QUEENSLAND POLICE SERVICE

STATEMENT OF WITNESS

QP 0125A
05/22
Δ3

Occurrence #: _____

Statement no.: 1 Date: 13/7/22

Statement of

Name of witness: **BUCHANAN Lisa Margo**

Date of birth: [redacted] Age: [redacted] Occupation: **Police Officer**

Police officer taking statement

Name: **BUCHANAN Lisa Margo**

Rank: **Sgt** Reg. no.: **4019546**

Region/Command/Division: **FNR** Station: **Cairns**

Statement:

Lisa Margo Buchanan states:

1. I am currently an Acting Senior Sergeant of Police, relieving in a position within the Prosecution Co-ordination Unit, Legal Services, Brisbane. I have only been relieving in this position for 2 weeks.
2. I hold a substantive position of Sergeant, performing duties as a Senior Prosecutor within the Cairns Police Prosecution Corp (Cairns PPC).

Service History

3. I have been a serving police officer for 17 years, commencing at the Oxley QPS Academy in May 2005.
4. Upon graduating in December 2005, I commenced the First Year Constable (FYC) programme where I was stationed at Calamvale Police Station and Acacia Ridge Police Station and completed 6-month rotations at both stations.
5. I commenced my first tenure as a General Duties officer at Sherwood Police Station from December 2006.

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(Witness's signature) (Justice of the Peace (Qual.)/ Commissioner for Declarations' signature) (Signature of police officer preparing statement)

CONTINUED STATEMENT OF: **BUCHANAN, Lisa Margo**

6. In 2009, I successfully applied for the Police Prosecutors Course and graduated in November of that year.
7. During this course, I completed various face-to-face theory components at the Training Office located at Brisbane Police Prosecution Corp (PPC). The practical training components were conducted at Richlands PPC.
8. In 2010, I successfully applied for and transferred to Innisfail PPC as an Acting Senior Constable, Prosecutor. I have served as a Police Prosecutor since that time.

Qualifications

9. I hold a Bachelor of Commence from the University of Queensland (UQ), graduating in 1998.
10. I hold a Bachelor of Laws from Queensland University of Queensland (QUT), graduating in 2020. I completed Practical Legal Training at QUT in 2021 and was admitted as a legal practitioner to the Supreme Court of Queensland on 10 December that year.
11. I have completed internal training within the QPS.

Prosecutorial Service History

12. When I commenced work at the Innisfail PPC it consisted of:
    a. two full-time Prosecutors (including the Officer in Charge [OIC]); and
    b. an Administration Officer (AO).
13. Whilst at Innisfail PPC I prosecuted all matters in Innisfail, Tully and Yarrabah Magistrates Court. At times I also prosecuted matters in Atherton and Mossman Magistrates Court.
14. In November 2010, I progressed to the rank of Senior Constable.
15. In 2012, I successfully applied for the position of OIC Innisfail PPC and attained the rank of Sergeant.

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CONTINUED STATEMENT OF: **BUCHANAN, Lisa Margo**

16. As OIC, in addition to prosecuting all types of matters, I was responsible for case conferencing submissions, participating in training programs with FYC's and fielding inquiries from General Duties and Plain Clothes officers.
17. In 2017 to June 2018, I relieved as Acting Senior Sergeant, Principal Prosecutor at Cairns PPC. During this time, my main duties of responsibility was case conferencing, conducting trials and mentoring junior prosecutors.
18. In July 2018, I transferred to Cairns PPC as a Senior Prosecutor, and holding portfolios including Murri Court (Cairns), Cape Circuit Courts, TI Circuit Court, Cooktown Circuit Court, Mental Health Court, Court-link, DV Court as well as conducting general court callovers and lengthy plea sentences.
19. In my substantive position as Senior Prosecutor, my current portfolio consists of co-ordinating the listing of summary hearings at the Cairns Magistrates Court. I also assist in addressing case conferencing submissions and conducting summary trials.
20. During my time at Cairns PPC, I have been called upon to relieve as Senior Sergeant in the capacity of Principal Prosecutor as well as OIC of Cairns PPC.

