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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 29 MAY 2024

(Continued from 28/05/2024)

Transcribed by:
EPIQ

THE CORONER: Mr Coleridge.

MR COLERIDGE: Your Honour, before we proceed with the witness, your Honour will recall that during Sergeant Bauwens' evidence, Mr Suttner suggested that there had been a statement that was provided to the counsel assisting team, but I rejected it. We called for the document and your Honour adjourned - returned to court for this morning. Mr Suttner has confirmed by email correspondence that his reference to that statement was incorrect. And I'll just read on to the record (inaudible) which is:

"I have discussed the question of the statement with Ms McNally. My reference to it flowed from a misunderstanding relating to the document, which eventually was submitted to you by Sergeant Bauwens. I had incorrectly formed the impression that it had been offered and refused before it was requested. I now realise that I was incorrect. I apologise to you, your team and the Coroner for my mistake in giving (inaudible)."

THE CORONER: Thank you. Mr - sorry, Commissioner. Thank you for making yourself available. Do you promise to tell the truth to the court?

MICHAEL MURPHY, affirmed:

XN BY DR DWYER SC:

DR DWYER: Commissioner Murphy, could you please just tell the court your full name, for the record?---Michael Patrick Murphy.

And you're a Commissioner - you are the Commissioner of Police for the Northern Territory?---Yes, I am. I'm - - -

How long- - -?---Sorry.

How long have you held that role for?---Since April 2023 and formally appointed in August 2023.

So you were Acting since April 2023 and formally appointed in August 2023, is that correct?---That's right, that's right.

Could you just briefly tell the court about your service as a police officer in the Northern Territory?---Yes, your Honour. I joined the Northern Territory Police in July 1997. I underwent training in Darwin. After graduation in December, I was transferred to Alice Springs. I served in Alice Springs until March 1999. I relieved at some bush stations around central Australia during that time. In March, I was transferred permanently to Ntaria and I served in Ntaria for two and a half years. In July 2001, I transferred to Katherine. In Katherine, I was there for four and a half years and worked across general duties and investigations area. In Katherine, I obtained my detective designation. From Katherine, I was promoted to Sergeant, back to Alice Springs, performed the roles of Sergeant - Watch Commander and the officer in charge of investigations for the Southern Command, which included all the

crime disciplines for the southern region. In 2008, I was promoted to a superintendent and returned to Darwin as the Inaugural Duties Superintendent to oversee operations across the Northern Territory. And around 2010, I did some Acting roles as a commander across Strategic Services and the like. And in 2011 was asked to return to Alice Springs by the then-Deputy Commissioner. I came back here for - till 2013, when I was - actually, 2012, I was promoted to Commander of Southern Region, and I stayed here till 2013. Returned to Darwin, I undertook some different roles as a Chief of Staff, Acting Assistant Commissioner roles. And in 2017, was appointed to Assistant Commissioner. I undertook a number of portfolios in regards to that. And then in 2018, early - probably mid-year, I was asked to relieve as the Deputy Commissioner when that position became vacant and I applied for the position and won that in December 2018, and I've been the Deputy Commissioner until August last year, when I was formally appointed to the Commissioner role. And predominately, my roles have been in general duties, uniform and detective and investigative work.

Commissioner Murphy, the impact of racist language and messages on behaviour has been a significant issue in this inquest. You're aware of that?---Yes, I am.

As a result of the evidence given by Mr Rolfe, this inquest became aware of racist certificates and awards that had been given out by members of the TRG at so-called awards ceremonies. You know that?---Yes, I'm aware of that, yes.

There - they included certificates with a made-up name sounding like an Aboriginal language for so-called "Coon of the Year Award"?---Yes, I'm aware.

You're aware of that?---Yes, your Honour.

When did you first become aware of certificates of that nature?---I was advised back in August last year by - when I had a meeting with Carey Joy, of the existence of these awards.

People in the TRG, at the time that the awards were given out, including Sergeant Lee Bauwens, a former police officer, Neil Mellon. They are some of your contemporaries in the Police Force. Do you agree with that? They're people you know?---Yes, I do know them, yes.

Mr Rolfe found out about those certificates as a young constable, and was given the impression that it was a big joke. It doesn't sound like the existence of that racist award was a secret in the Northern Territory Police Force, do you agree?---No, it doesn't sound like, from the evidence now, what's been given to this court. But it was news to me when I found out on - in August when I met with Carey Joy, your Honour.

Well, certainly everyone in the TRG would've known who was present at the time of those - the awards were given out would've been aware of them, correct?---I believe so, yes.

And it's - it's the case, isn't it, that a large number of those - or a significant number of those TRG officers would have moved on and up in the Northern Territory Police Force?---Yes, that would be right.

And discussed those awards with other members of the Northern Territory Police Force?---They may have. I'd never heard of it, but if - you know, if they did discuss it, you'd think that someone would have mentioned it or may have come to me, but I have no knowledge of the existence of the awards.

Did you know about the physical awards that were given out at any time for that racist?---No, I was not, your Honour.

What about the Nuggadah Club?---No.

Did – what about the black or red book of truths? Had you heard about that?---No. I hadn't, your Honour.

You have read the statement of Mr Joy now, haven't you?---I have.

He is a former police officer. He was a police officer for a significant period of time commencing in two thousand and – or, commencing in 2000. And up until 2016 over various periods?---Yes. I am familiar with Mr Joy's career. He spanned across the Northern Territory police and the Australian Federal police. He was a member of the TRG. He was a Sergeant in Alice Springs. And yes, I think he went on leave about 2013 and separated from the Northern Territory police in 2016.

Was he a Sergeant at Alice Springs when you were working in the centre?---I don't think so. I am not sure when he came to Alice Springs. I would probably have to check the records. But I can't be confident he was.

Did you ever work with him?---We may have worked together at some point in time. I don't know. I can't remember if I worked with him closely. I don't think I did.

When did you first meet him?---I don't know. Probably in the early 2000s, I imagine.

This is what Mr Joy says in his statement at par 29. He wasn't in the TRG at the time when the Nuggadah – so-called Nuggadah Award was made or presented. He says:

“I was made aware of the existence of the awards last year as the conduct was being discussed a lot of ex and current NT POL staff who were unhappy with the treatment of Rolfe and the IRT team throughout the inquest.”

It sounds like those certificates, or the award, were widely discussed and known about at least in 2023 during the course of the inquest. Do you accept that?---They may have been. I have no knowledge of that until it was brought my attention in – by Carey Joy.

At par 30, Mr Joy says:

“As a result of this, I made the decision to make contact with the new commissioner, Mr Murphy, not long after his appointment to pass on my congratulations to him obtaining the job. I advised him that my work with media was never intended to create any issues with his position or tenure.”

You recall that meeting with Mr Joy?---Yes, I do.

Who else was present at that meeting?---I think there was two occurrences when I caught up with him. I am not sure about the first one. The second time I met with Carey Joy was with Darren Clarke(?).

Who is Mr Clarke?---He is a local businessman in Alice Springs.

I just want to return to the first meeting. When you met with Mr Joy on that occasion where he says he advised you that his work with the media was never intended to create any issues with you, commissioner, what was – what else did he say?---From memory, he was quite disaffected with the organisation. I – he was quite concerned around some of the decisions made by the executive. He explained he had a real issue with the way his family was treated in the previous executive. He didn't have an issue with me. And it was almost like an olive branch to stop you know attacking the police and obviously helping. And I had a fair amount of compassion for Carey as well. So he was going through some very difficult times, your Honour.

Did you meet with him because you wanted to stop his criticisms of the Northern Territory police?---No, not at all. I have some compassion for Carey. I am accessible. I made myself accessible to him. I usually make myself accessible to anyone that wants to meet with me. But I think it's about having a conversation and building relationships. And yes, one of my main roles is to protect the reputation of the Northern Territory police force and build relationships and listen to people's concerns. And that's part of my role is to do that. So, yes. I guess I considered all those things when I met with him.

On the second occasion when you meet with him, that was on 31 August 2023 to discuss some issues such as staff resentment at the coronial, information referring to an incident at a Chinese restaurant, and the existence of the Nuggadah Awards. Is that right?---That's correct. Yes.

He says:

“The restaurant information had come to light as made comments on a body-worn video – that is body-worn police video recorded by Superintendent Meacham King at my home residence in January 22.”

You became aware of that?---Yes. I did.

In fact, Mr Joy was being investigated wasn't he for certain – I won't go to the particular details. But as a result of that, Meacham King spoke with him with a body-worn-video rolling, is that right?---That's right.

So his comments in relation to the Chinese restaurant were captured on the body-worn-video?---Yes. That is what he told me.

Have you listened to that body-worn-video?---I have listened to some of it. Yes.

When did you first listen to the body-worn-video?---Yesterday.

Had you heard prior to that about the nature of the comments that he had made?---No. Only from Carey on that date in August.

What he says is that:

“The restaurant information had come to light as I had made comments on the body-worn recorded by King at my home residence in January 2022. After the body-worn was obtained, I received messages and calls from police who were laughing and repeating comments I had made on the body-worn as I was very vocal and agitated. This made me aware that the content on the private recording was being discussed and shared with other officers and the risk of this information coming out was significant. And I wanted the commissioner to know this was not as a result of my doing. I was trying to assist in protecting him from public issues.”

You agree with that statement?---Yes. That is some of the content he shared with me. Yes, your Honour.

So in relation to what he said on the body-worn, it involved a threat to go public with the fact that he was with you when you were in the Chinese restaurant making racist comments. That was the nature of the threat he made on the body-worn-video, isn't it?---Yes. That's right, amongst others.

The information that he gave you at that time when he met with you and the other representative of action for Alice is in relation to the Nuggadah Awards. What did he say about them?---He broadly spoke of awards that were distributed in TRG for – and he demonstrated Coon of the Year and other behaviours that were unknown to me. So I asked some more questions about what actually were they. And he explained in more detail about they were on A4 sheets of paper and handed out at parties. But I had no knowledge of the existence of the awards at that point in time.

Did he tell you what the Coon of the Year Award was given out for?---No. I can't remember. He mentioned some circumstances around the award. But I can't recall exactly what. I think the detail in your statements would be far more detailed than the information that he provided me on the day.

Right. But he told you about that – the use of that extremely offensive word in a – in certificates that were handed out to Northern Territory police officers for certain behaviours. It would have been immediately obvious to you that that was blatantly racist?---Yes. With that titling, absolutely yes.

Did you take any notes of the conversation you had with Mr Joy at that time?---No. I didn't.

Did you cause any investigation to be carried out in relation to those?---Your Honour, regrettably no.

Why not?---I think there is a number of things. I have had time to think about it as well. Is that you know reaching out to Carey to meet with him, he had some information to tell me. He was disaffected. There was a number of challenges in his life. I had to question the reliability of it. You know, what I know now to what I knew then, I probably didn't treat with the seriousness I should have. I was quite – you know, this role is quite demanding, I was quite busy. I had a number of things on my mind during that time. I had just been in Alice Springs talking to Commonwealth officials about investment in central Australia. I was still dealing with the international operation of the death of the US Marines. I was dealing with the Barkly fires as the Territory controller. And obviously getting some information together for the announcement of the police review that had been announced the previous week, and it was my first week as commissioner.

I appreciate that you are extremely busy as commissioner of the Northern Territory police force. But you also have other people underneath you who you can delegate to, conduct an investigation. Is that correct?---Yes, that's right. And I should have delegated that. And I should have actioned it. And I should have reported it to the professional standards command. And regrettably, I did not.

The incident in relation to the Chinese restaurant has been the subject now as a result of it being revealed but of an ICAC investigation, is that right?---That's correct. Yes.

And the interim finding - I withdraw that. The finding of the ICAC Commissioner was that after speaking with you and others, you provided a reply that you have no recollection of complaining about restaurant service or saying words to the effect of, "I wonder if this what we did to them - because of what we did to them in Vietnam." But you don't - you deny that it was said?---No, I vaguely remember the circumstance, I don't remember all the detail, your Honour. I've been interviewed by the ICAC investigators, where I gave an honest account. I can't make stuff up that I don't know and I can't remember. I was intoxicated during the time. I was honest and forthright with the ICAC, and they've obviously done their investigation and provided a letter to you, your Honour, as a result.

