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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 1 MARCH 2024

(Continued from 29/02/2024)

Transcribed by:
EPIQ

ZACHARY BRIAN ROLFE:

MR BOE: Your Honour, may I just - two brief things.

THE CORONER: Yes, Mr Boe.

MR BOE: Can I firstly indicate that Mr Mullins and myself have to leave at 11:00, and we apologise for leaving (inaudible) to do so. The families will continue to be represented by a legal representative (inaudible).

THE CORONER: Thank you.

MR BOE: And the second matter is just to simply inform your Honour, that the family, whom we have consulted, none of them wish to have a private consultation with Mr Rolfe. But they are listening intently to anything he wishes to say at the end of his evidence.

THE CORONER: Thank you.

MR ABBOTT KC: Your Honour, I also need to tell your Honour, I'll be leaving at 12 o'clock. However, Mr Rolfe will still be represented by my learned friend, Mr Officer.

THE CORONER: Yes, Mr Abbott.

MR ABBOTT: He knows far more about this Coronial inquiry than I do. Your Honour, the second matter is, my - my client maintains his train of legal/professional privilege over his notes. However, after discussions with my learned friend, Mr Coleridge, I produce, and no longer maintain the claim of legal/professional privilege in respect of three pages of these notes. Which I now hand up to your Honour's clerk, in response to your Honour's call to me yesterday for production.

THE CORONER: Yes, thank you.

MR ABBOTT: And I ask - I ask your Honour, that these be kept confidential. They are my client's notes he has prepared, and the claim of legal/professional privilege attached to them. Obviously they'll need to be made available to other counsel here representing the parties, but I do ask that a suppression order, or a non-publication order be - be made in respect of them. They shouldn't be disseminated into the wider world.

THE CORONER: On what basis? I limited power to make non-publication orders.

MR ABBOTT: Well I - - -

DR DWYER: Might I ask for an interim order until they're considered, your Honour, but - - -

THE CORONER: Sure, I'm happy to give you an interim order until they're considered. However, it would be on the basis of the other orders, that anything that is raised in evidence during the course of any further examination, is the - non-publication order does not to extend to anything that is directly raised in evidence.

MR ABBOTT: Well, your Honour, I've made them available to your Honour's staff, and they've been copied, and copies are available for other counsel in this matter, so
- - -

THE CORONER: Sure, and they may be relevant to examination - - -

MR ABBOTT: Of course.

THE CORONER: - - - and if they're raised in examination, anything that is raised in examination, the interim order does not apply.

MR ABBOTT: I'm not asking for that, your Honour. I'm only asking for the notes themselves, that's all, and reproduction of them.

THE CORONER: Right, well at the moment, there's an interim non-publication order in relation to the notes themselves.

DR DWYER: May it please the court. And I understand they're going to be provided to my learned friends in case they're relevant for examination. We accept that the document was prepared by Mr Rolfe for the purposes of giving evidence. And appears to have been sent to lawyers. And - but we understand there would be a claim for the legal/professional privilege over the entire ten pages of the document. So we've been able to negotiate with my learned friends the - that three pages are provided, because they are relevant to what was referred to by Mr Rolfe, when he was giving evidence.

THE CORONER: Yes, so they were available to him when he was giving evidence. There is, as I understand it, able to be discerned on the live screen, that he was referring to the document, and in those circumstances, that part of the document, and other parts that relate to that part, so that it is in context, have been produced, is that correct?

DR DWYER: That's the case, your Honour, because in effect there's a partial waiver of professional privilege in those circumstances.

MR FRECKLETON KC: Your Honour, we'd like to be heard on this. I - we haven't been privy to the negotiations that have taken place, and don't seek to go behind them. But, we are completely unclear about how only part of a document, in respect of which there's now said to have been waiver, can be that which is provided to the court, and the parties, and the remainder withheld. If this document has been prepared for the purpose identified, and it's now accepted that the document has been referred to in the witness box. And thereby, privilege has been waived.

In our respectful submission, this document can and should be called for. And we call for the whole document. And we are content to make legal submissions of that at the appropriate time. We don't want to hold things up at the moment. It may require the witness to be recalled to be cross-examined about the contents of the remaining pages, should those pages be provided by ruling of the court.

THE CORONER: Yes.

DR DYWER: Your Honour, it might have to be considered at a later date.

MR FRECKLETON: Yes.

DR DWYER: It appeared to us that the pages that were being referred to on the livestream were when Mr Rolfe was referring to the claims of racism. In the – so, we have called for pages that relate to that and anything around it.

THE CORONER: Yes, but I note there has now been a call for the entirety of the document.

DR DWYER: Yes.

THE CORONER: And we will schedule submissions in relation to that. And a decision can be made, but I won't take up time today. But it will mean that pending resolution of that matter, I won't be in a position to excuse Mr Rolfe today.

