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NORTHERN TERRITORY OF AUSTRALIA

CORONERS COURT

A 51 of 2019

AN INQUEST INTO THE DEATH

OF KUMANJAYI WALKER

ON 9 NOVEMBER 2019

AT YUENDUMU POLICE STATION

JUDGE ARMITAGE, Coroner

TRANSCRIPT OF PROCEEDINGS

AT ALICE SPRINGS ON 17 NOVEMBER 2022

(Continued from 16/11/2022)

Transcribed by:
EPIQ

THE CORONER: Dr Dwyer.

DR DWYER: Your Honour, I recall Detective Senior Constable Brad Wallace.

THE CORONER: Thank you.

THE CORONER: Senior Constable, thank you for making yourself available again today and I understand it's short notice.

BRADLEY WALLACE, on former oath:

THE CORONER: Thank you, please take a seat.

Dr Dwyer.

DR DWYER: Thank you.

XN BY DR DWYER:

DR DWYER: Senior Constable, I said I had finished last time. And I've thought of just some more questions to pick your brain about, if you don't mind. I appreciate that you made very clear last time, you are an Arrernte man. You don't speak for the Warlpiri people and you don't purport to speak for the Luritja people. So, I want to ask you some questions. Please let me know if I'm asking you anything inappropriate. In the community, we spent Monday and Tuesday in Yuendumu and we were very grateful for the welcome from the community and the opportunity to meet community members. In the community, there were strong messages that we heard about the community's hurt and frustration if Kartiya misinterpret what "payback" means. That often, that's portrayed in a way that is not the proper understanding of payback. Are you able to say, as an Arrernte man, what your understanding of payback is; that is, the benefits of payback?---This is a caveat for that. I can only talk for my understanding and the traditional knowledge that I've been able to gain through my lifetime. I don't talk for Warlpiri people, Pintupi people or Luritja people, and I am not a leader from within my own tribal group. I'm still learning about my own culture. I think there is a great misinterpretation across the Northern Territory when it comes to the concept of payback. I think the concept of payback is interpreted more from a contemporary Westernised side as being revenge or punishment. I think, from my understanding and the knowledge that I've gained in my life, it's based more around peacemaking and bringing balance back to the community.

Have you had – I'm obviously not going to ask you for any names, but have you had any experience within your own Arrernte people or family or community members going through payback and it having that effect of restoration?---Yes, I have. I've seen the process carried out in my youth prior to – I think it was 1999, there was a general order for NT Police in relation to payback. That has since been rescinded. However, in I think it was 1995, I had a family member who'd committed an offence that was from memory, and I was quite young at the time, released by the court and

travelled back to the community and the process was carried out to perform payback. But as I said, it was a process of peacemaking between two clan groups and it stopped the situation from further developing as an altercation between our two-family clan groups or tribal groups.

We were asked to listen when we were in community to the community's frustration and what, if you will accept from me, I heard as hurt that the Kartiya legal system doesn't allow for proper recognition of customary lore. Is that – do you have any comment about that as an Arrernte man?---In Australia, from my understanding and from my observations during my lifetime, there is very little recognition from the Westminster system of governance and law for tribal lore and customary lore within the country. I've worked overseas, particularly in the Solomon Islands where I saw customary lore embedded into the legal system of that country and I understand from my experience working with New Zealand police and from working with New Zealand police here in the Northern Territory and conversations that I've had with them that there is a greater recognition for First Nation's lore and cultural authority than we have in this country.

The challenge, if I might say, is – what we heard about in the community also is that payback would involve spearing. And in this case, where the community are aggrieved understandably by Kumanjayi's death and that Constable Rolfe caused the death, this court can't condone grievous bodily harm to be committed against a constable who was involved in that situation. I'm wondering if there is a way of – that you can talk to about how to accommodate customary lore outside of that practice?---I think that's a conversation for the court to have with the Warlpiri Elders. I don't think it would be appropriate for me to comment on that as a non-Warlpiri person, but if it was my family group that was involved, I think that they would want to mediate the situation in relation to what's occurred and moving forward to address that.

If it was an Arrernte community and say your family group involved, Senior Constable, if I could just ask you think about that hypothetical. Would it be meaningful in Arrernte lore for say the Commissioner of Police to meet - at the end of this inquest to meet with your community and family group and talk through what justice might look like. What other concepts of justice might look like. What the learning for the police is, for example?---That would be beneficial, but I think it's an issue that's bigger than the police. I think it's an issue for the Australian government to address.

Elsewhere in New South Wales, outside of the Northern Territory, embedded within the Kartiya legal system are things like circle sentencing in the District Court level in New South Wales. They have just started a process at the Walama Court where Aboriginal Elders are involved with District Court judges in sentencing for Aboriginal offenders. Do you think that process of empowering Elders to be involved in the sentencing process should come in, in the Northern Territory?---Absolutely, absolutely. The Northern Territory is unique in a way. But I think that we're a little behind the 8-ball in the uptake in relation to what's happened with some of the courts interstate. So, I know the circle sentencing in New South Wales has been well-

received by the community and I think there has been some great community benefits to come out of that. I don't think that contemporary – the contemporary Westernised system of punishment through sentencing the way that it's done here is always successful, and I think that's shown by the recidivism rate that we have in our community. So, in a simple way of putting it, I think if we keep doing the same thing and we're not coming to a different outcome, then perhaps we need to think outside the box.

The Walama Court at the District Court level is a very new concept for New South Wales. We don't have a District Court in the Northern Territory, we've got a Supreme Court. Can you foresee the benefit of having Elders from the community group where the person being sentenced comes from assisting a Supreme Court judge with that sentencing process?---Yeah, I think that would be beneficial to address some of the grievances in the community and possibly start that process of recognition of Aboriginal lore into the mainstream. In Australia, we tend to say that we've got one system of law and that all people are governed by the one system of law. But there has been multiple systems of lore in force in this country for thousands of years and there is very little recognition of that. As a police officer, I enforce the legislation that I've got in front of me, but nowhere in our legislation is there any recognition of the First Nation's people and their systems of governance that have assisted to drive their communities and their clan groups and their family groups over that period of time. And now we're seeing a breakdown in our communities and our family groups and we've got multi-layered government approach to all of those problems, but all the solutions are coming from one side of the house.

You have been a police officer now through the 90s and through the 2000s, did you see a shift in your career in terms of the recognition and respect for traditional systems of justice?---I wouldn't say that there's been a shift. I would say that the attitudes of - I can't talk to Northern Territory Police. I've been - I was a special constable of Northern Territory police from 2011 to 2020 and I've been a member of Northern Territory Police as a constable for the following - for the past two years. So what I have seen over that period of time since 1988 is definitely a shift in attitude but I think it's a shift in attitude that represents society - not necessarily the police. Because police do represent society, so in the 90s the world was a different place to what it is in 2022 and what was acceptable then isn't as acceptable, or it's not acceptable now.

Yes?---So yes, I've seen a change but I don't think it is unique to the police, I think it is a society change and the police have represented that change in society.

Yes. Is it fair to say that in the 1990s you were aware of circumstances where customary law, including pay-back would be accommodated by the Cartier legal system?---Yes, that was before I was involved in policing though, so my understanding of that was limited to my interactions within my own tribunes and my own family group but it may be beneficial for the court to talk to a long-serving Northern Territory police officer who has experience in remote and regional areas

that would have experienced that in the past to where it is now because they would actually be able to speak to that with some authority, more than I can.

The changes - so we're at a different place, different levels of regulation and acceptance in 2022 but that's imposed on Aboriginal communities without consultation?---Mm mm.

And does that have an effect of disempowering Elders and breaking traditional structures?---Well, even within my own families and my own communities we've seen a disempowerment of our system of governance definitely in the past 10 to 15 years and I think that has been driven by somewhat the introduction of the intervention in the Northern Territory. I won't say that everything that happened there has been negative but there's definitely been some negative side effects of that process.

Are you able to expand on that at all - give an example of how that worked?---I think in the past we were all about engagement and empowerment and it was about giving the communities autonomy and self-autonomy to govern, with the introduction of the super shires there's been a decrease in jobs in communities, a decrease for local opportunities in communities. It's something that family talks about quite a lot so, you know, I've seen a lot urban drift. A lot of family members who traditionally stayed in communities and were really proud of their communities, more and more people are moving into town, there seems to be less focus - or less capability for people to drive their lives forward staying in the bush, so it's changed a lot.

In terms of the changes that are negative, you were asked some questions on the last occasion about the number of Aboriginal - of people in custody and I think the statistic that was put to you last time was something like 96 percent of all people in custody in the Northern Territory are Aboriginal. Do you have a sense as a Northern Territory Police officer about whether or not Aboriginal people are targeted by police or whether or not there are other more complex reasons for those high numbers? ---I don't see Aboriginal people being targeted by the police at all. What I see is Northern Territory Police officers responding to the calls for assistance and help that are placed through the JESCC - so the Joint Emergency Services Communication Centre in Darwin, so police - traditionally we would respond to requests from the community for assistance so I don't see members driving around looking for an Aboriginal person to lock up, but the bulk of our calls for assistance are coming from one cross-section of the community and it's partially my cross-section of the community so what I see is a greater social issue, not necessarily a policing issue.

In terms of the greater social issue - this is a big question. You've talked about some of the possible causes of that in terms of the breakdown in authority structures in community and the urban drift in, are there any other underlying causes that you wanted to talk about?---That's a very big question.

Yes?---And I think we could discuss and debate that for an extended period of time but I think we are where we are now because there's been, at some level, a multi-faceted and multi-layered failure from government and from non-government

organisations in relation to Aboriginal affairs in the Northern Territory - or not just the Northern Territory, but Australia. We're certainly in some areas we've moved forward and in some areas we've stalled and gone backwards, so it's very difficult.

Nowhere in our legislation is there a recognition of First Nation's people. Do you feel that that would make a difference?---Well, we're the only contemporary westernised society in the world that has a First Nation's population that doesn't have some recognition in place. So I think that in itself speaks volumes about where we are in Australia at this point in time.

In terms of the multi-faceted, multi-layered failures that get us to some of the traumas that are existing in community now, do you have a sense of - you did that time in general duties, do you have a sense of frustration about the lack of other options for people on the street who are coming into contact with police, other than being picked up?---I think that the police are ultimately responsible for a lot more social order and justice issues than they should be. I think that the police are the stop gap where there's not another option to utilise at a given point in time to deal with a situation. So, as a police officer we're expected to - our role is to enforce legislation, it's not to punish people, it's to bring people before the courts. However, we find ourselves being part psychologist, part social worker, first aider, parent, so there's a lot more that goes into wearing this uniform day to day than what a lot of people realise, and a lot more stress and a lot more commitment.

If police were working alongside - we talked last time about the role of Territory Families?---Mm mm.

And the difficulty of them not being available overnight, for example with the young people, to help police in a difficult situation?---Yes.

Are there supports that would help police? For example, psychologists? Have you - are you thinking about other mechanism?---Well, there's funded government responses in place to provide all of those services but whether they are available, whether the funding is enough to have people on call on a 24/7 basis but the biggest issue that we've got is we're police remote. So policing remote in the Northern Territory is unique and there - most of the time there is no services available other than what you can provide as a member of this organisation - the Northern Territory Police, so you may have an on-call nurse at the clinic - and the clinic nurses in our remote communities are amazing. They do a fantastic job, but as police in remote communities you respond to everything within that community and there may be two of you, there may be three in a smaller community. I mean our larger communities, there might be more, but it’s a huge task that’s been given. And those officers that work in those remote locations don’t have the supports that exist in Alice Springs, and Darwin in particular, and then Tennant Creek and Katherine as smaller regional centres.