Sure. But in relation to that - what was alleged by Carey Joy, in - on the body-worn video when he was interviewed by Mr King. And admittedly - I withdraw that. And he was animated. He says, in effect, that that if you - I'll just read his words. "I was

with Murphy in a Chinese fucking restaurant. You want to go fucking off chart and all this bullshit. I'll go hard. I was with Murphy when he called cunt - he called people in a restaurant, 'You're not serving us because of fucking Vietnam.' We got thrown out. I'll go public with that, so you can drop this little thing." Says, "Push the EOC and tell Murphy he might want to come here, because I was in a restaurant with him when we got thrown out after he abused staff in there for being Asian. Okay, so you can drop that little thing. If they keep going with her, I'll drop the lot of it." And then that body-worn video was circulated to police. Of that allegation, I accept that you - what you've told the ICAC Commissioner and her Honour today, you can't recall. But it happened at the buck's party, did it? Of Peter Kennon?---I don't think that's accurate, your Honour. I don't think there was a buck's party for Peter Kennan.

What was the occasion at the restaurant?---I think it was just a dinner and having a few drinks.

And was Mr Kennon there?---I - I don't remember.

Is the reason that you didn't investigate this further when Carey Joy raised it, does it include the - because you were concerned about adverse publicity or embarrassment towards yourself, if it got out?---Not - no. It wasn't, your Honour. I don't think I was overly worried about it. I think it was, I guess, courteous of Mr Joy to let me know, but - and I should've actioned it, I should've reported - especially the TRG awards to the PSC and incorporated it with that. The fact that he made mention and it was circulated widely and recorded on body-worn video, I thought that some command elements would be aware of that allegation as well.

On 27 February 2024, following on from the evidence of Mr Rolfe, you participated in a press conference. You're aware - you recall that?---Yes.

And that press conference transcript appears in the brief of evidence at 7-100BB. But you were asked this question, Commissioner: "Have you heard of any of these awards that Constable Rolfe was talking about yesterday?" And you answered, "First, look, as I said, there's a - there will be some inquiries undertaken. It's too early to say. I appreciate and I have to respect the coronial process. I understand your curiosity but that's all that I can say at this point in time." So the first time you were asked about the awards, you step around the question. Would you accept that?---I'd - I'd - yes, well. I'm not answering the question. I'm not stepping around it, either. I'm just providing a response.

You were immediately asked again: "Sorry, Commissioner. I think the question was whether you were aware of the allegations that Constable Rolfe raised yesterday, particularly in relation to the Territory Response Group and its awards." And your answer is, "No, I was not aware of the TRG, these awards they spoke of. But as I said, there will need to be an enquiry now and a search for the truth to find out exactly what any basis, if any of the assertions made yesterday in the court, are true or not." You're then asked about the senior officer who was involved in the Chinese restaurant thing and you will say, "There will be an inquiry undertaken and the search for the basis." And you were asked again, "What about the comments he

made yesterday, that he could hear racist language every day in the police station, and that many of the attitudes of those police officers came from the top. What's your reaction to that?" And you say, "That's his evidence. That's the evidence he's given in court in a process. When I go to Alice Springs and other stations around the Territory, I do not see those behaviours," et cetera. So you were asked a direct question by the journalist, "Were you aware of the allegations that Constable Rolfe raised yesterday, particularly in relation to the TRG group and its awards?" And your answer is, "No, I was not aware of these TRG awards they spoke of." That was incorrect, that answer, wasn't it?---Yes, it was incorrect now. It wasn't intentional at the time. I just didn't draw a link to the meeting in August to the question when I was asked at that press conference.

Was it untruthful, the response that you gave to the journalist?---No, I'm not trying to be untruthful or misleading to the media or the community.

But Commissioner, the public and the Government rely on you for an understanding of these events- - -?---Yeah.

- - - and the extent of racism in the Northern Territory Police Force, don't they?---They absolutely do, and I'm aware of my - obviously, commitments and the public and the importance of my position as the Commissioner of Police, your Honour.

Do you accept that your response to the journalist was misleading the public, in fact?---I'd accept that's the case now, but it wasn't intended at the time.

The certificates you're now aware of, as a result of the subsequent investigation, commenced around 2006 and racist certificates have been found right up until at least - they've been found up until 2015. You're aware of that?---Yes, I am.

These are not historic allegations, are they? Even in relation to the TRG awards, you wouldn't describe them as historic?---Well, they're - well, they're quite dated, in between 2007 and 2016, '17, being 2024 now, I'd say they're quite dated. But concerning that behaving existing, and obviously taking measures to address that culture, to making sure that doesn't existing into the future and drawing a line in the sand.

Do you know when the Nuggadah Awards stopped being awarded by the Northern Territory Police?---It was some years ago, and I believe it got - the name got changed to the Voldemort Award or something.

Do you when the name changed from Nuggadah to Voldemort?---No, I don't.

I suggest to you, Commissioner, that it was only in the last couple of years since the commencement - or around the time of the commencement of this inquest, that that name was changed to Voldemort?---I'm - I'm not sure.

Do you know about that?---No, I don't. I know it was a few years ago, but I don't know the exact time, your Honour, I'm sorry.

Is it something that you should know about as Commissioner of Police, in relation to when there was the Nuggadah Award last- - -?---Yeah, look. I - - -

- - - if you're interested in investigating racism?---Yeah, look. I think - like, I know it was a few years ago, but I don't know the exact date, I'm sorry. I can refer to a document, if you like, but I don't have the answer on me right now, sorry.

Do - I'll be corrected if I'm wrong, but this is in the brief of evidence. Superintendent Gill has informed the court that the name was changed from "Nuggadah" to "Voldemort" in 2022. And that's confirmed in the statement of Meacham King, 7-77D. So the fact that the racist term, "Nuggadah Award," was still being used in 2022 suggests, doesn't it, that allegations in relation to racism are not historic, even in - even in taking the TRG Awards, as an example?---No, that's obviously still concerning, your Honour.

Last Monday, you gave evidence at an inquest into the deaths of Kumanjayi Haywood, Kumarn Rubuntja, Ms Yunupingu and Ngeygo Ragurrk, victims of domestic violence?---I did, yes.

You were asked by Mr Boulten of senior counsel about your decision to overturn a disciplinary action against an acting senior sergeant who distributed a photograph of a half-naked Aboriginal woman, naked from the top up, with some commentary, which you acknowledged was racist in nature?---I - yes, I agree, the image is definitely racist. I don't think the commentary was - I was referring to a colleague, from memory.

There was - the commentary attached to - to - went something like, "Rolls with," and I won't say the name?---Yeah, that's - that's right.

"Rolls with"- - -?---"One time."

I'll refer to it as "F1 time"?---Yes.

That's the - intended to refer to a current police officer, is that right?---That's right.

And not only was that image distributed - just to be clear, that image was taken on the private phone of a police officer while he was on duty. You're aware of that?---I don't know what device the photo was taken on but yes, it was taken by an officer on duty.

I'll just read to you from the PSC file. "It's alleged that you took the photograph on your personal mobile for the purpose of gaining favour from another members within the chat group. The photograph clearly depicts a vulnerable member of our community in a state of undress." You agree with that?---Yes.

"The community expects that a member of the Northern Territory Police Force will respect the worth and dignity of all." That's correct, isn't it?---Absolutely.

And the PSC - Assistant Commissioner Porter wrote in his report, "By photographing and then posting this image, you, the acting senior sergeant, undermined the community's trust in the police to serve and protect without prejudice." You agree with that?---Yes. It's in the document.

And you wrote, "As a supervisor, it's expected you would have an understanding of the consequences that would pursue if a post of this nature was viewed by the public, as well as the detrimental effect of the community's confidence in the Northern Territory Police Force." That officer distributed that image on a chat group with 13 other officers who were part of a particular strike force involving property crime. Is that right?---Yes, that's correct, your Honour.

And a number of those members, not all of them, but a number of those 13 offices either commented or liked or did something to indicate their approval of what was done by that acting senior sergeant?---Yeah, I'm aware they're all involved in the conversation in that group chat. But I'm not - particularly around that photo, I'm not sure.

The dates of circulating that derogatory photograph and the commentary was 4 March 2022. It's not historic action, is it?---No, it's not.

On 8 December 2023 a disciplinary decision was made by Assistant Commissioner Porter to demote that officer one rank from sergeant, which was his substantive position, to senior constable and to transfer him to Katherine. On reflection, do you say that that was an appropriate response, given the level of seriousness; and it wasn't just that image that he distributed; there were other images of a female police officer that was sexist in nature. Do you say that was an appropriate response?---Yes.

On 15 September 2023 the NTPA legal representative wrote to you, asking you to overturn the decision. In response to that letter from the NTPA, you reversed the decision to demote the officer, and you moved him to Darwin. On 24 September you wrote to him directly, agreeing to do so.

MS OZOLINS: Well, your Honour, I object to that. I presume that my learned friend is referring to the notice included in that disciplinary file. The request was not to overturn the decision and take certain action; it was to seek a review under the legislation - - -

DR DWYER: Thank you. I'll clarify that. That - - -

MS OZOLINS: - - - request.

DR DWYER: "Dear Commissioner Murphy. Request for review, pursuant to s 84E of the *Police Administration Act*." It notes - this is a letter from Ms Amanda

Nobbs-Carcuro, the principal legal officer of the Northern Territory Police Association. And she writes that:

"On Monday 11 September this officer was served with a notice of determination, which was signed by Assistant Commissioner Bruce Porter."

It notes that a review under s 84E provides for a mechanism for a review of the actions taken or fines imposed on a prescribed member. It suggests that the actions taken by Mr Porter to demote the officer and transfer him to Katherine was so far disproportionate to the admitted breach of discipline that they couldn't be sustained on an appeal. It notes that the conduct engaged in relates to some shared images when he was part of the Viper - Strike Force Viper chat group in early 2022. It suggests that that officer was interviewed with respect to his conduct on 7 June 2023, where he admitted the conduct and displayed genuine contrition and reflection. And that he also provided further context in his written response to the s 79 notice. He then asked you to review that in accordance with the Act and to rescind the determination and to make a new determination. And that's what you did didn't you?---That's right, your Honour.

So that on 21 September, about a week later, you write directly to that acting senior sergeant and you make a different determination that he be on a good behaviour bond instead of a demotion and transferred to Darwin instead of Katherine. Is that correct?---That's correct, your Honour.

You no longer think that was appropriate for you to have done that. Is that right?---That's also right, your Honour.

Why have you revised your view?---I think from what - so if I can step through the review process and taking sort of personal and organisational objectives into account, we were going from a workforce that was highly punished. We were trying to create an environment where people felt they could report poor behaviour. I noted that he had not come to attention for any adverse dealing since the time of the reported offending. A term of good behaviour would be an adequate measure. However, reflecting on it now, when what's come to light and some of the concerns around racist conduct, messaging, I think the position could have stayed. If I had the file again to make a determination, your Honour, I would probably would have kept it the same or maybe firmer sanctions. But - so yes, I think given the broader perspective and, you know, I've taken into account the personal circumstances of the officer at that time, but I have to question did I take into account the actual position of the victim or the lady who was filmed naked during that time and balance it; probably not.

And not just - I accept what you say, of course, about the poor lady who was the subject of the photograph and any demeaning commentary that accompanied it, but he was in a position of influence as an acting senior sergeant or sergeant, and there were a number of younger officers involved in the chat group. It sets a disgraceful example, doesn't it?---Yes. And that's something that I've considered soon too, is the supervisory level; I can't allow a level of acceptance that I tolerate any type of

racist behaviour, even in this one in isolation, but collectively, as an organisation, we need(?) to take a firm stance on racism and those behaviours, and especially at the supervisor level.

Commissioner, when you gave evidence last Monday, you said they're essentially two reasons why you decided to review the decision. One was the remorse that was shown by that officer and the second was that if you didn't review it, he would have just gone off on sick leave, likely, given that that was something that was being done by officers in the Northern Territory?---Yeah. There was - the first aspect, that he admitted his behaviours as soon as he could. He probably was a little bit defensive in some of the other messaging, but he did admit to the breach and his behaviours and realised he'd breached his supervisory responsibilities. I had to take that into account. And sorry, doctor, what was the second part?

The second part was that he would have gone off on sick leave?---Yep.

So I just want to break those down or unpack them. Before you made the decision in September 2023, did you read the PSC file with his explanation?---Yes.

