PROFESSIONAL STANDARDS

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IN CONFIDENCE

22 January 2018

Commander
NORTHERN DISTRICT

COMPLAINT AGAINST POLICE – s36 Exemption Applied DRINK DRIVING MATTER
ADVICE TO INVOLVED STAFF REGARDING OUTCOME

I write with regard to the above matter, which was reported to Professional Standards on 13 March, 2017, which involved an allegation that officers may have perverted the course of justice; may have accessed information that they were not entitled to access; and may have failed to take reasonable steps to avoid a conflict of interest in connection with their duties, all of which related to the prosecution of s36 Exemption Applied on an exceed 0.05% charge.

Due to the nature of the allegations, and in accordance with the Memorandum of Understanding between Tasmania Police and the Integrity Commission, the Integrity Commission was notified of this matter.

The investigation into this matter was recently finalised and I have considered the outcome. I am now writing to advise you, and the involved officers, of the outcome of the matter.

Background

On Friday 6 January 2017 s36 Exemption Applied was intercepted by police, and underwent a breath analysis at the Scottsdale Police Station, returning a reading of s36 Exemption Applied %. s36 Exemption Applied elected to have a sample of blood taken which later returned a reading of s36 Exemption Applied %.

S35 - Exemption Applied

In turn, Senior Sergeant Moore spoke with the Officer-in-Charge, Northern Prosecution Services, Senior Sergeant John Parker, during which it was agreed to accept a plea of guilty from s36 Exemption Applied to the lower breath analysis reading, which had the effect of enabling s36 Exemption Applied to make application for a restricted licence.

On 8 March 2017 s36 Exemption Applied appeared before the Launceston Magistrates Court, and the prosecutor, Constable C McLean, S35 - Exemption Applied S35 - Exemption Applied requested the court to adjourn the matter. This had followed discussions between Constable McLean and s36 Exemption Applied legal representative. Constable McLean then spoke with Senior Sergeant Moore who advised Constable McLean to accept the plea of guilty to the breath analysis reading.

On 9 March 2017 Constable s36 Exemption Applied made comment to the arresting officers that there had been an issue with the blood sample, and as a result, s36 Exemption Applied entered a plea of guilty to the lower reading. The arresting officers enquired into the matter, which initiated an enquiry by Northern District, with Inspector G Williams writing to Senior Sergeants Parker and Moore, requesting a response. The matter was then referred to Professional Standards who commenced a formal investigation.

s36 Exemption Applied successfully applied for a Restricted Licence on 10 April 2017. Mr N Clark, a reporter employed by the *Mercury* newspaper, was present during the hearing, and on 12 April 2017, the *Mercury* reported the facts of the matter, making reference to police documentation. Further articles were published on 3 May and 24 May 2017, including an excerpt from the '*Facts for the Prosecutor*' and an entry written on a prosecution internal document from the court file of s36 Exemption Applied S35 - Exemption Applied S35 - Exemption Applied S35 - Exemption Applied S30(1)(c) - Exemption Applied

Complaint

The complaint raised allegations that Constable s36 Exemption Applied Northern Prosecution Services, may have perverted justice contrary to section 105 of the *Criminal Code Act 1924*; that s36 Exemption Applied may have breached the Code of Conduct, *Police Service Act 2003*, by accessing information that was not entitled to access, contrary to section 42(9) of the *Police Service Act 2003*; and may have failed to disclose and take reasonable steps to avoid a conflict of interest in connection with duties in the Police Service, contrary to section 42(5) of the *Police Service Act 2003*. Furthermore, the investigation also considered whether or not Constable s36 Exemption Applied conduct was of such a manner as to be likely to bring discredit on the Police Service, contrary to section 42(11)(b) of the *Police Service Act 2003*.

The investigation also examined the role of other officers in the matter, and whether or not a member of Tasmania Police had released material from s36 Exemption Applied court file and/or failed to maintain confidentiality in respect of information gained in the course of their duties.

Other Officer involvement

The other officers who were involved were –

s36 Exemption Applied – Northern CIB

Allegations that [redacted] may have perverted justice contrary to section 105 of the *Criminal Code Act 1924*, and that [redacted] may have breached the Code of Conduct, by failing to act with care and diligence, contrary to section 42(2) of the *Police Service Act 2003*.

s36 Exemption Applied – Northern Prosecution Services

Allegations that [redacted] may have perverted justice contrary to section 105 of the *Criminal Code Act 1924*, and that [redacted] may have breached the Code of Conduct, by failing to act with care and diligence, contrary to section 42(2) of the *Police Service Act 2003*.

s36 Exemption Applied – Northern RPOS

Allegations that [redacted] may have perverted justice contrary to section 105 of the *Criminal Code Act 1924*, and that [redacted] may have breached the Code of Conduct, by failing to act with care and diligence, contrary to section 42(2) of the *Police Service Act 2003*.

