



## QUEENSLAND POLICE SERVICE STATEMENT OF WITNESS



QP 0125  
01/06  
Δ16

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

Statement no.: \_\_\_\_\_ Date: **18/07/2022**

### Statement of

Name of witness: **NIXON, David Jeffrey**

Date of birth: \_\_\_\_\_ Age: \_\_\_\_\_ Occupation: **Police Officer**

### Police officer taking statement

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

Rank: **Inspector**

Reg. no.: **6729**

Region/Command/Division: **Ethical Standards  
Command**

Station  
:

### Statement:

David Jeffrey Nixon states;

1. I am a Detective Inspector holding the position of State Coordinator within Ethical Standards Command of the Queensland Police Service (QPS).
2. I was sworn into the Queensland Police Service in 1987 with the majority of my Service performed as a Detective. I was promoted to Detective Inspector in 2011 where I was transferred to Townsville performing the role of the Crime Services Inspector. In 2015 I transferred to the Ethical Standards Command and for a short period was a Detective Inspector within the Internal Investigation Group prior to being seconded to a Taskforce for approximately 6 months. Since March 2016 I have held the position of State Coordinator within the Ethical Standards Command. While performing this role I have relieved in the position of Detective Superintendent Internal Investigations Group and for short periods as Chief Superintendent Internal Investigation Group.

### ROLE

3. As State Coordinator, I am the supervising Inspector of the Complaint Management Unit. Responsibilities of the State Coordinator include,
  - a) Provision of day to day management of complaint files when first received,

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- b) Maintaining the security of sensitive information along with the initial determination of matters to be protected;
- c) Represent the Service by providing liaison with the Crime and Corruption Commission and Queensland Human Rights Commission (QHRC) through representation at liaison meetings; and
- d) Member of the ESC Complaint Assessment Committee (CAC) participating in the consideration, assessment and referral of disciplinary complaints. The role of State Coordinator is one of three members with the Commissioners delegation to make assessment decisions for a complaint. Assessment decisions are made by the Complaint Assessment Committee or in the case of non-misconduct matters, in the complaint assessment meeting convened by the State Coordinator mentioned in paragraph 30 of this statement.
4. The QPS policy for dealing with complaints is contained within the Complaint Resolution Guidelines. I am able to produce the Complaint Resolution Guidelines to the Commission of Inquiry, annexed at **Attachment A**.

**BACKGROUND**

5. In 2016 significant change commenced within the QPS discipline system to improve what was largely considered a slow and antiquated process. The Chair of the Crime and Corruption Commission (CCC) was able to bring together key decision makers including the Police Minister, the Attorney General, QPS and relevant Unions to establish the current discipline system. Agreement was reached in October 2017 to adopt the system where a trial arrangement was put in place while legislation was being introduced. On 30 October 2019 the legislation was assented to, finalising the discipline reform process and delivering the current discipline system.
6. Key to the legislation change was ensuring the purposes of discipline was met. In short, Section 7.1 of the *Police Service Administration Act 1990* (the Act) explains the purpose of discipline is to provide a system for guiding, correcting, rehabilitating and where necessary disciplining officers to maintain high levels of professionalism and integrity across the Service.

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7. The reform provided a contemporary discipline system that significantly reduced timeframes, aligned processes with the *Public Service Act 2008* and Directives, and removed suspended dismissals and pay point reductions as sanction options replacing them with fines, community service and probation. It was designed to be more remedial and educative for lower-level behaviours. It also formalised management actions as a form of complaint resolution, allowing those outcomes to be referred to in any future complaint resolution.
8. In addition to the procedural reforms, the QPS introduced a new complaint management database on 12 May 2021. The Police Integrity and Professional Standards (PIPS) system replaced the outdated Client Service System allowing for enhanced reporting and analysis capability.
9. ESC has adopted the Queensland Government Information Security Classification Framework within the PIPS system. On receipt of a complaint a security classification of 'Sensitive' is applied by default to each complaint. PIPS access is restricted to members of the Ethical Standards Command, Discipline Support Unit the Office of State Discipline and Vetting and only to those members who require it for their role. An additional security level of 'Protected' is available for relevant complaints with limited personnel having this access.

**MAKING A COMPLAINT**

10. Complaints can be received by the QPS in two basic forms, either as a Policelink complaint or as a complaint to be dealt with through the discipline system.