Prosecuting Domestic and Family Violence (DFV)

21. There is no current specialist DFV Court in Cairns; however, I am aware it has been announced that funding has been approved for commencement of a specialist court in 2023.
22. In Cairns, there are currently two DFV courts convened every Thursday at 9am that deal with DFV applications only. The criminal matters involving domestic violence are dealt with as part of the general court sittings on a day-to-day basis.
23. The courts were previously split alphabetically. For example, those Respondents with the surname starting with A-K would go to one court and the L-Z would go to the second court. However, this process has changed to a main DFV court and a second that serves in an 'assist' capacity, for example catering for duty lawyer matters and any overflow from the main court.

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(Witness's signature) (Justice of the Peace (Qual.)/ Commissioner for Declarations' signature)

CONTINUED STATEMENT OF: **BUCHANAN, Lisa Margo**

24. I have appeared as a DFV prosecutor in the Cairns Magistrates Court, but not on a permanent basis. I cannot speak to the prevalence of matters where there are cross-orders, the type of contact or no contact conditions that sought to be in place, the level of representation or whether the parties appear.
25. The running of the DFV court is provided by police officers attached to the Inquiries section, who retain carriage of the physical files. The prosecutor does not receive them until the morning of court. This creates gaps, especially where applications are contested and the court directions are written on the physical file, which are not in the possession of the prosecution office. This can create conflict within the sections due to the 'ownership' of the files. The Cairns PPC office generally obtains a photocopy of the coversheet in order to send the relevant tasks to the officer regarding the brief of evidence.
26. Prosecutors in Cairns PPC have developed a database, using the OneNote programme that allows data to be updated, which captures court outcomes electronically to reduce the risk of a task being missed or a file not being allocated.
27. When a DFV application is contested, directions are made in relation to the filing of material, with a review date as well as hearing date set. Until recently, these contested applications were allocated to prosecutors in the 'Trial Team'. A new process is being trialled in Cairns PPC where a dedicated prosecutor is allocated in running the DFV portfolio to assist applicant officer's with ensuring the directions and procedures are followed with the filing of material in the civil jurisdiction.
28. Conservatively, I estimate there are approximately 60 files per week on the court listing, including both private and police applications. I am uncertain of the percentage mix of private versus police applications specifically, however in my experience most applications tend to be applied for by police.
29. I am unsure of the number of applications contested or the mix of private to police applications.

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(Witness's signature) | (Justice of the Peace (Qual.)/ Commissioner for Declarations' signature) | (Signature of police officer preparing statement)

30. Whilst I have not conducted a statistical analysis of criminal offences involving domestic violence, I would estimate around 30 – 40% of criminal offences prosecuted in Cairns are either a contravention of the DFV Order or flagged as a 'Domestic Related Offence'. I would also estimate the same percentage of contested matters are also DFV related.
31. A contested criminal offence involving DFV will be sent to the Summary Hearings Callover where the Magistrate will make directions regarding the provision of a brief of evidence, and set a review and trial date.
32. The trials are managed as part of the 'Trial Team', who are allocated all criminal (and until recently DV application trials), including those relating to DFV.
33. It is common for a 'trial prosecutor' to be allocated at least 3 trials a week, depending on the availability of trial prosecutors and the number of trials allocated by the court.

Circuit Court Processes and Domestic and Family Violence

34. The following circuit courts are convened for one week per month, which in presided over by a Cairns Magistrate and requires an appearance from Cairns PPC:

    a. **Cape A Circuit** – includes Weipa, Coen and Kowanyama Magistrates Court. The Coen Magistrates Court is convened bi-monthly at a designated community hall. Weipa is a mining town which has a private law firm based in Weipa, the only firm located in the Cape circuit.

    b. **Cape B circuit** – includes Pormpuraaw, Lockhart River and Aurukun Magistrates Court.

c. **Cooktown Circuit** – includes Cooktown, Hopevale and Wujal Wujal Magistrates Court. The Hopevale Magistrates Court is convened at Cooktown Magistrates Court bi-monthly, whereas Wujal Wujal court is convened bi-monthly.

