



## QUEENSLAND POLICE SERVICE STATEMENT OF WITNESS



Occurrence #: \_\_\_\_\_

Statement no.: 1 Date: 13/07/2022**Statement of**Name of witness: READ Michael John

Date of birth: \_\_\_\_\_ Age: \_\_\_\_\_ Occupation: \_\_\_\_\_

**Police officer taking statement**

Name: \_\_\_\_\_

Rank: \_\_\_\_\_ Reg. no.: \_\_\_\_\_

Region/Command/Division: \_\_\_\_\_ Station: \_\_\_\_\_

**Statement:****Current Role and Experience**

1. My name is Michael John Read I am a Sergeant of Police, Senior Prosecutor with the Queensland Police Service.
2. I am currently working at the Brisbane Police Prosecutions Corps.
3. My policing career first began in 2000 when I entered the academy, graduating in March 2001.
4. After completing 2 years and 11 months in general duties policing, I transferred to Legal Division to undertake the police prosecutors training course.
5. I have a bachelor's degree in social science majoring in sociology and a graduate certificate in journalism.
6. I am currently a second-year law student with Central Queensland University.
7. Between 2006 and 2017 I worked in government roles as a public servant and then employed by ministerial services in various policy roles for the then leader of the opposition and ministers both at state and federal level.
8. During that period, I worked closely with key stakeholders in law reform and as Chief of Staff in the Minister for Communities office between 2012 and 2013.
9. In 2017 I returned to the Queensland Police Service and in 2019 returned to prosecuting.
10. From early 2020 through to October 2021 I prosecuted in the Beenleigh Domestic Violence Specialist Court.
11. In October 2021, I was promoted to the rank of Sergeant and moved to the Brisbane Prosecutions Corps where I have worked in the Domestic Violence Court.

(Witness's signature)

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CONTINUED STATEMENT OF: **READ, MICHAEL JOHN**

**General prosecutorial duties involved in prosecuting DFV**

***Role and responsibilities***

12. As a prosecutor in the Domestic Violence Court our responsibilities extend to checking every police application that comes through the office before it is presented to court.
13. This includes reviewing it for service of the PPN and the application and identifying if service has been affected. If it has not, we are to find out why and follow up for action or determine if there are sufficient grounds to put forward for a temporary ex-parte order pending service.
14. For new files, we also check that the grounds are sufficient in meeting the necessary standard required to make an order.
15. In making this assessment, we identify the relevant relationship, what acts of domestic violence are said to have occurred and what basis the applicant says that an order is necessary or desirable.
16. With new files we are also looking for relevant matters that the court can inform itself of in the consideration of the application; these include but are not limited to:
  - a. Not for production criminal history;
  - b. History of domestic violence orders and applications;
  - c. Occurrence logs of call outs that have been coded as domestic violence where other actions were taken;
  - d. Interstate (CRIMTRAC) entries including relevant criminal and domestic violence history; and
  - e. Other police interactions that would inform the court as to the future risk of domestic violence in the absence of an order, including any mental health engagements or interactions, threats of harm where parties (aggrieved/named children) were present.
17. For files that have previously been in the court and returning we are again confirming service and if it has been affected.
18. We are also looking to determine if there have been any further incidents since the matter first came before the court, or if there has been any submission from parties or representatives of parties and if they have been actioned or responded to.
19. We are also required to review and managed the briefs of evidence for contested matters.
20. In Brisbane on average, we can handle upwards of six (6) hearings listed a week. While some of those do not proceed, we are still required to prepare for them.
21. As the senior prosecutor I also review the briefs of evidence as they come in looking for any deficiencies.
22. Often police are preparing briefs based on a single interaction between the parties. They are very good at advising what happened during that interaction; however, as the applicant I find some briefs require further work detailing evidence to support why an order is necessary or desirable.
23. Also, we find in Brisbane, aggrieved parties will file private applications to vary original police orders, often to 'water-down' conditions and they are first mentions on the Thursday before being adjourned back to the appropriate police call over.

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CONTINUED STATEMENT OF: **READ, MICHAEL JOHN**

***Staffing arrangements at Brisbane Prosecutions***

24. In Brisbane we have a team of three prosecutors and an administrative support officer.
25. In Brisbane, the court runs hearings each Monday for police matters.
26. They are split between two courts based on the surname of the respondent ordinarily in line with the case managed list. In Brisbane, A-K respondent surnames are heard in court 25 aligning with the Tuesday call over list, and L-Z is in Court 24 aligning with the Wednesday call over list.
27. There are no duty lawyer services available on a Monday to assist or provide legal advice to unrepresented respondents.
28. Another prosecutor is allocated to assist when the court splits the non-appearance ex-parte matters.
29. On a Thursday in Brisbane, we provide a prosecutor to assist the private matters. Often it is the case the respondents in police matters will file private cross applications and we are able to assist the court in consideration of the applications based on who is the person most in need of protection and ensuring files are aligned and heard together.