Doesn’t that come back full circle to what you earlier talked about, about the lack of employment opportunities for Aboriginal people in communities? That empowering Aboriginal people to provide supports for their own community, would go a long way

to helping police in that role?---Well that's my opinion, and my opinion only, but the – the biggest benefit to my family and my community would be self-empowerment and development within their own sphere of influence and where they – where they culturally live, and should be. If those opportunities don't exist, and people don't have a reason to wake up in the morning, then it changes the tone of life. I think that's – that's a fact for anybody, whether you're Kartiya or Yapa.

Before I move on from the idea of the – I put to you the statistics of people in prison. Do you have a sense of frustration about the lack of availability for rehab options for Aboriginal people once they go into custody?---Look, I have an Aboriginal mother, and a non-Aboriginal father. The way that my mother looks at the world is totally different to the way that my father looks at the world. The way that my mother looks at a piece of land is totally different to the way my father looks at a piece of land. My mother and father have been together for 50 odd years, so they became a partnership, when it wasn't okay for a non-Aboriginal man to be with an Aboriginal woman. You know, it wasn't accepted by society. And they faced – they faced those issues throughout their relationship. So I think that the way that Aboriginal people can be diverted from justice, is possibly different, and hasn't been considered by wider Australia. It's different to the way that a non-Indigenous person would be – would deal with the justice system. So I don't think that it's ever been looked at, that there are different options to deal with people's offending, their recidivism and their recovery from substance abuse, from alcohol abuse, from all the issues that affect us in our communities. And if you look at a lot of the issues that bring people into contact with the justice system with the police, they're poverty based. You know, so – do you want me to expand further or - - -

Yes please. I – it's – I'm just thinking it through. It's – I was about to ask you a question of something like how do we empower the – how do we support the community to deal with those underlying issues of poverty which then lead into this – it then have this criminogenic effect?---Well that goes back to opportunity employment in communities, doesn't it? So how do you deal with poverty in any community? It's education, empowerment, jobs, opportunity. I think that's – that's the baseline. And it's education in both senses, in contemporary westernised education, and an education within your own culture, which is vitally important. Because I know myself, I'm a very light skinned Aboriginal man. But I'm very proud of my own heritage. And my father's bought me to be proud of his heritage. My mother's bought me up to be proud of her heritage. And my father ensured that I was educated in a contemporary westernised sense. And my mother made sure that I was educated through Alchetto(?), my Arrernte side of my family. So it's – enables me as a person, to be balanced in my life. And it's why I'm able to somewhat successfully move between the two worlds. So an education – to support our children, to educate them within their own culture, and to educate them to – to move and have employment opportunities and a future within wider society is – is what I think would be the best way forward. And it's what I'd encourage my own family members. But the way that we deal with children who are at risk, that are committing offences, that are coming into contact in the judicial system, perhaps looking at options to have community based funded processes, on their own country, led by their own communities, by their own leaders, in conjunction with existing –

existing process, might be the way forward. I mean we've tried a lot of things in the Northern Territory. And we haven't found an option yet. So I think we need to keep trying.

I've got two more topics for you senior constable. One is, following from your evidence on the last occasion. There was an article in the Centralian, I think, is that right? That – you'll probably remember it. But there was an article that suggested that you face daily racism in the police force. And I – that was not what I heard you say on the last occasion. Did you read that article?---Yeah I did. I was quite disappointed by the headline in the Centralian Advocate. I think if anybody reads the transcript of the last time I was in this court to give evidence, I made it quite clear that when I first joined the police I saw racism, almost daily in the work place. And that's changed – that's changed since that period of time.

And in terms of what you do experience in the Northern Territory Police Force, can you tell us about what your experience is now, in terms of working alongside police officers who care about some of the issues you've talked about this morning?---Like I said the last time I was in court, I was surprised when I joined the Northern Territory Police, and I came back home to Alice Springs, at the lack of racism that I saw in the work place. I would be honest in saying that I haven't been subjected to, or I haven't seen over racism in my work place, since I've been here, since 2020. I've worked in several remote communities, and I've worked with the bulk of officers from general duties through to my current portfolio in crime. And it's not something that impacts me in the work place. I'm very close with our – our Aboriginal Liaison Officer Unit, with a lot of our Aboriginal Community Police Officers, and our Aboriginal constables. And we talk about it quite regularly, and we're an important part of this work place. We're well supported, and I don't think I'd be backwards in saying that the bulk of people that I work with, are here for the benefit of the community, irrelevant of their ethnic or racial, or religious background.

And you gave evidence on the last occasion, I won't show you them again, but the text messages that were found on the phone of Constable Rolfe, you were shocked at the racist language used there?---Absolutely. I think – all of the Aboriginal members that I know, we spoke about those text messages, and I don't think there was one of us that wasn't shocked. Because we don't hear – we certainly don't hear that type of language used in the work place, day to day.

It's a passion of yours I take it, to attract Aboriginal people into the work force in the Northern Territory Police?---Absolutely. I think it's important for Northern Territory Police, or for any police service in Australia, to represent the community that they police. So you know, dependent upon the variants in ethnic makeup of the community you're working in, and it depends on what type of – what target group you're going to attempt to attract to your organisation.

But it's – do you agree that it's important if you're going to attract Aboriginal people into the work force, they need to feel culturally safe within the work force they're in?---Absolutely.

And important for the Northern Territory Police to keep listening about how that feels, and how to achieve it?---Yeah I think – my limited experience with Northern Territory Police is only, like I said before, it's only the two years, and my prior time working in conjunction with them as a special connie(?) of the AFP. But the NT Police they're trying. And they're trying to make – they're trying to make things better. I mean when I look at the numbers, and I know when I was here with Sergeant Matthew Allen(?), we actually looked at the numbers of Aboriginal police officers we've got. And our sworn constables of Northern Territory Police, I think, at that point in time, was 176. Our Aboriginal Community Police Officers was sitting somewhere around, I think it was 66, from memory. Our Aboriginal Liaison Officers, I believe we have 40 within the community resilience engagement command and that's growing. So – and don't quote me too heavily, but I believe we crunched the numbers and it came up that we were sitting at about 14.5 percent of the policing service who identify as Aboriginal, Torres Strait Islander. And I would endeavour to say that if you looked at the Northern Territory Police 20 years ago, those numbers would be very different. And I know that it's a priority for the Northern Territory Police moving forward to grow those numbers to develop members and to provide a greater representation to police of the Northern Territory community.

Senior Constable, last topic I've got for you involves finishing on a positive note for me, the Mawul Rom program that you did and you got your Master's through Mawul Rom. Can you tell her Honour about that?---So, Mawul Rom was a – it master's degree that was done in conjunction with Charles Darwin University, set up by the Mawul Rom Foundation which was conceptualised by Doctor Reverend Djiniyini Gondarra – or Reverend Doctor Djiniyini Gondarra and Pat McIntyre, who was a barrister in Darwin, I believe. So, it was a meeting place. It was based around cross-cultural mediation and it was a meeting between Westernised system of education and law and Madayin system of law which is Yolngu. It was held predominately on Elcho Island. It was attended by police officers, judges, social workers, Aboriginal people, people from Elcho Island, people from Yuendumu, people from Lajamanu. It was a fantastic process and program that certainly broached those cross-cultural issues that we deal with day to day and through the process of the master degree, some of the learning space was in contemporary western education based and some of it was in Aboriginal education based through ceremony and through attendance.

That program I think lost fund – or is not fully funded at the moment. Is that right?---I actually don't know where it's sitting at the moment. I know there's a core group that is still trying to push that forward and I know that they've got some stuff going on in Darwin at the moment, but I'm not involved with that because I'm in Alice Springs.

So, there is a Mawul Rom working group. Is that right?---Yes, that's correct.

And you were mentioned Jarrod Sharpe's role in that, who is a former NAAJA lawyer who then is one of the members on that working group. Is that right? I'm thinking of names that we can go to, to try and learn more about that?---I believe Jarrod is in Tasmania at the moment. I did the bulk of my master degree with Jarrod, but he would definitely be a good contact or Justine Davis(?). I think she is a driver for that

group out of Darwin.

We can follow that up. Senior Constable, in terms of educating Kartiya about the importance of customary lore and the ways that we can work respectfully with Yapa, would that be a good thing to have available to the lawmakers through the Northern Territory?---I think if we're going to move forward as a society, so not as Aboriginal people, not as non-Aboriginal people, but if we're going to move forward as a society, then somewhere along the line, we need to address the idea that we've got multi systems of law to combine and drive it forward as One Nation.

Thank you very much, Senior Constable.

THE CORONER: Mr Boe.

MR BOE: Thank you, your Honour.

XXN BY MR BOE:

MR BOE: Senior Constable, my name is Andrew Boe. I appear for the Walker, Lane and Robertson families in this inquest. Do you understand that the Walkers and Lanes have a biological connection to Kumanjayi and the Robertsons have taken on a familiar role because of his relationship with their granddaughter, Rakeisha. Now, I wasn't here for your evidence on the last occasion, but I did watch it contemporaneously and I have read your materials. Now, I would just say that my first regret is that I did not know of all the things that you were speaking about before I came up to be involved in this case. But I have learnt quite a bit from the things you've said already. There are some questions where I want to go to specifically and I'm not, for the moment, holding you up as the poster person for Indigenous Territorians. I understand all the caveats that you've put?---Yep.

And I respect the way in which you've been careful about delineating what you can say and cannot say. The focus of the questions that I am going to get to, and it may take a little bit to get there until you've got the right context, is not so much the cultural – the acquisition of cultural knowledge by police, but really the application of that in their directing policing actions. And I'm going to focus attention on the things that have arisen in this case that, from what we can see or certainly I can see at the moment, might be things that should be changed or at least acknowledge that first before we move on. They are big topics, I know, and Dr Dwyer has taken us through them, I understand that. But I want to get to the issues that seem to have been associated with decisions by command in the setup of policing in Yuendumu and then specific decisions in terms of the deployment of police to Yuendumu in or around 6 and 9 November. Are there any questions about that, you understand where I'm coming from as to the direction, thank you?---I understand where you're coming from.

One of the matters that has arisen for attention is how and in what way police take into account knowledge of sorry business in terms of making operational decisions, okay. Now, the word "sorry business" is obviously an English word and it's certainly

used by a lot of Warlpiri people that I've spoken to, to the extent that in all of the documents that you may have been shown, what the Northern Territory Police have in place, in the formal sense. Also, as to what you've experienced when you went to through recruitment programs in 2020 and 2022, what if any information do you believe has been given, firstly, to recruits about what, if anything, they should do to take into account their knowledge of sorry business when embarking upon an interaction with a member of the community?---You can't gain a lifetime of knowledge in a few hours in a classroom or a few days in a classroom. So, you know, learning about Aboriginal culture and lore is a process of emersion. How do we get that across to our police officers, well now Sergeant Matthew Allen would have been a better person to sit on the stand to talk about the process that's happening at the college in Darwin, because I don't work at the college in Darwin.

I did hear his evidence when he - - -?---Yep.

