



Queensland Government
Second Progress Report

Delivery of Recommendations

Commission of Inquiry into
Forensic DNA Testing in Queensland

December 2023



**Queensland
Government**

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Message from the Co-Chairs of the Forensic Science Queensland Interim Advisory Board

Work is continuing to address the issues uncovered by the Commission of Inquiry into Forensic DNA Testing in Queensland last year. We are satisfied that good progress continues to be made, with some considerable milestones achieved since the release of the first progress report three months ago. Eleven more recommendations are actively being considered for closure and 57 other recommendations are under way, some of which are critically important and pave the way for other dependent work to commence.

One of the key recommendations in the Commission of Inquiry into Forensic DNA Testing in Queensland's (COI) Final Report was to pass legislation to create a new statutory office, similar to the Office of the Director of Public Prosecutions (DPP) model, for there to be a Director of Forensic Sciences in Queensland. Legislation of this type would make Queensland the first jurisdiction in Australia to deliver forensic services through such a model. We are pleased to observe that the Forensic Science Queensland Bill 2023 was recently introduced into the Queensland Parliament, in less than a year since the release of the COI's findings. This legislation will ensure forensic services in Queensland are better aligned to fulfil its central purpose of assisting the administration of justice.

We have been particularly impressed and would like to commend the continued commitment by the staff at Forensic Science Queensland (FSQ) who have remained focused in their delivery of forensic services. These efforts have continued during what has been a particularly busy few months which has included significant media attention and the provision of material to assist with a newly established Commission of Inquiry. We are gratified by the recent delivery of purpose-built modular accommodation, which extends the current facilities in Coopers Plains. This will be an enormous help to alleviate the current accommodation pressures and provide staff the space they need to continue to deliver their excellent work.

The interim Advisory Board has met twice during this reporting period and has continued to scrutinise the implementation progress by FSQ and the Queensland Police Service (QPS). Members continue to be generous with their time and after nine months in the job, provide increasingly valuable advice and contributions to support this important reform work. We look forward to continuing to help to restore the community's confidence in Queensland's criminal justice system.

Walter Sofronoff KC and Julie Dick SC

Co-Chairs, FSQ Interim Advisory Board

Foreword by the Chief Executive Officer of Forensic Science Queensland

Since publication of the First Progress Report, FSQ continues to make progress toward implementation of the recommendations made by the Commission of Inquiry into Forensic DNA Testing in Queensland (the Sofronoff Inquiry) and the broader reform agenda. I am incredibly proud of what has been achieved in a relatively short space of time, and despite the challenges presented by the new independent Commission of Inquiry examining concerns raised regarding the 'Project 13' Report on the Verification of an Automated DNA IQ™ Protocol using the Multiprobe® II PLUS HT EX with Gripper™ Integration Platform' (the Bennett Inquiry).

The staff of FSQ are steadfast in their commitment to the reform agenda and continuous quality improvement. The achievements presented in this progress report are testament to this. Continued recruitment activities have allowed FSQ to grow in size and its capacity to undertake critical reform projects in both scientific and governance areas.

I am unwavering in my belief that FSQ can become a world class forensic science service. The dedication shown by FSQ staff over the last three months is a clear demonstration that FSQ has the requisite culture and attitude toward change to achieve this vision.

The Bennett Inquiry presents FSQ with further opportunities to improve and regain public confidence in forensic DNA testing in Queensland.

I would like to express my sincere gratitude to the staff of FSQ for their enthusiasm, perseverance and resilience on this change journey. I am also grateful for the ongoing support of my Queensland Health (QH), Queensland Police Service (QPS) and Department of Justice and Attorney-General (DJAG) colleagues as well as my national and international forensic colleagues who have contributed to FSQ's successes to date.

Adjunct Professor Linzi Wilson-Wilde OAM

Chief Executive Officer, FSQ



Introduction

On 18 September 2023, the first progress report on the delivery of recommendations from the Commission of Inquiry into Forensic DNA Testing in Queensland was tabled in Parliament by the Minister for Health, Mental Health and Ambulance Services and Minister for Women.