See, it includes this, at page 2: "I strongly disagree with the insulation that I have photographed a vulnerable member of the community with a purpose of gaining favour from other members. I don't - although I don't recall the exact incident, I do recall that the female adult pictured is in a public place, and she had voluntarily removed her garment. This was an attempt at light-hearted humour to highlight this can happen when you work with Acting Sergeant X." It's hardly remorseful, that comment, is it; it's defensive?---No. Yeah, it is a little bit defensive, yes.

And it shows a complete lack of understanding of the gravity of the conduct engaged in?---It certainly does, your Honour, and that's the body of work ahead us to reform some of our culture within the police force and suppress and eliminate this type of conduct or texting or racist behaviours.

In relation to the second issue, that he would have gone on sick leave, you were asked these questions last Monday. You're aware that the independent report that was done by Vince Kelly, former police officer, notes that the misuse of sick leave is a significant issue amongst a small number of - or amongst a number of Northern Territory Police Force. That is that they use sick leave - misuse sick leave when disciplinary action is threatened?---Yes, I agree with that.

And are you aware that an issue emerged in this inquest where there was an exchange between Constable Rolfe, as he then was, and Sergeant Paul Kirkby on 17 October 2019, where Constable Rolfe said:

"Fuck they're gay cunts. Yeah, they just find a name and vote for you, hey, over and over. Fuck 'em. Just let 'em waste time, and then if they ever have enough evidence, just stress leave until they let it go. Seems to be what everyone else does."

It's pretty concerning isn't it, that you've got a young officer at that stage, in October 2019, apparently speaking to a sergeant about the misuse of sick leave, as if it's a joke, as a response to disciplinary action?---Yes, your Honour, it's extremely concerning.

And it's not an issue that has yet been rectified, is it?---No, it hasn't. The sick leave provisions are an industrial entitlement under our enterprise bargaining agreement. Part of that review undertaken by Vince Kelly does establish an industrial working group to have a look at those challenges into the future, but can I just highlight that it is a small number of people who abuse the sick leave. A lot of hard-working officers actually use the provisions legitimately.

And that is clearly the case, Commissioner, and it is important for every police service in the country to have adequate sick leave provisions given the important role that police play to serve and protect the community. But the devastating effect of misuse of sick leave was to impose a burden on the remainder of the good police in the Northern Territory that it becomes impossible for the service to cope with the demands on it. Do you agree with that?---Yes, absolutely. I've got 109 employees off on long term sick leave now, your Honour. The majority are legitimate, however, some are not and some continue for a long time - up to 12 months - up to five years and part of the review process is reviewing certain sections of the *Police Administration Act* including Pt IV, which is the disciplinary part and Pt V, which is the separations due to medical incapacity and the ability not to perform functions. But the work that needs to be undertaken is separating officers with dignity and respect who aren't going to return to the workforce so we can, you know, use those positions to have police officers that are operational which lessens the impact and addresses the demand on the public and it is abuse of public money from the people using sick leave, you know, for - if they are on a disciplinary process. But we just need tighter levels through the Act to measure and hold them to account and actually make sure it's delivered in a timely manner because the processes go on for years, your Honour.

Sergeant Bouwens gave evidence that there had been some changes in the sick leave provisions recently but that is not the case, is it? The case is looking at it but there have been no changes?---No, there were some changes in the recent enterprise bargaining agreement about 120 hours where there's a statutory declaration or a medical examination, but a medical certificate still allows the continuation of the sick leave provision. It's just a form of governance where we can check the validity of the reason for absence.

So you want to create an environment and a culture where Northern Territory Police understand that there are some behaviours that will not be tolerated and will be the subject of proper disciplinary process, but if officers make a mistake, they can come forward, acknowledge it and they will be supported and their behaviours will be reviewed and understood in context. Is that fair?---Yes, there's a couple of layers to that, your Honour. I think the first thing is getting better at how we identify what actions officers are taking, whether it is use of force, all types of early intervention strategies, which is currently work under way. And identifying whether it's an

individual issue or a corporate issue, because if I've got officers that are - you know, they are trend analysis that it might be an organisational issue that we need to address through early intervention. What I want is a healthy workforce that - and a safe environment where they can report misconduct, have the courage to report racism in a safe environment where they feel protected and we can address issues, whether they are, you know, widespread or individual conduct or behaviours in a really timely manner and not over a couple of years, so we can reform some of our thinking and challenge the actual practice we're experiencing now.

Was it the acting senior sergeant who was the subject of this disciplinary action, whoever came forward to report his behaviours was it - it was a whistle-blower, in effect, who found out about it?---Yes, it was another member of the staff that reported the conduct.

So in relation to either this officer, the subject of the disciplinary process, or any of the other officers who liked or commented on the photograph, was there any attempt to offer them an education or retraining to help them understand the gravity of what they had done?---I am not sure, your Honour. I'd say that's the view of the Professional Standards Command at the moment - it's about the education. It's about making sure that, you know, what behaviours are acceptable, what are not, and actually educating the workforce and making sure we've got adherence to the code of conducts and people can actually feel safe to report inappropriate conduct or poor behaviour.

Should there have been training and education provided to those officers who liked or commented on that racist image?---Yes, there should be.

Can I have - - -

THE CORONER: What about the person who posted the image?

DR DWYER: And the person who posted the image?---Yes. Yes, your Honour.

Can that happen now - given that it has not been done to date?---Yeah, I think it can be and that's, you know, part of the work we'll undertake with some of the reform work we're working towards into the future, starting next month.

Could I have please on the screen, from our court officer, 18-35? They are the 2007 awards, page 6 and 7. You have now had the opportunity to look at all of these, Commissioner?---I think I've seen most of them, yes.

You'd agree that's just disgraceful racism?---Yes.

And the next image please. That - again disgraceful racism, a member of the community who appears to be lying on the lawn on his stomach?
---Well, yes it is and we are targeting vulnerable parts of the community, your Honour.

THE CORONER: Okay.

DR DWYER: So that can come down. I don't want to post the - put up on the screen the image of the poor lady whose photograph was taken in a state of undress. But do you see the similarity, Commissioner, between that conduct in 2007 with that so-called award, where there are vulnerable members of the community, the subject of mocking and what happened in 2022 when a vulnerable member of the community becomes the butt of a joke distributed by members of the Northern Territory Police Force?---Yes, I do see the relation and it's unacceptable and I will no longer accept it, your Honour.

And if proper disciplinary action is not imposed it sends a message to police officers that it is tolerated - that sort of disgraceful behaviour, at the highest levels of the Northern Territory Police Force?---Yes, it can. But importantly, we need to invest in the education and identifying what all forms of racism look like across the workforce and making sure that people identify what is right and what is wrong and reporting it so we can change the cultures, the sub-cultures - to make the workforce a safer more culturally competent place.

Are there any other incidents apart from that one I just took you to in 2023, where you intervened to overturn disciplinary decisions regarding racist or disgraceful behaviour?---No, I haven't overturned any other decisions. I had a - some correspondence from an officer in Alice Springs around a transfer and he cited some family reasons, which were quite disruptive and he's gone through a process where he has appealed it. It is currently before the appeal tribunal and I've written to him, staying the transfer until the appeal is complete.

And does that involve an incident of racism?---It does not, no.

Have there been occasions when the NT Police Association just picks up the phone and asks you to intervene or review its decision?---Probably - yeah, intervened, yes, but they - the President of the Northern Territory Police Association, Mr Finn, rings me regularly about lots of issues, whether it is industrial, employee, personal - so yes, there's a number of issues including disciplinary matters.

Have you been keen to try and ensure the support? That is that you get the support personally of the NTPA?---No, I don't expect personal support. I expect them to do their job, as the President of the Association, they've got an obligation to look after the workforce. Your Honour, my job is about rebuilding relationships as well and I'd have to say there was some probably divisiveness and fracture prior to my appointment with the Northern Territory Police Association, and what I want to do is build a relationship where we can work together to look after the employees who do really important work and protect the community.

It's easier for you if you have the NTPA on side, is it?---It probably makes my job a bit easier, but it's not always the case.

Does it affect your decision-making when it comes to disciplinary action?---No, it doesn't.

Yesterday Mr Rolfe gave evidence of an incident in the water police in the Northern Territory. Do you recall that?---Vaguely, yes.

What was that incident - what is involved in that incident?---I think that was a matter of, again, another text group where there was maybe some inappropriate texting amongst the group about maybe sexism or the workplace or bosses, they didn't like the bosses. And there was a – yeah, a bit of a toxic environment.

And did that involve circulating an image or making comments about an Indigenous police officer?---Yes, it did.

What sort of comments were made, or what sort of image was distributed?---I don't recall. I probably need to look at the file or some documents, your Honour. I don't – I couldn't answer the question.

What date was it?---Well, I don't know. I'd say 2018 maybe. I don't know the date. I would probably need to look at the file, your Honour, to get some more information.

It resulted in a review of the water police. Is that right?---Yeah, a review of the culture and workplace, not a review in relation to the discipline.

And some officers – were any officers disciplined?---I believe so. I think I was the decision-maker in some transfers out of the water police around it.

And was there any support provided to the Indigenous police officer who – do I take it from your answers that the Indigenous police officer was the butt of joke, so called, in this exchange?---Yeah. No, I think there was – like from memory, I think there was a couple of employees that were targeted through the messaging.

And what support was offered to those employees as a result?---Your Honour, I would probably have to look at the file. I know there was support provided through PSC. I've actually spoken to the officer involved as well, the Indigenous employee at the time, and ongoing past that incident to support her and what she wants to do as well. So – but I'd have to look at the file, your Honour, I just don't have those answers specifically.

When did you speak with that Indigenous police officer?---I've spoken to her on a number of occasions, as recent as this year, when she was in the water police as well, she remained in the water police for a while; and about her future and what she wanted to do and make sure she'd communicate with me if she needed to.

Was there any education or training to inform those officers of the impact of that sort of conduct, distributing messages in a group chat that were demeaning, including about Indigenous police officer?---I'm not sure, your Honour.

Should there have been, if there has not been already?---Yes, there should have been.

What you told the press in February this year after denying that you knew about the certificates is, when you're asked the question:

"What about Constable Rolfe's evidence yesterday that he could hear racist language every day in that police station and that many of those attitudes of the police officers came from the top. What's your reaction to that?"

And you said:

"That's his evidence. That's the evidence he's given to the court in the process. When I go to Alice Springs and other stations around the Territory, I do not see those behaviours. I do not hear those comments."

And you go on to talk about the fantastic job that good men and women do across the Northern Territory Police Force. I don't deny that there are many good men and women across the Northern Territory Police Force doing a fantastic job, but it is the case that in February this year, you knew that there were pockets of serious racist behaviour within the Northern Territory Police Force that were not historic. Do you agree with that?---Yes, I do agree with that. I know what texts came out of this process in this inquest. Obviously, the case you've highlighted now and another one that was discussed at the DV inquest and raised again today. There are – it's not pervasive, but it concerns me that it is out there in the workforce and I don't know if some pockets or some areas of texting still exist. And that's the work we need to undertake, your Honour, to educate the workforce, identify, make sure it's a safe workplace to report and you know, make sure that it's totally unacceptable to engage in any racist, discriminatory or misogynistic behaviours.

Mr Murphy, members of the Aboriginal community have been complaining of incidents of racism by some members of the Northern Territory Police Force for many years; that's racist language and racist conduct. In February when you said you do not see those behaviours and do not see those comments, it effectively denies that there is any racism at all in the Northern Territory Police Force that you're aware of. And that was not correct. Do you agree with that?---Yes, I do agree with that.