- - - explained those matters, yes?---Yep, but this is probably a more focussed question for him, because he's involved with the training of recruits in Darwin. I do cultural sessions with recruits from time to time when I've available to attend. Sergeant Allen has set up a program that is being developed and being expanded. So, I think NT Police is trying their best to give our members enough knowledge to be able to operate in communities. It's difficult.

I'm not critiquing whether it's good or bad, I'm trying to identify at the moment what, if anything, you know is being taught to members, whether in recruit stage or - - -?---Well, which process of ceremony are you talking about? I know you're talking distinctly about sorry business, but it's such a big subject to address.

I agree entirely. And I wasn't going to go through all the matters that we've been putting to other witnesses?---Yep.

I'm jumping really to this point?---I think the best practice would be to utilise the availability of Aboriginal Liaison Officers in communities; Aboriginal Community Police Officers and Aboriginal constable. As I said previously, we've got quite a number in the organisation now. We're a resource that's able to be drawn upon by members within the organisation and I think that - I wasn't a member of the organisation when this incident happened at Yuendumu but in the time that I've been in the organisation certainly there's been a shift or a change in members seeking out knowledge in relation to how best to deal with situations in communities.

I understand. Could I - I've just been too imprecise in what I was driving at?---Yes.

Could I suggest this. From your wealth of knowledge it's clear, even though practices are different in different communities and even appreciation and practice within communities, it's different between members and (inaudible), acknowledging all that. Is there not a starting point that police are aware, that the issue of sorry business in the community they are policing is a matter for them to take steps to acquire an adequate knowledge about, just as a starting point, in that that would be

achieved at two levels if I may suggest. One is that at the recruitment level that they are aware that this is an issue?---Mm mm.

And at an induction level when they go into the community, that there be either accumulated information or a process of who to speak to to acquire a specific knowledge, to take that factor into account when they are undertaking police duties? ---I think that that is what is being done in our communities by our police officers. Actually I don't think - I know that that's what is being done in our communities in my experience from what I've seen. Is there a base level? The recruits and our members - depending on when they joined the organisation - would be exposed to and given information on the basis of when they joined. Is it better now than what it would have been in the past? I would endeavour to say "Yes".

But you would also accept that this sort of knowledge wasn't applied in November 2019?---I wasn't there when that happened.

MS BURNNARD: Your Honour, I apologise for interrupting my learned friend, but in my respectful submission whilst Mr Wallace is giving very impressive, if I may say, and reflective evidence, he ought not be asked to commentate on events (inaudible) 2019. He was not a sworn constable for (inaudible) police force at this time – at that time. He has given that evidence. Commentary has already been given and you would expect will be (inaudible) organisation, it's not fair to put this witness in a position, if I may say, to have to commentate on matters of specific factual matters which have already been the subject (inaudible).

THE CORONER: Mr Boe, I don't think this witness has all the information about exactly what occurred at that time, to be able to provide any assistance with an opinion.

MR BOE: No, I wasn't going to - I understand that, but your Honour, there is a danger, if I may say, that answers that have been elicited from this witness may be used in the general submissions that a lot has changed, everything is okay now, we're working on it, et cetera. My questions - and I was responding to the question an answer the witness gave - and I am not being critical at all of the witness, that he believed that this sort of approach was happening now. And I was - - -

THE CORONER: Well, that's his belief now and he is not able to comment on precisely to what extent that occurred back on the relevant day.

MR BOE: I understand. I understand the distinction and I will try to be more careful.

THE CORONER: Sure.

MR BOE: The only documents we have, for example - or that I have been given - or at least I have read, as to the current formal documents on the Northern Territory Police Force is part of a document called "Police in between cultures" and I am told that a diversion that was in place on 11 May 2016 and I haven't been shown any

further update of that document. Now, I haven't seen, for example, the information given at the (inaudible) stage for example, Senior Constable, and the document I have has one page, which is page 56 of 101, which has a passing reference, if I may say, to the word "sorry business". Now, while was interested to hear and I did listen to your - one of our sessions that you did in Alice Springs in 2020, this morning and it was a touching and engaging session?---Mm mm.

But I didn't see in it any assistance being given to, for example, on how to be mindful of the breadth and complexity of sorry business and the difference in particular communities and the difference in urban centres as opposed to places like Yuendumu, as to how it might help them to go about policing?---I don't want to – I don't want to cut you off with this question, but once again, I don't work at the college. I'm a senior constable that works in the Domestic and Family Violence Unit and Sex Crimes. I provide assistance to the college and I've provided some sessions in relation to culturally appropriate actions on communities, cultural brokerage, cultural networking and my experience from my own background heritage. I think if you want to ask questions in relation to policy and what is being delivered at the college then perhaps Sergeant Matthew Allen should have been back here with me because together we could probably provide you with the answers you're seeking.

I understand that, I understand that. Can I just go to the answers that you gave concerning - or the information that you gave concerning the English phrase, "payback" or English word "payback"?---Mm mm.

And you said two things I wanted to ask a little bit more questions about?---Yep.

You spoke about the fact that our experience was that police officers or non-Indigenous people generally, introduce into that term the notion of revenge as opposed to peacemaking, as you put it?---Yes.

So I think two days ago, I think, we heard from one of the Elders in Yuendumu, Eddy Robertson, speak quite passionately about this issue and this problem. You - did you happen to come across a recent program called, "The Australian Wars" by Rachel Perkins? Did you happen to come across that?---No.

There was one reference in it which was a learning experience for me, where it was described that Governor Phillip received some payback from Bennelong after having been treated quite badly by the government and how they were treating him at that time?---Mm mm.

And it struck me and I though I'd like to hear you comment, that when you talked about society not embracing Indigenous cultural matters, that there is a history in this country going back more than 200 where that has been recognised and accepted. Does it surprise you that Phillip - if the story is right - accepted payback from Bennelong?---I'm not aware of that situation and before I comment on it I would like to be given the opportunity to understand the situation and contextualise it.

Sure?---And see exactly what happened.

Yes. What I was going to was something Mr Robertson spoke about, that one of the fundamentals of the notion of peacemaking or making justice about a situation is that following a recognition of the act by the person, that the family would identify an appropriate person to carefully deliver the payback - I will use that term - so as to ensure that the person who received it may have a memory or remark about what they had done but they were free to move within the community because the whole community, peace had been made on the situation?---Mm mm.

Now, is that your sense of the importance of that within the community?---Yes, I think that contextually it's a very complex matter but I would say on a very basic level that's where it's at, yes.

And would you have heard the usage of the concern for payback by police because of a fear that Warlpiri Indigenous people would do because of something police had done in the community? Have you used that - have you heard the word "payback" being used for decision-making by police?---Not in my experience, no.

No. If I can just tell you, if you accept it from me and others will correct, that word was used at two or three points on 9 November?---Once again, I wasn't a part of this organisation on 9 November 2019.

Surely I can put it to the witness?

THE CORONER: I will - just listen to the question, it may be that you are not able to answer it, but we will just hear what the question is?---Mm mm.

MR BOE: At the point when Kumanjayi was shot, he was in need of medical treatment. I think everybody accepts that three shots and down(?). But a decision was made by the members at the house that they feared payback, and therefore that's why they didn't stay there and then in order to perform the necessary medical treatment, if it had been available. Do you understand?---I understand.

And the second time is that whilst the police were in the station, they were concerned that if information came out that Kumanjayi had passed, that that would cause the community to violently descend upon the station as a form of payback, you understand?---I understand.

What I'm getting to is that do you think that there is a real need for detailed, if not anthropologically supported information, being explained to police who are making these decisions, so they don't mistakenly grab onto something they may have interpreted as being a cultural action in the policing decisions they made, because doing so has caused great distress to our clients, and our families in hearing this evidence, that they weren't being told anything because of a fear of payback for example?---I haven't looked in depth at everything that happened in Yuendumu on 9 November 2019. My understanding of that situation is limited to what my exposure to it has been. Different police officers will make different decisions, based upon

their experience working within communities, and within different communities and cultures, as I think most peoples would be. If you're asking me for comment about whether they were right or wrong - - -

No, no. I'm asking you whether or not, accepting different knowledge comes from different experiences, that where we have such critical decisions being made affecting Kumanjayi and his family, that that knowledge should be improved? Or one of the decision makers here - - - ?---I don't – I don't think that there's anybody within the police service that would argue that we don't have to improve our knowledge and understanding of the communities we're policing. That's one of the reasons why I've doing the sessions I've been doing at the college. And one of the reasons why Sergeant Matthew Allen is – is expanding and further developing the cultural component of our training package.

Understand.

THE CORONER: And part of that would include a better understanding of the concepts that Mr Boe has been talking about, such as sorry business, or payback, so that those words are not used in a culturally inaccurate or inappropriate way?---Yeah, 100 percent. I think that our police officers, especially our younger police officers, quite often come from interstate. They quite often have limited exposure, experience or knowledge, of the communities they're working in. As with most people. And their – their knowledge is going to be expanded by living, working and being a part of the communities that they're policing.

MR BOE: But learning in the accurate complete way, rather than just simply what they may have heard. Would you agree with that?---I would agree, a 100 percent.

Her Honour framed that question much better than I, and that really was what I was trying to get to. The – the reason I raise it, is that one of the people who held that sort of perception about payback was a superintendent?---Mm mm.

And he was a decision maker. And that's why I raise it as a concern. And it's not so much the intent of the force to take steps, but it's in fact the practicality of making sure that that insight is reflected in operational decisions, do you understand?---Yeah, which superintendent are you referring to?

Superintendent Nobbs?---Yeah. So I'm not trying to side-step your question at all, but - - -

I haven't felt that, can I just say?---It would be probably a question better posed to Superintendent Nobbs.

It was?---Yep.

And one of the difficulties with his answers from my part, and my client's part, is that whilst he acknowledged all those matters - - - ?---Mm mm.

- - - if I may say, the submissions we'll be making are that he didn't have a proper insight. And more so, he ended his evidence in saying, despite all the regrets, he would still do the same thing again. So that cuts to the point - - -

THE CORONER: I don't think it does. I think his evidence was that taking into account all the information available to him, and his experience and the experience of other police in communities, he would still make the same decision. But I think your issue is slightly different, Mr Boe. It's attributing that the concerns of the police about their safety, are to the concept of payback. Whereas, as I understand it, that is an incorrect use of the term. If there were concerns about safety, it wasn't because of a concept of payback. It would be because of a concept of anger, immediate retribution, or something like that, which is different from the cultural concept of payback. And it's using those concepts and melding those concepts in a way that people who, including me, may I say, without the greater understanding that we've been learning during the course of this inquest, with the term payback that has caused a lot of upset and – within the community, as I understand it.

MR BOE: There's nothing in that summary with which I disagree. I have spent some time looking at Superintendent Nobb's evidence, and hopefully my submission will be more sophisticated than what I just put the witness. I'm just summarising that the notion that fed into the concerns about what the community would do outside, was informed, at least in part, about a mis-appreciation of what Warlpiri people would do, if they were in fact resorting to notions of payback in their response to being told.

THE CORONER: I – I understand what you're saying, Mr Boe, and I certainly think came out in the evidence.

MR BOE: It did, yes.

THE CORONER: And I think the issue is, yes, is misunderstanding of - - -

MR BOE: Yes.

THE CORONER: - - - what might be encompassed by payback.