DR DWYER: May it please the court.

MR ABBOTT: Your Honour, I would be available on a video link et cetera at some stage - - -

THE CORONER: Sure - - -

MR ABBOTT: To argue the law which we oppose the call, so.

THE CORONER: Sure. Normally we will do it by submissions, and if necessary, we can convene another hearing. But I will try and resolve it by way of written submissions.

DR DWYER: Your Honour, I am told that there is no sound on the livestream. It may mean we have to dial in extra parties that have been – who have been appearing by the live stream. But we obviously don't want to take up too much time doing it. Or waiting any longer - - -

THE CORONER: No. And I think we have got another way of recording the evidence and making it available with some time delay.

DR DWYER: Apparently, the Northern Territory government did an update to their server overnight, which has meant that they can't log in and connect to the court server. So, we just need a couple of minutes to dial in the parties who need to be dialled in for the proceedings.

THE CORONER: Do you want me to go off the Bench?

DR DWYER: I think that might be appropriate.

THE CORONER: And we have got another way, as I have said, of recording the audio and making that available.

DR DWYER: Yes.

THE CORONER: On the website. Is that where it is going to be?

DR DWYER: That's the case, your Honour.

THE CORONER: Maybe that can be communicated to those who are following the proceedings. But given that apparently we have visual, I assume that we will continue with the visual on the live stream.

DR DWYER: Yes, your Honour we will certainly

THE CORONER: It might not be quite as interesting as having the audio, but we will make these proceedings as available as possible.

DR DWYER: Yes, your Honour.

THE CORONER: As we have done throughout.

But we will just adjourn briefly.

WITNESS WITHDREW

ADJOURNED

RESUMED

ZACHARY BRIAN ROLFE:

THE CORONER: Dr Freckelton?

MR FRECKELTON: Your Honour, just very briefly, in relation to the notes issue, it occurred to us that it may be an appropriate and prudent step for the remaining seven-pages of notes to be placed in a sealed envelope in the court's possession, not to be opened unless your Honour decides that the envelope should be.

THE CORONER: Is there anything – issue with that, Mr Abbott?

MR ABBOTT: Yes, there is. Yes, there is. We would object to that. We have the notes, but there's no reason why they should be – we're not, obviously, nothing will happen to them in the interim. (inaudible) Mr Officer will maintain control of the notes. I don't have a copy of them. I don't have the originals, nor do I have a copy, at this stage. But we don't have – we should have access to the originals of these notes and they should not be - - -

THE CORONER: Why would you need the originals? Why can't you keep a copy and the originals stay with the court in a sealed envelope until the application is determined?

MR ABBOTT: Because – because, your Honour, my client is entitled to have his own solicitor looking after his own notes. And in my submission, they should not be removed from my solicitor's custody until – until ordered to do so. As a consequence of the claim of privilege being determined adversely to him. He has the right to have those notes and that right can be maintained – can and should be maintained unless and until you make an order adverse to the claim of privilege that he's – that he makes in respect of those notes.

DR DWYER: Your Honour, can I suggest that we park this and get on with the evidence? I'd like the opportunity to refresh my memory from some of the authorities before we return to it at the end of the day.

THE CORONER: All right. Are you happy with that, Dr Freckelton?

MR FRECKELTON: Yes, thank your Honour.

DR DWYER: Your Honour, just in – sorry. Sorry, Mr Abbott.

MR ABBOTT: I'm happy with it too, but I won't be here to argue it.

THE CORONER: Thank you.

MR ABBOTT: Thank you very much.

THE CORONER: It's just that it was Dr Freckelton's application, so.

DR DWYER: So I – can I just give your Honour an update on the technology? As I understand it, the livestream is only working in terms of the video. But upstairs, we have one of the court officers recording the livestream audio so that we can, at a later date, fix that. And Ms Walls tells me that a technician is on route to try and assist with that. In the meantime, we've got three people dialled in. Mr Tshinwanowski(?) for Northern Territory Health in case of Mr Cutler(?), Ms Borsch(?) for Officers Nankivell and Kirstenfeld and Ms McNally(?) for Sergeant Bauwens.

THE CORONER: Thank you.

Mr Boulten.

MR BOULTEN: Thank you.

XXN BY MR BOULTEN:

MR BOULTEN: First thing I need to do is to correct something I said in question to you and to the court yesterday. It concerns the late Sophie Trevor(?). She was the author of two complaints that have been the subject of evidence in the proceedings. Malcolm Ryder, in January 2018 and CW, in April 2019. Having corrected that, I wish to go back to the Malcolm Ryder incident. And I want to suggest to you that there were other ways to deal with Mr Ryder that used much less force than you used, and would have achieved the same outcome. Firstly, what do you say about that suggestion generally, about Malcolm Ryder?---I'm unsure. I followed my training on the day.