It is effectively gaslighting members of the Aboriginal community who have experienced racism and have complained about it, when you denied that there is any racism in the Northern Territory Police Force. Do you accept that?---Yes, I do. And we've taken steps to address that. I mean, their voice is being heard clearly, your Honour, and we've convened two Indigenous reference groups both in Alice Springs and Darwin, so they can feel they have a voice to talk directly to the Deputy Commissioner and I. There is going to be some plans put in place around planning ahead and about equality too, about pathways for leadership success and development and so they're listened to and changing those behaviours. And can

I add, your Honour, some of the work we're investing in, and I've mentioned it to this previous inquest, is bringing on the expertise of Ms Leanne Liddle into the workforce for – and she will be joining me in June next year. She brings a wealth of experience and will challenge the thinking and the current culture of the Northern Territory Police Force to make it better for our employees and the community we serve. And she will look at a range of matters for us, your Honour, around you know, strategic planning, implementation, workshops, education, what's embedded in training through the recruits, what in-service training look like, helping achieve the 30 percent recruitment goal for Indigenous employees across the Northern Territory Police Force, breaking down barriers attached to recruitment in service pathways as well. Because there are barriers that stop people progressing through the Northern Territory Police, making sure that Indigenous people have an opportunity to advance through the ranks of the police force, become supervisors, become commission officers, and one day, a commissioner of police. We need to reflect the community we serve. We currently sit at about 12.9 percent Indigenous population in the Northern Territory Police Force. The community is 30 percent Aboriginal people and we need to make sure we're aggressive in our recruitment and that will be achieved with the assistance of Ms Leanne Liddle. She has a wealth of experience as a police officer for 12 years in South Australia. She is a lawyer. She has worked in the Aboriginal Justice agreement. She will be strengthening the partnerships with all the Aboriginal agencies, the anti-discrimination commissioner, the human rights commissioner, the ombudsman embedding herself in the processes like this where racist tones and evidence comes up in complaints against police. So we've got an extraordinary amount of work to do that we haven't invested in previously, to identify what the issues are and correct it, and make sure that people are educated that it is no longer acceptable, not for one minute.

Are there any members of the TRG currently who are Aboriginal?---I don't believe so.

Do you think – I mean, it didn't stop a racist image being circulated amongst the water police to have a member of the water police be an Aboriginal person. But do you think that that would be a good thing for the TRG to encourage, applications from Aboriginal people, and to support them in that workplace?---I think it needs to be encouraged across the entire workforce, so we have a – look, I've only got 177 employees who identify as Aboriginal or Torres Strait Islander. There are others who haven't identified in that ethnicity, but I think it needs to be applied to all aspects of policing. Particularly, you know, we see more isolated work groups probably engaging in those behaviours of the texting, you know, disciplines like the TRG, the water police and the Vipers(?) so we need to really focus on those areas of concern. And we're going to invest in our 200 sergeants across the workspace to make sure they identify and have the courage to stand up to conduct or language and report it so we can actually change the thinking and challenge what's going on in the workplace.

And you've clearly made the point that given that culture has to be set to the – from the top, it's very important to encourage and support Aboriginal and Torres Strait Islander in top roles in the Northern Territory Police Force?---We need to – yes, we

do. We need to do better at encouraging and advancing Aboriginal people in the workforce and break away from, they're just ACPOs or Aboriginal liaison officers. And I must say, some of the work being done by the Aboriginal liaison officers and their connection to community is outstanding; the rebuilding of trust. They have been hugely impacted by these findings. Not just them, but the entire Indigenous and non-Indigenous employees have been hugely impacted by the evidence provided in this court about the existence of racism and the acceptance of it.

Accepting that the impact is because of the revelations that have come out, or in part, do you see the importance of picking a scab off racism so that we can actually understand the extent of racism in the police force before it's tackled first?--- Absolutely I do, your Honour.

You are on the record now as acknowledging that racist behaviour is not historic in the Northern Territory police force?---No. It's recent, your Honour.

Some public figures have made comments recently to suggest that any racist behaviours or instance are historic. I take it that you want to correct that misunderstanding?---Look, I think 20 years is pretty recent in policing. And we say the culture of policing changed significantly. I think there's a huge opportunity, your Honour, to make sure that we change the culture from what we see today into the future as well and what's acceptable and what's not.

But in order to change it, you need to understand it - - -?---Yup.

- - - and I take it you want to correct the misunderstanding that it's ancient history or it's historic. It's not historic and you want people to understand its recency so that it can be tackled properly?---Yeah. That's absolutely correct, and that's why I need help to do it. And that's why I'm bringing Ms Leanne Liddle in to do that. And she'll build a team to help us achieve that. But it's the responsibility of every employee across the police force.

Just briefly in finishing, Commissioner. What's been exposed by current and former members of the Northern Territory police force who have themselves been involved in racist language and a production of racist certificates, including Rolfe and Bauwens - Rolfe with his racist language, Bauwens in relation to racist language and certificates, Carey Joy, and some members of the TRG - is that there are a significant number of officers who have recently used racist language.

Do you accept that racist words amount to racism, even expressed in private?---Yes. I do.

And you accept that a willingness to use racist terminology about a community can affect attitudes towards the community?---Absolutely.

And attitudes do affect behaviours?---Yes. I've got a - I've got a saying about that very issue that I broadcast to the workforce, your Honour. It's about your thoughts become your words, and your words become your actions, and your actions become

your character, and your character becomes your destiny. So start changing your thinking to change your destiny. And that applies to the organisation as well and the current environment we're in.

And in those circumstances, it's certainly not possible for you to say, Commissioner, reflecting on the tragedy that is at the core of this inquest, that racism did not play a part in the death of Kumanjayi Walker.

MR ABBOTT: Well, I object. I object. He's being asked to speculate about something that is far removed. He doesn't claim to be an expert on the effect of racism and in my submission, this is asking him to engage in mere speculation, and I object to the question.

THE CORONER: Dr Dwyer?

DR DWYER: I press the question, your Honour. Commissioner has given important evidence in relation to his understanding previously and now about racism in the Northern Territory police force. And he's just given an answer which is reflective and thoughtful in relation to the impact of racist words on behaviours, character, and conduct. He is ideally placed as a commissioner of police in the Northern Territory to give evidence in relation to racism.

He hasn't been parachuted into that job without being a police officer; he's been serving as a member of the Northern Territory police officer (sic) when - when certain conduct was taking place, and he has had an evolution of ideas in that regard. That's why he's being asked these questions. He's also in a position where he is going to have to tackle it.

MR ABBOTT: Your Honour, your Honour - - -

THE CORONER: It's not - - -

MR ABBOTT: - - - May I respond to that (inaudible)?

THE CORONER: Sure. As I - just as I understand it, it's not directed any - at any particular individual or any particular piece of conduct. It's a reflection on what he has just identified that words and thoughts can and do influence behaviour, and if that is accepted, then given what we know about words and language surrounding the events and circumstances of this death. It is commonsense that it cannot be excluded that those words and thoughts may have influenced behaviour.

MR ABBOTT: Well, that's a conclusion.

THE CORONER: And I'm - and he's being asked as Commissioner of Police - - -

MR ABBOTT: Yes.

THE CORONER: - - - to provide his opinion and views in relation to that.

MR ABBOTT: May - may I enlarge upon what I said. My learned friend, Dr Dwyer, has very carefully examined the Commissioner in relation to the steps - and appropriately so - that words can lead to action. My learned friend has then gone from the general to the specific, and it's the specific that I object to. I have no objection to the Commissioner being asked in general terms: "Is it possible hat these can be the steps and that these can be the outcomes?"

No one would deny that that's appropriate. But to then go to the specific and - which is what the question was designed to elicit - in my submission is not a proper form of cross-examination - examination. I object to that question. Because this witness is not an expert, he can't say what occurred - - -

THE CORONER: He is an expert in policing.

MR ABBOTT: Maybe. Maybe. But there's - he's not an expert on what policing occurred on the - on the night of the 9 November 2019. He wasn't there.

THE CORONER: It's not - it's not limited to simply - - -

MR ABBOTT: (Inaudible) wasn't - - -

THE CORONER: - - - 9 November. It's the whole circumstances - - -

MR ABBOTT: But the question - - -

THE CORONER: - - - that led to that - - -

MR ABBOTT: - - - I don't want to interrupt, your Honour, but the question is - - -

THE CORONER: - - - have done.

MR ABBOTT: - - - the question is designed to be limited to 9 November 2019, and it's that that I object to.

THE CORONER: All right. We might clarify the question - - -

DR DWYER: Perhaps (inaudible) - I'll ask my learned friend to listen carefully to the question.

It's given your evidence, Commissioner Murphy, it's not possible for you to say, reflecting on the tragedy of Kumanjaya's death, that racism did not play a part in his passing?---Sorry, doctor. Can you ask the question again?

Sure. Let me just put it in a - as a positive. Reflecting on what you have said previously, it's certainly possible that racism played a part in the death of Kumanjaya Walker, given the evidence that you have given today?---I believe that attitudes, conduct, words of police and attitudes towards disadvantaged and vulnerable people

does shape the culture, and I cannot eliminate that racism wasn't involved in the decision making towards actions by police in all types of operations.

And that's the systemic part of the police process as well as the cultural attitudes and words across the workforce we need to change.

So you can't eliminate the idea that racism - or you can't eliminate that prospect that racism was involved in Kumanjayi's death?

MR ABBOTT: I object to that.

DR DWYER: It just follows from exactly what the Commissioner said and I press the question.

MR ABBOTT: Well I - can I have my objection heard, please?

THE CORONER: Yes.

MR ABBOTT: My objection is that's a matter for submissions. The Commissioner has given an entirely appropriate answer. It's for my learned friend to make the submission based on that answer, and I object to this question being put in this way to this - to the Commissioner.

DR DWYER: It's a matter of commonsense and it flows from what was just said, and I press it, your Honour.

THE CORONER: In my view, it is a matter of commonsense and I'll - I won't allow the question to be asked further.

DR DWYER: May it please the court.

Thank you, Commissioner.

THE WITNESS: Thank you, Doctor. Thank you, your Honour.

THE CORONER: Are there other further - any other questions for the Commissioner?

MR BOULTEN SC: I have some. Thank you.

XXN BY BOULTEN SC:

MR BOULTEN: Commissioner, thank you for coming at short notice to deal with very difficult issues. When you gave your press conference with the Police Minister on 27 February 2024, it was a matter of great public interest that there'd be some considered public commentary from you and the Minister about Constable Rolfe's evidence in this court the day before, wasn't there?---Yes, your Honour.

The suggestion had been made that there was not just racist attitudes reflected in the award ceremonies at TRG, but that there was widespread use of racist language and attitudes on display in Alice Springs at the police station and in carrying out police duties. That's what Rolfe had said, right?---Yes. I agree.

You had a choice, didn't you, to say something like: "We will get to the bottom of this and see what's the story," or say what you did say, in large measure: "

"It might be a few bad apples. I've not seen it myself. I know nothing about these awards. We will get to the bottom of this allegation about some officer at an Asian restaurant."

I suggest to you that when you fronted the media that day you chose to deflect the issue rather than to accept that there was a problem - a big problem for the police, didn't you?---I'm not sure if I agree with that, Mr Bolton and your Honour, I think that - I accept we had a problem. I think it was complex because there was a number of enquiries that we'd undertaken with the Independent Commissioner against Corruption but, your know, I don't - you know, I'd probably challenge the widespread narrative in the Alice Springs Police Station in the current day about racist behaviours and I think we've got a good representation and good leadership there that will challenge and detect those. Could I have been more detailed in my media release? In hindsight, yes, I could have been.

I want to challenge your evidence in court today that it was sort of just a mistake that you told the press that you didn't know anything about the TRG awards. Do you understand I am suggesting to you that as you stood there in front of the press you knew about the TRG awards and you chose to deny it, didn't you?---No, that's not correct, your Honour. I knew about the TRG awards because it came out in the court but I - - -

Could you speak up a little? I can't hear you?---Yes. I knew about the TRG awards because they came out in the inquest but I didn't draw a link or remember obviously the link back to the August meeting. So that - look, I was very focussed on the evidence in the court and how we were going to address and rectify that, your Honour.

You have by and large accepted everything that this fellow Carey Joy has said in his statement about these issues. Do you agree that's what your evidence is today, "Yeah, by and large I accept what Carey Joy says about these issues" right?---Yes, I do.

So amongst the things that he reckons is that he told you in August 2023 that potentially 100-odd people may have certificate copies - pictures of them, videos of the presentations of the awards, evidence of the Nuggadah Club, in the cave and he pointed out to you that this could blow up as a matter of great concern if it became public. Right?---Yes, that's right.

So then on 26 February here it does, in this court, blow up - right? Agreed?---Yes, I agree, yes.

But you weren't expecting it to blow up on 26 February, I take it, were you?---No, I don't believe so, no.

Sorry?---No, I wasn't expecting it to blow up.

So when it did what enquiries did you make before you went before the press on 27 February to say what you said on that occasion?---I think I spoke to - obviously the executive team about the actual awards themselves, yeah, look, I can't remember my exact enquiries before the media press event with the media manager, your Honour, but look, I would've enquired about the awards, there was obviously divisions of the awards that I had to familiarise myself with and before I made a statement - I had to go and make a statement out to the public because they expect to hear from me and the police force expects to hear from me about the current situation and what evidence has been given.