**Policelink complaints**

11. A complaint received by Policelink for conduct that is determined to be a client service issue will be dealt with through a management process. A complaint that is received at Policelink that amounts to misconduct will be transferred into the discipline system by the Professional Practice Manager of the area where the complaint is alleged to have occurred.
12. Policelink staff triage complaints which are clearly a client service issue involving matters that are 'lawful and reasonable' and 'service delivery issues' (but not off duty conduct).

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13. Service delivery issues can include matters such as a request for more patrols to combat hooning. In those cases, details will be provided directly to the responsible Officer in Charge to address.
14. For matters that clearly relate to lawful and reasonable conduct such as a complaint the police helicopter is making too much noise or a speed camera van is outside a person's residence, Policelink will engage directly with the caller outlining the circumstances and for example explain that no further action will be taken.
15. For all other matters, the complaint is provided to the relevant PPM who will assess each complaint. Misconduct and other disciplinable conduct complaints are elevated into the discipline system with remaining complaints referred to the responsible Officer in Charge. Complaints referred to an Officer in Charge by a PPM for a client service response includes those matters where the conduct complained of is lawful and reasonable, where the conduct is off duty private conduct that does not amount to misconduct and for service delivery issues. Examples of a client service response would include rudeness by an officer or not meeting the expectations of the complainant notwithstanding that all appropriate policing response was provided.
16. Policelink complaints that are not transferred to the discipline system are not recorded against complaint statistics as these have been assessed as not meeting the threshold of a discipline complaint. These matters are recorded locally at Divisional level in a client service database.

**Disciplinary complaints**

17. Disciplinable conduct is defined within s. 7.3 of the *Police Service Administration Act 1990* (the Act), meaning conduct of the subject officer that may constitute a ground for disciplinary action. Disciplinary action is defined within the same section meaning a disciplinary proceeding or the imposition of a professional development strategy.

**THE DISCIPLINARY COMPLAINTS PROCESS**

18. The Complaint Management Unit deals with complaints when they first enter the complaints system. Complaints can be received in a number of ways through both an internal process and from an external source.

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**Internally sourced disciplinary complaints**

19. Where a complaint is made internally, an initial assessment of the complaint is to be made by a member of at least the rank of Senior Sergeant or PO5/AO7 prior to the complaint being generated through an online system commonly referred to as a 466, short for QP466 or alternatively as a QP465 for less serious matters that can be dealt with through a desktop managerial resolution.
20. A QP465 can be completed in appropriate instances where the conduct does not amount to misconduct, is minor in nature, unlikely to be repeated, not part of an existing course of conduct and managerial resolution is suitable. Where this occurs an appropriate management response at a local level will be undertaken to resolve the complaint. Each desktop managerial resolution (QP465) is reviewed by the State Coordinator in the assessment meeting mentioned in paragraph 30.
21. The reporting system also provides for a QP464A for favourable comments and a QP464B for complaints that are initially assessed as a client service matter.
22. When a complaint is first received it is to be assessed by an initial assessing officer. The requirements are detailed in 1.5 of the *Complaint Resolution Guidelines* to ensure the complaint is a disciplinary complaint and consider if the complaint is suitable for immediate resolution through a managerial desktop resolution process (QP465) or whether the conduct requires a client service response (QP464B). A complaint of incivility or loss of Service property may be considered suitable for a desktop resolution. The initial assessment will also consider the need to preserve evidence, consider whether any other immediate inquiries are necessary, deal with immediate management issues, and ensure the appropriate reporting occurs (QP466).

**Externally sourced disciplinary complaints**

23. A complaint generated from an external source may be received from multiple pathways including correspondence to the State Coordinators office, a notification from the Crime and Corruption Commission or other source such as a complaint disclosed in Ministerial correspondence, from a solicitor or from an advocate group. Details of how to make a complaint are available to the public online through a search of the QPS website.

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**THE COMPLAINT MANAGEMENT UNIT**

24. The Complaint Management Unit has a staffing allocation of four Senior Sergeants, four Sergeants and five administration officers. Roles and responsibilities for the staff are based on rank and work type. On receipt of a complaint the Complaint Management Unit will review each complaint and generate a complaint file for consideration of the Complaint Assessment Committee.
25. Complaints involving allegations of Domestic and Family Violence or of police failing in their duty to deal with Domestic and Family Violence are dealt with in the complaint system in a consistent approach to any other allegation made against police.
26. Whenever a complaint is received by the Complaint Management Unit, it is reviewed to identify the separate behaviours detailed in the complaint which will form one or more allegations against the subject member.
27. In the case of a police member being nominated as a perpetrator of Domestic and Family Violence the complaint category will be listed as Unprofessional Personal Conduct with a subtype listed as Domestic Violence.
28. In the case of an officer not responding adequately to a situation involving Domestic or Family Violence the complaint category will be listed under the generic category, Failure of Duty. The type of failure of duty, can be identified through the use of a keyword search function that includes Domestic and Family Violence.