So the training involves using as less force as possible, wherever possible, right? ---correct.

So I suggest to you that when Mr Ryder and his partner entered the bedroom with their arms down, you could have actually just said to them something like, "Calm down, this is what I'm doing," or something like that?---I disagree.

How come?---From the situation I was faced on the day, I followed my training and used minimum force necessary.

When you started to yell at them, that was escalating the situation, not calming it, wasn't it?---I disagree.

Why?---Because I didn't believe it escalated the situation.

There was no need to spray OC spray at Mr Ryder either, was there?---I didn't spray OC spray at Mr Ryder.

Who did?---Brett Tranios(?).

What's more, I suggest that once he was affected by the OC spray, there was then no need to force him firmly against the ground?---I disagree.

Let alone to punch him, although I understand you will always deny having done that, right?---I would need to my statement. I'd refer to my statement.

In relation – I'll move off that. In relation to the young fellow in the garbage bin incident, instead of closing the lid on him and saying, "Gotcha," there were other ways to deal with him at that point, too?---I do not necessarily accept that I say, "Gotcha."

Whatever?---"Whatever?"

You could have simply stood back and told him to get out of the bin, right?---I believe I followed my training on the day. Obviously, there are very many different scenarios that could play out, very many options that have – could have been done. I stand by my decision on the day.

You clearly do. But do you accept that there are less forceful ways to have affected his arrest?---I maintain that I used the minimum force necessary.

When you tipped him out of the bin, pulled him along the ground, he was repeatedly saying, "I'm sorry sir, I'm sorry sir, I'm sorry sir," and things like that, wasn't he? ---Correct.

There was no need to drag him out of (inaudible) and handcuff him whilst he was on the ground, was there?---I followed my training in that regard, and handcuffed him as I was taught.

It was consistent with your training to tell him to, "Stand up," and then to handcuff him, wasn't it?---No.

In relation to the incident at Araluen Park that was consistent with your training and involved – would have involved no force for you to stand in between the two men and say, "Stop fighting," and use your voice to direct them. Right?---I disagree.

You didn't try to do that, did you?---No I did not want to get punched in the head by both sides. By either man.

Are you seriously suggesting that one or either of those men would have been able to lay a punch on you if you separating yourself from them sufficiently?---By standing in between them?

Yes?---Yes.

You were aware that they were not young, right?---I am not aware of their age.

You could tell how old they were by looking at them. Even just for the short time that you did, right?---I am not aware of their specific age.

You knew that they weren't young?---They were older than me, correct.

And you could see that they were unsteady on their feet?---To a point, yes.

I want to ask you some more questions about the incident with CW. In relation to that matter, as we were discussing yesterday afternoon, you gave an explanation to the people reviewing your use of force about why it is that you didn't have your body-worn-footage on?---Yes.

Body-worn-camera on. And are you – did you become aware that as a result of an investigation into that incident by your superiors that it was determined that it was unlikely that your explanation about why you didn't turn your body-worn-footage on was just not accurate?---I believe I may have been aware of one officer stating that.

Did you become aware that it was determined that your explanation was not credible?---Perhaps by the same officer.

Were you told that?---I may have read that at some point just during the PSE process.

Well?---This is after – a long time after the arrest.

When ultimately this issue was dealt with. It was to your knowledge escalated to the ombudsmen, do you agree?---To be honest, I didn't keep track of it. I believe this was after the – after I was arrested.

But at any time after 1 April 2019 did anybody counseling you or giving you remedial advice tell you that your explanation about not turning your body-worn-footage camera on, "Was not credible?"---When I read that as part of the PSE process after the arrest. That was the only time.

When you were given remedial advice about other incidents after the CW incident, did anyone ever talk to you about findings that you had given untruthful evidence, or that you had given incredible explanations?---No. There may have been mentions from the same officer in regard to other matters and PSE that have been mentioned in this coronial. But not in remedial advice.

Okay, so when you were counseled, whether it is in remedial advice or not, about any incident following Judge Borchers decision. And following the finding by the PSE that, "Your explanation about body-worn-camera was not credible." Were those two matters discussed with you in the context of subsequent complaints being determined?---Which two matters, sorry?

I'm sorry?---Which two matters?

C.W. The finding by the PSE that, "Your explanation was not credible?"---Yes.

And Judge Borchers decision in the Malcolm Ryder case that found that, "You had lied on oath." Were those two issues the subject of discussion in any way when you were being counseled for other incidents?---No, I don't believe so.

Was it the case that when you were given remedial advice, the focus of the advice was about the incident that was directly related to the advice?---I believe so. But I don't want to get this answer wrong. There is a document that should have all the elements and the summary of the remedial advice that has been given to me so far. And I just don't want to get it wrong.