Which members of the senior executive did you consult?---Well, I can't remember.

What rank?---It would've been assistant commissioners or commanders.

Yes?---That's - - -

Did you consult with Acting Assistant Commissioner James Gray-Spence?---I don't remember. I could have, but I just don't remember.

What about Superintendent Shaun Gill?---I don't think so, no.

What about Superintendent Craig Garland?---No, I don't think I spoke to Craig.

But you might have talked to Acting Assistant Commissioner James Gray-Spence? ---I could have, your Honour, I just can't remember. I - - -

Well, did you talk to anybody who had held office in the TRG?---Look, I - I can't remember, your Honour. It's some time ago now and it's - yeah, I just - I know I've had discussions about it to try and get an informed position before the press release, but I just can't remember who I speak to - like who I spoke to at that time.

Mr Murphy?---Yes, your Honour.

Did any of the people that you spoke to before you stood up in the press, tell you that anything wrong had happened at the TRG awards? Did they tell you that there were awards - that there weren't awards - that there were problems with the awards, that there was some issue with the award - what was the nature of the information that you did receive from the people who were talking to you about this evidence?---Yes, from memory it was from the court, your Honour.

Sorry?---It was from the evidence of the court and the images at the court, that's - - -

Mr Murphy, you've already told us that when you heard about the evidence in court you consulted people before you went to the press?---Yes.

You can't remember who it was. You can't remember the exact ranks. But tell us what the information was that was given to you before you turned up, in public, and said you'd never heard about it?---It's probably something I'll need to go back to the media manager with, because I would have spoken to a number of people when trying to get an informed position. I can't remember exactly who, your Honour. I'm not trying to be - - -

I'm not asking that. What was the nature of the information that you were given? Was it "Yes, this is a problem, Commissioner" or, "This is a complete beat-up by - well - - -?---Yeah, I think - I think the - I think that was - there was no harm in the awards or that it was - I think it was that - I'm just trying to think what the exact words were, but there was some question around their veracity, whether they were real or not. I think that was one of the topics and soon after that I just treated those awards as - as real.

Well, you weren't treating them as real, as at the time of your press conference, were you?---I think there was a level of uncertainty about where the source was and where it came from and there needed to be some enquiries undertaken with those involved in the TRG and any awards that were given, so there needed to be that level of investigation to satisfy ourselves what it actually meant. I think it was pretty fast-moving, your Honour.

Well, Mr Murphy, you didn't expect to be questioned about it under oath either, did you?---I think I did.

So, Mr Murphy, the suggestion that somebody could have told you in August about the fact that there are hundreds of videos and probably dozens of people who can confirm that there were racist awards at the TRG could no have escaped your attention between whatever time it was on 26 February that you heard about Rolfe's evidence on the one hand and you standing up to the press on 27 February, after consulting with high-ranking members of the executive, your press advisor and whoever else it was that you checked with about these incidents?---Yeah, I think - I know it was some time after we actually - the club was seized from the TRG office but it wasn't at that time but yeah, look, I - I think it was still a state of uncertainty, your Honour, about whether they were real or not and yeah, that was my position at the time, your Honour.

Was the fact that you were still uncertain about the nature of the evidence - about the accuracy of the evidence Zachary Rolfe had given here, part of the reason why you told the assembled journalists on 27 February, "It might just be that there's a few odd people who have racist views in the Northern Territory"?---Sorry, can you just say that again, Mr Boulten?

I will withdraw the question. But the time you stood up you had been told about the TRG awards, right?---Yes.

When you were told about the TRG awards when Mr Carey Joy told you about them you accepted he's probably telling you the truth did you?---Did I accept that Mr Carey Joy was telling me the truth?

Yes?---Not at that time. I wasn't really thinking about Carey Joy at the press conference.

I'm not talking about the press conference. When Joy told you what he did, that there are these awards. There's 100-odd people that may have certificates, videos, evidence about it in a club, et cetera, did you accept that what he was saying was correct?---Probably not in entirety. I sort of questioned the reliability on a number of levels. He was disaffected. Like, he was obviously communicating with me but, you know, I had to test that reliability or test that but, you know, regrettably I've said earlier I didn't.

Mr Murphy, when Mr Joy told you in August that he was aware of the "Chinese restaurant issue" did you believe him then?---Yeah I believed him.

When you stood up on 27 February you were aware of the Water Police issues that you've been discussing in your evidence today, right?---Yes. Well, I wasn't aware of it. It wasn't in my mind but I had dealt with it and maybe I should have got more of a brief around the history of some of these incidents across the police force so I had more of an informed position.

And you knew about the issue concerning the senior sergeant at Alice Springs that had been the subject of the disciplinary appeal to you, right?---I knew it existed but I wasn't thinking about it on that day, your Honour.

So what were you thinking about when you went before the press and downplay the issues of racism? Was there anything in your head at that time that suggested that there might have been some racist acts, statements, language and conduct in the police in the Northern Territory?---Yeah, your Honour, it was never my intent to downplay the seriousness of the allegations and the focus was on the evidence around this inquest and those awards that came out. You know, I have dealt with matters that involved racist behaviours. They weren't forefront in my mind at that point in time. Well, yes, basically I wasn't going to comment on it. I didn't recall it. Should I have? Maybe with the benefit of hindsight. Should I have looked back in history and looked at all the evidence of racial, discriminatory and misogynistic behaviours in the police force to come out stronger? Yes and I intend to do that into the future, your Honour.

It was a bad press conference in retrospect wasn't it?---I don't know if I'd agree with a bad one. Obviously there's room for improvement off the feedback today, your Honour. But I think that it's about being available to the public and being accountable and trying to communicate a message to the workforce and the public

because it is hugely damaging to the community and the police force and the employees about what was revealed in the inquest.

But, Mr Murphy, you cannot hold your position in the Northern Territory without knowing how important place relations are, right?---Absolutely agree, yes.

You are absolutely on notice that things are not working with policing in the Northern Territory and especially in Aboriginal parts of Aboriginal communities and indigenous in Central Australia, right?---No. I don't agree with that. We can do a lot better.

You can do better?---Yep. We've done an incredible amount of work with our indigenous leadership, our Aboriginal liaison officer programs. We've got 70 officers across about 40 communities. We're invested heavily. We're continuing to recruit. We're looking at improving the indigenous pathways. You know, going to that 30 percent. I don't think, I just don't agree with that statement, Mr Boulten. I do agree we have a whole body of work to do to improve it.

Commissioner, the general picture though, nearly 90 percent of the population of the Northern Territory are Aboriginal people and something like 100 percent of the children in custody are Aboriginal kids. And a huge disproportionate number of Aboriginal adults occupy the prison in both Darwin and Alice Springs and in the Watchhouse, that's right?---Yes, absolutely agree.

And as you've said, arresting people is not going to solve this problem, right?---No. The answer is in the prevention and the engagement and in education and in health and housing. Police is the last resort. We usually, we need to flip it so we're not arresting everyone. We do arrest predominantly Aboriginal males for violence offences. We do arrest Aboriginal youth for property crime and vehicle offences. It's about an investment in the front-end, in education so people have a purpose in life. And it's about policing being different about community engagement and prevention activities across a range of issues including domestic violence, road fatalities, social policy. We've got a whole body of work to reduce the rates of offending and crime and disadvantage across the Northern Territory. I agree with you 100 percent, Mr Boulten.

So, commissioner, you would also agree that it's crucial to the success of your work and your police force as well that there be a relationship of trust between the community on the one hand and police on the other hand, right?---Yeah. It's essential, Mr Boulten. And that's some of the work we intend to do about connecting the community to local leaderships, to local governments, to all the indigenous bodies, the land councils, to make sure that you represent the families, you hear their voice loud and clear. You know, we have to listen to the people you represent as well to make sure we're a police service that actually reflects what the community needs to make a safer and a better place. Not a place where we're solely just arresting everyone.

In the 2022 Galliot Review into the complaint system in the Northern Territory Police Force it was acknowledged that, "It's apparent that a person's skin colour can sometimes play a part in the policing response to an issue to the alleged credibility of complainants and the attitude and the behaviour of some police members." Do you accept that finding?---Yeah. Comes down to the cultural piece and that comes down to a range of things we have invested in but we need more about unconscious bias and actual bias and how people are treated.

It was also found in that report that the police sometimes questioned the veracity of complainants based on who it is that's making the complaint rather than assessing the merits of the issue itself. Do you agree?---Yes. And we are doing a whole body of reform work, your Honour, around the professional standards command and the educational package. And to that end we've brought in a highly experienced officer from the Australian Federal Police Commander Jason Kennedy to help us reform that.

Yes. Commissioner, do you accept as was suggested in the Galliot Review that the use of derogatory terms about Aboriginal people as part of every day language or labelling sections of the Aboriginal policing workforce in a particular way is, "Unprofessional, culturally detrimental and quite simply interpersonal racism." Do you accept that?---Yes I do.

Do you accept that police in private who talk in derogatory terms about Aboriginal people because they are Aboriginal people are acting in an unprofessional and unacceptable manner?---Yes I do. It's discriminatory.

Do you accept - it seems almost inevitable that if they're doing it in private, it's more likely to reflect their attitude than if they're on display, agree?---Yes, somewhat, yeah. I do agree.

And to dress it up as a joke doesn't mean it's not racist, you agree?---Yes, I do agree.

And in fact, dressing it up as a joke can make an even - a worse form of racism, right?---Yeah.

And do you agree that if people - police officers who do these things in private and receive support from each other as they do them in private, are likely to act in public in a manner which is influenced by the fact that those attitudes are accepted in private by their colleagues?---Yes, I do, your Honour.

This is important, Commissioner, because there has been a body of evidence here from your colleagues that it's okay to be racist in private so long as when you're out in the community, you don't say those sorts of things. But that - you don't agree with that, surely, do you?---No.

And do you accept that the stereotyping of Aboriginal people is a - especially negative stereotyping of Aboriginal people is a cancer which is difficult to

detect?---Yes, I agree. And that's why we've got to do so much work to remedy this situation.

So isn't it better for the whole Police Force, the Ministry, the Government, to say, "We've got a problem here and we need to deal with it rather than to simply say it's not a problem." It's hardly anything, it's a bad apple, there's nothing wrong - nothing wrong with the orchard?---Yeah, I accept that, and that's why we're going to do a body of work to reform some of the, you know - obviously, the behaviours and cultures of the Northern Territory Police Force to make sure it's eliminated - or identified and educated.

Mr Murphy, you were an Acting Assistant Commissioner, an Assistant Commissioner and a Deputy Commissioner, then the Acting Commissioner and now the Commissioner for what, 10 years or more?---Seven?

Seven, right. A large part of that time, you were in a key position to be able to influence these outcomes, weren't you?---Yes, I agree.

What was the most important step you took during that time to deal with racism in the Northern Territory Police Force?---Making sure that, you know, it doesn't exist. It's addressed, that there's respect, there's equality in the workplace, you know, people are treated well - with respect, especially our Indigenous colleagues. I have very strong bonds with our Indigenous communities and our Indigenous colleagues and I'm, you know, try and do my best every day to make sure that the workplace is safe, it's culturally competent, we're doing the best we can to deliver services. And now bring that - all that time - and even as, you know, an officer, to the position I'm in now where I can make a difference and - make a real difference with the executive team. But not just me, the whole of the Government and with community to - - -

What structural thing did you do? What change in policy did you implement, what reforms did you bring about? How did you deal with it?---Probably the most - the most significant was the introduction, which was the - of the Community Resilience Engagement Command back in, I think, 2020. Which is a real significant investment in that connection to community. And understanding - and really, the reform work about how we police communities. And you know, we say we judge an operation by the absence of the use of force is - that a successful operation is judged by the absence of use of force. The ALOs have been instrumental in engaging with community elders and peacekeepers to identify those we wish to arrest and peacefully surrender in the absence of force. We've seen that in a homicide at Yirrkala, and we've seen it time and time again across central Australia. The connection - and, I think, the respect on the senior law across Indigenous communities, that is a significant achievement and that's continuing to be invested in and that will be reflective of the pathways in investment across Indigenous leaderships into the future in the Northern Territory Police Force. So that is a sign, and it's a proven fact of success. So we need to continue with that. We - we also need to challenge our policy settings. We need to continue to challenge our policy settings, because they are designed and racist in certain ways. Even our internal policy settings. So that needs to be reviewed, as well.

