this, it has to be done so fast to preserve evidence and everything else so it is clear and concise for—

**Dr Lincoln:** Yes, and something very important to me personally is the fact that we have not had what we call EEKs, early evidence kits, in Queensland although they have been used in other states for up to 20 years. These kits are very simple and can be used in remote areas. They can be used in urban areas while someone is waiting to have a head injury assessed in an emergency

department or a strangulation injury assessed with a CT angiogram. These are simple things like a first-catch urine and a mouth rinse, just those very simple things that someone who is not necessarily forensically trained can collect from a patient and ensure that evidence is collected quickly. These are in the pipeline. They were a recommendation from the inquiry and the first six months of the new forensic medical examination kits are just about to be reviewed and we have been told that the early evidence kits are to be developed in the second phase and we are hopeful that we can start a trial. We are waiting on FSQ to have some prototypes that we can at least start trialling and we would be happy to trial those on the Gold Coast as soon as possible, because I think the benefit for the rural and remote areas will be phenomenal.

**Mr ANDREW:** Given the vast size of Western Australia, did you have a centralised point for all of your forensic things or did you have satellite facilities where people were not only trained and passed through but where those evidence bags or those sample kits that you are talking about were sent to the outreach locations and it was made sure that they were handled correctly and then forwarded on or processed there at the actual facility?

**Dr Lincoln:** I do not think they were processed regionally, but there were certainly people trained and they were disseminated all around the state in Western Australia, but the police, I believe, would bring all their evidence—their physical evidence—back to Perth for processing because that is where the forensic biology labs are. That might have changed; I have not worked in Western Australia for 20 years.

**Mr ANDREW:** No, that is fair enough.

**Dr Lincoln:** Yes, so the collection was done, and this was including remote Aboriginal communities—the Pitjantjatjara communities at the border with South Australia—so those kits were very useful and I think they would be of great benefit and we are really hopeful that Queensland will get them out within the next six months.

**CHAIR:** That brings to a conclusion this part of the hearing. Thank you, Dr Lincoln, for your attendance and written submission. There is one question on notice—that is, whether or not you are happy that the recommendation under section 121a has been adequately addressed by the bill.

**Dr Lincoln:** Yes, I am happy to respond to that.

**CHAIR:** Could you have that to the secretariat by Thursday, 1 February 2024?

**Dr Lincoln:** Yes.

**CHAIR:** By close of business that day?

**Dr Lincoln:** This Thursday?

**CHAIR:** Yes.

**Dr Lincoln:** To the secretary?

**CHAIR:** Thank you. Thank you for your evidence.

**Dr Lincoln:** Thank you for having me.

**CAPPELLANO, Ms Anna, Member, Criminal Law Committee, Bar Association of Queensland**

**HOARE, Mr Andrew KC, Chair, Criminal Law Committee, Bar Association of Queensland**

**CHAIR:** I now welcome representatives from the Bar Association of Queensland. Good afternoon. Thank you for joining us. I invite you to make an opening statement of up to five minutes, after which committee members will have some questions for you.

**Mr Hoare:** Thank you for the opportunity to speak to the committee today. The Bar Association has limited issues with the bill in its present form. With the issues that we do identify, we acknowledge that within the bill there has been a general adoption of all of the requirements which were set out in the report of Mr Sofronoff KC. In terms of the matters with which the Bar Association had, and I use this term guardedly, concern—because the concession has been made that the bill provides for the appointment of certain officers—there was within the recommendations a recommendation for the appointment of a chief operations officer as part of a statutory appointment. Although there is the ability of the director to delegate such powers, there does not seem to be a good reason for it not to be a statutory appointment. Secondly, the model which may be replicated as far as possible is the model which is replicated by the Office of the Director of Public Prosecutions which foreshadows a person—to use the analogy, the Director of Public Prosecutions—who has general oversight and control of the organisation but without being encumbered with the day-to-day management which would be done by someone like the chief operations officer. Again, it is acknowledged that the bill allows for that to occur, but it was the position of the association that the recommendation should be followed because the consequential effects of the recommendations were not.