**COMPLAINT ASSESSMENT**

29. Two levels of complaint assessment are undertaken within the discipline process.

**Breaches of discipline**

30. The complaints that are more minor and not reaching the threshold of misconduct are known as 'disciplinable conduct not misconduct' or more commonly referred to as breaches of discipline.
31. These complaints are assessed by a Committee comprised of the State Coordinator, a Complaint Manager from the Complaint Management Unit, a member of the Risk Analysis and Intelligence Section (RAIS) and a secretariat.

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The State Coordinator is the decision maker for this committee. Outcomes from this meeting include no further action, a requirement for assessment inquiries to be undertaken or for a management response to be initiated. This committee reviews all complaints that have been recorded in the PIPS database as a client service complaint.

**Misconduct**

32. Where a complaint is considered to amount to misconduct, the assessment of the complaint will be undertaken by the committee referred to as the Complaint Assessment Committee.
33. Misconduct is conduct that is disgraceful, improper or unbecoming of an officer; or shows unfitness to be or continue as an officer; or does not meet the standard of conduct the community reasonably expects of a police officer.
34. The test for determining whether a member's conduct reaches the threshold to report within the discipline system is well described by the Crime and Corruption Commission in their publication *Corruption in Focus*, a guide to dealing with corrupt conduct in the Queensland public sector. In brief, the description around forming a reasonable suspicion to report, requires more than bare or idle speculation, there must be some evidence sufficient for a reasonable person to suspect corrupt conduct, which in the case of police, when considering misconduct.

**Complaint Assessment Committee**

35. This committee is comprised of the Chief Superintendent, the Detective Superintendent and State Coordinator as the delegated decision makers. Typically, the committee is conducted with all decision makers present but can be convened provided at least one delegate is present.
36. The decision makers are supported by the PPM Coordinator, a Complaint Manager, a member of RAIS, a secretariat and for matters involving staff members, a member from the staff member discipline team.

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37. The assessment considers details of the complaint, intelligence details along with ~~supporting material such as review of body worn video and QPS records.~~ The committee will then confirm whether the conduct amounts to misconduct and make decisions on how the complaint should be managed.
38. This will include deciding whether further action is required, referring the complaint for a management process, referring the complaint for assessment inquiries or requiring an investigation to be undertaken. In cases where a decision by CAC is made to finalise a complaint, the information relied upon must be sufficient for the Committee to establish the conduct did not occur, was lawful and reasonable or not within discipline jurisdiction. The decision-making rationale is recorded in the associated PIPS file.
39. In its deliberations the committee will consider case management responsibilities for who may be best placed to conduct the inquiries or investigation due to factors such as resourcing, expertise and conflicts that could exist between the investigating area or case officer with the parties involved.
40. The committee will also consider whether professional development strategies should be applied or make other requests such as the production of an Executive Briefing Note to address any risk with a subject member remaining in the workplace. Where assessment inquiries or investigation are required, each complaint will be considered in respect of both criminal responsibility and the internal discipline process. Additionally, each complaint is assessed for Human Rights limitations as provided within the *Human Rights Act 2019*.
41. The majority of complaints requiring assessment inquiries or investigation will be referred to the Command or District where the subject member is located. Where this occurs the responsibility for the management of the complaint file rests with the case manager being a minimum of a level three delegate. A level three delegate is a member of the rank of Superintendent or the equivalent.
42. The case manager is generally the member performing the role of District officer or the equivalent in a Command or Division. The case manager is responsible for determining how a complaint is to be progressed after the matter is considered by CAC and to overview the investigation or assessment inquiries and determine the most suitable and appropriate method to finalise that complaint.

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43. The Internal Investigation Group has capacity to investigate discipline complaints which will be referred to them by the Complaint Assessment Committee. The investigators attached to Ethical Standards Command also provide the Service capacity to investigate coronial matters on behalf of the State Coroner.
44. Where complaints are referred to the Internal Investigation Group, the Detective Superintendent assumes the responsibility of the case manager function.