On 5 October 2023, the Minister announced that a new independent Commission of Inquiry had been established, led by retired Federal Court Judge Dr Annabelle Bennett AC SC, to examine concerns raised regarding the 'Project 13' Report on the 'Verification of an Automated DNA IQ™ Protocol using the Multiprobe® II PLUS HT EX with Gripper™ Integration Platform' (Bennett Inquiry).

The Bennett Inquiry's terms of reference included reviewing recent public statements and other documents in relation to automated DNA extraction methods introduced under what is known as Project 13 and whether the recommendations from an earlier Commission of Inquiry, conducted by Walter Sofronoff KC, were sufficient to address concerns that had been raised regarding those matters.

The Commissioner was able to interview any, or all, experts whose advice about DNA extraction methods (as they related to Project 13) helped inform the Sofronoff Inquiry's findings and recommendations. On 17 November 2023, Dr Bennett AC SC provided her Final Report and two additional recommendations for implementation.

The Bennett Inquiry required the reallocation of significant resources from FSQ. This has, in turn, had an impact on the ability of FSQ to progress rapidly with progress or closure of recommendations since the first progress report.

Regardless, considerable progress has been made so far on the delivery of recommendations from the Sofronoff Inquiry. Thirty-four recommendations are fully implemented and completed and a further 68 are underway – equating to almost 83% of all recommendations. Further, of the 68 recommendations in progress, eleven are being considered for closure - eight are currently being considered by the scientific members of the FSQ Interim Advisory Board and three are progressing through the QPS closure processes.

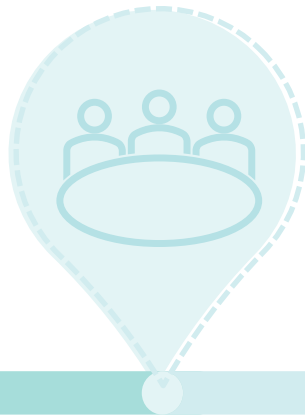
This second progress report provides a snapshot of actions taken by the Queensland Government since the Sofronoff Inquiry to address the recommendations made in the Interim and Final Reports; and highlights the continued efforts of Queensland Government agencies and stakeholders to establish a way forward for quality, timely and innovative forensic DNA services that support the integrity of the Queensland justice system.

Queensland's journey so far



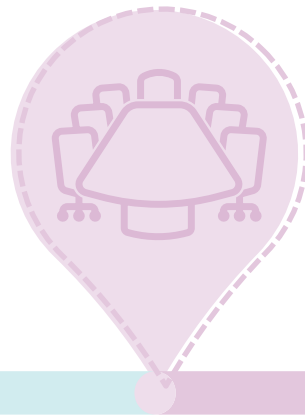
13 September 2023

Further investment of over \$75 million, over four years, to support urgent and critical reform activities.



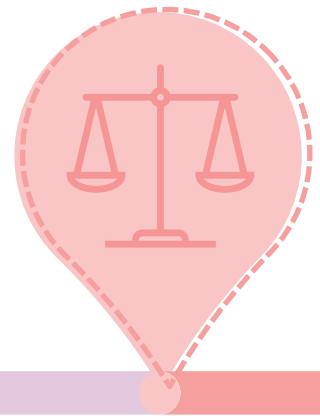
7 November 2023

Inaugural meeting of FSQ's Quality Assurance Forum. The Quality Assurance Forum is a quarterly meeting designed to facilitate FSQ management with a scheduled opportunity to review the operational health of the Quality Management System.



16 November 2023

The Interim Advisory Board met for the fifth time and approved the FSQ Strategic Plan 2023-27 which sets a strong strategic vision, goals and objectives for FSQ over the next five years.



29 November 2023

New Bill introduced to Parliament to establish the legislative framework for the delivery of forensic services in Queensland.