That follows on to—and I say this comment only in passing because we do not seek to qualify a dense report which relates to forensic matters and matters of research which are far beyond the purview of the association—the fact that there was also a recommendation that there be the establishment of a dedicated research and development unit within the institute, again a matter of the statute. I just reiterate that it was the position that the recommendations of Mr Sofronoff ought to be adhered to unless there was good reason not to or the recommendations were otherwise made redundant otherwise within the bill, and that did not seem to be the case upon our reading.

The last point which is made is there is the non-executive advisory board. We note within that board there is a single private legal representative—the recommendation as found at 1638—and that recommendation was for two representatives of the private legal profession appointed by the president of the Bar Association of Queensland and the president of the Queensland Law Society, and that seems appropriate as the other bodies which are relevant stakeholders are otherwise representative. It is acknowledged that the Law Society and the Bar Association often have continuous objectives, but we do fulfil different roles for the community and ought to be differently represented for that purpose. That is the position of the Bar Association, not particularly combative I know.

**Mrs GERBER:** Just following on from that, are you saying that the council members, which are prescribed by proposed section 29 subsection (2)(f), excludes a barrister?

**Mr Hoare:** It does not exclude a barrister, but it does not include a representative of the Law Society appointed by the Law Society president and a representative of the bar appointed by the Bar Association president.

**Mrs GERBER:** So what wording should be used there so that it could be either/or?

**Mr Hoare:** No, there should be—

**Mrs GERBER:** Another subsection?

**Mr Hoare:**—additional representatives, yes. It is as per, member for Currumbin, recommendation 1638—

**Mrs GERBER:** I do not have that in front of me.

**Mr Hoare:** It reads simply in these terms—

two representatives of the private legal profession, appointed by the President of the Bar Association of Queensland and the President of the Queensland Law Society ...

And so that would be sufficient.

**Mrs GERBER:** That is in Sofronoff's report; is that right?

**Mr Hoare:** Yes.

**Ms Cappellano:** Just to be clear, it is not the specific recommendation; it is paragraph 1638.

**Mr Hoare:** Sorry; paragraph 1638.

**Mrs GERBER:** It is a paragraph of his report; yes, sorry, that is what I meant.

**Mr Hoare:** Sorry.

**Mrs GERBER:** I just wanted to go back to the comment that you made which relates to recommendation 121 subsection d, the appointment of a chief operations officer, and I could not find that in the bill, so where is that? Is there anything set up for the administration of this independently, because I thought I heard in your oral submission you saying the bill allows for it but it is not prescribed?

**Mr Hoare:** The bill provides for the delegation of certain powers by the director to other persons. That may contemplate a person like a chief operations officer. One of the critical failings was ill-defined roles without that necessary accountability and then a systemic failure because of that absence of clearly defined roles. So it contemplates an ability to do so, but the contemplation may not be fulfilled and it is for that reason the Bar Association would support an amendment which included a statutory appointment of a chief operations officer.

**Mrs GERBER:** In line with recommendation 121 of Sofronoff's report?

**Mr Hoare:** Yes, and it follows on. There is the appointment of senior leaders of the forensic DNA laboratory. That was recommendation 121e, I believe. I am reading from our initial submission, so I am hoping that that is accurately set out.

**Mrs GERBER:** 'The establishment of a dedicated research unit and development unit within the institute'?

**Mr Hoare:** No, that was a secondary point. I am sorry; I will just ensure I am speaking about the same proposition. So there was within the recommendation—

**Mrs GERBER:** Yes, I see it—

e. The appointment of the senior leaders of the forensic DNA laboratory ...

**Mr Hoare:** Yes, and so that again is creating clearly defined roles within that organisation whereby they can be held to account by reference to other standards and the model which was utilised by analogy by Mr Sofronoff, as he then was, was the structure of the Office of the DPP.

**Mr KRAUSE:** Kings Counsel now, isn't he?

**Mr Hoare:** Kings Counsel again I think, Mr Krause.

**Ms BUSH:** Just to see if I was capturing that, the Sofronoff report did not make recommendations around QLS and the Bar Association having the function to appoint, but there were paragraphs that spoke to that in his report as his preferred solution?