Well, that's fine. But as you understand it, were each of them basically siloed? ---I believe they were siloed, yes. Whilst being given at the same time.

Some of them were given a long time after the event?---Yes, most of the remedial advice I was given was given in - I believe towards the end of 2022.

And in some instances that was more than three years after the incident, the subject of the advice?---Yes.

That's not very satisfactory for anybody, is it?---No. That's not an effective form of correction at all.

Were you aware that there was consideration being given to disciplinary action in relation to the various matters that ended up being the subject of remedial advice in late 2022?---At multiple times after my arrest I would receive emails involving s 79s, which is a notice internal investigation. Obviously, that was not my focus at the time. This is prior to the trial and the lead-up to the trial. I believe I received a number 79s the week before the trial was first set to begin in August 2021. Obviously, that was not my focus at that time. But throughout the process at some points there will be email chains of the 79s given to me.

It would appear that PSC or other police in authority over you turned their focus to your conduct in these other matters significantly after you were charged with the murder charge. Do you agree with that?---Yes, that's how I perceive it.

And would it be fair to infer that had you not been charged with murder, nothing would have happened about those other matters?---I - - -

MR FRECKELTON: I object to that, your Honour. That is not a question for this witness. He is not in a position to answer.

MR BOULTEN: Okay, well I will check that. But, Mr Rolfe - - -

THE CORONER: We can note that nothing is meant to happen beforehand, Mr Boulten.

MR BOULTEN: Yes.

Mr Rolfe, it is as a result of a review of your use of force complaints that most of the - that many of these issues came to light?---Yes, I believe so.

I do wish to play you a part of the incident involving CW. So, your Honour, this involves some footage.

THE CORONER: Sure. We're coming to some footage, [Edited].

MR FRECKELTON: Well, your Honour, I object in the - - -

THE CORONER: On what basis Mr Freckelton?

MR FRECKELTON: Your Honour, the basis is we've had all this before. The footage has been played before - - -

THE CORONER: I am sure.

MR FRECKELTON: And this is traversing at great length and detail, a material that my learned friend, counsel assisting, has already traversed thoroughly and professionally already and my client - this is now day 5 in the witness box. We have limited time. Our expectation and hope, I am sure of all of us is that it will all be finished - at least so far as cross-examination for the parties are concerned, today.

If we are to go back to the footage of incidents then the time will slip by, your Honour. We have already started late and I object to this matter being canvassed yet again.

THE CORONER: Mr Boulten, I take it you have got something specific that you wish to refer to?

MR BOULTEN: Yes, there is something specific, your Honour.

THE CORONER: Sure. I will allow the question and the playing of the footage.

MR BOULTEN: This is from Sergeant Kirkby's body-worn video.

A PERSON UNKNOWN: (Inaudible).

MR BOULTEN: Yes, please. Sergeant Kirkby's body-worn video, yes, please.

DVD PLAYED

THE CORONER: Can we bring that back off screen and play it through the speaker and hopefully it will load while we are arranging that? And we will start from the 30 second mark again.

DVD PLAYED

THE CORONER: I think this is an important clip. I am going to go off the bench. It may be that it can be viewed without the audio and the audio can be played separately, but I am just going to go off the Bench for a couple of minutes.

WITNESS WITHDREW

ADJOURNED

RESUMED

ZACHARY BRIAN ROLFE:

MR ABBOTT: Your Honour, could I - I've noticed that there is a small omission in the transcript at page 5490. It concerns a statement made by Mr Boe. My learned friend, Mr Boe, yesterday, it's the statement "You win that one." It's not on page 5490. I respectfully ask that the transcript be - that those who are recording the transcript could review that page again. And if they do hear that, put it into the transcript.

THE CORONER: Sure.

MR ABBOTT: Thank you.

DR DWYER: Your Honour, could I just invite Mr Officer to send an email to Ms Wills (?) about that, so we've got an accurate understanding on it.

MR ABBOTT: Thank you.

THE CORONER: Mr Boulten.

MR BOULTEN SC: Thank you, your Honour.

XXN BY MR BOULTEN:

MR BOULTEN: Mr Rolfe, I think we can watch this clip.

I ask that it now be played please.

DVD PLAYED

MR BOULTEN: That's sufficient, thank you.

Throughout CWs interactions with you and your colleagues, his complaints, constant complaints, were dismissively dealt with, weren't they?---At that time, it's obvious how they were dealt with.

They were completely dismissed as unnecessary interruptions to your work?---You can see how they were dealt with.

Well you agree with that, don't you?---They were dealt with in the way that you can see on the body-worn video.

Yes, we've all watched it. But you having watched it, and you being a participant, you would agree that your reaction was to dismiss what he was saying, right?---At that time, yes it was not on the top of my priority list.