Delivery of recommendations

This second progress report provides a snapshot of the activities undertaken to implement the recommendations of the Sofronoff Inquiry as at 5 December 2023.

As at 5 December 2023, implementation of **68** recommendations has actively commenced with another **34** complete.

Key implementation activities include:

- Provision of additional funding by the Queensland Government to assist FSQ in expanding and improving its services through infrastructure and facility enhancements, new and upgraded equipment, and IT enhancements.
- Continued meetings of the FSQ Interim Advisory Board and three sub-committees with subject-matter expertise (for Forensic Justice, Forensic Biology and Forensic Medical Examinations).
- Establishment of a dedicated Quality Team, driving significant progress toward improving FSQ's Quality Management System (QMS), including establishment of a Quality Assurance Forum (QAF), which meets quarterly and provides a mechanism for ongoing review of the integrity of FSQ's QMS.
- Ongoing recruitment for scientific staff across multiple position levels, ensuring FSQ has the right people to support its strategic mission and form an effective and high-performing culture.



Element one: Organisational reform

Element one comprises 10 recommendations that are aimed toward establishing structural reform of Queensland’s forensic DNA laboratory to achieve its vision of becoming a world leader in quality, timely and innovative forensic DNA services that support the administration of justice and the integrity of the Queensland justice system.

Summary of recommendations

6 Recommendations complete

4 Recommendations in progress

Progress spotlight*

Funding

In December 2022, the Queensland Government approved initial funding of \$95 million over four years, based on an initial assessment of resourcing ramifications arising from the Sofronoff Inquiry’s findings.

This funding has had a major impact and has enabled significant progress toward implementation of the Sofronoff Inquiry’s Interim and Final Report’s recommendations.

However, since release of the Sofronoff Inquiry’s Final Report, the relevant agencies - QH, DJAG and the QPS have worked together to catalogue and cost the full extent of resourcing implications.

Based on this analysis, it was clear that without further additional investment, numerous recommendations could not be fully implemented or could only be implemented by diverting existing resources, with consequential negative service impacts across the criminal justice system.

These impacts include the ability of the QPS to investigate and solve crime, the ability of FSQ to provide quality and timely forensic services and the ability of the Office of the Director of Public Prosecutions to pursue criminal matters.

On 13 September 2023, the three agencies together sought, and were approved for, an additional \$75.1 million investment, over four years (with additional recurrent funding thereafter), designed to support urgent and critical activities.

This includes improving critical forensic infrastructure, implementing a new case management forensic investigation approach, and reviewing historical cases potentially impugned by sub-optimal DNA analysis.

To date, almost \$200 million has been pledged by the Queensland Government to reform forensic DNA services in Queensland, including implementation of the recommendations.



Introduction of forensic services' framework

On 29 November 2023, new legislation to restructure the delivery of reliable and high-quality forensic services in Queensland was introduced to Parliament.

The *Forensic Science Queensland Bill 2023* (the Bill) is set to implement **recommendation 121** of the Sofronoff Inquiry's Final Report, which proposed a statutory framework for forensic Service delivery in Queensland.

The Bill will establish a statutory office of the 'Director of FSQ' to lead the provision of forensic services to the QPS, the DPP, coroners, and other entities who perform functions related to the administration of criminal justice.

The FSQ Advisory Council will also be established to monitor and review the policies and procedures of FSQ that relate to the administration of criminal justice.

The Bill's main purpose is to ensure high quality, reliable, independent, and impartial forensic services to the Queensland criminal justice system into the future.

This legislation would see Queensland become the first state in the country with a dedicated statutory framework governing the provision of forensic services.



Progress highlight*

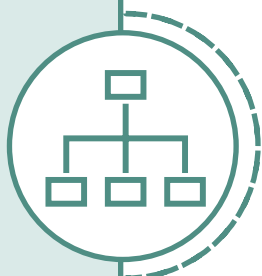
Organisational structure change

Two new roles have been established, a dedicated Training Coordinator and Workplace Health and Safety Advisor, which will provide a stable platform for FSQ to deliver its significant reform agenda and become a world class forensic laboratory.