But are you committed to an anti-racist strategy that supports the Aboriginal Justice Committee review of systemic racism?---Absolutely. So talking with Leanne, she's going to design an anti-racism strategy, the implementation program and focus groups and delivery, which will involve the education and the like. And I've already written to the Aboriginal Justice Unit to engage them in assistance, and the Anti-discrimination Commissioner will also assist us in some reform work, some investigative work, looking at the history, draw a line in the sand and say, "What have we done wrong?" So to say, it's peel the scab back and then move forward with some productive measures to make a better workplace and a safer environment to provide a better service across the Northern Territory and to those disadvantaged people.

Do you support the expansion of the Community Resilience Command to include more positive community engagement, more employment of local Aboriginal police and other staff, including unsworn officers?---Yeah, absolutely. We're trying to work through, and this is the work that will get traction next month, is around identifying residents who may be involved in the night patrol, your Honour, and making sure there's pathways open to them to join either the ALO or the ACPO stream or the constable stream, designing certificates that are recognised for learning and investing in that pathway. So I absolutely want to invest in local communities, community policing, identifying patterns of concern, the harms we see with grog running, domestic violence. It can't be just a police response. And you know, looking at simply of locking people up for driving offences. If we actually engage with them in the community engages with them to get their licences, they're going to stay out of the criminal justice system and put them on a pathway where they can actually help us. I think the solution lies in community. It doesn't lie in the criminal justice system, and we need to start looking at that space in - from a policing perspective, we are still operating a really high demand environment at the moment. We're doing everything that we can to reduce that demand environment so we can actually then turn it into community engagement and engagement with community, but also targeting those who continue to cause harm, such as high-harm domestic violence offenders.

You know all this money that's come forward in the recent budget, \$90 million extra for your police force, is there money there for these programs, for community policing programs, for the development of liaison with Aboriginal people, with the night patrols and those sorts of measures that you've just spoken of?---So we've - so it's complex. So the cabinet decision to invest \$570 million over four years is structured in a way that will be delivered through the review, but through a implementation process about what that will look like. Ultimately, it will come down to the implementation team. The focus will be on frontline policing, but there's some - there's some room for other discipline, such as forensics. The call centre needs better enhancements as well and more staff, because we see the call rates and abandonment rates really high because of absentees and we need to look at tech and data. But you know, ultimately, your Honour and Mr Boulten, it's my role to influence where the money is invested to make the police force more contemporary,

to make sure we're focused on the service areas that need to be focused on to prevent crime but also address crime, to keep people safe.

Are you going to swear in Leanne Liddle as a sworn officer?---No.

Why not?---Because I'm bringing her across as an executive director. I got some advice from the HR team and I just can't do that yet. But I have said to her, "There could be an opportunity to do that in the future."

And those various, I won't call them restrictions, but the framework within which you need to operate in the context of this expanded budget, didn't sound like there was much left in that for the sorts of things that you're talking about?---Look, I think there's always an opportunity, your Honour, about talking to the minister and making budget cabinet submissions around projects and programs throughout the year whilst there's a budget allocation that goes through estimates and there's an annual report. There's opportunities throughout the year to ask government for other investments. And when it's productive and engaging and it actually is an investment across many government agencies, I think that might be something that the government might undertake.

So if the government has the view, as expressed by the Police Minister, that, really, racism is not very - much of an issue, what's your prediction about the resources that are going to be allocated to the sorts of (inaudible) saying are necessary?---Well, my investment is committed to make sure we effect change and to implement the change, putting the mechanisms in place to do that. And that's increasing Indigenous employment to start with and education programs, and I'll be guided by the conversations I'll have with Leanne and Ms Kath Webber(?) who joins the team in June, as well as the deputy CEO to strengthen the corporate support and governance and accountability across the organisation.

Just one last topic. The inquest has received statutory declarations from members of the police force who were members of the TRG over the years. Stat decs produced and signed on 28 February and, I think, one on 29 February in the immediate aftermath of your press conference, days after the bomb was thrown in that witness box by Zachary Rolfe about all of this. They all said, "Nothing to see here" about these TRG Awards." Have you read those stat decs?---I think I've had a look at a couple of them. I don't think they were created in the aftermath of my press release. I think they were requested through our counsel, given the testimony presented here.

Okay. Well, it was the day after your press conference - - -?---Yep.

- - - or two. And it was two days after the Rolfe evidence. They were all in response to the Rolfe evidence and they all basically said, "What Rolfe is saying about the TRG Awards is wrong. All right. No connection to Indigenous Australians. It's got no racist connotations. It's about cavemen, it's about that sort of issue; nothing to do with racism." Are you aware of those stat decs?---Yes. Can I caveat, your Honour, just that it is an ongoing investigation with the ICAC as well.

Right-o - - -?---I just - I just think it's a sensitive matter and it's an ongoing inquiry with the Independent - - -

So I was going to ask you - - -?--- - - - Commissioner Against Corruption. So - - -

- - - is it the subject of an investigation or has any action been taken. But your evidence that there is a current ICAC investigation into what those people said in their stat decs. Is that what you say?---Your Honour, I can confirm that, yes.

No. Well, I'll leave it at that.

That's all I wish to ask.

THE CORONER: Mr Mullins.

MR MULLINS: Thank you, your Honour. May the witness please see exhibit 1728. I'll be about ten minutes.

THE CORONER: Are you happy to sit for a further ten minutes - - -?---Yes.

- - - or would you like a break?---No, I'm good, thanks, your Honour.

XXN BY MR MULLINS KC:

MR MULLINS: Commissioner, my name is Mullens. I appear on behalf of the Brown family, including the mother of Kumanjayi Walker and the woman who raised him. You're aware of the code of conduct of 2007?---Yes, I am, your Honour.

And you're familiar with the contents of that document, that are about to come up on the screen?---Mainly, yes.

Is it still operative at the current time as the code of conduct?---Yes.

Can you please turn to page 10 of the PDF. You would be familiar with pars 67, and can we scroll down please so we see the start of 67. And we can see, at 66: "Members must not harass or discriminate against any person." And then 67, "For the purpose of this code, harassment is not limited to sexual harassment and is used in a broader sense," et cetera. And some examples are given. And we can see at 97.2, "Unwelcome remarks, jokes, taunting about a person's body, attire, ethnic or national origin," et cetera. You see that?---Yes, I do.

And you're familiar with 67.3: "Displaying racist or other offensive or derogatory material, such as posters or cartoons"?---Yes, your Honour.

Now, the TRG Awards, you would agree, and the material that is associated with that included images which would have breached those provisions?---Yes, your Honour, I agree.

It included the disrespect of the Aboriginal flag, which would have breached those provisions?---Agree.

You agree that it included racist jokes?---Yes, I agree.

All right. Now, can I ask you to then forward through two pages to pars 85 and 86. And you would be familiar that it's an obligation of a member to report any suspected of actual breach of a code of conduct in ethics or any suspected or actual improper conduct?---Yes, agree.

And that was operative right the way through the entirety of the TRG Awards?---That's correct.

And 86 says, "This should be done through the normal chain of command." Is that still the case?---That is the case, but if the chain of command is somehow compromised, it can be direct to the Commander of the Professional Standards Command.

We then see, "Where possible, such breach should be resolved at a local level. However, in serious cases, the matters is to be referred to the Commander of the Ethical and Professional Standards Command for assessment and determination of investigation." The maintenance of the TRG Awards over a decade would be a serious case of a breach of the code of conduct?---Yes. From what we've seen, the context of it and the narrative, yes.

And can we infer from the fact that it does not appear to have been referred to the Commander of the Ethical and Professional Standards Command that it's never been reported in that period of time?---You can absolutely make that assumption, your Honour.

Now, let's just imagine for one moment that there was an officer who was at the TRG Awards in one particular year, who watched the awards being given and thought, "This is not right." Or who went back and dusted off his code of conduct, his or her code of conduct, and looked at s 67.2 and s 67.3 and then looked at pars 85 and 86, and said, "I have to report this." What would you have recommended that that person do?---Contact to the - they're talking me; that's probably good enough, but I'd say, "Report it to the Commander of Professional Standards."

Well, they couldn't very well go up the chain, could they?---Well, they can. And that's the - what we're going to challenge.

Well, let's go back to the time that these TRG Awards were being presented. Let's take 2012 as an example. They couldn't go up the chain if they were a TRG member, because is the sergeants who were maintaining the TRG Awards?---And that just identifies the challenges ahead of us.

Do you agree that the events surrounding the TRG Awards represented a catastrophic failure of the application of this code of conduct?---It's absolute failure, yes, it is, as there's a non-adherence, and it's there for a reason.

The event that has subsequently occurred in the most recent past, involving the photograph of the woman that was distributed; I don't want to bring the photograph up, but it's a criminal act, is it not; is it a breach of the *Criminal Code* to distribute intimate images?---Yes, it could be, and I'm sure PSC explored that avenue.

All right. So do I understand there's an investigation with a view to criminally charging the particular officer who spread that image?---I don't believe so. I think that case, the matter has been finalised.

All right?---Otherwise we probably would have seen an officer charged and brought before the court, your Honour.

The images that we've seen are blacked out, but it is the case - have you seen an un-blacked out image?---Of the photo?

Yes?---Yes.

Is it the case that a portion of it was blacked out, in fact, includes the depiction of blood?---Sorry, can you say that again.

In a portion of the picture that was blacked out, that was presented here, is there a depiction of blood on that person's body?---I don't remember. I probably need to look at - - -

DR DWYER: We've got a copy of that in court if it assists the Commissioner?---Yeah, that'd be good, if I can see it.

MR MULLINS: Would you like to have a look at that photograph?---Yes, your Honour, that's correct.

So there is blood on that person's body. You accept that?---Yes, that's on the breast, yep.

Does that cause you any greater concern that that person may have in fact been in a state of distress?---Yes, it does.

Do you think that maybe that should be investigated further?---Yeah, I'll probably need to go a talk to the Commander of Professional Standards and get a review and see what some of the other considerations were.

In your ongoing consideration of these matters, have you considered a framework for complaints so that a serving officer, whether they be a sergeant or a member or at whatever level, can go outside the change of command and make a complaint to a particular person that is an anonymous complaint?---I believe - I'm not sure about

the anonymity, but I believe that some of the work that Commander Jason Kennedy is undertaking about the reporting, about safe reporting. And we obviously have encouraged people in recent times to report any inappropriate material, conduct, racist discrimination and misogynistic to us and to the ICAC as well.

One final matter, commissioner, my clients have found the disclosure of this TRG awards and the events surrounding it very distressing. You can understand that?---Absolutely.

Do you understand they might have some concerns about transparency, in that the person who brought it to their attention was Zachary Rolfe?---Yes, I understand their concerns.

And you understand they have concerns that had he not brought it to the attention of the coronial inquest, that it would have gone undiscovered?---It could have been, yes.

What words can you give them to reassure them that everything of that nature will be uncovered and made public and properly investigated in the future?---I think that's the body of work we need to embrace now about making a difference, your Honour, about making sure that, you know, there's access, the community have access, they have trust and confidence in us to eliminate this type of behaviour. The – it's a body of really important work that's long-term. But I understand how your family, the family feels, and you know, we do have an incredibly large amount of work to do to turn it around and to stamp out what is deemed to be acceptable now, your Honour.

You mentioned that engagement with the community is a critical aspect of moving forward. Is that right?---Absolutely it is. We rely on the community to police by consent.

As commissioner, will you leave the door open to considering the engagement with cultural law as part of that process?---Yes, I will and the – I think we do some cultural training through induction and recruits. The complexity is the cultural diversity of the Territory and where officers deploy in getting availability to do that. But it is definitely going to be considered.

And do you, as commissioner, understand that cultural law plays an important part in the day-to-day life in the community, and the community want that maintained?---Yes, I do.

Thank you, your Honour.

THE CORONER: Are there any other questions? So there are some more? I'm just going to take a short adjournment for 10 minutes and we will return.

ADJOURNED

RESUMED

THE CORONER: Are you next, Mr McMahon?

MR MCMAHON: I will take that opportunity in that these people might not be here yet.

Your Honour, we have been told about some time constraints so I am just going to be very brief with this witness, if I may tackle one issue only.