s36 Exemption Applied - Northern Prosecution Services

Allegations that [redacted] may have breached the Code of Conduct, by accessing information [redacted] was not entitled to access, and failing to maintain confidentiality, contrary to sections 42(4) and 42(9) of the *Police Service Act 2003*.

s36 Exemption Applied (formerly of Northern Prosecution Services)

Allegations that [redacted] may have breached the Code of Conduct, by accessing information [redacted] was not entitled to access, and failing to maintain confidentiality, contrary to sections 42(4) and 42(9) of the *Police Service Act 2003*.

s36 Exemption Applied (formerly of Northern Prosecution Services)

Allegations that [redacted] may have breached the Code of Conduct, by accessing information [redacted] was not entitled to access, and failing to maintain confidentiality, contrary to sections 42(4) and 42(9) of the *Police Service Act 2003*.

s36 Exemption Applied – Northern Prosecution Services

Allegation that [redacted] may have breached the Code of Conduct, by accessing information [redacted] was not entitled to access, contrary to section 42(9) of the *Police Service Act 2003*.

s36 Exemption Applied – Northern Support Admin

Witness

s36 Exemption Applied – Northern RPOS

Witness

s36 Exemption Applied - Northern Prosecution Services

Witness

Investigation

S30(1)(c) - Exemption Applied

S30(1)(c) - Exemption Applied

Criminal allegations

The investigation file was referred to the Office of the Director of Public Prosecutions (DPP) for the provision of legal advice.

S31 Exemption Applied

S31 Exemption Applied

S31 Exemption Applied

S31 Exemption Applied

Section 23 of the *Road Safety (Alcohol and Drugs) Act 1970*

S31 Exemption Applied

Constable s36 Exemption Applied **direct involvement**

S35 - Exemption Applied

Restricted licence application

Constable s36 Exemption Applied also confirmed that had witnessed s36 Exemption Applied application for a Restricted Licence, and did so in capacity as a Commissioner for Declarations, that is, Constable s36 Exemption Applied witnessed s36 Exemption Applied declaration regarding the truthfulness of the content of application, in accordance with the *Oaths Act 2001*.

S35 - Exemption Applied

S35 - Exemption Applied

Access to information by Constable

Not Relevant to Request

Access and disclosure of information – court file

Not Relevant to Request

Not Relevant to Request

Not Relevant to Request

Not Relevant to Request

Outcomes

As previously stated, the criminal allegations have been addressed by the DPP advice, with no action arising.

In respect of the Code of Conduct matters, the determinations regarding the officers who were involved are as follows –

s36 Exemption Applied – Northern CIB

Allegation that [ ] may have breached the Code of Conduct, by failing to act with care and diligence, contrary to section 42(2) of the *Police Service Act 2003* - ***exonerated.***

s36 Exemption Applied – Northern Prosecution Services

Allegation that [ ] may have breached the Code of Conduct, by failing to act with care and diligence, contrary to section 42(2) of the *Police Service Act 2003* - ***exonerated.***

s36 Exemption Applied – Northern RPOS

Allegation that [ ] may have breached the Code of Conduct, by failing to act with care and diligence, contrary to section 42(2) of the *Police Service Act 2003* - ***exonerated.***

s36 Exemption Applied (formerly of Northern Prosecution Services)

Allegations that [ ] may have breached the Code of Conduct, by accessing information [ ] was not entitled to access, and failing to maintain confidentiality, contrary to sections 42(4) and 42(9) of the *Police Service Act 2003* - on both matters, **not sustained**.

[1] Interview of s36 Exemption Applied 6 June 2017, p. 33.

s36 Exemption Applied (formerly Northern Prosecution Services)
Allegations that [redacted] may have breached the Code of Conduct, by accessing information [redacted] was not entitled to access, and failing to maintain confidentiality, contrary to sections 42(4) and 42(9) of the *Police Service Act 2003* - on both matters, ***not sustained.***

Continued Organisational Learning

S30(1)(c) - Exemption Applied

Interim advice

S35 - Exemption Applied

Officer notification

I have written separate individual reports to Constables s36 Exemption Applied, and s36 Exemption Applied which I have attached, and I also ask that you advise the following officers of the outcome of the investigation –

s36 Exemption Applied – Northern CIB

s36 Exemption Applied – Northern Prosecution Services

s36 Exemption Applied – Northern RPOS

s36 Exemption Applied – Northern Support Admin

s36 Exemption Applied – Northern RPOS

s36 Exemption Applied - Northern Prosecution Services

Should any officer have any concerns or query regarding this matter, I ask that they contact Inspector M Wright, Internal Investigations.

Thank you for your assistance in this matter.

s36 Exemption Applied

T B DOOLEY
Commander