MR BOE: And if I may say, that's at the heart of a lot of the things that have happened as we've developed and understanding things in the questions.
I mistakenly use terms myself, until I've had a better understanding. And last week was very informative for us, not so much in the sessions, but us taking instructions of what concerned them about the way those things are done. Hence why I ask the question and, and your Honour asked, and I don't need to ask it again, but there was 100 percent acknowledgement that there needs to be a much more comprehensive insight of these important cultural issues in implementing decisions. So – and I'll move on?---I don't think ignorance, or lack of understanding of Aboriginal culture and law is only an issue for the police.

I absolutely agree. I think most of the legal profession suffer as much with respect, at all levels. And that's why if I may say, there are lots of programs in which judges are going into communities, and lawyers are going, you know, to assist their own understanding of the clients they're acting for. So we're not in disagreement at all. And I heard very clearly, that you believe that the knowledge and insight of the members of the Northern Territory Police Force, align with the knowledge of the Australian community?---Yeah, which is limited.

Yes. Yes, but the – the reason for the focus on your answers, is because the Northern Territory has a particular ratio of interaction between police and Indigenous people?---That's correct.

For whatever reason – for whatever reason?---Yes.

Which I might just jump to one thing that you said earlier on that issue. I heard from you say a couple of times, that as a sworn police officer, your duty is to implement the law, and undertake actions as to noncompliance with the law, but they're my words. You've said it a couple of times?---It's to enforce legislation, yes.

And the second thing you said was that police members in the Territory, faced with the horrendous task of being at the front line of social dysfunction, alcoholism, etcetera, they are asked to do much more than people believe they are doing?---Yeah.

What I want to ask you about that is, that how might the Northern Territory Police Force act on that evidence, in looking at the profile of people who come in the police force. And I just expand the question a little bit. It's clear that there are people who apply for recruitment because they have a genuine curiosity about the Indigenous world in the Territory. And they are genuinely wanting to be involved. And there are many people who, outside police, do that. Social workers, psychologists, doctors, judges, etcetera. The – if we know that your job is particularly hard because of these other things they need to know, do you think there needs to be a change of thinking in the idea of what policing in the Territory actually means? And I put it this way. I'm a poor scholar of history, but I accept that when white laws are being bought into Indigenous communities, part of it is to bring laws that may not necessarily align with how people have been living before they came?---Mm mm.

Okay? So, the policing of those laws is focussed upon the community's adherence to the expectations that those laws provide?---Correct.

For example, you can't swear in public, and if you do, we're going to arrest you, for example. That sort of line of thinking, where that level of sensibility may not be something that greatly affected the way in which society operated before these laws came in?---Mm mm.

So is there a value, with people of your knowledge, sitting down with those who conceive what should be in recruitment programs, not just be there to deliver it, but what should be part of the criteria?---I think that sounds more like a bill that should

be introduced to parliament to change the legislation for the way that police enforce legislation. The role of a – the role of a police officer is prescribed by the legislation that's applicable to the circumstance that they're in. If there was legislation that recognised cultural law, then police officers would be able to defer and use discretion, and utilise that legislation. At this point in time, there is nothing applicable in place, in this nation, that allows us as police officers to make that consideration. I do, in my role, based upon my understanding and the knowledge that I've gained, through my life. However, at times, I could be criticised for taking that path, and I've had to justify my actions.

If I may say – sorry?---Discretions are a great part of policing. I've seen discretionary powers utilised a lot by members of the Northern Territory Police over the last two years. But I think, in answer to your question, that is something that needs to be handled on both a Territory and Federal Government level, if there's going to be change. And I think – do I think there should be? Absolutely.

And do you think there might be some value in doing something close to what Dr Dwyer put to you about the involvement of Northern Territory Health, is that there's collaboration at the pointy end of interaction, that, going with police who are arresting, are people who are very aware of what the issues are facing the arrestee, so that there can be more diversion from taking into detention, or consideration of how to plan around, at that point? That is, not you ringing up (inaudible) place or somebody or a lawyer ringing up and finding out is there a bail address. But part of the engagement, given that 96 percent of the engagement is with Indigenous people - - - ?---Mm mm.

- - - likely to be suffering from a whole range of impairments - - - ?---Yep.

- - - whether they're physical, mental, or social, or financial, that there be collaboration in the way in which the government agencies confront these situations?---In a perfect world, absolutely. Do I think the police are utilised in circumstances that are more appropriate for health, or for education, or for Territory Families, absolutely. I think police are used as a stop gap.

Sorry I just missed it, because of the cough. They should go outside?---I missed it as well. I think police are used as a stop gap in a lot of circumstances, not only in the Northern Territory, but in wider society, to – to deal with people that there is no other option for. In a perfect world, when dealing with a mental health intervention, it would be best practise to have a mental health practitioner on-site with you. But that mental health practitioner would have to take into account their personal safety. Police officers are trained to a level, we wear protective equipment. We are used to dealing with people that are in crisis. At that front-line space that could result in a level of violence that could require an intervention. To find a public servant that would be willing, or a government department that would be willing to place somebody there with us all the time, that might be the challenge.

But you've identified the challenge, and I guess others. How do we start that conversation with those who make these decisions about the allocation of

resources?---Once again, I'm a senior constable working for the Northern Territory Police. I think that's a conversation that's well above my pay level, and probably best placed with government.

Yes. I don't think any government members are going to be bought before this court. But do you think the starting point of having that conversation, recognise those challenges that you've identified, is perhaps the Commissioner's representative when he gives evidence?---Yeah, perhaps best address towards the Commissioner's representative, or perhaps it is appropriate for a member of our current serving government to address this court with what they think the direction should be going forwards.

I think part of the process here is that we're expected to assist her Honour to make findings, and her Honour will make whatever recommendations to government that is thought appropriate. But I accept that we don't have information of what their views are on these matters, other than perhaps by statute, they're willing to take recommendations. The – as you know, recommendations are just that. They don't have to be - - - ?---Mm mm.

- - - implemented. The – just two or three other specific issues. We've heard in this court, reference by police officers in the utilisation or non-utilisation of ACPOs, with using terms like "Poisoned cousin" or "Avoidance relationships". Now are you familiar with those terms, albeit in other language groups?---Are you referring to the difficulties that Aboriginal police officers have dealing with their own communities?

No. One of my clients is ACPO Williams?---Yes.

So I've quite a lot of conversations with him about - - - ?---Mm mm.

- - - how he has been treated, and utilised etcetera. And they will be a number of submissions we make. But I was more interested in this. Is the concepts of poisoned cousins and avoidance relationships a matter within the conversations that you're having when you have your sessions, or do you – are you aware if it's part of the concerns in the recruitment and training of ACPO's?---Well, dependent upon somebody's level of cultural involvement, would depend on what the restrictions are in relation to what you described as poison cousins, or avoidance relationships. So with somebody like Mr Williams, yeah it's difficult. It's difficult for me. I've got a community west of Alice Springs, that it's extremely difficult for me to operate and work in, for cultural reasons.

The angle I was getting at was not so much that. I've heard your evidence about that?---Yep.

The angle was the mis-conceptions that non-ACPO police officers had about why they may not utilise somebody, because of their perception, we say mistaken?---So you're asking me to talk about individual police officers perceptions of cultural understanding, is that correct?

No, I'm asking you to talk about whether you're aware that police are assisted to know what those relationships are, and not to have a mistaken view of why they may inhibit an ACPO being involved?---So you're speaking directly to the circumstances of Mr Williams' involvement with the incident at Yuendumu, is that correct?

Yes?---Yeah - - -

DR DWYER: Your Honour, I don't know that this witness can properly be expected to comment on that.

MR BOE: I'm not going to ask about what happened on that day. I'm going to use it as an example where a police officer decided that an ACPO should not be used because of the misconception about the concept of poison cousins or avoidance relationship without having spoken to them?---Well, it probably have been beneficial at the time for that constable to have a conversation with that Aboriginal Community Police Officer and discuss what was viable in the circumstances, culturally, and what wasn't.

Thank you. That's – yep?---Which is how I deal with situations.

Yes?---If I'm asked to deal with – I've got family covering most of the Central Desert Region. I work in a very targeted area that deals with specific crime types. If I have a conflict of interest or a cultural obligation issue that arises in relation to my role, then I advise my team and my supervisor of those issues and I educate them around that.

Thank you. You've got the strength of position of being a non-ACPO police officer, don't you? I mean, you're in a better position to have to articulate that. Do you agree that it really falls upon the officer in charge or the forward commander on any particular community to make sure that they are aware and the members underneath them are aware what limitations, if any in fact exist, for the utilisation of an ACPO that may have connections with the community?---No, I disagree. I believe it falls directly to the person performing the functions as an ACPO or a police officer to educate and advise those that they're working with in relation to how they can best assist to perform functions in that community.

I understand. Is that part of the training of ACPO's that they have that responsibility?---Once again, you would have to ask that question to Sergeant Matthew Allen who works at the NT PFES College.

You touched – you spoke a lot about a real appreciation, both from a personal level and your observations and your tertiary education, et cetera, about the need for all Australians, in particular, police to recognise generational trauma in the communities that they are servicing in some areas. For example, to have a real knowledge, not just a historical Wikipedia entry about the Coniston Massacre, for example, for Yuendumu people. It's a huge task, isn't it, to get somebody else to recognise somebody else's trauma about which they have no experience?---Absolutely.

Yes. The sentiment that came from the engagement earlier this week and certainly from my brief time engaging, is that how the Coniston Massacre process was resolved was completely satisfactory to them, to this day. To this day, they are hurt by that. There is evidence from last week, or earlier this week, that what's happened so far in respect of Constable Rolfe's actions is far from satisfactory, to use a neutral word, for many of the family and many of the community. Is it really an issue that can never be addressed? Because it's taken 40 – 70-odd years now and it still hangs over – 90-odd years now, it still hangs over the heads of this community in Yuendumu and all this has done is triggered their sense of how they will be treated?---I think that could be said for every person of Aboriginal heritage within the nation of Australia who have had family members that have died at the hands of police. My family's interaction with the police hasn't always been positive. My interaction with the police as a young person wasn't always positive. So, the only way that we can try and drive that forward is through education and understanding. It's a difficult concept. I mean, people do entire university theses on the subject that you've just asked me about in relation to intergenerational trauma. How do you understand how somebody else feels about a given situation that you're not involved with? That's effectively what you're asking.

Yes?---Correct.

And I put it in this way because in lots of conversations, I've certainly had, both at the bar table and with witnesses, the proposition is put back to me when I argue one way that it's a two-way responsibility. There is no good coming up with recommendations of how we, the police, should be if they're not going to do something about their problems or how they "behave". And with respect, I mean, I find that an offensive concept, you know, the idea that the traumatised community have somehow got to repeatedly own their trauma and tell police to please take that into account when you're dealing with us. So, that's what I wanted to get to?---Yep, but I understand what you're saying. But working in our communities is exceptionally difficult and exceptionally challenging.

I understand?---It can be extremely violent, and even some way or fashion, I could describe it as, at times, brutal. So, when you're going to – as a police officer, when I'm going to a job that involves high levels of violence, it's difficult for me to take everything into account in the manner of minutes, seconds that I have to prepare myself to deal with that situation. So, it's a very – what you're asking me is an exceptionally difficult question. And how I would deal with something would be totally different to how another constable would deal with something, because it's based upon my contextualised understanding of intergenerational trauma and its effects on the community. And the conversations that I can have with people in the community are different to the conversations that other people can. I guess this is where the importance of having a representation of the community within our ranks - - -

Yes?---Is highly beneficial.