35. There is also a Thursday Island circuit which services Thursday Island, Bamaga and the outer island of the Torres Strait. There is a full-time Senior Prosecutor attached to Thursday Island PPC who resides on Horn Island and appears at those circuit courts. I have appeared at all courts except for Boigu and Saibai Islands, when the substantive prosecutor is away.
36. Transport to these locations is via the police plane. The prosecutors fly separately to all other stakeholders. This can present logistical difficulties, especially when the prosecutors have to bunny hop to the various locations. On occasion, the commencement of Court has been delayed due to late departure time or mechanical difficulties of the police plane.
37. The Cooktown Court Circuit works in a similar fashion; however, commercial flights or police vehicles are used as means of travel.
38. All conferencing submissions and disclosure requests are made during and in-between circuit courts.
39. The difficulties presented during the Cape Circuit relate to the time prosecutors can spend speaking with victim/aggrieved's when court is sitting, especially when the Court is only sitting for a single day and there are numerous other matters that are to be dealt with. On occasion, a victim/aggrieved and even respondent/defendant may have attended court, however, will leave the court precinct prior to the matter being called upon. On other occasions, the prosecutor may only have a moment to consult the victim/aggrieved when the matter is called on. The Court will allow a brief discussion, however, is mindful that other matters also need to be heard on that day.
40. The location of the court is not always ideal to have private discussions. Not all Courts have a designated Courthouse/Courtroom, nor have suitable space to engage in private conversations. There are sometimes no area to have aggrieved wait and as such are waiting outside where the

defendant/respondent may also be waiting. Depending on the time of arrival, the prosecutor may be in court and does not know the aggrieved/victim is waiting outside.

Legal Representation at Circuits Courts

41. Due to the large volume of offenders on the Aurukun Court list, ATSILS will send at least two solicitors for the Cape B circuit. The court list for Aurukun alone can be some 30 pages which is to be worked through as opposed to the 7 - 12 page lists for the Cape A Circuit Courts. There is generally one solicitor for the Cape A circuit. However, ATSILS have sent two solicitors when staffing levels permit, who will assist with DFV applications. Where there is only one solicitor, it is difficult for them to appear on DFV matters, especially when they are conflicted.
42. There is one Prosecutor at each circuit court unless a prosecutor is in training to transition to a circuit.
43. At times representatives from QIFVLS have appeared on circuit, however they generally appear on private applications, for the aggrieved only.
44. There are very few private applications at the circuit courts. Private legal representation (other than ATSILS) occurs when ATSILS are conflicted out of matters or defendants choose to obtain alternate legal representation. Other than Weipa, the overwhelming majority of matters are with ATSILS.

Prevalence of DFV matters in the Circuit Court

45. In my experience, there is a far greater number of police applications consistently listed each month on circuit. There is only a small percentage (at most 10%) of private applications, the majority of which are heard in Weipa.
46. I am aware of a number of instances where cross-orders are now in place as a result of separate incidents on domestic violence which have resulted in an aggrieved being named as a respondent. There are situations where cross-orders have been applied for as a result of a single incident. In those

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situations, the courts in some cases have granted both applications and made cross-orders. In some situations, it was identified that there was one party more in need of protection and the cross application was dismissed.

47. In my experience, the 'no contact condition' is difficult to police in a small community. Whilst it may initially be sought via the PPN, consideration is given by the court as to its application. Other exceptions, such as 'with the consent of the aggrieved', is considered and widely used.
48. If a party has not appeared, members of the Justice Group, Police Liaison Officers (PLO's) and/or State Police may be called upon to assist with having parties appear for the hearing of the DFV application. The application will be adjourned to effect service. Discussions are had in relation to whether a Temporary Protection Order (TPO) is appropriate and what conditions are appropriate in the circumstances.
49. Difficulties arise where ATSILS are unable to appear on a DFV application due to a conflict. The application will either need to be adjourned for the respondents to get legal advice or explanations are given to the respondent in court to explain the details of the application, why police have made the application and what conditions police are seeking. Whilst not ideal, explanations are done within the court room so the Magistrate is satisfied a proper explanation has been given so the respondent can decide whether or not to consent or challenge the order or adjourn for further legal advice.
50. English is not always a primary language spoken in some Cape York or Torres Strait Island communities. There are also cultural considerations, which can cause some difficulties in engaging and communicating with witnesses, victims, aggrieved persons and respondents.
51. Due to the court circuit being only one week per month, there are time restraints with how long court can be convened in those areas which require travel. For instance, pilots are only able to work a set number of hours which can restrict how many matters can be dealt with. At times, court has had to be convened back in Cairns the following week, to deal with the overflow of matters that were unable to be dealt with on the circuit (generally the fail to appear and ex-parte matters). This moreover occurs in the Aurukun Court

[redacted]

Circuit due to the large number of matters listed and includes both criminal and DFV application overflow.