**Mr Hoare:** Yes. There is no suggestion that it was in any way some aspect of deliberation, but I merely reiterate that we have continuous and related roles but there is sometimes a difference which is reflected in the positions which are taken at such bodies.

**Ms BUSH:** Understood, and I think there is the challenge. I think this is the first type of legislation like this nationally, so I guess it is difficult to look at comparable jurisdictions, although I think we are drawing from similar statutory bodies like the Office of the Public Guardian.

**Mr Hoare:** Yes, and I am deferring absolutely to the recommendations made by Mr Sofronoff. There is no qualification of them or some correction of what those recommendations are; it was merely a review of the legislation by the Bar Association to see how those recommendations were fulfilled and to draw to the committee's attention where we thought there were some gaps in the implementation of those recommendations.

**Ms BUSH:** Yes. Your suggestion is around an opportunity perhaps to strengthen and more clearly define some of those roles?

**Mr Hoare:** Yes, particularly when you are dealing with stages of clear accountability and roles which are capable of being clearly assessed by third parties and people within that institution so the failures which occurred and led to the inquiry do not occur again.

**Ms BUSH:** Thank you for your submission.

**Mr ANDREW:** Would you suggest that there should be third-party auditing within this whole system?

**Mr Hoare:** What I am speaking of is probably a reference back to the committee upon which you have members of the community, members of Legal Aid, members of the DPP and what is asserted here, members of the Bar Association and the Law Society. All of those recommendations perform some function of oversight of the institution, however that is framed.



**Mr ANDREW:** A review from the Auditor-General, say?

**Mr Hoare:** I am not expanding here the requirements that were set in place by Mr Sofronoff. I am merely seeking that they reflect as far as possible within the legislation, and the legislation which was recommended. I am pausing because I do not think I can speak to that off the top of my head by reference to the bill as to how the process was to be undertaken. There is, within the legislation, a report to the Attorney-General which is either at request or at the committee's own initiation, and that stands independently of the government's oversight it would have under the Auditor-General's department. So what is being spoken of—and I am paraphrasing and I do not wish to be reductionist—is the need, it seems, from the report for there to be clearly defined roles within the organisation which is facilitated by the existence of a CEO, a director with clearly defined roles, a CEO with clearly defined roles, and then staff members who also have defined roles within the institution which it can be ascertained by the independent committee as to whether they are fulfilling those roles or not, and that can be done with ease without seeing an overlapping or a sharing of roles which was part of the problem which was identified by Mr Sofronoff.

**Mr ANDREW:** We touched on a bit of that this morning with the establishment of a national crime cases review commission, similar to what you talked about in the UK, I think it was, as well.

**Mr Hoare:** It is about the ability for people within the organisation to know clearly what their roles are, and for people who are assessing the fulfilment of those roles to also have the same clarity so that things are not lost between those two positions.

**Mr ANDREW:** Even going back over it retrospectively, the wrongful convictions or maybe convictions that were missed—it is a big job.

**Mr Hoare:** That is so, and the purpose of the recommendations is to ensure that there is not an accumulation of failures which lead to this critical failure; rather that those matters, should they occur, can be identified and remedied without the subsequent cost which is fired when they were not in place. That is really the position of the Bar Association: that there was a careful, detailed and lengthy investigation, an inquiry into the nature of those failings, where recommendations were made. Those recommendations ought to be followed. We are simply trying to assist where we see that those recommendations may not exist in the legislation in its current form.

**Mrs GERBER:** I wanted to go back, because on closer examination of recommendation 121 from Sofronoff's report, it does appear that he does in fact say at one of the subsection g that two representatives of the private legal profession appointed by the president of the Bar Association of Queensland and the president of the Queensland Law Society comprise the council, so it is not just in his report; it is a recommendation. It is in recommendation 121.

**Mr Hoare:** Yes.

**Mrs GERBER:** Then when I look at the bill, I can see that the bill deviates from that in section 29(2)(f) by only appointing one person who is a practising lawyer, and not employed by the state.

**Mr Hoare:** Yes.

**Mrs GERBER:** I wanted to give that clarity.

**Mr Hoare:** Thank you.

**Mrs GERBER:** We have just heard from the assigned doctor at the Gold Coast University Hospital suggesting that there should be a seventh prescribed person on the council, namely a clinician, and then my understanding is that the recommendation from Sofronoff is that there are two representatives, which would then bring the tally to eight. Do you foresee any issue with that happening?