Yes?---Because that's the only real way that you're going to get an appreciation

within any government organisation of the way that the communities feel about the process of colonisation, which is what you're talking about and how to drive that forwards and how to effectively deal with issues within the community.

May I take from your answer, can I just illustrate it in this way, one of the most powerful pieces of evidence I heard from Derek Williams was that, on occasions, he had to sit down with Kumanjayi for up to 40 minutes to explain to him again, because he'd done it previously, why he was being arrested, what would happen to him and that he would be safe if he came with him to be arrested?---Mm mm.

Now, that involves, from Derek's point of view, the fact that he knew Kumanjayi?---Yep.

All right. And the fact that he, Derek, was wanting to conduct himself, whilst walking in two worlds, do the job, but do the job in a way that is safe for both of them to take Kumanjayi in?---Mm mm.

Now that, if I may say, example should in fact be what all police hope to achieve; that is, have a sufficient knowledge of who they were going to arrest in order to plan in a way that's safest for both of them?---Well, I'll put it to you this way. If I'm working in Sydney as an Aboriginal police officer, which I have done, and I've got an arrest target that comes from Lakema(?) and that arrest target is of a different faith culture to me, speaks English as a second or third language, is highly volatile, I'm not going to have the knowledge base to deal with that person. This is what our police officers face day to day when they're dealing with people in communities in the Northern Territory. So, Senior ACPO Williams, Mr Williams, has an amazing understanding of his own community and his own culture. It's taken him a lifetime to gain that. No police officer, through any course, any guidance that we give them is ever going to be able to match the experience and the knowledge base that he has within his own community.

But what they can do is make sure, when it's possible, he is the frontline contact with people in the community in these non-urgent circumstances?---In nonurgent circumstances and I think that that's best practice within remote communities. But not every remote community has an Aboriginal Community Police Officer or an Aboriginal Liaison Officer. I think that there's definitely drive to have that in effect but it's not in place at the moment.

I guess, as I sit down, that goes to your question that these sorts of resource allocation are matters for senior command?---Mm mm.

And government but there's not so much - how much money goes to the police force, it's how the police force decides to allocate resources to making sure that there are, in fact, available ACPO's and ALO's and Indigenous senior sergeants and officers in charge within the Northern Territory?---Yes, in a perfect world moving forward there's definitely room for expansion there and I think - well, I don't think - I know, through conversations that I've had with senior members of our organisation, I can definitely see - and I understand - that that's a process that is being attempted.

I understand. You may not wish to answer this question. Do you prefer to be discharging your duties at the level that you are doing, that is being in charge of a patrol group or the crime division that you are in or would you think that you would better placed to be advising senior command about how their whole force should operate in terms of being critically involved - directly involved - in formulating the matters that we are talking about?---I think that there's space for both. I am an individual but there's many of me within the Northern Territory Police, I am certainly not unique in any fashion.

Are any of you - do you have the hear at an operational rank level with the Commissioner?---Not that I'm aware of, no.

Do you think that would be a really useful usage of your collective and individual insight and skills?---Do I think that there should be a development pathway for Aboriginal people within the Northern Territory Police - 100 percent.

More than that, if we don't - like with the judiciary when we didn't have any Indigenous judges, they were hoping to learn from their experiences. Once we got Indigenous judges people are talking collegiately, collaboratively, in a safe place? ---Mm mm.

About how to better be judges in relation to Indigenous matter, for example. It would be useful, wouldn't it, and not just having more Indigenous people there but having Indigenous people part of the decision-making of how allocation of resources are going?---Yes, I wouldn't disagree with your sentiment.

Thank you, your Honour. I have no further questions.

HER HONOUR: Is that a convenient time for a break? It is. We will just take the morning tea adjournment. There's a number of other people who will no doubt want to have some further questions of you?---No problem, your Honour.

WITNESS WITHDREW

ADJOURNED

RESUMED

BRAD WALLACE:

MR COLERIDGE: Your Honour, just before the examination resumes, there's one matter of housekeeping I wanted to attend to.

THE CORONER: Yes.

MR COLERIDGE: Your Honour has made a number of non-publication orders in the proceedings, including over ruling number three and exhibit 22. I've been advised that that causes some of the parties in the Supreme Court some difficulty, that is technically the non-publication orders would prevent disclosure to that court.

THE CORONER: Yes.

MR COLERIDGE: So I just seek a variation to those orders for that, an additional expectation, that permits disclosure to the Supreme Court of the Northern Territory, for the purposes of proceeding 02673 of 2022.

THE CORONER: Yes, I –

Nobody wishes to say anything further, I'll make that variation to the non-publication order, and that will be added to the website.

MR COLERIDGE: Thank you, your Honour.

THE CORONER: Thank you.

Mr Mullins.

MR MULLINS: Thank you, your Honour.

XXN BY MR MULLINS:

MR MULLINS: Senior Constable, my name is Mullins. I appear on behalf of the Brown family. I will be brief. I just have three topics that I want to ask you about, relating to communication. The first one is that, am I right to say that almost all of the Indigenous people in a community will have English as their second language?---Yes.

At best?---At a minimum, a second language, yes.

And so that has been your experience in communities?---Yeah, well my grandmother spoke English as a fifth language. So it's not uncommon.

So when one is going through the mechanism of enforcing laws, as you do. The interaction between the police officer and a person in the community, can be

complicated by language problems?---It's exceptionally difficult. The ability for people that speak English as a second, third, fourth, fifth language, to understand the contextually complex English, can be difficult.

Well I'm not a language expert, but one can simply see a number of problems. Firstly, that the police officer has the capacity to understand that the message he's conveying, is being understood. That's one line of communication that's problematic?---Mm mm.

The second line is that the person whose listening to the direction from the police officer, may – may or may not understand what's being conveyed to them?---Yes.

So misunderstanding there. And the third is, is that the person who is being given the direction, that is the community member, in trying to convey something back, may have some limitations in that?---That's correct.

Now, we've heard some evidence from a health person who has said that they've heard, when they were dealing with people in the community, in having a family member present to assist in the communication issues?---Mm mm.

And obviously having an ACPO present for a police officer in a non-urgent situation is the best way to manage the potential language difficulty?---If the ACPO speaks their language or a language other than English.

Are there any ways you can think otherwise, to manage it - that situation?---Look, it's difficult when you're working regionally and remotely to always have somebody available to give you that language assistance. Sometimes the calls that we respond to are urgent in type and require a quick response. Sometimes there's situations that we can be going into can be dynamic and violent. So in best practice would it be good to have somebody there that can communicate in that first language - 100 percent agree. Is it always practicable? No.

And you confront that situation in Alice Springs on a regular basis, don't you?---Yes.

And how do you manage it in terms of ensuring that you are conveying a message and the message is being understood?---The best way that I can, which is by utilisation of direct base language. So not - not being extravagant in my choice of use of the English language.

And the second point is related to communication, but it's the use of time as being a measurement or a tool through which to request something be done. So if, as I understand it in many of the communities and in your experience, is it the case that people are pretty flexible about times?---At times - pardon the pun - at times, yes.

So if one was to say, "You need to hand yourself in before midday" as a direction that may be difficult for a person within the community to comply with?---I wouldn't say so. I would say that if there's been some form of conversation around somebody

handing themselves in to the police station that there would be a conceptual understanding of the timeframes involved.

Are there any other alternatives to using a nominated time, that you can think of? ---Well, it depends on the circumstances and it depends on the type of offence that you're dealing with, the veracity of the potential for the commission of further offence or for people to be injured or, you know, like that's a very open-ended question, so.

It may have been imprecise and I apologise. It was more - can you think of any other alternatives other than saying, "Come in by 12 o'clock" if you want the person to come in at around the middle of the day?---Well, you'd ask people to come in during the daytime to see you, if they're going to hand themselves in, yes.

The third thing is the interface between the Elders and police within the community? ---Mm.

From your own experience, is it important that there be an exchange of information between Elders and the police in the community?---Absolutely.

And what sort of form would you see that taking?---Well, it depends on what already exists within the community. The police run community safety meetings or CSAP Community Safety Access - I can't remember the exact pseudonym - excuse me - but the remote police officers do conduct meetings with communities on a regular basis to talk about issues, problems, how they can assist each other going forward and it involves not only the police but other NGOs and government organisations. I think that interface with Elders within the community space is very important.

And in the context of the balancing of the two responsibilities on the one hand the police are effectively policing the community and the Elders are trying to assist in that process. Do you think that the power of the Elders in the last decade or so has been emasculated to some extent by the things that you've observed?---I wouldn't say emasculated, I would say diminished, yes, and it's not from any fault of the communities, I think it's the fault of wider government policy. I don't think that the police could be labelled with the people that are responsible for the emasculation, I think that that's a wider Australian government issue.

And is it fair to say that a strong authoritarian - sorry, that's the wrong word - a strong and empowered community of Elders will assist in the policing, rather than the contrary?---Absolutely, 100 percent.

Nothing further, thank you, your Honour.

THE CORONER: Mr Espie?

<u>XXN BY MR ESPIE:</u>

MR ESPIE: Constable I will ask you some questions and then - my apologies, thanks to me that you are back here again having to sit here for a few more hours.

Having (inaudible) so that you're coming back, I probably don't have too many questions. I will try and be brief. I just want to turn to something I asked you about last time, which was your time out working on - in the shires and running night patrols. You touched on underlying issues that poverty is something that unfortunately connects people to the justice system and you spoke to some extent about the importance of employment and that sort of thing and empowerment in communities. We heard yesterday about the use of security guards at - I believe it was at the local clinics. It's also been discussed in the context of other communities - sorry - we had this conversation in Yuendumu whilst we were there?---Mm mm.

The training clearances et cetera, the qualifications required for night patrol staff is - to your knowledge would there be much more required for people with those qualifications for night patrol to get qualifications as security guards isn't there? ---It's interesting, the - when I was working with night patrol in 2009/2010 we developed a base course program in conjunction with a registered training organisation in Alice Springs, Eagle Training, which is directed by Gary Carter and Gary, on behalf of Central Desert Shire, he moulded a night patrollers course that gave a base level of skills but also gave them a Certificate 1 in security and a Certificate 2 in security, so those people would have been able to gain employment outside of the night patrol sphere of operations. If that's been continued I'm unsure but - - -

Yes, so ostensibly employment with people like Talice Security that look after the courthouse?---Absolutely.

So from the perspective of Indigenous empowerment do you think that would be a positive thing or a good idea for whether it's the Department of Health or other services in the community to look towards employing local people in those sort of security roles?---Yes, absolutely. I know the Yipirinya Centre in Alice Springs employs Aboriginal people in the role of security officers and it has shown great benefits because they are able to mediate and deal with issues in a different way to what non-Aboriginal people could, and I know that Kmart has been utilising some Aboriginal security officers there and it's reduced the issues that they're seeing in their store without any further intervention, it's just the fact that there's a senior Aboriginal male or female that is performing that role and function.