And could you explain why it is that you held him in the way that you did, and told him don't bleed on you?---I believe I said "Don't spit on me or bleed on me" - - -

Okay, and what about - - - ?---Words to that effect.

- - - what about telling him not to talk?---I believe, watching that video, it looks like, again, my recollection, it would be best to refer to my statement at the time, but it believes that I was under the belief that he was attempting to spit on me.

You didn't want him to keep accusing police of mistreatment though, did you?
---Incorrect.

In your statement made to this - or for the purpose of this inquest, then Detective Acting Commander Virginia Elizabeth Read has stated that, "When she became aware of the Ryder matter and the similarities between Ryder's complaints, the CW's complaints, she referred the Ryder matter to the internal investigation division. What is the internal investigation division?---I believe she would be referring to PSE.

Were you made aware that the matter – the two matters, had been elevated in that way?---At some points, yes. I am not sure when.

She also said in her statement, "That the Ryder matter was referred to an officer from the special references unit to investigate." What is or was the special references unit?---I don't have a good knowledge of what the special references unit is. I am aware of it. I am not the right person to ask.

It is a police unit, is it not?---It's a police unit, yes. I have heard of it.

And it's directly in the line of command of the police commissioner, is it not?---Again, I don't have much knowledge of the special references unit.

Do you understand that it was normally tasked with issues of – sorry, tasked with investigating issues that related to significant matters of misconduct? Not just police misconduct, but the misconduct of people holding public office?---No, I don't have information on the special reference unit.

Were you ever contacted by anybody from the special references unit?---I don't know who is in the special references unit.

Well, did a police officer come to you to say, "That they were investigating criminal conduct in relation to the matters concerning Mr Ryder and/or CW?"---I don't believe so.

You were – became aware, did you not, of a complaint made about the conduct of police in relation to a man called Luke Madril?---Yes, at some point.

In relation to that matter, you were involved in his arrest, were you not?---I believe so.

And this was another example of where your body-worn-camera was not operative during the course of at least parts of your chase of Mr Madril, and then his arrest?
---I believe so.

Why wasn't your body-worn-camera working when you were dealing with Mr Madril?
---I can't recall.

This was in April 2019. By then you had received a number of directions and remedial advice about making sure your body-worn-camera was operative. Hadn't you?---Correct.

You told the court here earlier this week that you, "Started to comply eventually by that time, April 2019?"---Correct.

Well, why would you not?---I can't recall. Options are I forgot, or it was out of battery.

You are aware, aren't you, that Mr Madril accused you of dealing harshly with him and inappropriately using excessive force?---I believe so. I know we have talked about this before. I can't recall the specific incident.

The incident involved him leaving a house and running into bushland where he was chased. And the accusation was that after running for some time he stopped and put his hands on his back and said, "I have stopped, just arrest me." Or, "Arrest me now." Were you involved in dealing with a young man in circumstances like that?---No.

Never?---Or ever?

Was this – so, do you remember Madril?---Now that you have mentioned it, yes.

Okay, so, that's what happened, isn't it?---No.

I suggest that when he stopped, you picked him up and slung him down. And he rolled down a hill?---Incorrect.

And collided with a rock?---Incorrect.

I would like you to watch some footage in relation to this incident as well, please.

Can we play this tape from shortly before 1:34 – 1:34?

DVD PLAYED

THE CORONER: We will start it again.

MR BOULTEN: Can we turn the sound up somehow, please?

THE CORONER: We have just done that, so we are starting again.

MR BOULTEN: Okay, thanks.

THE CORONER: Is that up as high as it will go? The sound?

DVD PLAYED

THE CORONER: I know there is some interpreting happening.

Just stop for a second.

Can we just stop the interpreting for a moment? Just for a moment because we need to – it's hard to hear. But you can start again in a minute just while we are playing this tape. Thank you.

DVD PLAYED

THE WITNESS: Your Honour, could we go back to the very start, please? I missed the start.

THE CORONER: A request to go back to the start.

MR BOULTEN: I think that's a good idea. I think that's okay.

THE COURT ORDERLY: Okay.

DVD PLAYED

MR BOULTEN: I think that's enough.

That's your body-worn footage isn't it?---I believe so, yes.

You were able to turn it on?---Yes, so as I said, memory issues, it wasn't out of batteries, so I must've forgot.

It wasn't turned on until after Mr Madrill had been detained?---Correct.

Is that correct? He complained to you that, "You banged my knee" or he said, "He banged my knee". Did you hear that?---I said something about banging - I heard something about banging a knee.

He was saying someone had banded his knee, right?---That or that he had banged his knee.

I suggest he didn't say, "I banged my knee" but that "You banged my knee" or "He banged my knee"?---I - I don't know.