A rapid implementation team (sprint team) has been set up to support effective establishment of FSQ by ensuring robust, compliant, and structurally sound Human Resources (HR), finance and governance processes are in place. The sprint team is focusing on an audit of FSQ's establishment and other important HR/Corporate governance initiatives that are important for FSQ to have in place prior to the proposed Machinery of Government change over to DJAG.

As FSQ continues to recruit and grow in numbers, its accommodation has had to grow commensurately. As the current infrastructure footprint was not sufficient to accommodate this growth, new onsite, purpose-built, demountable accommodation will alleviate these accommodation pressures in the short term.

** Achievements refer to fully implemented recommendations, components of other recommendations partially implemented and other achievements not encapsulated within a formal recommendation.*



Element two: Culture, quality and innovation

Element two comprises 32 recommendations aimed at establishing a culture that is focused on the scientific integrity and excellence of the laboratory through continuous improvement, proactive compliance monitoring, effective quality management and strong sector engagement.

Summary of recommendations

6 Recommendations complete

22 Recommendations in progress

Progress highlights*



Strategic plan

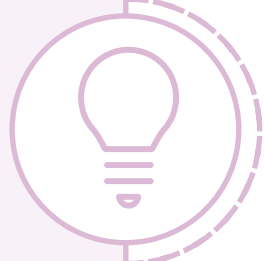
On 16 November 2023, the first FSQ Strategic Plan 2023-27 was endorsed by the Interim Advisory Board. The Strategic Plan was developed in consultation with FSQ staff and key stakeholders to set FSQ's vision and strategic agenda through to 2027. The Strategic Plan will link to an annual Business Plan and be informed by strong organisational values to drive a positive workplace culture (**Recommendation 76**). Development of FSQ's Business Plan and organisational values is underway.



Quality

On 7 November 2023, FSQ's QAF was established through its inaugural meeting. The QAF is a quarterly meeting designed to facilitate FSQ management having a regularly scheduled opportunity to review the operational health of FSQ's QMS. An all-staff meeting will precede every QAF meeting to ensure FSQ staff are empowered to raise any feedback, suggestions, quality issues, or scientific/technology concerns for consideration at QAF. (**Recommendations 51 and 52**).

All Forensic Biology scientists who are authorised (fully trained) to perform casework pertaining to DNA analysis have individually completed an externally provided proficiency test. Every one of these tests was successfully completed (**Recommendation 67**).



Innovation

The Innovation Team developed a Project Proposal Framework which was endorsed by the FSQ Leadership Group and implemented across FSQ. This framework has been designed to help FSQ scientists develop their research ideas and plans, while formalising the process for project approval (**Recommendations 21 and 54**). Formal approval will also demonstrate FSQ's support and commitment to the project, accepting any potential and reasonable impacts to the operational unit (**Recommendations 55 and 58**).



Stakeholder engagement

The Chief Executive Officer of FSQ and Manager, Innovation have engaged with a range of Queensland tertiary education providers with a view to establishing a mutually beneficial relationship with academia in the interests of research and innovation projects. FSQ has already facilitated several student placements for research and validation projects (**Recommendation 68**).

** Achievements refer to fully implemented recommendations, components of other recommendations partially implemented and other achievements not encapsulated within a formal recommendation.*

Element three: Scientific service delivery

Element three comprises 58 recommendations aimed at raising technical processes and practices to a best practice standard.

Summary of recommendations

16

Recommendations complete

27

Recommendations in progress

Progress highlights*



Dedicated FSQ website

The Queensland Government endorsed FSQ having its own dedicated website that will transition across to DJAG. The website will enhance FSQ's accessibility, transparency and communication with stakeholders and the Queensland community more generally. A website for FSQ will also support implementation of recommendations requiring publication of information (for example, **Recommendations 9 and 14**). Steps toward building this website are underway.