**Mr Hoare:** No. The nominal costs of having an additional committee member who brings some type of skill set which can enhance the committee's function would outweigh the consequences of them not being there.

**Mrs GERBER:** There are 11 members, anyway, so we are just prescribing the qualifications that eight of those other members must have.

**Mr Hoare:** Yes.

**Mrs GERBER:** Is there any other aspect of the bill, other than what we have talked about, that you would like?

**Mr Hoare:** No. The remit of the Bar Association was quite a plain one. We did not seek to qualify an inquiry which is being done into a detailed function; it was merely to ensure that recommendations were followed as far as they possibly could be in the legislation.

**Mrs GERBER:** As far as I can understand from your submission, there are two parts that are not being followed in the best way they could?

**Mr Hoare:** Perhaps three which includes the dedicated research unit as well. That was another matter which was not there.

**Mrs GERBER:** May I just ask a matter of interpretation? If you turn to the bill, page 22, under part 6, 'Miscellaneous', section 41, it talks about how they are not statutory bodies for the purposes of the Statutory Bodies Financial Arrangements Act or the Financial Accountability Act. Is that so that they cannot be audited?

**Mr Hoare:** I cannot speak to that. I simply cannot speak to that, I am sorry. I can have an answer to that and I will ask someone who does not practise exclusively in crime for an answer to that. The time frame is close of business on the 1st, Mr Russo? That can be done by then.

**Mrs GERBER:** Thank you very much, Mr Hoare.

**Mr Hoare:** I had presumed an overarching audit. Yes, I will have an answer to the committee in respect of that and I think that that may answer another member's queries also.

**Mrs GERBER:** Yes, the member for Mirani. Thank you very much.

**Mr KRAUSE:** Thank you for your contribution to the committee.

**CHAIR:** Thank you for your evidence today. As you have stated, the response to the question taken on notice is to be provided to the secretariat by Thursday, 1 February 2024. You know what it is, don't you, Andrew?

**Mr Hoare:** Yes. The effect of clause 41 of the present bill as to the limitation on other accountability which is ordinarily in place in respect of our legislation and legislative bodies.

**CHAIR:** Yes. Thank you for your evidence today.

**Mr Hoare:** Thank you for the opportunity.

**MOHENOA, Mrs Rhea, Director, Client Services—Recovery and Healing, DVConnect**

**ROYES, Ms Michelle, Director, Clinical Governance, DVConnect**

**CHAIR:** I now welcome representatives from DVConnect. Good afternoon. Thank you for joining us. I invite you to make an opening statement of five minutes, after which committee members will have some questions for you.

**Mrs Mohenoa:** Good afternoon. Thank you for the opportunity to appear as a witness today before the committee. I would like to begin by acknowledging the traditional owners and custodians of the land on which we are meeting today, the Turrbal and Yagara peoples, and pay my respects to elders, past, present and emerging. I would also like to acknowledge those with a lived experience as a victim of crime which includes domestic and family violence and sexual assault. We are here today representing DVConnect as the statewide crisis response service for domestic and family violence, and as the statewide helpline for victims of crime as well. I am Rhea Mohenoa, Director of Client Services—Recovery and Healing at DVConnect.

**Ms Royes:** I am Michelle Royes, Director of Clinical Governance with DVConnect.

**Mrs Mohenoa:** DVConnect has been providing support to people who use and experience domestic and family violence as well as those impacted by sexual violence since the 1980s. We provide statewide helplines for men and women who are impacted by domestic and family violence. We offer information, referral and grief counselling, as well as practical pathways to safety across the state of Queensland. We are also currently funded, as part of our sexual assault helpline, to respond to people impacted by the findings of both the commission of inquiry into forensic DNA testing in Queensland and the commission of inquiry to examine DNA Project 13 concerns. Since July 2022, we have also provided the statewide support to people who are impacted by a violent interpersonal crime.