And similar, the last question replies to, having Aboriginal police officers and that your interactions somewhere - like Alice Springs, where people know you and are familiar with your face, of who you are and they have some knowledge or connection that is perhaps quite a different interaction that you may have - or different attitude that people may have when you approach or similarly with a security guard approach?---Yes, absolutely. It can be, you know, I would like to think that everybody likes me but I knew it's quite the contrary. There's been members of this community that don't like me, but when you are a part of your community your ability to deal with the community on a base level is evident through – through interactions. So – and I don't think that that's – it's beneficial to be an Aboriginal person working in an Aboriginal space, but for anybody, if you are working as a police officer in a remote community, and you sit in your house and you don't go and interact with the

community, don't go to the local store, don't get involved with the local sports, and it's one of the things that I talk about in the – the small training packages that I do at the college, is about networking. And through networking, you can create cultural brokerage. So if you don't make the effort to be a part of the community, then life's not going to be as easy as it could be for you.

To some extent, it's a protective or preventative factor having positive relationships in the community, you would agree?---Absolutely. It's important on a number of levels. I mean on a human level, it's good to have interaction day to day with people. On a policing level, you're – you're a police officer, but you – we're civilian police officers. We're members of our community. You know, we're not a military organisation. We are representatives of the people that we police.

Unfortunately there are occasions where, coming in situations and trying to resolve things, things happen in the spur of the moment and - - - ?---Mm mm.

- - - and often unfortunately force may need to be used in apprehending someone for example. You described yourself and other Aboriginal people having not so positive, or negative interactions. For example, any occasion where someone has to be arrested quite forcefully, whether it's them or you know, children observing that, for example?---Mm mm.

That itself can be traumatic?---Absolutely.

And obviously you can't always avoid that, but where possible, being conscious of avoiding those sort of situations is important for the long term relationship that people have with a good police - - - ?---Yep.

- - - perception of the community?---Yeah, absolutely. I think, as police officers, we're just people. We're nothing special. And like people, we're individuals. We're all different. And we all carry a different life experience. A different education base, and a different understanding. A different ability to mediate, or problem solve, or – or liaise with community members, whether they're Indigenous, non-Indigenous or from any other ethnicity. So you know, to say that all police officers can work off the same base, is a fallacy. Because we're made up of a cross-section of our society.

Would you say that situations where you, your perception of what interacting with someone is at, because they know you, or because they have – they see an Aboriginal face that they're a bit more relieved, or a bit more cooperative, simply by your presence?---Absolutely. Absolutely. I won't deny that. It can make a huge difference. But it can have a negative effect as well. Which the majority of the time, interactions of what you're describing are positive, but occasionally, you'll have somebody that won't want to deal with me, because they know that I'm from the local community. And sometimes it's dependent on the crime type that they're involved with. Sometimes it can be a factor that they are embarrassed that somebody they knows, knows that they've – they're a suspect in a certain crime type. And that can be an issue. But generally, being a local police officer, and having links to the local community, leads to peaceful resolutions more times than not.

And you obviously have not only your own personal knowledge, family and cultural knowledge. You have a Master's Degree in Indigenous Knowledge, is that correct?---That's correct.

You've done things like Mawul Rom et cetera, so you'd agree there's certainly a lot more training around Indigenous knowledge that will benefit many officers?---Absolutely - - -

(Inaudible)?---So one thing when Dr Dwyer asked me about the Mawul Rom program that I forgot to mention was that the Mulron Program, when it was re-established in 2007/2008, was actually cofounded by the Australian Federal Police. It was a very positive, very positive interaction between the AFP and the Mulron Program, because the police could see the benefits that that program could bring into that organisation that I was working for, at that time.

And correct me if I'm wrong, were there some aspects of that Mulron that included mediation skills?---Yes.

Was that a significant part of the program?---Yeah, that formed – well, it was a cross over between contemporary western style of mediation. So we actually went to CDU and did a unit that gave us a – a Certificate in Mediation. And we did traditional ceremonial mediation practise, which is the actual ceremony, which is Mulron.

Incorporating that sort of training into NT Police, would you think that's something all police would benefit from that work with Indigenous community?---Any training that assists police to be able to deal more effectively with any cross-section of the community that they deal with is beneficial. I would like to say that we've got an unlimited budget, and that we've got unlimited time. But it's quite the contrary. But I do agree, that there probably does need to be more focus on providing people with an effective understanding of what their – the community they're going to be working with, before there.

All right, aspects, or that program or other aspects, such as mediation, would you agree that that's something that other people in communities such as (inaudible) justice groups, or mediation – sorry, your night patrols, that sort of – having that sort of – those sort of skills in mediation and interacting with people - - - ?---So - - -

- - - (Inaudible) prevention of crime and resolving conflict in the communities?---Yeah, the – the Mawul Rom project had attendees from a wide range of NGO's and government organisations. I actually think, from memory, that we had a judge from the High Court of Australia that came and completed the process. But we had community members from Yolngu communities, from the different tribal groups within the Yolngu Nation. And we also had some people from Mount Theo from the Kurdiji Council at Lajamanu, and from the mediation group at Yuendumu, who attended, and performed part of that, or who attended and were part of that process as well.

And perhaps as a bit of a plug for NAAJA, who I appear on behalf of, NAAJA in the past 18 months has been, including with the assistance of people like Ms Justine Davis that we mentioned, have been delivering mediation training in a number of communities?---Mm mm.

To try and have more Aboriginal people in those communities with those skills and - - - ?---Yep.

- - - and is your view that continuing that – that sort of approach, and resourcing that sort of thing would be beneficial to – in your experience in community policing?---You want me to give a plug for NAAJA getting a bit of a budget increase?

Well a plug - a plug for the idea of - - - ?---I agree a 100 percent, sorry for my response, but I agree a 100 percent. I think that Justine and her group in Darwin, and John, her husband, are doing some pretty amazing work. As a police officer, I'm a 100 percent supportive of community-based programs and processes to divert peaceful people from the course of justice. And this is an issue that I see, in the Northern Territory, is there's not a lot of focus on crime prevention. And when I'm talking crime prevention, I'm not talking from a policing perspective, I'm talking from a community-based perspective. So there's a lot of situations in the community that can be dealt with, within the community. They aren't criminal matters that don't need to be bought to the attention of police, until it reaches a point where an offence has been committed, or a suspected offence has been committed. So, I'll give you an example. On a night shift in Alice Springs, there might be 35 domestic violence call outs. Twenty of those may be verbal arguments between parties. Do I think that police intervention is required, well going by our process and by legislative process, yes, absolutely. Do I think there's better options? 100 percent. And those option could come from a wide range of services that are trained to perform that intervention before police are required. I think police are used as a stopgap to respond to nearly every incident that happens within our communities. I mean, I've been to incidents of – as simple as two brothers arguing over a pair of thongs; that's required police intervention. So, any training - - -

THE CORONER: How did you resolve it? Did you cut them in half, or did they get one each?---I gave them one thong each, your Honour. But on a serious note, that's the reality of – the police are – I wouldn't say that we're overwhelmed, but we're pretty busy. And in answer to your question, any program that can assist the community to deal with those situations on a community level, before police intervention is required, would be fantastic and beneficial.

MR ESPIE: Perhaps to quote one of your colleagues, police can't – we can't arrest our way out of many of these problems that we've discussed. It is broader than simply - - -?---I think if we've come to the point where we think we're going to arrest our way out of a social issue, that we're kidding ourselves. I think that the issues that we're facing in the Northern Territory are much more complex and much bigger than any policing service is ever going to be able to deal with. And I don't think that that's the role of police within society. Police aren't – police shouldn't be there to be parents. They shouldn't be there to be referees. They shouldn't be there to be

social workers. They shouldn't be there to be psychologists. Unfortunately, we're the response agency that's there and available to deal with all those situations. So, if you have a probationary constable who has been at the police college for 35 weeks, they get deployed to their first workstation. On their first day, they could be dealing with a hostage situation. They could be dealing with a death. They could be dealing with a murder. Do we adequately prepare them enough for the situations that we deal with? No, I don't think that we do, because the knowledge that they need to deal with every situation they're going to be faced with is gained through immersion and experience. It can't be taught. So, it's – yeah.

Perhaps just clarifying since we've mentioned her name, you do understand that Justine Davis was also involved in working and supporting the Community Justice Centre which is also - - -?---Yep.

- - - part of the Northern Territory Government. I'm just touching on the aspects of what you just said then. Is it your experience that when you are dealing with an offender, or perhaps a young person, that having the assistance of somebody from their community that, you know, has knowledge and training in mediation or has some sort of cultural authority, an offender, particularly a young person, is more likely to kind of go along with what's happening than if it's someone – there's an Elder or someone from their community involved or assisting police?---Yeah, it makes a massive - - -

It would make your job easier, I suppose?---Well, it makes a massive difference. And yes, it does make our job easier if – I think and I may be wrong in this quote, but one of the quotes that we use is, a successful policing operation can be judged by the level of force used or the level of force minimised. So, it's not like we are going out to use force in our everyday work. Personally, I've been here for two years and in that time, I've been a general duties member, a watch-house sergeant, acting watch-house sergeant for an extended period. I've worked in remote communities. I've performed duties with Strike Force Viper and I currently work in the Domestic Family Violence Unit. I think, from memory, I've used force on three occasions. So, the greatest asset that I have in my duties is my ability to hold a conversation. And I think that that's – may be somewhere where we need additional training.

You touched on Dr Dwyer's questions in relation to WYDAC and rehab services and the like. We spoke to someone from Kumanjayi Walker's family members that were involved in WYDAC. They – and discussed things such as additional resources, on country community rehabilitation - - -?---Mm mm.

- - - or residential programs and the like, is that something that you think would be beneficial having people – young people being able to do those sorts of programs in compliance with court orders, et cetera, on country, run by people in that community?---Absolutely. I think that we, in Australia, this is from my limited understanding of our prison system, but we seem to be following along the lines of an Americanised prison system. The United States is the most highly incarcerated nation on the face of the earth. We're not far behind. Do we incarcerate people without looking at other options that are available to try and divert that person from

incarceration, taking them away from their family, culture, country? No, we don't. Do I think we could do it better? Yes, I do. I don't work for Corrections and I'm not in government, but I don't think that it's done correctly and I think that we're at a point in time now where we've been doing the same thing for a very long time. If we were a football club and we were training the same way and losing the way that we are, we wouldn't be in the competition anymore. Do I think we need to look at other alternatives? Absolutely. Does that answer your question?