Validation

The laboratory has completed a full and appropriate validation to identify the true limit of detection of Quant Trio and Quant Studio 5. The validation study was externally reviewed by an eminent Australian expert prior to implementation by the laboratory (**Recommendation 15**).

DNA Interpretation

New DNA interpretation Guidelines were developed, reviewed by three external forensic scientists and implemented at FSQ in September 2023 (**Recommendations 31 and 34**).

Outsourcing

Case managing scientists are proactively advising the QPS to consider other DNA testing methods not currently offered by FSQ, including Y-STR testing, for appropriate cases (**Recommendations 24 and 43**).

FSQ continues to outsource Y-STR testing to the Institute of Environmental Science and Research (ESR) in New Zealand. A new Outsourcing of Y-STR Testing Standard Operating Procedure and template form to request external testing and facilitate transfer of samples have been developed to guide this process (**Recommendation 43**).

** Achievements refer to fully implemented recommendations, components of other recommendations partially implemented and other achievements not encapsulated within a formal recommendation.*





Element four: Historical case review

Element four comprises 9 recommendations aimed at the need to work with QPS to undertake a historical case review, and to determine triaging of any cases that may require further testing. Historical case review will encompass several broad categories of sample cohorts and include assessing the need for potentially undertaking further DNA testing where appropriate.

Summary of recommendations

1 Recommendation complete

6 Recommendations in progress

Progress spotlight*

Retrospective review

The Case Review team continues to progress the retrospective review of cases that are currently before the courts using the legal-led case review process which ensures appropriate prioritisation of cases and involves consultation with QPS, the Office of the DPP and the accused person or their legal representative. This process has been developed in line with a set of principles aimed at ensuring the integrity of the process (**Recommendation 14**), including:

- **The administration of criminal justice** – A matter of paramount importance, and the overarching principle for the case review process, is the administration of the criminal justice system. The criminal justice system can only function effectively if the integrity of each of its component parts cannot be questioned. The DNA laboratory is a participant in the administration of criminal justice and its role is in the provision of accurate evidence about the results of DNA testing.

The retrospective case review will examine cases that are within the scope outlined in the recommendations from the Sofronoff Inquiry's Final Report to ensure that the evidence produced by the laboratory has not, or will not, result in a miscarriage of justice.

- **Restoring the public's confidence in DNA testing in Queensland** – the Sofronoff Inquiry's Final Report noted the widespread loss of public confidence in the laboratory's provision of forensic DNA testing services. It is critical that the criminal justice system in Queensland is serviced by a best practice approach to DNA testing that consistently produces reliable and accurate results that can restore the confidence of the courts and the public.

The retrospective case review will involve a case management approach where the context of the case and the importance of the DNA evidence will be used to determine any further testing or interpretation that is required. This approach will ensure the best evidence is consistently provided to the criminal justice system which will contribute to rebuilding public confidence in DNA testing in Queensland.



Retrospective review (cont.)

- **Trauma informed approach** – The traumatising effect of an act of violence on the victim and members of their support network, and the impact of their case progressing through the court system, is well documented. A trauma-informed approach involves creating an environment that is safe, collaborative, accessible and compassionate where proactive steps are taken to ensure that people are not traumatised further by the process.

Consultation with key stakeholders and subject matter experts will be undertaken to ensure the case review process is carried out in a trauma-informed way.

- **Reasonable use of government resources** - It is essential to balance the need to conduct the case review in a way that meets the requirements of the recommendations from the Sofronoff Inquiry's Final Report, with the responsible use of government resources. The importance of sufficient funding being provided to support the implementation of the recommendations was noted in the report along with the stipulation that not all cases, or all samples within impugned cases, will be re-tested.

Further testing of samples or interpretation of results will only be pursued where it is determined that DNA evidence could be of probative value and may have a material effect on the outcome of a case, based on the context of the case as a whole.

These principles were endorsed by the Forensic Justice Advisory Sub-Committee in September 2023 and will be published on FSQ's independent website, once available.