DVConnect commenced VictimConnect transitioning funding from another agency that was providing similar support. The model for VictimConnect is to provide a 24/7 response to people who are impacted by violent crime. This is immediate information, referral and support. However, VictimConnect also provides multisection specialist case management or therapeutic trauma-informed counselling. Today we are here pulling our insights from working with people across all of these services, but most deeply from our sexual assault helplines.

Before I hand over to Michelle, I want to highlight what is most pressing in the bill and perhaps our strongest message—the reason we are actually sitting here. The people who are most impacted by the mishandling of DNA evidence have been victim-survivors. People who were raped in 2012, over 10 years ago, may have their criminal justice journey materially altered and still now they are waiting to find out if theirs is one of the cases that has been impacted. Yet, they are the least connected to these processes, they are most blind to how these processes work and they are the least powerful in being able to enact any change.

Throughout our submission, we highlight two things: one, the importance of victim-survivors continuing to have a voice in forensic science management; and, two, the systems really requiring a gendered and intersectional lens. In short, we most stress that there should be a specific sexual violence representative with lived experience or, at the least, a specialist sexual violence support service representative within the advisory group.

**Ms Royes:** We highlight this as a specific and required consideration because of the following points: both the commission of inquiries related to DNA management found cases of sexual assault that may have progressed to later stages within the criminal justice system did not progress due to failings of their DNA handling. This progression included having enough evidence to encourage a case to move forward through the court, through to possible conviction. This tells us that sexual violence victim-survivors have been materially impacted. The original commission of inquiry found a number of matters of mishandling of DNA only impacting victim-survivors of sexual violence, for example, not implementing Y-STR testing. This tells us that sexual violence victim-survivors have been specifically and unusually impacted, unlike any other crime, by the poor management of the forensic scientific services at that time.

While it is unknown publicly both the total number and proportion of cases possibly impacted and those which were related to sexual violence matters, it is acknowledged that both homicide and sexual violence matters are those potentially most impacted by the findings of the forensic DNA inquiry. In looking at policing data, we are looking at around 48 murder homicides and 80 other types of homicides occurring in 2023. The numbers for sexual violence offences are over 10,000 for that same period. This tells us the sheer volume of matters that relate to sexual violence is substantial.

The Women's Safety and Justice Taskforce report tells us that women and girls who have been sexually assaulted experience terrible system responses and that this experience is exacerbated if there are intersecting and intersectional issues such as diverse cultural backgrounds, age, disability, alcohol, other drugs and mental health. There is also extensive practice and academic data that suggests men and boys who experience sexual violence are also inappropriately responded to by the wider service system, particularly the criminal justice system. This tells us that people who are impacted by sexual violence and assault should have a system that acknowledges how they are extensively and repeatedly ignored, dismissed and at times belittled by the system that has a responsibility to address it. The A Call for Change report clearly identified how misogyny and racism impacts policing responses. This being the beginning of the criminal justice journey, this tells us how we must consider gender and culture in any criminal justice process and improvement. The commission of inquiry also highlighted that checks and balances that we had in place embedded within the forensic services and the surrounding health and policing systems did not stop these matters from enduring for many, many years.

Finally, all of these reports highlight that it is only through the voices of victim-survivors, the relentless pursuit of justice by those who are disempowered, who have experienced significant traumatic events, that anything has been brought to the fore. Now we are on the precipice of significant reform, reform that is only possible due to victim-survivors, and that tells us that through this reform we must continue to lift these voices. Here is an opportunity to do that quite simply.

Victim-survivors need to be part of the advisory group and that is already acknowledged. It needs to be so in a way where voices can be heard from these two perhaps most impacted cohorts, one of those cohorts being people who have experienced sexual violence and the other one those who have been impacted by homicide. These groups have to be represented distinctly. We have to have those two voices at the table, not just one. That is why we are arguing for a specific specialised sexual violence person at the table. We also know in real-time in our work with VictimConnect and through our sexual violence services working alongside the Queensland Homicide Victims Support Group that we often come to the table with differing distinct needs that are both completely valid and usually we can find a way forward to a clear resolution that ensures all victims of violent crime in Queensland get appropriate responses. We think that that voice is absolutely critical to make sure that such a matter does not arise again in the management of DNA.