Yes, it does, thank you. You've touched on a poverty as an underlying problem. We've heard from other officers that have given evidence, including at the level of sergeant, around their views or perceptions of Aboriginal people and questions were asked around their understanding of poverty in Aboriginal communities, remote and in town. I suppose this is a question of how do we address this sort of perception? Does it concern you and what do you think is the solution when officers at that level don't have an understanding about it and simply answer those sort of questions as to poverty, look at all the (inaudible) hands that simply don't have a broader understanding, can't see past alcohol being – which obviously is a problem, but can't see past that sort of issues?---I think it's a bit more deep-seeded than a lot of the Australian population thinks it is when it comes to the issue of poverty. Because poverty is not just monetarily based, it's opportunity based. It's education based. It's culture based. It's inclusion in wider society. But three – I've worked in two countries in the world where I've dealt with people of distinctly different cultures to me, and they had similar social issues to what we see in the Northern Territory. And the social issues were all based around – they were all poverty based. They were based around access to food, money, education, security, safety, which is something that we don't – as an Australian people, we don't consider enough in our day to day dealings. And I see that quite often with a lot of our youth offenders in Alice Springs where they don't have a safe home to go to. They don't have food at home. Home could be a very dysfunctional place, frequented by a high number of visitors from different family groups, different areas. So we find the kids on the street at three o'clock in the morning committing offences against the rest of the community. But a lot of the time, when I speak to those kids, it's an expression, and it's an expression of their sense of hopelessness, because they don't have the safety, and they don't have the opportunities that some of us have been privilege to in our day to day lives. So I think some people may misinterpret the use of that word "poverty based", as being based around people being poor. But it's more than just being poor, monetarily. It's being poor in a multiple number of factors that lead to a sense of hopelessness and a lack of ambition. Does that - - -

Yes, and I guess just going on from that. Is that something that concerns you or disheartens you to think that one of your colleagues, you know, who served in this town for more than 10 years would – wouldn't be able to see those issues, and simply think it's a lifestyle choice, the alcoholism, and not understand the importance of – or having an understanding of those sort of underlying issues?---It doesn't disappoint me, but it doesn't surprise me. And it's probably something that couldn't be – couldn't be addressed through a conversation, because a lot of – even though people live in Alice Springs, work in Alice Springs, and are here day to day, their actual interactions with people that are marginalised within our community is limited.

So if you're a police officer and you come to work every day, and you do your job, unfortunately you deal predominantly with a cross-section of the community that's in crisis. You don't always get to meet the good people in the community, unless you're working remotely. So yeah, you could say the same thing about a non-Indigenous white family, living in Campbelltown in Sydney, whose third, fourth, fifth generation unemployed, who faces similar adversities in their day to day life, to what our people do here. It's not – the situation that we've got in relation to the poverty issue, it's not unique to Aboriginal people in the Northern Territory. It is an issue that affects people in every cross-section of society, in multiple countries across the face of the earth. And if you look at the crime types, and the social order, and the substance and alcohol abuse types, it's similar across the border, irrelevant of culture, ethnicity, or religion.

And as someone who provides cultural knowledge to recruits, knowing that there's more senior officers that, and as you said, a lot of – a lot of officers simply see the negative - - - ?---Mm mm.

- - - aspects. Is there a requirement for ongoing and regular cross-cultural - - - ?---Absolutely. I think you misquoted me there when you said that a lot of officers see the negative side, all of us - - -

(Inaudible)?---Yeah, all of us see the negatives in our role, because that's police – I explained it to my wife one day. I came home, and I was a bit down about what was – what I was dealing with on that day. And I said sometimes I feel like I don't go to work to have a good day. Because when I go to work, and I put on my uniform, I'm always dealing with a crisis. I'm always going to deal with somebody when they're in a low ebb in their life. I'm always going to deal with them when they're having a mental health break, or when they're suffering from some issue that requires intervention. You know, people don't ring you up because they have – they don't ring the police because they're happy. So our involvement with the community's totally different to everybody else's involvement with the community. So it can – it can impact the way that you look at, and think about, and deal with the cross-section of society that you immediately deal with. Reminding yourself that that's a small cross-section of the community is what's important. Because, if you focus wholly and solely on what you're doing at work, and you're not socialising, not being a part of the community that you're involved with, then you can become focused on the negative.

Would you say there's in looking at her Honour to make recommendations, that there's a role in police in actively countering exactly what we've talked about, active measures to ensure people do have positive interactions. And learn positive things about the community that we work with, and that you interact with?---Yes. And it's something that I've seen encouraged by long serving senior members of Northern Territory Police. When I came through my recruit squad, my advanced recruiting program, we had Sergeant Owen Blackwell as our squad officer. And it was something that he spoke very strongly and passionate about was, you need to be a part of your community. And he spoke about his service, and what he had done in the Central Desert, in Groote Eylandt, in Arnhem Land, and how he'd integrated

himself into the community. So every community that he went to, he was involved with the local football team. He got involved with community events, community issues. I think that's really important for us in our role. So I know that there's senior police that are encouraging and explaining that, through the recruitment process. Do I think there's a need for it to be – to be addressed regularly? Yeah, absolutely. Because we need to remind ourselves that not everybody in our community is negative, or in crisis.

And given that we've also heard other police also talk about the sort of negative crisis interactions can – there's a risk that it can lead towards negative stereo typing of Aboriginal people and racist views and the sort of things we've heard. Your positive comments about the improvements in the NT Police upon returning in your role, would you agree that it's important for that factor to prevent people slipping into the old ways of having these sort of racist or negative views?---Absolutely. I – I don't think the type of language, and I know you're referring back to some of the text message stuff.

Mm mm?---That type of language would not be accepted in the muster room in Alice Springs Police Station, I can tell you directly. I haven't heard it. Whether that's because people wouldn't be game to say it in front of me, because they know that they would get a response, but there's enough – there's not enough, but there's a lot of Aboriginal police officers that work within the station. I'm not the only one that feels that it's a pretty good environment. Do we have issues? Yes, absolutely. Can we become negative? Yes, absolutely. And I've seen that across multiple jurisdictions, where you have to remind yourself that you're dealing with a small section of society, and not everybody will behave that way.

I'm almost done, your Honour.

And that just leads me to another point, you're aware many of the other Aboriginal police officers, is there enough done, or is there more that could be done in supporting or making Aboriginal people feel more confident and more comfortable working within the police?---There's plenty more that could be done. Do I think NT Police are trying their best in the current circumstances? Yes. Do I think there's room for improvement? Yes.

For example, other government departments have created internal Aboriginal advisory or reference groups - - - ?---Mm mm.

- - - within their agencies. Is that something that has been done, or could be done?---Well Northern Territory Police have set up the Community Resilience Engagement Command, the CREC. Which addresses that question in total. And I spoke about that the last time I gave evidence.

And certainly from the outside, there's a perception, or there could be a perception in the community that this whole experience of this inquest, and racism that's arisen, has created division within the agencies, is that something that more could be done to address that and ensure not only the public, but the people like yourself, or

non-Aboriginal officers?---I wouldn't say it's created division within the agency. What I would say is that it's identified that there was a behavioural type - we know that. Acknowledging that that behaviour occurred and ensuring going forwards that that behaviour is addressed and not tolerated is what is important. Yes. Does that answer your question?

Yes. Yes, it does. Now, would that (inaudible) include strong messaging from senior officers that racism is not tolerated?---Well, I think that, for me, if you're a senior officer and you allow that to happen then you're failing in your role of leadership and that's non-questionable.

Thank you.

Nothing further, your Honour.

THE CORONER: Mr McMahon?

MR MCMAHON: Thank you, your Honour.

My name is McMahon and appear for the Parumpurru Committee of Yuendumu?---Mm mm.

And so it's a justice committee. What I want to do is build on the questions and answers you've already been asked with a particular focus on re-imagining to some extent, the preparation of younger police officers. You're probably not that surprised to know, given the way today has unfolded, you've been a most unusual witness in the inquest in terms of a range of issues you've been asked to consider. And it's because you are one of the only witnesses who has - one of the small number of witnesses who has a whole life of living in two worlds, as you put. And it's clear from what you've said to day that you've made it clear to us the enormous complexity of the job of being a police officer in the Northern Territory and many of us in this court are not from the Northern Territory and its complexity. Your job sounds more complex than some of the jobs of other police officers in other parts of Australia might do?---Mm mm.

And you're nodding, you think that's probably right, based on your national experience in the AFP?---Yes.

And so that's what I want to bring you to focus on, because you made a comment a few minutes ago that - when you arrive at a job sometimes there's a level of violence and brutality which is really confronting?---Yep.

And you have to make a decision in a nanosecond about what you are going to do next and you said that the way that you deal with that might well be different from the way others deal with it, based on your entire life experience?---That's correct.

Yes, so that's where I am going with these questions, because even though the Northern Territory Police might now have - you said roughly 14 percent, give or take

a few percent of people who are of Aboriginal heritage, nevertheless they are still going to lead - even in the best of times - 60 or 70 percent of the police force who are not Aboriginal or Torres Strait Islander?---I think about 86, yes.

At the moment?---Yes.

But even with much change and much progress?---Yes.

There's still going to be a huge percentage of people who are not Aboriginal? ---Yes.

So, bearing those preliminary remarks in mind, and perhaps one other comment to give a foundation for these questions, we already know that almost every kid in detention in the Northern Territory is Aboriginal?---Yes.

It swings between 95 and 100 percent apparently?---Yes.

And around 85 percent of the 1800 or so people in prison at any one time are going to be Aboriginal?---Yes.

So most of the people who are dealt with in these crises that you have been referring to are in fact Aboriginal people?---That's correct.

So none of my questions now should be taken as criticisms of the police training, which it's clear from what we are all learning, is changing and improving?---Yes.

But we're at the point where you've got a course of approximately 26 or so weeks at the academy?---Mm mm.

And I appreciate you're only a very small part of that and you're not a member of staff, but that won't stop you answering these questions. And we're at the point where about six or seven days of that training, as recalled by other witnesses here, are training on Aboriginal culture and so on?---Yes.

So I want to suggest to you that one way of re-imagining the training that the officers have - that the young constables have - or probationary constables, to be precise? ---Mm mm.

Is that if the far richer and far more extensive than what has previously been considered and I will give some examples, and I know you're not qualified in terms of budgetary decisions of management decisions, but what you are qualified in is what none of us are qualified in, is being on the street either in community or in town, dealing with a huge range of issues and that's one of the things I'm coming back to because you pointed out that a policeman in your job - in Alice Springs or community, sometimes - not just a policeman but also perhaps a parent or a social worker?---Mm mm.

Or even dealing with medical situations, a psychologist?---Yep.

And you made the point a number of times that it shouldn't be that way, that there should be far greater resources coming from other agencies to deal with problems and I'm sure no-one will disagree with you on that, but the reality is because of the way this territory operates and the communities' interaction with those other agencies and police, it is a fact that it's the police who are called to this huge, wide range of problems on a daily basis?---Yes.

So I want to suggest to you that in order for the young non-Aboriginal constable in the future to deal with the realities which you've described and the wide range of needs and challenging situations, that it's time to re-imagine entirely the training, so that all of the things that are done - are taught - in order to be a constable carrying a weapon, to fill out a notebook, to go to court to give evidence. All of those things of course must be taught well?---Mm mm.

But in addition to that, instead of having five or six or seven days of training in Aboriginal cultural and matters, such as the things that are in your video, that two and-a-half hours ago?---Yep.

That's on our brief, that there should be more five or six or seven weeks of training and that's what I want to explore with you for a moment. Now, we all know from your evidence and from the sergeant who sat with you last time - Allen was it? The sergeant?---Yes, Sergeant Allen.

And other witnesses who have spoken about their experience out in the field, that experience out in the field is essential, and needs to be mentored by good people as you come up through the ranks and do the training?---Mm mm.

But would you agree that in addition to appreciating the value of that experience in the field, that there could be great value in a constable having a much wider, richer and deeper understanding of Aboriginal history and culture before they even step out into the community?---I won't disagree with that.

And can I suggest that some of it ought to confronting - all the young police constables. For instance, we often hear - in this court we've heard talk of the Coniston Massacre and obviously there's police training information about the Coniston Massacre which is particular relevant of course to this case and the Warlpiri people but to your knowledge, for instance, is there education at the academy or in any part of your training as a police officer on what followed the Coniston Massacre, such as an enquiry where it was found that the deaths were justified - that the killings were justified, an inquiry where Aboriginal witnesses weren't called, where police lied and where, effectively, the whole thing was whitewashed?---I'm an Arrernte man, I know the history of my own people. You don't have to tell me.