So I suggest that it was clear on the hill, that he was making an allegation of rough handling?---I disagree.

When the matter was considered by the PSC they determined that there was insufficient evidence to determine whether you used excessive force in that arrest, didn't they?---I'd accept that.

And that's because there was no video footage.

MR OFFICER: I object. We don't know why the PSC - your Honour, I object to this.

MR BOULTEN: You understood that their findings as a result of there being no video footage, right?---I'd have to re-look at those findings.

So just generally then, in relation to the various matters that have been the subject of review in these proceedings regarding your use of force, where there was your version of events in contrast to the arrestee's version of events, but no footage, it was generally determined there was insufficient evidence to establish the complaint. Do you agree?---You'd have to take into account the other police officers' statements as well, if they were corroborated.

Whenever you were interviewed or counselled in relation to excessive use of force was the other version put to you as being the likely version?---I was never counselled in use of force in my professional standards interviews in use of force. I believe those interviews are recorded and they would be very similar to this interaction.

I want to ask you about an incident that occurred on 28 June 2019 at Warlpiri Camp involving your interaction with Antonio Woods. Do you know the incident I am referring to?---I recall the name. I'd need a rehash on the incident.

It is an incident where you and other officers were called in response to a report of a fight and when police came to the area, Mr Woods started to run away. He ran towards a truck stop on the Stuart Highway. Does that refresh your memory? ---I would need to hear the actual elements of the complaint.

Okay, so what I will do is play you some footage now?---Yes.

About that incident. So would we play Mr Kirstenfeldt's body-worn footage of this incident from about 5 minutes and 50 seconds?

DVD PLAYED

MR BOULTEN: Mr Woods(?) accused people who chased him of kicking him in the face after he was fought down?---Correct.

What do you say about that allegation?---I wasn't the officer that chased him. If you delved deeper into that complaint, I think you'll be able to see – I know at some point that complaint was directed to me, that complaint shouldn't have been directed to me. I wasn't the officer that chased him.

Did you see who chased him?---No – see who chased him? I believe the officer involved was either the other two officers there. One of them – it was one of them. It was either Constable Kirstenfeldt or Constable Hansen. The other one being in the vehicle with me, who had to drive to the location that the person had been – ended up at with the other officer.

When he was making the allegations, there were police standing close by who were laughing. Were you one of the people laughing?---Correct, I believe I was having a separate conversation with the other officer that rocked up. I can't recall what was said, but it wasn't laughing at the allegation.

The officer who was speaking to him, Mr Kirstenfeldt, dealt with him – I withdraw that. Was it appropriate, do you think, for Mr Kirstenfeldt to threaten to put him in a van for talking?---Not – not for talking, no. Not for interrupting him, no.

DR DWYER: Your Honour, just – I apologise for interrupting Mr Boulten. I just note that the interpreter should feel free to interpret any of this.

THE CORONER: Yes, sorry for interrupting you before. It was only because we were trying to listen to the audio.

MR BOULTEN: In relation to Mr Woods' complaint, you received remedial advice in July 2022 about not having a video camera operate, didn't you?---I accept that.

So this is well into 2019. How common was it in 2019 that you decided not to turn your video camera on when exercising the police powers?---I cannot recall. I wasn't exercising a police power at that time. I had arrived to, potentially, provide a conveyance that I didn't end up doing. In relation to the incident that we've seen on videotape several times in these proceedings, including earlier this week, involving Mr Bailey?---Yes.

Approximately how long before you started to run towards Mr Bailey was it that you were aware of Mr Bailey interacting with his ex-partner in that location?---I – I'm not sure.

Approximate?---I believe the body-worn would assist, but I could have been watching them for 10 to 20 seconds.

It was apparent that there was an argument happening between a man and a woman, right?---I believe it was worthy of note as I kept watching that interaction, there was a – some form of lively verbal discussion occurring.

Did you get the impression that it was some sort of incident between a man and a woman?---Well, that's extremely vague, so yes.

It's not vague. You could see that there was a woman trying to intervene between the pair of the arguers, right?---I can't recall if I saw it at that point.

Did it occur to you that that was an issue that needed police intervention?---Not at that time. I believed it was an issue that needed me to continue watching it to see if something changed.

In the description of the incident that you included in your use of force report, you described having seen Mr Bailey attempting to headbutt the lady, correct?---Correct.

In your evidence here – at least at one stage earlier this week – you described intervening after you saw him headbutt the lady. Do you remember saying that earlier this week?---Yes.

Do you accept that your contemporaneous impression was an attempt at a headbutt, rather than an actual headbutt?---I believe that the – obviously, a – attempted a headbutt occurred. On inspection of the victim's face, there were no injuries. So I would accept that it was an attempt, still constituting assault.