***Court work and allocation at Brisbane Prosecutions***

30. Ordinarily one prosecutor will prepare the call over the day before. In Brisbane that can range from anywhere between 40 to 60 files on an average call over.
31. Hearings are allocated between the prosecutors on an equitable basis on a four-week allocation roster.

***Staffing arrangements at Beenleigh Prosecutions***

32. At Beenleigh prosecutions there are two fulltime prosecutors and one full time administrative support officer allocated to the domestic violence module.

***Court work and allocation at Beenleigh Prosecutions***

33. Having worked in the Beenleigh specialist court, the process is considerably different. Police and private matters are heard on the same day.
34. The volume of matters is higher.
35. In Logan, the number of matters listed everyday (except Friday) ranges from anywhere between 60 to 80 files a day. I am aware and have been in court when the numbers are almost 100, which makes appropriate case management more complex.
36. As a police prosecutor, I work very closely with the relevant vulnerable person unit. The VPU in Logan is in the next room to the prosecutions office and this close relationship worked very well in managing high risk respondents and aggrieved persons in need of further and better access to support. It also allowed for a closer connection to managing criminal files.
37. In Brisbane, there are two VPUs which are both located in different districts. I have ensured that despite being in different locations I have maintained a strong connection with both offices.

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CONTINUED STATEMENT OF: **READ, MICHAEL JOHN**

38. This relationship is important as it is often the courts, or prosecutors that will come to the conclusion that parties are high risk and a follow up needs to be made.


*Negotiations with defence*

39. The most common submission we receive from defence is for the withdrawal of the application on the basis that it is not necessary or desirable. Often, they are in contact with the aggrieved or have also been contacted by the aggrieved who wants the order/application removed.
40. The second most common submission we receive is for the removal of conditions to allow the parties to have contact.
41. This contact can be in person or often it is to allow contact while the respondent is in prison on remand for related criminal matters.
42. Often, we are asked to consult with applicant officers on the removal of conditions, when that officer has had no further dealings with the parties, and it has been more than twelve months since the original order was made.
43. Often there have been contraventions of the order and the timing of the application to vary by a party, usually it is the aggrieved on my experience, coincides with a recent criminal charge.
44. Prosecutors would ordinarily seek to adjourn any such applications to conference with officers and conduct an informed risk assessment.
45. The process for consideration of withdrawing a police application requires OIC Prosecutions or commissioned officer approval.
46. The test applied when considering a withdrawal is whether there is sufficient evidence to meet the standard required of an order, and secondly if the order necessary or desirable.
47. As a prosecutor I am required to liaise where possible with the applicant officer and ensure they are in communication with the aggrieved and respondent.

**General experience prosecuting in DFV Prosecutors**

48. As a prosecutor I see that we are a valuable check and balance in the application process to ensure that information captured is presented to a court.
49. We are an objective oversight to the initial application before it gets to court.
50. In our role we are better placed than frontline police to identify ongoing support needs for clients through the court process.
51. We are the first point of contact to identifying when an aggrieved is considering withdrawing support for the process.
52. As part of my role, I work closely with regional brief managers and local brief checkers to feedback and highlight issues identified in court proceedings.
53. An example of this is assisting and contributing to brief checker/DVLO courses to detail what is expected and highlight points of improvement.
54. As matters progress through the process, prosecutors are in the unique position to monitor and observe parties and track their engagement, particularly respondents.

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CONTINUED STATEMENT OF: **READ, MICHAEL JOHN**

55. The challenge for prosecutors is the large volume of matters daily which can have an impact on time management if not handled correctly.
56. There is a significant amount of work that goes into hearing preparation from file preparation, review of filed media exhibits, reviewing filed affidavit material of respondents and other parties, filing s37 statements, that is statements outlining the case for the applicant and identifying why an order is necessary or desirable in the lead up to hearings.

*Frontline officers*

57. When it comes to police on the frontline as applicants, the vast majority are very good at meeting their statutory obligations with regards to filing and serving a PPN-application.
58. The challenge for some police is the grounds for which they base the application. There is no consistency in the writing of grounds or what is included. As a guide I advise officers to use the protective assessment framework when considering what information should be included.
59. I find that grounds that use clear headings and have a level of detail beyond simply retelling what happened on the night and what the parties told them aids the court and helps finalise matters without the need for a hearing.
60. Police applicants are very good at identifying the relevant relationship, this seems to be the least contested aspect of applications in my experience.
61. Police are very good at articulating acts of domestic violence when it comes to physical or property damage.
62. The challenge I have seen for a small number of applications is that the act of domestic violence is in response from an aggrieved that has been misidentified as the respondent. From my experience this has been as a result of miscommunication or limited time to properly investigate. This has been in a small number of matters, that often can be identified early in the process when the matters come through our office or upon further investigation once the matters go through court. Often with the benefit of additional services and legal supports, we can identify the context in which the event occurred.
63. The challenge for us as prosecutors is then ensuring that this matter is withdrawn. The process for this in Brisbane is we consult with the applicant officer first and seek their input. We then make a recommendation with a detail report via email to the Inspector. On a few occasions I have still made the recommendation without the support of the applicant, but this is the exception. The process then is the OIC Brisbane prosecutions conferences with the applicant officers OIC and a decision is made. In most cases where we have sought a withdrawal approval is given to withdraw. A similar approach is taken in Beenleigh with the Senior Sergeant officer in charge.
64. The challenge for police as applicants in those situations is they do not have the ability to identify that issue at the time, which we, as prosecutors, can do once the court process commences. Often these matters occur late at night, access to support services are limited and there are pressures on police to decide on the spot as to the issuing of a protection notice.