So, I appreciate that you will know much more about this than I ever will, but I am now thinking about the young non-Aboriginal constable - - - ?---Mm mm.

- - - who in 27 weeks is going to be at Yuendumu, or Alice, or Katherine or (inaudible)?---Could I suggest that – you're saying that that needs to be incorporated into police training. How aware were you of these situations before you became involved with this case?

For me, not at all?---Exactly. So do you think that it's something that should be dealt with by the education system, through primary school and high school, by teaching people the history of this nation, rather than putting in the hands of a uniform?

Absolutely. But they're not mutually exclusive – I totally agree that – and we won't be able to explore this for more than 30 seconds because - - - ?---Mm mm.

- - - we're getting off track, but the national education system obviously has failed in this area over our entire life times. May be not today, for the youngest people, but certainly in my education, and for instance, at law schools. Across the country there are 11 core subjects?---Mm mm.

And none of them are the law of the Aboriginal people?---Yep.

However that might be taught. So you won't have any argument with me about all that. I – what we have to deal with here is the facts on the ground that you've described, that nano-second when you're confronting a difficult situation. And also the situations which are non-crisis - - - ?---Mm mm.

- - - but which require maturity and depth of understanding?---Yep.

Of culture. And because of all of your experience and the answers you've already given, that's what I'm wanting to ask you about that. Do you agree that, and the Coniston is a good example, but there are many other areas going back in time, pre-Coniston, in Northern Territory Mounted Police, subsequent to Coniston, the matters of slavery. Of being forced to work without wages, of decades of living in those circumstances. Do you agree that the constables would greatly benefit, if that was taught to them in kind of serious and in-depth way. So that when they go out into the field, they'll never know what you know, and I'll never know what you know, but they'll have a much better understanding than they currently would?---I agree. But I think it's a matter for our nation. So you know, once again, it's a focus that we're putting on the police. I think it's a failure across our entire nation that we don't know that history. So yes, I think it should be incorporated into police training. I agree with you. That it should be incorporated into legal training. It should be incorporated into medical training. It should be incorporated into every aspect of Australian culture, so that we know the history of this land that we're sitting on. So yeah, I agree with you, but I think it needs to go further than just those that are responsible for enforcement of legislation having an understanding. I think everybody needs to.

You probably already know that I agree with what you say about that?---Yep, I do.

But what we have to – what we have to do, sitting at this table, is to make submissions to her Honour about findings that she could make?---Mm mm.

And building on your answer, it's not at all contradictory with your answer, is the idea that - - - ?---I've – I've agreed with you.

- - - people of Yuendumu, and (inaudible) you agree?---Yep, I've agreed with you, yes.

And - - -

THE CORONER: Just so I can understand that, and you've talked about is it Mawul, how do you spell that?---Mawul, M-A-W-U-L. Second word, Rom, R-O-M. So - - -

Is it - - - ?---Mawul's the – is the wukindi, it's the ceremony. Rom means law. So - - -

Law?---Yep.

Is it the kind of learning that you received in Mawul Rom that you think might be of benefit for this more in-depth learning that Mr McMahon is talking about, or is something different to that?---Possible, but that – that particular training is unique to Yolngu people in North East Arnhem Land. The ceremony comes from there. The song line comes from there. But, it can be incorporated into other areas. It's just a different form of learning. So, yeah. It's – conceptually, yeah, I think absolutely, your Honour.

That could be a component of the additional learning that could be incorporated, possibly?---Possibly, or if not, that – that – excuse me – exposure to non-contemporary Aboriginal learning. Because modern Australia doesn't have exposure to an Aboriginal learning space, or a Torres Strait Islander learning space. So yeah, that - - -

MR MCMAHON: So I appreciate you understand where I'm going with this. But we have to get matters on the transcript in order to make recommendations to her Honour and so on. And so some of the questions I'm asking you might (inaudible) but that's why we do it?---Mm mm.

So for instance, I want to talk to you about poverty on the one hand, and enforcing legislation as a separate topic?---Yep.

You've made some quite profound comments about poverty. And how in order to understand some of the young people that you see on the street at 3 am, you have to go into the whole of their life. Which – to understand properly how you're going to deal with that young person. (Inaudible) intuitively on a daily basis, or regularly?---Mm mm.

To understand wholly, you'd have to understand in the Northern Territory at least, or Aboriginal people in the Northern Territory, you have to understand dispossession,

the history of colonisation. All those things are part of generations of people who have been living in poverty. And I'm sure that you understand again, that more than people who have heard in this this room well?---Mm mm.

Because you've seen it all of your life. So again, that area of education, you would agree that that kind of thorough training at police college in understanding the history of poverty in the Aboriginal community, and how it links to suffering in other ways, through dispossession, through disempowerment for instance. You'd agree that those kinds of things could usefully be taught, in depth, to young police constables coming through, so that they have a better understanding of the young person that they're meeting at 3 am on the street?---Yeah, I won't disagree. Once again, I think that that needs to be addressed at a national level. But as a – as an immediate response, yes it would be beneficial.

You may remember last time, when Sergeant Allen was there, I was actually promoting these ideas as a way of promoting the Northern Territory Police, as an agency of excellence?---Mm mm.

That if the sorts of ideas that we're discussing now, were part of the training of the Northern Territory policemen, that picks up the idea that you're saying this is a national problem, but look at the way we're dealing with it. This – this police force - - - ?---Mm mm.

- - - is now dealing with this, in a reimagine, unique, thorough, creative and powerful way. That is a good way of attracting quality people into the Northern Territory Police don't you think?---Yep, I agree.

And you spoke – earlier you said that America is the most incarcerated nation on earth. I think it's somewhere over two and a half million people in prison?---That's correct.

However, it's often said that the Aboriginal people of Australia are the most incarcerated people on earth?---That's correct.

And it seems that we should at least consider that in the context of some of the questions and answers that we've heard today. You spoke about – you said a number of times, what the police do if they go – if they respond to a call, and they're enforcing legislation. And correct me if I'm wrong, but built in to some of your answers was a plea to the parliament, that there would be more discretion built in to the decision making processes for police officers?---I wouldn't say it was for more discretion. I would say that it's a plea for – from my perspective, it's a plea for a – a government response to deal effectively with the social issues that put people in contact with the justice - with justice. So, that puts people in contact with the police. It puts people into contact with the court. Because that's the underlying factor of why so many Aboriginal people are incarcerated in Australia, is because, as a nation, we are not dealing with the history, with the poverty, with the issues that we've got day to day going forward. That's why there's no police officer that I know that comes into work every day and says, I'm going to go and lock up an Aboriginal today, because

you don't have the time. You come into work and if you're working general duties, you answer the radio call to go to the dead child; to go to the car accident; to go to the domestic; to go to the stabbing, you don't ask whether it's a white or a black or an ethic person that you're going to respond to. You respond to the job and you deal with the situation that you've got in front of you.

Sure. So, I'm not suggesting to you that there is a designer guide and the rest Aboriginal people contributed?---No, and I know that. But what I'm trying to establish is that the amount of Aboriginal people that come into contact with the police is dictated to by the situation that my people are in socially.

And I think you've made that point very powerfully. But it does tie into your comment, which you've made a number of times, that you're enforcing the law. And for instance, 30 years ago, the Royal Commission into Aboriginal deaths in custody made a whole lot of recommendations and the number of Aboriginals in custody at that time was noted and so on?---That's correct.

And in fact, the situation has got noticeably worse - - -?---It has. But if you look - - -

- - - over the 30 years?--- - - - recommendations of that Royal Commission, you'll notice that the one government organisation from all jurisdictions that has almost complied with every recommendation is the police. So, I would implore you to have a look at the Royal Commission and to have a look at what government departments have not complied with the recommendations of that Royal Commission, because that might answer some of the questions about why Aboriginal people are incarcerated at some a high rate. It might answer some of your questions about why Aboriginal people are dealt with in such high levels by the police.

Well, part of the answer to that is going to be that when a good police officer goes out and enforces the law according to his or her obligations and duty, those laws are actually leading to higher rates of incarceration?---Yep. I won't disagree with that. But the reason why those people may be breaking those laws could be fundamentally brought back to the poverty, hunger, disengagement, disenfranchised. Everything that we've spoken about - - -

Yes?--- - - - which hasn't been dealt with by education, by health. I mean, I had a conversation during the break with a person who was going to deal with Purple House, and Purple House is an amazing foundation that does amazing work across the desert. And I said the sad thing, the thing that saddens me, is that Purple House is so good, but the fact that so many of my family require renal treatment, is so bad.

The underlying causes that send people to Purple House are not properly addressed?---Exactly. So, the underlying reasons why police come into – people come into contact with the police and the justice department, it's exactly the same concept, isn't it?

Yes, it is. And can I suggest to you, that's actually why I'm asking you these questions?---Yep.

That in order for another policeman, without your rich life experience, to make that same observation, it includes a much more profound education on the issues that we've been talking about?---Yes.

And if the schools aren't doing it, at least what I would be saying for my client, and I think you would say the same thing, is that at least if they go to the Northern Territory Police and they're going to exercise the duties of a police officer, at least there, they will get some serious education on these issues?---Yep.

And you would agree that that's a good approach?---Absolutely.

All right.

I think I've done my time. Thank you, your Honour.

THE CORONER: Thank you. Mr Hutton?

MR HUTTON: Thank you, your Honour.

XXN BY MR HUTTON:

MR HUTTON: Senior Constable Wallace, my name is Hutton and I appear on behalf of NT Health. I do just want to pick up one of the earlier parts of your evidence today, this morning, and that was - you said to Dr Dwyer that you considered clinic nurses who worked remotely do an amazing job?---Yes.

That evidence will be greatly received by my clients. I'm interested to hear why that is your view?---If police work in a challenging environment, then health staff work in a challenging environment. The health issues that I see within my own family group, the chronic diseases, the illnesses that come about from substance abuse by – right down to the basic level of diabetes in communities. It's a very challenging environment. So, the clinic staff that I've come into contact with working remote are dedicated, amazing people. Some of them have been long-term. Like I know some nurses that have been 20 – 25 years working remotely. They're invested in the communities. They are there to perform their job in a very challenging environment. I don't have enough praise for remote nursing staff, because they don't have to work outside their comfort zone or work outside of a capital city. There's a shortage of nurses across the nation, but we seem to attract a group of people who want to work in the bush. That's why I say that they're amazing, because with their skills, they could be employed anywhere in this country, yet they choose to work in the bush with my people, my family. So, yep, that's why I consider them to be amazing.

Yes.

Thank you, your Honour.

DR DWYER: I have no further questions, your Honour.

THE CORONER: Thank you.

Anything arising, Mr Coleridge?

MR COLERIDGE: No, thank you, your Honour.

THE CORONER: Senior Constable, thank you again, as with the last occasion you were here, everyone and most importantly, the inquest process itself and no doubt the findings have greatly benefitted from the level of willingness that you've provided to share some very important messages and learnings with us, and thank you again?---Thank you, your Honour.

WITNESS WITHDREW

THE CORONER: We'll adjourn until 9:30 tomorrow.

ADJOURNED