That's not denial. You had various ways to deal with Mr Bailey that fell short of pushing him against the wall, didn't you?---I believe I abided by my training in that incident.

It was also consistently your training not to push him up against a wall?---Correct. The intention was – it had nothing to do with the wall.

You described what you did to the man as “mashing his face,” or something, in a text message. Do you accept that?---Yes.

And when you described it in that way, you regarded it as just another incident, didn't you? It wasn't special?---I don't agree with that.

I also, like other counsel, now suggest to you that your policing methods throughout your time in Alice Springs involved aggressive conduct that was unnecessary? ---I disagree.

You were interested in injecting yourself into situations in a violent way, weren't you?---I disagree.

You were taken to text messages earlier this week that involve your discussion about violence as being therapeutic, as it were, soothing in soul?---Correct.

Was - was it your experience, from your discussions with colleagues, other police, that they also said similar things about violence being therapeutic for them?---No,

only an exceptionally small number who conduct similar activities outside of work as me.

But, are you saying that you enjoyed the violence in sparring, or in boxing?---Did I enjoy that?

Yes, did you enjoy it?---Yes.

Even when it involved physical harm to yourself?---You're - you're basically wearing pillows on your hands, so there wasn't much harm involved.

Text messages have got photographs of you after sparring, (inaudible) by the look of it, someone's had a good go at you in at least some of those situations?---Correct, and I would say a bloody nose is extremely small - - -

But - - - ?---On the scale of harm.

Okay, so I - I'll ask you again, even in sparring, when you were dealt with violently, did you like it?---I enjoyed sparring, correct, yes.

So did you enjoy harming others?---No.

Even in sparring?---No, I believe if you - if any of my previous sparring partners throughout my history of boxing, would enjoy sparring with me, as soon as I say that they were - any form of trouble at all, I would always pull back.

The photographs that are at the back of the exhibit - sorry, the MFIMMM, involve - is a depiction that's more than just a bloody nose, picture number six, do you agree? ---Is there a small cut on my eye?

There's a cut on your eye, and there's blood around your nose and around your mouth?---Correct, obviously if you get a bloody nose, that blood can continue to be moved around your face. It did not bother me. That did not hurt me.

Have you got the document handy, MMM?---I'm about to.

MR OFFICER: Your Honour, before that's produced to the witness, can I just ask as to the relevance of recreational boxing - - -

MR BOULTEN: I'm not - I've moved off the boxing - - -

MR OFFICER: Just (inaudible) - - -

THE CORONER: It's to do with any enjoyment - - -

MR OFFICER: - - - policing.

THE CORONER: - - - of violence.

MR OFFICER: Well, your Honour, there's a difference between enjoying violence, I would submit, and engaging in what is otherwise a perfectly lawful and recreational sport. One of which, naturally, as a consequence, you are punching each other in the head, or the body, whatever it might be, doesn't necessarily impute conclusion that that violence is enjoyed. So if I put it into relevance of the topic, your Honour can - the concept - - -

THE CORONER: It doesn't necessarily impute that, but it might, and Mr Boulten's exploring it.

MR OFFICER: I take it as your Honour's overruling my objection?

THE CORONER: Yes.

MR BOULTEN: If you could go to the text messages that start at 487 please, Mr Rolfe?---Yes.

This is an exchange between you and Mr Hansen, in September 2019. Where Mr Hansen told you that he's going to apply for a job in Port Keats, correct?
---Correct.

And you said, "I think anything's a good idea at this point. How many spots are there? It's supposed to be pretty wild isn't it?"?---Yes.

And he said, "Yeah, it's loose, the blacks are drunk full-time, remote work will probably get us a spot in TG, and we will probably get to scratch the itch before then anyway." Do you see that?---Yes.

You - you replied to that message, "I'm into it, really into it." You see that?---Yes.

And Mr Hansen responded, "Yeah bro, fuck these commies", right?---Yes.

Okay, so the two of you were discussing the option of applying for a job in Wadeye, right?---Yes.

And the fact that there was a lot of trouble in that community was something that attracted you, and Mr Hansen, it seems, correct?---I'm not sure that I was ever into that idea. I thought it was a good idea for him, but yes, the - I guess that, versus the other end of the scale, being at an extremely low based or boring station, I accept that, yes.

You said you were "Into it" right?---Correct, I think it's a good idea.

Because "It's loose", is seems?---That's what he says. I myself, or that constable I don't think, would enjoy a particularly slow station, ever.

Well what did you understand him to be talking about when he said “Yeah it’s loose, the blacks are drunk full time”?---I believe Port Keats - I - I know nothing about the local populations alcohol habits, but I believe, from what I’ve heard, that it is a fairly, it could be described as a wild or a loose place.

