



QUEENSLAND POLICE SERVICE STATEMENT OF WITNESS



Occurrence #: _____

Statement no.: _____ Date: **19/07/2022****Statement of**Name of witness: **THEED Jordan Colin**Date of birth: _____ Age: _____ Occupation: **Police Prosecutor****Police officer taking statement**

Name: _____

Rank: _____ Reg. no.: _____

Region/Command/Division: _____ Station: _____

Statement:

Jordan Colin THEED states:

Career History

1. I am currently employed as a PO3 Prosecutor within the Townsville Police Prosecution Corps. I commenced this position in December 2019 after being admitted as a legal practitioner.
2. I have a Bachelor of Laws (Honours), Bachelor of Journalism and a Graduate Diploma of Legal Practice from the Queensland University of Technology.

Prosecutorial Service History

3. During the first 15 months working in the Police Prosecution Corp (PPC) in Townsville I was a specialist domestic violence prosecutor.
4. I spent time in the Long Plea team, Court 1 team (which deals with in custody matters and most case conferencing) before the system changed to matters being allocated to a particular magistrate. After this change I appeared across a broad range of matters including the above and hearings before their honours Lehmann and Mosch.

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CONTINUED STATEMENT OF: **THEED, Jordan Colin**

5. I returned to the domestic violence team for approximately three months this year before rotating out again at the end of April. I am uncertain of the exact dates.

Prosecuting Domestic and Family Violence (DFV)*Townsville Magistrates & Specialist DFV Court*

6. DFV applications are a significant part of the Townsville Magistrates Court workload with a DFV specific civil call-over sitting every Monday, Wednesday and Thursday. I would estimate an average of 25 to 30 DFV applications listed on each day. Approximately forty per cent of the applications are for first mention or have been adjourned previously for service upon the respondent up until that point.
7. When assigned to the DFV civil call-over I am present in Court for all the DFV applications listed that day. I estimate that approximately 75 to 80 percent of matters are either fresh police applications, police applications to vary or private applications seeking to vary orders originating from police applications.
8. In my experience there are a significant number of applications where neither party appears including private applications. This is particularly common in matters involving Aboriginal and/or Torres Strait Islander people. Typically, this results in these applications being dismissed or determined *ex parte*.
9. It is also more frequent for private applications to run concurrently with family law proceedings when compared to police applications.
10. Cross-applications, and particularly cross-applications arising from the same incident, are uncommon. Typically, police cross-applications are made after one party has already got a finalised order or after responding to a complex incident where it is difficult to identify which party is in most need of protection.
11. Private cross-applications, from my observations, appear to run concurrently with a greater frequency. It also appears, in my view, that some respondents file a cross-application as a tactic to intimidate the initial aggrieved. In private applications this can then lead to undertakings rather the Protection Orders or, in police matters, the aggrieved can sometimes then withdraw their support for an order.


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CONTINUED STATEMENT OF: THEED, Jordan Colin

12. When I worked outside of the specific domestic violence team, I still dealt with domestic violence matters. In particular, the in-custody matters for a breach of DFV Protection Order or associated criminal offending are all dealt with in the arrest court. As such, bail applications are largely made outside of the specialist domestic and family violence court.
13. I would estimate a third of the criminal offences before the Magistrates Court are domestic violence related. This estimate grows significantly for in-custody matters when approximately two-thirds of defendants in custody have been charged with domestic violence offending.
14. In my experience in Townville, because of the Bail Act's "show cause" provisions, rather than applying for bail there is a greater frequency of in-custody DFV related matters being pled out where there is a chance a defendant may receive immediate parole, a suspended sentence or community-based order.
15. Overall, I do not think the DFV court has had a significant impact on how criminal matters proceed and, due to the number of criminal matters referred to the specialist DFV call-over, there are often additional delays in obtaining hearing slots or long plea dates. The call-over operates in a similar fashion to arrest court but, it should be noted, magistrates are typically more open to closing the court should the aggrieved wish to discuss associated civil applications.
16. I do think the specialist DFV court offers some advantage in the magistrate being able to stay across the behaviours of some defendants but think the greatest advantage is the additional resources offered for the civil call-overs.

Circuit Courts and Legal Representation

17. During my time in Townsville PPC, I have managed and appeared in the prosecution of matters in Magistrates Court circuits to Palm Island, Ayr and Ingham. I have recently taken over the management of the Charters Towers circuit. All these circuits include DFV applications. DFV applications are particularly prevalent on the Palm Island circuit.
18. I have noticed that there are far fewer resources, as may be expected, in these smaller communities. Of note, Palm Island is the only circuit court serviced by


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CONTINUED STATEMENT OF: **THEED, Jordan Colin**

the Townsville PPC where duty lawyers are available to the parties. Other circuits are typically supported by only the local domestic violence resource centre/support group. This means that almost all parties appear as self-represented litigants. The support groups typically are more focused on providing support to the aggrieved in the proceeding. This can be contrasted to Townsville Magistrates Court where, in my experience, almost all parties are represented by the duty lawyers.

19. In both the Townsville Magistrates Court and the circuit courts, the number of people engaging private representation is quite small, particularly with police applications. Typically, if private lawyers are engaged they are also representing a party in other matters – for example in the Federal Circuit and Family Court of Australia.
20. The biggest advantage of the duty lawyer service from a prosecution perspective is they can engage with us to conference matters on the day. The current OPMs, which are also in place to protect us, are that we are not to negotiate with self-represented litigants to avoid accusations of undue pressure being applied or misinformation provided. Self-represented litigants are required to send a written submission to prosecutions which can lead to additional adjournments.
21. The duty lawyers, especially those from private firms, can also explain the processes and explain matters in more depth. This prevents magistrates, or prosecutors, treading a fine line between explaining the process and potentially being seen as providing legal advice.

