

Inquest into the death of Lardeen Bernadette Glennon and Matthew David Glennon

Lardeen Glennon and her son Matthew Glennon died on 25 September 2011 in a traffic collision. Ms Glennon was the driver of a vehicle which was struck on the driver's side door whilst she was turning right off a highway. The driver of the second vehicle was attempting to overtake multiple vehicles in one overtaking manoeuvre.

Coroner David O'Connell delivered his findings of inquest on 1 December 2017.

The Queensland Government responds to recommendations directed to government agencies at inquests by informing the community if a recommendation will be implemented or the reason why a recommendation is not supported.

Further information relating the implementation of recommendations can be obtained from the responsible agency named in the response.

Recommendation 1

The Queensland Government review and consider implementing a specific legislative provision to allow for the admissibility, perhaps similar to s.95A Evidence Act (Qld), of the downloaded motor vehicle event data recorder data report.

Response and action: the recommendation was not implemented.

Responsible agency: Department of Justice and Attorney-General.

On 13 October 2018 the Attorney-General and Minister for Justice and Leader of the House responded:

The Department of Justice and Attorney-General notes the coroner's view that the Queensland Government should consider introducing a new law to let downloaded motor vehicle event data recorder (EDR) data reports be admitted as evidence more easily. The coroner suggested that, if such a provision was introduced, it could reflect section 95A of the *Evidence Act 1977* (the Evidence Act).

Section 95A of the Evidence Act allows a DNA evidentiary certificate to be used as evidence of various internal laboratory procedures in criminal proceedings. The certificate must be signed by a DNA analyst (appointed under statute because of their qualifications and experience) and means that the many other persons who may have had minor involvement in the testing process (such as an administration officer receiving a sample from a police officer and delivering it for testing, or a laboratory assistant preparing a sample for testing at the direction of a DNA analyst) generally do not have to give evidence.

However, a section 95A certificate cannot be used to certify a match between two DNA profiles. The important expert evidence interpreting and explaining the test results and establishing a match between DNA samples obtained from an offender and a crime scene can only be given by a DNA analyst directly.

Downloading an EDR data report is different to the DNA laboratory process as it does not involve various small tasks carried out by multiple people. It is the department's view that section 95 of the Evidence Act already allows for the admission of statements produced by computers, such as downloaded EDR data reports, and a specific evidentiary certificate provision, like section 95A, is not

required. However, just like DNA evidence, the use of EDR data report evidence in criminal proceedings depends on an appropriately qualified person being available to explain and interpret the meaning and significance of the report to a court. This important expert evidence cannot be captured in an evidentiary certificate.

The Queensland Government agrees with the coroner's observation that further education regarding the availability of this type of evidence is required.

Recommendation 2

The Queensland Government within six months review the laws regarding overtaking (particularly overtaking of multiple vehicles in a single manoeuvre) to determine if they are adequate or should be more appropriately expressed in the Transport Operations (Road Use Management) Act.

Response and action: the recommendation was implemented.

Responsible agency: Department of Transport and Main Roads.

On 26 February 2019 the Minister for Transport and Main Roads responded:

The Department of Transport and Main Roads completed a review of overtaking laws and other relevant road rules contained within the Transport Operations (Road Use Management - Road Rules) Regulation 2009 (the Queensland Road Rules) within six months of the recommendation being handed down. The review was completed on 9 June 2018.

The review found that compliance with existing laws would sufficiently address safety concerns and those laws did not require amendment.

The Queensland Road Rules provide a general framework for safe road use. In conjunction with other rules, the Queensland Road Rules require the driver to assess whether it is safe to overtake a vehicle, or vehicles. Drivers who disobey the rules and engage in unsafe driving behaviour significantly increase the risk of serious injury or fatality crashes.

These rules also work together with infrastructure and road treatments such as line marking and traffic signs, which allow the road environment to be customised to achieve the best safety outcome for users. Since this tragic crash, the Department of Transport and Main Roads no longer allows a right turn into a private driveway from this particular road.

The department will continue to educate drivers and promote safe overtaking by planning ahead and identifying hazards.