THE CORONER: Yes.

XXN BY MR MCMAHON SC:

MR MCMAHON: Commissioner, some of the - I appear for the Parumpurru Committee, for the people from Yuendumu and some of the obvious racism that we've seen in this inquest - the most obvious and galling, has come from police who effectively disparage bush cops and who have, in one way or another, made it clear they wouldn't like to work in the community. Do you follow?---Yes.

And interestingly, some of the most impressive officers we've seen have been people who spend a lot of time in the bush. Can you just tell us very briefly, going forward - not so much going backwards - going forward, is it within your planning that young police - or police coming through in the future would be required to spend a significant amount of time as bush cops, out in the remote communities?---Thank you. Your Honour, absolutely. I think I'm case in point and a number of other senior members who have spent time in remote communities and it's about understanding community developing relationships and that empathy which you don't get in urban settings, so we do actually - part of the recruitment process we look at recruiting people who do want to go into remote locations, but - - -

I am going to be extremely rude, given that you're the Commissioner, but I am down to a couple of minutes?---Yes.

I really just want to go - going forward, can we expect that pretty much everyone coming through is going to have a significant time in the bush as a bush cop?---That would be great. We have to balance it with personal circumstance as well with, you know, some of our challenges and our spousal employment, children at school and when the timing is right go to remote but there is definitely through the cohort of young people coming through the recruit training there's an absolute appetite for them to go to remote stations and, you know, explore the Territory and connect to community and that's, you know, you praised the bush coppers earlier, that's absolutely essential that those relationships develop and that's where a really important work is one across the Northern Territory because you bring that skill set into urban areas again because you come across the community members in Alice, Tennant, Katherine and Darwin in the future.

I will just make a couple of quick propositions to you then I will be finished and

I know - I asked Dr Freckelton to mention these to you yesterday so they wouldn't come out of the blue to you. In terms of training police, we will be making suggestions to the Coroner in our submissions that the engagement of young police coming through with the Aboriginal community is so essential that there needs to be a radical shift in the training at the college and we've had evidence about it, I won't go through it with you but rather than have a few days of training people in Aboriginal culture - Aboriginal history and so on, but the thinking should be that that should be weeks and weeks of training, not days or hours of training, and so that's the first proposition I want you to just park in your mind if you may. Does that sound appealing to you?---Yeah, it does. It's just about logistically delivering it.

Okay, thank you?---Yeah.

Part of that training, I suggest, would include putting all of these young recruits who are coming through for a period of perhaps two weeks out in the remote communities as part of their college training. Does that sound an appealing idea to you, putting logistics aside?---No. I'm sorry. Like, I think it's a good idea, your Honour, but I don't think it's probably a place through training. I think it's probably a place through in-service after graduation. And we've got to balance it with demand and operations and what that looks like. It definitely - you know, most of your learning is done not just in the college with cultural because in Darwin, you might train and you get exposure to either, you know, Yolngu or Larrakia. But when you come to Alice Springs and you've got Arrernte and Luritja and Warlpiri, it's a different culture.

That's right?---And so it's about the in-field understanding and training and emersion that needs to occur here. And that's some of the work the ALOs are doing for us.

So I'll make a couple of propositions and that'll be it. Can I suggest to you that if you engage in a rethink of the training at the college, where there are weeks of training and education in Aboriginal culture, and weeks of engaging with Aboriginal communities in a way that's quite different to what happens now; can I suggest that that would have an enormous positive impact on the relationship between police in Aboriginal community. Do you agree with that?---Yes, I do. I - I don't know about the time investment. Like, I'm happy to explore other options, because we have to do things differently, your Honour. We can't - to understand culture and have police that are deployed out of the college, they need to have an understanding of what to expect and have the respect around the law and where they're deployed to. So whether - and you know, and that's the work that Leanne's going to help with, Ms Liddle, is about how we actually operate that through college, whether it's a - you know, a day or week or it's online, it could be through the ALOs. I think it needs to be flexible. It needs to suit the purposes of police based at remote locations. And can I - can I just touch onto about attracting people to remote stations; is the investment in the government, you know, 570 million over four years includes infrastructure. So new police stations and new housing, so we've got houses that are current and safe that young families can go to. And that's going to be an enticement for people to go out bush.

So I'm going to finish on two quick points. In terms of time allocation, can I suggest despite the thinking that's happened up to date, when you consider has been put to you today that almost all policing by almost all police in this Territory concerns engagement with the Aboriginal community, then that should drive the question of time allocation in training. I'm going to put that idea there for you. You agree with that?---Yeah. I don't think I have - I don't think I can you an answer. I think that's going to be something that the team at the college and all the other pressures we'll need to work through. But look, I think it's worth exploring. I just - I can't give you a commitment on any time allocation.

Just so you can have at least one cheerful comment for today, can I suggest to you that if you marketed yourselves as a police force that engaged in deep education of its recruits in Aboriginal culture, that you would greatly widen the pool of idealistic and ideal candidates to come and join your police force?---Yeah, that's definitely an option we're going to explore and will attract the right people.

Thank you?---Thank you, your Honour.

THE CORONER: Other questions?

XXN BY MS OZOLINS:

MS OZOLINS: Good morning, Commissioner. I think, as you know, my name's Sally Ozolins. I'm acting for the Police Association. I just wanted to ask you about your comments in relation to - or the comments you made during your evidence in the inquest that you were taken to earlier today. And specifically, your comment today that, on reflection, in relation to the disciplinary matter of the particular officer that we talked about this morning, that you perhaps got the balance wrong and, in hindsight, you would make a different decision. I don't want to ask you about the specifics of your decision-making in that case, but you'd agree that in addition to the objective circumstances of a breach, officers and yourself on review are obliged to take into account a number of other matters. You agree with that?---Yes, I agree with that, but I also need to take in the more, you know, cultural polices and the fact that I can't have - when it particular comes to racism, a level of acceptance that I'm tolerating it. That's a change in point of time now.

Of course. And that's part of the objective circumstances of the conduct. But separately, in accordance with Pt IV of the *Police Administration Act*, you would take into account the personal circumstances of an officer?---Yes. That's quite diverse, the range of considerations for - - -

Sure?--- - - - a case-by-case basis, but, you know, what I'm probably trying to communicate is that the racism and discrimination's not acceptable. And there needs to be some firmer decisions around that.

Of course. But you're not suggesting that, going forward, there would just be a blanket approach for any matter which perceivably involves an element of racism?---I don't think there can be. What I can do is - and I've already spoken to the Deputy

Commissioner about the delegations under the Act and, for consistency, moving some of those decision-making to his office.

Sorry, to the officer of the Assistant Commissioner?---To the office of Deputy Commissioner.

Deputy Commissioner?---For consistency.

But any decision-maker would be required to take into account the prior conduct of an officer?---We have to by law. It's in the Act.

Of course. And user service, personal circumstances, things of that nature?---Yes.

So there can't be a blanket approach?---No, there cannot be a blanket approach, but there can be an overlying plan(?) that involves this type of behaviour. There's some other considerations.

Sure. How does that fit with the things that you previously said in terms of adopting a disciplinary approach which reflect a sanction, not sabotage approach?---It's about people owning their mistakes, their behaviours, their conduct, so we can move forward faster, correct the behaviours, given them an opportunity to reform. It's repeated. There'll be firmer interventions, educating the workforce. We're sharing stories about people who have made poor judgement, poor choices or mistakes, so people learn from that so we don't have people going off on sick leave for years at end, and we can move through so there's a safe place to report conduct, misconduct, self-report. It's a change in the, I guess, how the Professional Standards Command work. But you know, it's a different aspect if a crime's committed.

So it's sanctioning the conduct of the officer for the breach without sabotaging their entire career, so to speak?---Yep, that's right.

And moving towards a more managerial and education approach rather than simply punitive?---Yes. The move is a lot of the - a lot of issues were dealt with in the disciplinary space that could have been dealt with at a managerial space in performance management.

Sure?---So we're moving into that space, and when matters that are more serious and breach a code of conduct, your Honour, that's when it goes into the Pt IV space. But it's how we actually manage that and the outcomes and the hearings in that space as well.

Now, you just touched on taking disciplinary action which doesn't cause the member to go on leave. Now, you'd agree, wouldn't you - or you're aware that there's been evidence given of officers going on leave rather than facing disciplinary proceedings?---Yes.

And some of that evidence is the report authored by Vince Kelly. He talks about a small number and a minimum number of officers that have suggested that occurs?---Yes, I'm aware.

Now, are you aware of any specific examples where it's been established that an officer has abused sick leave entitlements to avoid disciplinary proceedings?---Probably not to a - well, there probably are some occurrences of avoidance, but it's more when it occurs they go on sick leave. And we know we've got a few that are facing tribunal on sick leave. We've just had an outcome of a demotion from superintendent who's gone on sick leave. So there are - the more I dive into it, I can give you some more examples. But it does exist.

Are you aware of the various evidence that's before the inquest that suggests that genuine illness, injury and adverse mental health outcomes are the result of the process itself?---Yeah, that is - that is documented. And you know, sick leave, there are legitimate officers on sick leave who have legitimate medical reasons - - -

Sure. And I think in the inquest, the DV inquest that you gave evidence in, you said specifically that, "The need for generous - they've been described as generous sick leave entitlement demonstrate the harms that police see through their day-to-day activities are due to trauma, violence, murders, road fatalities, child abuse and the like and all of that has a recognised impact on officers"?---I agree, yes, your Honour.

So you seem to be acknowledging that those sick leave requirements are necessary for police members to address those recognised harms. Would you agree with that?---Yes, I do. And there's going to be a body of work that obviously the police association will be involved in off the back of the review through the industrial working group about all those provisions as well.

Sure. And one of the things that has to be considered, particularly in relation to the Northern Territory, is the remoteness of postings which can have an effect on officers which obviously that - it can be quite isolating?---Yes, it is isolating and it's difficult and they are expected to work long hours in difficult conditions and it is a contributor to some absences.

Sure. And certainly, this inquest has received evidence that there's been an increased - over the past few years, an increased risk of fatigue and burnout from significant understaffing and expectation on officers to work overtime. Do you agree with that observation?---Absolutely. It's proven in our HR data, the amount of overtime hours that are reflected on the back of COVID, doing policing duties that aren't normally policing duties, on borders and keeping up with the demand as business as usual. It's not usual. We've had unprecedented demands, high rates of overtime hours, high rates of sick leave and impacts upon the health of the agency.

Certainly. So it would not be fair to assume that someone who is utilising sick leave is doing so for nefarious or unjustified purposes?---No, I don't think so. The truth is that a lot of people in the workplace knows who's using sick leave unnecessarily.

They know?---They know people are using sick leave when they shouldn't be using sick leave.

Those are my questions. Thank you, your Honour.

THE CORONER: Mr Abbott.

MR ABBOTT: I'm next?

XXN BY MR ABBOTT KC:

MR ABBOTT: Commissioner, do you agree it's entirely appropriate for Carey Joy to have told you what he said to you on 31 August 2023?---Yes.

Do you agree it's entirely appropriate for Carey Joy to have said what he said in his statement about his meeting with you on 31 August?---Yes, I agree.

Do you agree it's entirely appropriate for Zachary Rolfe to have given the evidence he's given about racism and particularly the TRG racism in his evidence?---Yes.

And do you agree that what both Carey Joy has said and what Zachary Rolfe have said in relation to this is true, has been found to be true?---Yes, I know that to be now, yes.

Yes. And what the TRG have said in their response, it's not true?---I'm not going to comment on that. That's an ongoing inquiry with the independent commissioner against corruption, your Honour.

Well, prima facie, you've read their declarations, their statutory declarations?---I'm not going to answer the question, please, your Honour.

Anyway, you don't want to go – you don't want to answer any questions on that particular aspect?---I'm not going to answer any questions, your Honour, if I may - - -

THE CORONER: Sure?--- - - - that are subject to a commission.

The matter is under further investigation?---Yes, your Honour.

MR ABBOTT: I won't ask any further questions of that aspect. I just want to ask you some questions about your meeting with Carey Joy. You canvassed a number of topics. I'll very briefly suggest to you the topics. The meeting lasted for about 20 minutes, didn't it?---Yeah, it was pretty brief.

Yes?---Informal and brief.

Yes. One of the topics was, he told you about the resentment of serving police officers towards the executive because of what had been done to Rolfe during the course of this inquest?---Yes, he did.