Challenges to Prosecuting DFV

22. Based on my experience, the longer between a DFV incident and the finalisation of the matter the more likely it is that an aggrieved will decide they no longer wish to assist police. This is particularly prevalent when the defendant is on bail.
23. To be abundantly clear, I am not seeking to place any blame upon the aggrieved in relation to this. There are a number of factors which appear to be at play including normalisation of domestic violence (either by conditioning within the relationship or, more frequently, a normalisation of domestic violence through


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CONTINUED STATEMENT OF: **THEED, Jordan Colin**

upbringing), feelings of guilt over having charges laid against loved ones (particularly if there are shared children), financial reliance upon the defendant, pressure being placed on the aggrieved by the defendant or other parties.

24. Regarding pressure being placed on the aggrieved by a respondent, I feel the Arunta call system utilised by Corrective Services can assist in monitoring these matters but can obviously only be used in relation to defendants in custody. While in custody calls are monitored, I feel that the Arunta system is currently underutilised as an evidentiary tool. I can think of a few matters where, after receiving submissions from defence and/or material from the aggrieved, upon the Arunta calls being reviewed an Attempt to Pervert charge has been identified or admissions made.
25. On this front, I feel it can be a frustrating factor for police and prosecutions. I also feel it can lead to a reluctance in some officers to charge offences which must proceed on indictment. There have been occasions where matters are charged an assault occasioning bodily harm whilst armed rather than a wounding or an assault occasioning bodily harm when it clearly constitutes strangulation/suffocation/choking. It is most frequent for these matters to be charged solely as a contravention of the order. Further there may only be a sole charge of a contravention of a domestic violence order (be it aggravated or in the simpliciter) when the facts also constitute a choking/suffocation/strangulation offence.
26. Balancing the matters in s 4 of the *Domestic and Family Violence Protection Act 2012* (Qld) is particularly difficult in these, or any circumstances, where the aggrieved is not in support of a Protection Order being made. In my experience, the matters where an aggrieved withdraws their support are where the allegations are of a serious nature.
27. I feel it is a definite risk factor which needs to be considered when the aggrieved attend Court and heavily minimises the respondent's conduct or blames themselves. This also occurs with significant frequency in applications to vary after the original order is made. Upon reviewing these matters, the "minor disagreement" that was a "one off" and "out of character" (as described by an aggrieved) often turns out to be a pattern of behaviour with the respondent being subject to parole or due to soon be released from custody.


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CONTINUED STATEMENT OF: **THEED, Jordan Colin**

28. As a balancing act, written exceptions allowing the aggrieved to vary the conditions in writing and then withdraw their consent are often used to allow the relationship to continue while giving the aggrieved greater power. The difficulty in minimising risk is the victims at greater risk are also those who generally are more reluctant to exercise these provisions.
29. There is also a prevalence of aggrieved persons being extremely uncooperative where the respondent is a member of the Australian Defence Force. This is because if an order is made there are serious repercussions not only for the respondent but the family as a whole. The respondent is almost certain to lose their employment which can lead to the family being evicted from defence housing plus the obvious financial implications.
30. In associated criminal proceedings, witnesses who are reluctant to assist can often lead to defence artificially listing matters for hearing. I use the term artificial as, upon seeing the aggrieved and/or other witnesses have attended Court, the matter turns into a plea of guilty. The matter is listed on the basis they do not believe the prosecution can get their witnesses before the Court.
31. I understand there is currently or will shortly be a trial in other magistrates' court districts where versions obtained on body worn camera footage are being lead as evidence in chief but the difficulty I see arising is how much weight will be placed on a version where the aggrieved is unable to be subject to cross-examination. This is less of a factor in civil applications where hearsay is admissible.

Discontinuance and Variation of Orders

32. There is limited scope to discontinue an application but far greater scope to amend/negotiate conditions. Only the officer in charge has authority to discontinue a domestic violence application however any prosecutor can amend the conditions sought. This can be somewhat frustrating.
33. For example, in the first example a fresh police application is brought seeking multiple conditions including an ouster/residential condition, no contact condition, not to follow/approach and not to locate. The aggrieved then attends court and is strongly against the order being made in any form. It is then open


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CONTINUED STATEMENT OF: **THEED, Jordan Colin**

to the prosecutor to negotiate and agree to a final order in the mandatory condition only.

34. However, in the second example, a police application to vary is brought to add a no contact condition to an order which already has a residential condition. Once again the aggrieved attends court and is strongly against the variation advising the court that she does not want any order to be in place. There is then no scope to withdraw the police application to vary without the approval of the officer in charge even though the resultant order, which would remain in those original terms, still offers greater protection than in the first scenario.
35. I also feel there is great difficulty in getting conditions imposed which prevents/limits the consumption of alcohol or illicit substances. These conditions can, if abided by, greatly reduce risk while allowing the relationship to continue and, in my view, often offer greater protection than the written exceptions outlined in paragraph 28.

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 **19/07/2022** 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

Signed at Charters Towers this 19th day of July, 2022
(place) (day) (month) (year)

Signature

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