**Matters finalised by CAC requiring no further action**

45. In circumstances where a complaint is finalised by the Committee as requiring no further action, it is the responsibility of the Complaint Management Unit to prepare outcome letters for both the concerned persons and subject members.
46. The provision of outcome advice to complainants is a legislative requirement pursuant to s.42 of the *Crime and Corruption Act 2001*. To ensure compliance with this obligation, staff within the Complaint Management Unit review each file prior to being closed ensuring outcome advice has been provided.

**Matters referred by CAC to CCC for further inquiry**

47. In all cases where allegations of misconduct are supported for further inquiry, details of the complaint are provided to the Crime and Corruption Commission (CCC) in accordance with their prescribed reporting protocols.
48. Following the assessment of each complaint by the CCC, they provide the QPS with a Matters Assessed Report which details the allegations and complaint category as either Police Misconduct or Corrupt Conduct.
49. On receipt of this form the QPS PIPS database will be modified to reflect the assessment of the Crime and Corruption Commission. The CCC may choose to assume an investigation in which case they will provide advice of this to the QPS.

**PPM ROLE AND COMPLAINT PROCESS**

50. Staffing within ESC includes 24 Professional Practice Managers (PPM) of the rank of Senior Sergeant with two supervising PPM Coordinators of the rank of Inspector. The PPMs are located throughout the State within the various Districts and Commands to provide expertise and the good management of complaint files.

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51. Where a complaint file is detailed to a Region or Command the PPM will assist the case manager to make decisions around who should be identified as the case officer to conduct the inquiries or undertake the investigation who will consider any issues around localities, conflicts, required skill levels, and workload of potential case officers.
52. Where a case officer is assigned to a complaint and an actual or perceived conflict of interest is identified between the parties involved, the case officer is to notify the case manager who will consider whether another case officer should be appointed. Where practicable, case officers should not be appointed to investigate members they supervise. Depending on the complaint, the role of the supervisor may form part of an investigation.
53. Section 7.9 of the Act imposes a responsibility on the Commissioner to consider whether to impose a professional development strategy on a subject member when a complaint is received by the QPS. The PPM will provide advice and draft behaviour specific Professional Development Strategies (PDS) such as completing online learning products. The aim of a PDS is to reduce the risk of recurrence of similar conduct, to improve the subject officer's performance or for any other purpose consistent with the purpose of discipline.
54. The PPM will provide the District or Command details of current complaint files for the area, their status and any trends that might be identified. They also provide support to investigators and ensure investigative time frames are met. When a decision is to be made by the Case Manager, the PPM will provide recommendations, a member's history to assist in determining how a complaint should be resolved along with advice on possible outcomes to ensure a consistent approach to discipline is taken throughout the State.

**Timeframes**

55. Section 7.12 of the Act details the time frames available for investigations to be completed to allow sanctions to be considered. This provides a maximum of twelve months from the date of the alleged behaviour or six months from when the complaint is first registered whichever is the greatest period.

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56. Circumstances do exist to 'stop the clock' in specific circumstances where there are court proceedings commenced, where the subject member causes a delay or where a controlled operation exists.
57. Where assessment inquiries or investigations have been completed, the PPM will overview the case officer's investigation or assessment inquiries and provide guidance if further inquiry is required. Once satisfied all relevant inquiries are complete, the PPM will provide recommendations to the case manager for their consideration. Case Manager determinations may include taking no further action, treat the complaint as a Client Service matter, instigate a Local Management Resolution or refer the complaint to a prescribed officer for consideration of imposing a sanction. A referral to a Prescribed Officer is undertaken pursuant to s. 7.10 of the Act.
58. Following the decision of the Case Manager, the PPM will complete the necessary correspondence to progress the complaint to a resolution. This may include drafting a Local Management Resolution Plan specific to the behaviours subject to the complaint, the preparation of documents for a Prescribed Officer and when the complaint file is finalised, outcome advice to the complainant and subject member.
59. The QPS maintains an Office of State Discipline consisting of senior members of the Service to perform the role of Prescribed Officer. Sanctions available for their consideration are provided within sections 7.34 and 7.35 of the Act, or in the case of staff members section 188 of the *Public Service Act 2008*. Preparation of the material for consideration of the Prescribed Officers rests with the PPM or in cases where dismissal is possible, from staff working within the Discipline Support Unit.
60. The discipline process has been represented in a flow chart to assist with the explanation and interpretation of the QPS discipline system. I am able to produce a copy of the flow chart to the Commission of Inquiry annexed at **Attachment B**.
61. To assist the Commission, complaint data for the period 1 January 2017 to 30 June 2022 has been provided showing complaint and allegation information for the period. I am able to produce a copy of the complaint data record to the Commission of Inquiry annexed at **Attachment C**.