Outside of this we cannot stress how important it is that a research and development body is established as part of this institute, as is highlighted by the bill, and beyond what legislation can perhaps set parameters for, but at least we would like to formally note it does require a cultural and gender lens in that research and development so First Nations people and women and those who identify as female are able to experience a forensic system that prioritises their experience. We also seek some clarity in our submission around the changes in the oversight of this moving to DJAG and outside the health system and that that does not negatively impact ethical approval processes that are currently managed under the Public Health Act 2005.

**Mrs GERBER:** Thank you for your appearance today and for your oral submission. I want to make sure I am clear on what you are seeking. Recommendation 121 of Sofronoff's report at subsection g talks about a representative of a victim support organisation. His recommendation is that the advisory body have a representative of a victim support organisation, and then the bill prescribes that of the 11 members one of them must be a person who has qualifications or experience relating to supporting victims of crime. You are asking that that be expanded so that one of the 11 members also must be a victim-survivor or are you saying that it needs to be a person who holds qualifications or has experience relating to supporting a victim of sexual crime? It could be from an organisation; that is my question.

**Ms Royes:** Yes, it could be from an organisation. At least having those two different lenses at the table and if not victim-survivors themselves then organisations that work closely with those victim-survivors.

**Mrs GERBER:** I will pose the same question to both of you that I posed to the other submitters that have also recommended mandating certain qualifications within those 11 members appointed to the advisory council. Of those 11 members we are now up to nine who must be prescribed if we are to take on board the recommendations of the doctor from Gold Coast University Hospital, of the Bar Association and now of services that provide support to victim-survivors. We are up to nine positions that must have a certain occupation prescribed onto them. Do you foresee any issue with that?

**Ms Royes:** No issue that we cannot put some effort around making sure we address—that is, having people to fill those positions in a consistent way. I can see that at times that may be problematic.

**Mrs GERBER:** If you were to prescribe homicide?

**Ms Royes:** I think if we were able to prescribe other crimes generally and one with at least a gendered lens is a minimum. When we consider the work with sexual violence it has a particular gender and therapeutic response that is required that is distinct from dealing with general victims of violent crime and that often is because of the interpersonal nature of that crime. We would argue that the highest presentation of those types of crimes is sexual violence particularly in the sense where DNA matters and therefore that is why we have prescribed a DNA response. We do think that other crimes do need a different voice at the table as well and we would suggest that that major crime would be homicide.

**Mrs GERBER:** Do you have any other issues with the bill as it is currently drafted? Does it deviate in any way other than that? Are there any other deviations or any other aspects that you can make the committee aware of?

**Ms Royes:** We have no other real suggestions for the bill, no, particularly some of the more administrative components that we obviously do not have intelligence around from our specialist lens.

**Mr ANDREW:** The member for Currumbin covered off on some of my questions. I was going to ask does the bill go back far enough for the failures of the DNA lab? Do you think it covers off on what needs to happen retrospectively? You seem happy with this advisory body. You do not think that there is anything else that needs to be incorporated? Do you think the bill goes far enough and covers off on and addresses the retrospective failures of the DNA testing facility?

**Ms Royes:** Yes, we do. To that point though, we have not fully read the other submissions that might make other suggestions, but from what we have read, yes, we are comfortable with it.

**Mr ANDREW:** There is nothing else that you would like to say to the committee in relation to the bill, maybe something outside of what has been mentioned already that could give the bill another facet to addressing this situation?

**Ms Royes:** I would say that that is a good question and we perhaps did not apply that lens in our submission. To that point, at this point, no, we do not have any other suggestions that move the bill beyond what it already does.

**Ms BUSH:** This bill is purely about implementing recommendation 121 from the Sofronoff report which is around the creation of a forensic science institute and that this will, in fact, be the first jurisdiction in Australia to do that. There is a big opportunity to get that right. If I am hearing you correctly, what you are saying is you would prefer to have someone with lived experience embedded in the council for both sexual offences and homicide offences, obviously recognising that that would be the surviving family members impacted by a homicide, because they are the two particular cohorts of victims who are uniquely impacted by forensic services in Queensland, and if we cannot get a person with lived experience who meets that threshold, somebody who is at least in the advocacy space who could speak to those two particular cohorts, and you would like to have that enshrined in legislation. It is hinted that it is possible, but it is not enshrined. I think that is what you are saying.