And you responded agreeing?---Yeah, I know that we've had some challenges in the workforce with a range of issues, including COVID, including the inquest. You know, some commentary and some really hostile and derogatory commentary directed at a number of people in the workforce and out of the workforce.

Another topic was, he put forward his views about how the deployment of Rolfe in November 2019 to Yuendumu was entirely inappropriate?---I don't recall talking about the deployment of the IRT, no.

Did he not say to you words to the effect that, as a tactical operator, it was ludicrous to suggest it was okay to send staff into high risk areas – high risk events.

DR FRECKELTON: I object, your Honour, this is in part of the affidavit from our defence (inaudible).

THE CORONER: Yes.

DR FRECKELTON: But only in the first three paragraphs.

THE CORONER: And I assume that the content of the conversations contained in the paragraphs to which he's referred, that's the evidence of the conversations.

MR ABBOTT: Yes. I'm putting to him what was discussed.

THE CORONER: But I don't think that he has suggested that it has been discussed in the affidavit that he had, the paragraphs that are deleted.

MR ABBOTT: I know that, your Honour. I'm now putting to him that something else was – this was discussed. It was in fact discussed. Whether it's - - -

THE CORONER: So it hasn't been included in the - - -

MR ABBOTT: No.

THE CORONER: - - - affidavit that was produced last week and presented to the court and about which there's the objections made and rulings, and I won't be allowed any additional evidence in relation to this (inaudible).

MR ABBOTT: I'll move on in the interest of time.

THE CORONER: Other than that which has been taken in that affidavit.

MR ABBOTT: Yes.

The tenor of what the discussion was about was the fact that Mr Meacham King had come to Mr Joy's house and what had happened was that Mr Joy was very upset about Meacham King's appearance at his house and as a consequence of

that, he'd said certain things which have been recorded on Meacham King's body-worn video?---Yes.

And he wanted to warn you that because of the way in which he had received a response from other police officers contacting him who had obviously been aware of that body-worn camera material, he wanted to warn you that this could well become public?---Yeah, I believe so.

Yes. And he wanted also to tell you, to make sure to you, that it wasn't his actions that were making it public?---Yep, I agree with that.

Yes. And he mentioned to you that on the body-worn video, he had repeated to Mr Meacham King your comment that you had made in a restaurant; a racist comment that you'd made in a restaurant?---Is that the comment that he alleged that I made, yes.

Well, he alleged – at this meeting, he told you what the comment was that he heard you make?---Yep.

That he said he'd heard you make?---Yes.

Yes?---I don't think he did. I think he told me about the body-worn and he disclosed in an agitated state after a few drinks that he talked about the restaurant issue.

Okay. Did he tell you that Superintendent Gill had rung him after Superintendent Gill had been shown or heard about what was on the body-worn video of Meacham King's?---No I don't think so. I don't think he mentioned names from memory. I can't remember. But he said that officers were talking about it.

All right. As to awards and racism and in the Northern Territory Police, he said that these issues have the potential to be criminal matters?---They could fall under the *Anti-discrimination Act*, yes.

Yes. And he told you that some of the pictures were really bad, didn't he?---I can't remember the exact words, but he said that the pictures weren't good or – I can't remember the exact words he used, but like most of his statement is accurate, so I trust what he says.

And he specifically told you that one of the most racist things was the fact that the TRG had this award called "Nuggadah", didn't he?---He did mention Nuggadah. I'd never heard of it before.

Yes. And that the reference to Nuggadah was an award for the most "coon-like behaviour" in any year?---I think that's correct, yes, your Honour.

Yes. And he told you that it started back in 2005 or 2006 and was still continuing?---Yeah, I can't remember the date premise. Like I think there's a lot of detail there that probably wasn't.

Yes. And it was in that context - - -?---Can you just (inaudible) to me.

I'm sorry?---No, that's okay.

You finish your answer?---No, no, I was just saying there's a lot of information there that I can't remember was communicated to me - - -

Sure?--- - - - in details. I know overall, the message was about the awards.

Yes?---But the date ranges, I know - I remember what's historical, but the date ranges, I can't confirm, your Honour.

Well, it was in the context of it having gone on for a very long time, that he told you there were potentially hundreds of awards or hundreds of police officers who would know about it?---Yeah, look again, I can't remember the number being mentioned, but like for a while it occurring, yes.

Yes, yes. And he did mention, I - I put it to you that the - that two of your executive officers knew about it?---No, I don't recall that bit.

Did he mention Mr Porter?---I don't remember.

You don't remember- - -?---No, no. I don't remember. No, I - look, I don't think so.

Well, you don't remember?---I don't remember, I'm sorry. It's - - -

Okay?---Yeah.

Okay. And did he tell you, after mentioning a number of names, that senior - senior members of the executive were involved in - to use his word, "bricking up," the junior crew - junior members of the Police Force?---No, I don't remember that comment either, your Honour.

And in the context of there being problem a 100 people who had knowledge of this, did he tell you what the photos consisted of?---He may have, I just can't remember the exact detail. He - his sentiment about when you refer to "executive bricking officers" was a sentiment of, probably, hostility about the way people were treated, more general - in more general terms. He - he was expressing his concern to me, I believe, as the new commissioner.

Yes. The concerns that he had- - -?---Yes.

- - - about matters that you could possibly take into account and deal with in your role as a new commissioner?---Yeah, and probably correcting or restoring some of the relationships that were, obviously, quite fractured through - through a period of time.

Yes. And - and did he tell you that the - part of the material that had been disseminated were photos of police members holding the clubs or the Nuggadah Award?---I - I can't remember, I'm sorry, your Honour.

All right. And did you talk about - in one case of an Assistant Commissioner who'd applied for appointment to the AFP that was knocked back on integrity grounds?--- He did tell me there was an Assistant Commissioner applying for - but I don't think he mentioned integrity. I think he just said he couldn't get a job.

Yes, because he put incorrect information in his application?---I don't know the detail.

You know the same of that person?---I do know the name of that person.

Yes, I won't mention (inaudible) yes. Could I just ask you one question about your interview that you - the interview that - the press release you gave - sorry, the press - the press conference you had. At - at page 2 of that, the journalist is recorded as saying, "Have you sought information since yesterday or even before about the existence of any of these awards, the TRG awards, and whether they - whether there are any actual physical trophies that were handed out for these awards?" And you said, "I've asked some questions about it. Obviously, there is an inquiry that will be undertaken that will give me some answers in due course but no, I have no awareness of it." I take it what you said before about not remembering the interview you had conducted with Carey Joy escaped your mind at that time- -?---Yes, it did.

- - - when you gave that answer?---Yes it did, your Honour.

When you said, "I've asked some questions about it," does that relate to the evidence we've already heard from other - other learned counsel here that - their questions and when you answered, saying that questions and when you answered saying - the persons whom you'd spoken to about this matter?---Yeah, and I - I can't exactly remember who I spoke to.

No?---It was probably a range of people, but they have been canvassed.

I won't go there again. And you said, "That will give me some answers in due course." Have the answers "in due course" been supplied yet?---No, so that's the - in the remit of the Independent Commissioner Against Corruption now, working with our Professional Standards Command, and that's a matter for the Commissioner, Michael Riches.

Sorry, the answers that you were hoping to achieve have not yet been provided to you?---No.

But that's a - that's all in the future?---No, and I - can I say, your Honour, I'll probably read about it in an ICAC report.

Yes, thank you.

THE CORONER: Dr Freckelton.

XXN BY DR FRECKELTON:

DR FRECKELTON: Thank you, your Honour.

Just three matters, Commissioner. You referred to the appointment of Leanne Little as a director. You mentioned that being in June next year, when does the (inaudible)- - -?---No, sorry. Sorry, your Honour. June this year.

Yes?---So I've written a letter of offer. I'm doing a transfer. I'm working with the CEO of Health. Ms Little wants to start earlier, which I welcome, but we're looking at 1 July. But I'd say it's going to be the second or third week of June, which I welcome.

You've been taken to provisions in the Code of Conduct from 2007. Is one of the recent reforms that there is a new Code of Conduct from October 2023?---That's right.

Lastly, Commissioner. There have been members - there are members of Kumanjayi Walker's family here. Is there anything that, as Commissioner of Police, you would like to say to the family?---Yes, your Honour.

Just keep your voice up, if you would?---Yes, your Honour.

So just wait for a moment for the (inaudible) coming into court. Yes. Commissioner, I was extending to you the opportunity of saying anything you would like to say to members of Kumanjayi Walker's family?---Thank you, your Honour. Good afternoon, my name is Michael Murphy. I'm the Commissioner of the Northern Territory Police. Firstly, I'd just like to acknowledge the land on which we meet, the Arrente land, and pay my respect to traditional custodians of the land. But I'd also like to acknowledge all the family, the Warlpiri nation and all the extended families of Kumanjayi Walker. And as the Commissioner of the Northern Territory Police, I'd like to offer my heartfelt condolences on your loss of Kumanjayi, and will do everything to restore our relationship and build trust and work through this healing process with you. Thank you, your Honour.

THE CORONER: Thank you.

DR FRECKELTON: Thank your Honour.

THE CORONER: Thank you, Commissioner. That completes your evidence and you are excused?---Thank you, your Honour.

WITNESS WITHDREW

THE CORONER: I think we're now going to see a short presentation from the members of the family. So if you'd like to stay for that, you'd be very welcome to do so. And there's seats available.

DR FRECKELTON: Your Honour, just while that's being organised, I can give you some information about measures that were taken in relation to persons who participated in that chat group, that received images of the person. I can inform you that two sergeants received s 14C guidance; two constables first class received formal written cautions; one constable first class received a formal written caution; and three members received good behaviour bonds.

THE CORONER: Thank you for that information.

DR FRECKELTON: And - I beg your pardon. I've been corrected by my learned junior. The constable first class who received the caution to which I referred, also received a three-month behaviour bond.

THE CORONER: Thank you. Now, to conclude the material that we've received in this inquest, there may be some matters that are still left to be resolved and there may be the receipt of some further evidence. But to conclude this sitting of these proceedings, we are now seeing some material that's been prepared by the family concerning their memories of and love of Kumanjaya.

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THE CORONER: I understand those and some other family statements will be made available on the website, and I appreciate the family for the care that's been taken in producing material that is available to us as part of this inquest, and is therefore then available to the public throughout Australia so they can better understand what has happened here.

We opened this inquest with statements from Kumanjaya Walker's family, and today we close with some of their reflections and memories. I acknowledge their suffering caused by the traumatic and shocking circumstances of his passing. Through this inquest process, we have learned from his family and community how important he was to them all and how they mourn him still. I am sorry for his passing.

In this inquest, we have attempted to discover and examine the circumstances of his passing. Those circumstances are not limited to what happened in that room on that day. We have sought to understand why and how it came to be that Kumanjaya Walker and Zachary Rolfe were together in that room. We have reflected on their

different journeys. We have done so with the purpose of making meaningful recommendations to prevent any similar tragedies in the future.

I do not use the word tragedy lightly. These events have been a tragedy for Kumanjayi's family, his community, for the police and health staff involved that day, for the police force more generally, and indeed, for the entire Northern Territory and the nation. Some of the evidence has been complex and some has been deeply disturbing. Some has been aired in this courtroom and much more has been received in statements and reports which now form a very weighty brief of evidence.

I am very grateful for the family for accompanying us through this journey of evidence and information gathering. Much of it likely difficult for them to hear. I acknowledge the Warlpiri and Luritja Elders past, present and emerging, and I thank those elders who have generously shared their expertise, knowledge, learning and hopes with us all. The family have been supported by their legal teams, but there have also been others who have been working to assist their inclusion in this process.

I specifically thank and acknowledge the work for the interpreters and the community justice centre for assisting the inquest and the inquest process to bridge any cultural divide. I acknowledge counsel for the interested parties and their teams who have worked long and tirelessly and with great professionalism. I appreciate the care and compassion they have shown the family and the many witnesses who have been deeply affected and distressed by these life-changing events.

I am most grateful for the legal expertise you have all brought to bear on the facts and on the process of this inquest. And I will reflect very carefully on all your final submissions when they are received. Finally, I thank my counsel assisting team for their courage to listen widely, investigate deeply, and their willingness to challenge the status quo. Findings will be handed down in due course.

We'll adjourn.

ADJOURNED