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## SWORN OFFICERS v STAFF MEMBERS

62. A distinction in the discipline process exists between sworn and unsworn employees of the QPS. Section 6A.1 of the Act provides the legislative authority for discipline action to be taken against sworn members regardless of whether they are on or off duty. It is this same section that prescribes the mandatory reporting requirements for officers and staff members.
63. For staff members to be liable for disciplinary action for conduct that occurs off duty, s. 187(4)(b) *Public Service Act 2008* provides that the conduct must be inappropriate or improper, that reflects seriously and adversely on the public service.
64. When a complaint involving a staff member for off duty behaviour such as domestic or family violence is considered by the Complaint Assessment Committee, the Committee considers the provisions of s. 187. This consideration acknowledges that some staff members such as call takers, police liaison officers, watchhouse officers and client service officers have close contact with the public.
65. Consideration is also given to the *Code of Conduct for the Queensland Public Service* which requires employees to adhere to the policies and organisational values of their employing agency. While each complaint considered by the assessment committee is determined on the individual circumstances, staff members are routinely subject to discipline for complaints or allegations involving acts of Domestic and Family Violence.
66. Where police officers are subject of a complaint, they may have a Professional Development Strategy imposed, they may be stood down or they may be suspended to manage any risk while an investigation progresses. In contrast, there is no stand down provision for unsworn employees however they may have a Management Action Plan or suspension imposed based on the unique circumstances of each matter. At the conclusion of an investigation and where discipline action is supported, a staff member will be subject to a show cause action while a sworn officer may be subject to a disciplinary hearing. The discipline process involving staff members is managed in accordance with the Public Service Commission Directives.

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67. To ensure the integrity of the discipline system, a range of governance processes in addition to CAC have been established. The below list involves processes applicable to complaints incorporating Domestic and Family Violence allegations.

a) Joint Assessment and Moderation Committee

A committee between the CCC and ESC to discuss all files for which they retain oversight and facilitate discussion on any other matter of relevance. The meeting is held fortnightly.

b) Governance and Monitoring Committee

A committee that meets weekly, convened by the Chief Superintendent to review complaint files, their status and explore any risk to the complaint being properly dealt with and that time frames are being met.

This committee also provides the approvals for 'stop the clock' requests and reviews declarable association risks.

c) Complaint closure

Administration staff in the Complaint Management Unit review all complaint files at time of closure ensuring accuracy of data and that outcome advice has been provided.

d) Daily Domestic and Family Violence Audit

Daily review of Q-Prime occurrences to ensure all police and private D&FV applications and breaches are recorded in the discipline system.

e) Details of member involved D&FV complaints provided to the four Deputy Commissioners at the monthly briefing.

f) PPM weekly briefings and biannual conference.

To provide timely and contemporary detail to PPM's of relevant issues to ensure a consistent approach throughout the State. Facilitates discussion on trends and issues being identified.

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## CONTINUED STATEMENT OF: NIXON, David Jeffrey

## g) Professional Practices Committee

Domestic and Family Violence is a standing agenda item. The Committee considers 'at risk' people, places or issues to collaboratively develop risk mitigation strategies to prevent or disrupt unprofessional behaviours.

## h) Allocation of ESC Domestic and Family Violence Liaison Officers and Sexual Victim Liaison Officers

The roles provide expertise to support investigations along with an auditing function.

## i) Operational Procedures Manual instruction for mandatory Executive Briefing Note

To be prepared for all member involved Domestic and Family Violence facilitating consideration of stand down or suspension decisions.

## j) PPM engagement

Following the Command Business Unit Review in February 2022, the PPM's have developed an engagement initiative with D&FV community service providers to build relationships and trust with a view to enhancing confidence in the QPS discipline system.

This initiative seeks to provide a more victim centric approach and a safe alternate pathway to report D&FV matters.



David Nixon

Detective Inspector

Ethical Standards Command

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*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 **Error! Reference source not found. and contained in the pages numbered 1** to 14 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

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Signed at Brisbane this 18th day of July, 2022  
(place) (day) (month) (year)

\_\_\_\_\_  
Signature