**Ms Royes:** Yes, needing to be enshrined is critical because it will present challenges and ensuring you always have people to speak to those particular voices. When you have those sorts of challenges we understand practicalities, we can find solutions that do not meet the true intent just to make it to the next step, yes, so we do think it is really important.

**Ms BUSH:** Tell me if I am putting words in your mouth. The argument is the disproportionate nature of the system and the historic experience of victims being 'done to' not 'with' in the system creates the need and the urgency to make sure they are at the table at all levels where we can.

**Ms Royes:** Yes, absolutely. An example would be again the Y-STR testing. Even though it was continually trialled or tested for a significant period of time, the accountability that would have been asked for by at least one voice at the table, that being a person understanding how important that is to a particular type of crime of sexual violence, might have been able to nail that down and have it occur quicker or at all rather than what happened for many, many years which was administratively, practically, the system could not get it to happen. When you have that voice calling you to account it does motivate actions and that is why we think that specific lens is so important.

**Ms BUSH:** Understood. Thank you very much.

**CHAIR:** Does the committee have any further questions for the representatives from DVConnect? Laura?

**Mrs GERBER:** No.

**CHAIR:** Jonty?

**Ms BUSH:** Just to thank them for their work.

**CHAIR:** Jason?

**Mr HUNT:** Very briefly. You spoke before about misogyny and racism getting in front of certain institutional responses. Do you have examples of that?

**Ms Royes:** There are multiple examples of that and they are very clearly captured in the A Call for Change report around the Queensland Police Service.

**Mr HUNT:** From your experiences?

**Ms Royes:** Yes, absolutely, from our experiences. We do find women are not believed. Women contact us after they have tried to report matters and while initial reports may be taken, they may then be dismissed. They feel at times almost belittled for presenting a matter as an issue to police, for the amount of time that it has taken since the event happened and when they came and spoke to police, or the circumstances that they were in when the incident happened. Yes, we have a lot of examples of people feeling that they received misogynistic and racist responses from police. We also have examples where we have overheard policing not give appropriate responses to victim-survivors when we are working with both police and victim-survivors on the phone. While we appreciate that is individuals doing that, we also know that systemically we have a lot of racist and misogynist responses to people in the way that the systems move and work. That is not just in external systems. We are constantly trying to evaluate and respond to that even within ourselves because of the way structures are around us.

Part of that is high populations of First Nations people live in rural remote Queensland so by default there is less resourcing available to those people. You are less able to respond in an appropriate time frame. It is harder to get forensic medical examinations for people who live in rural and remote Queensland. Therefore, already as a system we are not providing the full response to a person who has every right to live in Cairns that they might do if they lived in Brisbane where there is more resourcing.

When we talk about systemic responses we are not talking about us as individuals always making choices to be racist or to be misogynist, but about the way the systems are structured that by default we are not giving additional resources in areas where people do experience violence and we are not able to give that balance to them. We appreciate how complex that is. We understand why it is when you step back and look at the bigger picture, but it is still not good enough and so having someone at the table who can remind us that that is not good enough will keep us moving forward to think about ways that we can make that response better. Again, looking at the example of the Y-STR testing, if someone was constantly at the table saying, 'This is not good enough. This testing would make such a difference to so many cases. Can we look at it again', that would help progress that further quicker. So, yes, we see in our work people individually at times being racist and misogynist, but also how the system works as a whole. The A Call for Change report was really reassuring to give paperwork to that experience. However, we do know that a lot of work has been done to make that difference and we encourage and support that and we are working alongside Queensland police in that too.

**CHAIR:** There being no further questions, thank you for your time this afternoon and thank you for your evidence. That concludes this hearing. Thank you to everyone who has participated today and to all those who helped organise this hearing. A big thank you to our Hansard reporters and the secretariat staff. A transcript of these proceedings will be available on the committee's webpage in due course. I declare the public hearing closed.

**The committee adjourned at 3.16 pm.**