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*Specialist courts*

65. In commenting on my experience of working in both a specialist and non-specialist court setting, the availability of support services is increased in a specialist court setting.
66. There is a stronger presence of support for respondents. So much so, that the workers from the behaviour change program are lined up with the parties engaging with them from the point of check-in, taking them aside and linking them into the service.
67. The ongoing working group meetings each month are a valuable resource for all stakeholders to meet and share experiences.
68. There is a strong connectivity between the practitioners, police prosecutors, VPU, aggrieved and respondent support services as well as the court.
69. One of the other advantages of the specialist model I saw work well in Beenleigh is the linkage between the DV application process and any related criminal matters. The connectedness when considering bail along with DV applications was invaluable.
70. There have been times that I have seen bail being granted in Brisbane where there are clear discrepancies with DV orders and conditions sought.
71. Often the application to vary is heard separately and after the respondent/defendant has been remanded. The issue in delay is that contact in custody has not been restricted in the days between remand and the order being varied and this can lead to contact being initiated and the witnesses/aggrieved not wanting or withdrawing support for the criminal proceeding. I am aware of international studies on this point that show that respondents are very good at manipulating their situation in custody to turn themselves into a victim and using this as a mechanism to have aggrieved withdraw their statements in related criminal or even in dv application processes.
72. Keeping DV applications and criminal matters operate concurrently is invaluable to the success of a prosecution.
73. It also allows for identification early when respondents are contravening orders and there is an escalation in their behaviour that can be picked up early.

*Frontline officers and their understanding of 'necessary and desirable.'*

74. One of the biggest issues I have identified in prosecuting domestic violence is the application of section 37.
75. The third limb of necessary or desirable has become such a subjective and, at times, confusing application that operational police are continually challenged in their application of it.
76. There are a multitude of appeal matters that provide varying interpretations of the application of s37 and we are regularly faced with submissions from a respondent – through their representatives - as a means of arguing an order should be withdrawn and then threatening costs.
77. At the outset I have seen that many police are not able articulate in an application why it is necessary or desirable.
78. This then flows through to the affidavit material when arguing for an order in a contested hearing.

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79. It is not clear if in the authorising of PPNs whether supervisors are applying this test as per section 101(1)(d) and what are both the applicant, and the authorising officers are basing their issuing of the PPN on.
80. The other issue I have identified is the application of the evidentiary standard in police applications.
81. While the *Act* allows that the usual rules of evidence to not apply, it does not mean they are ignored, nor that orders will be made with little to no supporting evidence at all.
82. What police do not understand in the application process is the impact the *Briginshaw* test has on their requirements to substantiate aspects of the case.
83. As an example, the more serious the alleged act of domestic violence or the impact of the order the higher or more supportive evidence required to meet the balance of probabilities.
84. This becomes even more challenging when there is no supporting evidence from an aggrieved, even though the *Act* allows for orders to be made without direct evidence of an aggrieved. It is still challenging to establish acts of domestic violence have been committed when the only initial evidence in the application is the aggrieved.
85. Policing domestic violence has been become more complex in the time I have been involved in the prosecution of matters.
86. There is a need for more inter-agency work to be done to aid in the supporting of aggrieved through the process.
87. For police there is a need to have a better understanding of what is required before a court will make an order, this is also the case for authorising officers.
88. More broadly, there I believe there is a need for legislative change to how necessary or desirable is applied establish a framework.

***Justices Act 1886***

I acknowledge by virtue of section 110A(6C)(c) of the *Justices Act 1886* that:

- (1) This written statement by me dated **13/07/2022** and contained in the pages numbered 1 to 7 is true to the best of my knowledge and belief; and
- (2) I make this statement knowing that I may be liable to prosecution for stating in it anything that I know is false

\_\_\_\_\_  
Signature

Signed at Brisbane this 13<sup>th</sup> day of July, 2022  
(place) (day) (month) (year)

(Witness's signature)

(Justice of the Peace (Qual.) /  
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