When the review of cases approaches closed matters, as opposed to active matters before the courts, these principles and the process will be revised to ensure they are fit-for-purpose.

Forensic Science Queensland has entered into an outsourcing arrangement with ESR to perform Y-STR testing for appropriate cases. A number of cases subject to the case review process have been submitted to ESR for Y-STR testing. The leadership team at FSQ continues to explore outsourcing arrangements which may expedite review of some cases subject to the case review process.

** Achievements refer to fully implemented recommendations, components of other recommendations partially implemented and other achievements not encapsulated within a formal recommendation.*



Element five: Queensland Police Service operations' recommendations

Element five comprises 14 recommendations aimed at improving detection, presumptive screening, and subsampling activities undertaken by QPS prior to sample submission to FSQ. It is critical that these processes meet the highest standards given they impact on the success of downstream laboratory examinations. Fourteen recommendations were made by the Sofronoff Inquiry relating to improving case management, quality management and training activities. QPS also has some shared implementation responsibilities with QH.

Summary of recommendations

5

Recommendations complete

9

Recommendations in progress

Progress highlights



Operations

The QPS has established a DNA Major Crime Liaison Unit (DMCLU) at the FSQ campus, staffed by five sworn officers with training and experience in DNA testing. These officers review all cases at submission to prioritise testing and ensure probity of potential evidence. At the conclusion of the case, they review the results and initiate re-sampling or submission of additional items if deemed necessary. These officers are also assisting with retrospective case review (**Recommendation 78**).

Changes to the Forensic Register have been completed to give case scientists complete access to information about where samples were collected and their context within the case. The information available includes all examination notes, photographs, exhibit records and case management entries (**Recommendation 3**).

The QPS has modified its policies to ensure auditors are independent of the work unit being assessed and is planning to establish a central audit function to coordinate the process, identify trends and monitor effectiveness of corrective action (**Recommendation 79**).

Policy requirements have been modified to expressly state that methods and critical equipment must be validated or verified prior to use (**Recommendation 82**).

The procedure for the classification of samples as blood has been amended to prevent the potential false positive reporting of substances (**Recommendation 115**).

Future focus

Twelve months have passed since the delivery of the Sofronoff Inquiry's Final Report and significant steps have been made toward improving forensic science service delivery in Queensland. Notwithstanding the progress made over a short period, particular implementation areas, known as 'Future Focus Areas', have been identified for prioritisation as delivery continues.

Future focus areas have been geared toward those areas of reform that have been identified as necessary in achieving FSQ's vision of becoming a world leader in the delivery of high-quality, timely and innovative forensic services, that support the administration of justice and integrity within the Queensland criminal justice system.

The future focus areas for implementation of recommendations can be broadly categorised across the three agencies (QH, QPS and DJAG) as follows:

Enhancing FSQ's engagement with criminal justice system stakeholders and the community through development of an independent FSQ website and proactive publication of information and educational material.

Initiating a comprehensive review of the current operating model for forensic science in Queensland through collaborative discussions with representatives from across Queensland's criminal justice system and the national and international forensic science community.

Managing current criminal justice system impacts by resourcing all sections of the criminal justice system to respond to the potential implications from a review of historical cases that may have been impacted by sub-optimal forensic DNA practices, including those cases the subject of recommendations made by the Bennett Inquiry.

Strengthening the quality and scientific integrity of forensic services through the establishment of strong quality and research frameworks, including a national and international recruitment campaign to ensure FSQ has the resources and expertise to grow into a world class forensic science facility.

Any person who requires confidential counselling and support, including concerned victims, can contact:

Queensland Police Service hotline:

1300 993 191

Anytime

Forensic Support Service:

1300 349 203

9am – 6pm, Monday to Friday

Queensland Homicide Victims Support Group:

1800 774 744

Anytime

DVConnect Sexual Assault Helpline:

1800 010 120

7:30am – 11:30pm, 7 days a week