52. In my experience, there is a higher prevalence of Contravention of DFV Orders and DFV related offences that occurs within the circuits I have appeared in as compared to Cairns.

Bail

53. Where a person is arrested for committing a DFV offence, they are in a 'show cause' position, which means they are to demonstrate to the Magistrate why bail ought to be granted. The arresting officer will complete an Objection to Bail affidavit setting out the reasons bail is opposed.
54. In my experience, where it is inevitable the defendant will receive a custodial sentence for the offences before the court, there is more likelihood the defendant will be remanded in custody.
55. I am aware of instances where a residential address has been proffered to the Court without checks being conducted and the resident was unwilling to have the person reside there, or there have been previous DFV occurrences.

Variation of Domestic and Family Violence Orders (DVO)

56. There are situations where the DVO conditions require a variation such as enabling contact between the parties as per Family Court Orders.
57. Where conditions are sought to be varied, it is general practice to consult with the applicant officer depending on the situation and the conditions that are sought to be varied. For instance, if a respondent is seeking to remove the no contact condition, this would not be entertained unless there is consultation with the applicant officer and the aggrieved.
58. In situations where the application does not meet the sufficiency of evidence, consultation will occur with the applicant officer (and may include their respective OIC) and OIC Cairns PPC when considering discontinuing with the application.

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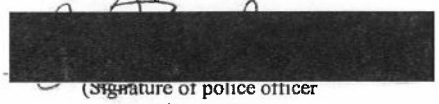
59. In relation to discontinuing a police application, I am unsure of the percentage of applications that are discontinued but estimate it would not be a common occurrence.
60. Where a DV application involves a Police Officer as a respondent, the Principal Prosecutor or OIC Cairns PPC will take carriage of those matters.

Challenges to Prosecuting DFV

61. In my experience, there are difficulties in prosecuting DFV applications and/or criminal DFV matters where the victim/aggrieved is no longer amenable to the application or court proceeding. There may be a variety of reasons why an aggrieved may not wish to pursue the application or continue with the court process. However, investigations are conducted to determine whether there has been any coercion exercised over the aggrieved to pressure them to discontinue the proceedings. I am aware of situations where defendants in custody have been charged with 'attempting to pervert the course of Justice' because they have contacted the aggrieved telling them not to provide a statement or Affidavit in relation to the matter.
62. There are times in prosecuting a criminal matter that, despite the best efforts of the investigating/applicant officer to speak with the aggrieved they do not appear on the day of the trial and unless an adjournment is granted, there may be no option but to discontinue proceedings.
63. There have been situations where on the morning of a trial the defence lawyer will inquire as to whether the aggrieved has attended court, because if so, their client will plead guilty, but otherwise the trial will proceed.
64. There are times where the contents of the applications are too vague or statements/affidavits taken do not sufficiently particularise the offending alleged. This leads to an adjournment being required in order to obtain further information regarding the alleged behaviour or results in matters being contested and directions being made in relation to a brief of evidence.
65. There are times where the wording of the DFV conditions imposed are vague, unclear, and become unpoliceable (for example a condition that prevents a respondent from attending where the aggrieved lives, works or



CONTINUED STATEMENT OF: **BUCHANAN, Lisa Margo**

frequents with no exceptions, but subsequent conditions that allow contact with consent).

66. In criminal matters, the body worn camera footage provides an account of the version initially provided by the aggrieved but cannot be used as part of the prosecution case. This would be helpful in situations where the aggrieved may be unable to recall what occurred (in some instances due to intoxication).

[redacted]

Lisa Margo Buchanan

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 and contained in the pages numbered 1 to 11 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

[redacted] Signature

Signed at **Cairns** (place) this **13th** (day) day of **July** (month), **2022** (year)

(Witness's signature) | (Justice of the Peace (Qual.)/ Commissioner for Declarations' signature) | (Signature of police officer preparing statement)