There was plenty of opportunity for you to use your style of aggressive interactions at Port Keats, wasn’t there?---I never applied for Port Keats.

But in that moment, you were showing interest in it, right?---I believe I was showing support for his idea of going there.

You were proud of your masculine, aggressive policing, weren’t you?---I wouldn’t call it that at all.

Who were you role models in life?---I don’t know how that’s relevant, and I - - -

MR OFFICER: Your Honour, I do query the relevance of someone’s role models in life.

THE CORONER: Well we’re talking about attitudes and how he might on behaviour, particularly in relation to policing. Particularly when police are given powers over the local public, and in my view, role models might assist us to understand the attitudes and aspirations of Mr Rolfe, in carrying out his working duties.

MR OFFICER: Well your Honour, no other witness, as I recall it, presented before this court, has been asked who their role models were, as police officers. Why Mr Rolfe is being singled out in that respect, I can’t see the relevance of, if we’re looking at the attitudes of police and their role models, and they turn to the use of force in the course of their duty, what possible relevance that can have.

DR DWYER: Your Honour, I’m reminded by Mr Coleridge that he asked both Lanyon Smith and Chris Hand who their role models were, and – sorry, “Mentors.”

THE CORONER: Who?

DR DWYER: Lanyon Smith.

THE CORONER: Who asked?

DR DWYER: Who – Mr Coleridge asked, because he took that evidence. Both Officers Hand and - - -

THE CORONER: So, he is not being singled out?

MR OFFICER: Is that within the police force or role models more generally. It’s a long time ago, that evidence.

THE CORONER: Mr Officer?

MR OFFICER: It is a long time ago that evidence.

DR DWYER: Yes.

MR COLERIDGE: (Inaudible) "Who their mentors were, the importance of good mentorship, what good mentorship was?" I also Sergeant Bauwens the questions of that, "His being identified as role model or mentors (inaudible)?"

MR OFFICER: So, perhaps, your Honour, the question is, "Who was your role models within the police force?" I wouldn't have an issue with. But I think when we get to external (inaudible), I maintain my objection. So we will see where the question goes.

THE CORONER: Sure.

MR OFFICER: And standing for the time being.

MR BOULTEN: Did you have any role models in the police force?---Yes, I believe we mentioned a few of them before. I stand by those statements. I'm not willing to mention any other role models in the police force due to the negative connotation of being attached to me that is perceived in the police force anymore.

Right. What about out of the police force?

MR OFFICER: I make the objection again - - -

THE CORONER: Sure - - -

MR OFFICER: That the question is mute to this point.

THE CORONER: I am going to allow the question. In my view, it informs as to attitudes which may impact on behaviour.

Mr Boulten.

MR BOULTEN: Yes?---If you ask me for specific people I can say yes, I know. I have had many role models throughout my life.

What about in 2019? Who did you look up to?---Same answer as before.

THE CORONER: What was that?---I have had many role models throughout my life. If you ask me specific people I can tell you, "Yes or no."

What? You can't tell us any of the role models?---I have lots of role models that I have looked up to.

MR BOULTEN: What about Vladimir Putin?---No.

He is the man, isn't he?---I have made jokes in my text messages about Vladimir Putin, yes. I know nothing about that political scene.

Didn't you find his vigorous athleticism and front-footedness something that was attractive?

MR OFFICER: I object. The fact that a politician in today's current climate (inaudible) differently years ago. And as the witness has answered, that message is contained in relation to that individual was for a joke. To then explore the extent to which Vladimir Putin had a bearing on Mr Rolfe's professional career, is just too far removed to proceed with that line of questioning.

I mean (inaudible) - - -

THE CORONER: I don't know that that will assist, Mr Boulten.

MR BOULTEN: Okay, as the court pleases.

Going to the events that are central to the inquest here. When you were in Yuendumu that afternoon and evening, the night of the death. In retrospect, do you think that it would have been of some assistance to the operation to engage with Derrick Williams?---In retrospect, yes. And at the time I am not sure if I was aware that Derrick Williams was actually in the community or at work. I can't recall. But at the time I definitely believed engagement with the local members would have been assistance in regard to them coming out with us into community.

Do you accept that there were cultural sensitivities that you were really not across when you went out to gather intelligence?---Yes.

And do you accept that it was preferable to wait until 5 o'clock in the morning to execute the arrest?---No.

Do you accept that at 8 o'clock in the morning, it was likely that you would have very good intelligence about where it was that Kumanjayi was located?---Definitely not.

When you jumped over the fence into that house, you were jumping into a person's private space, weren't you?---In a way, yes.

In a way which is not the same as jumping over the fence into a house in Darwin, or Canberra, or Sydney. Do you agree?

MR OFFICER: Your Honour, I think that might be a little bit of a confusing question perhaps. I understand – my assumption is this is tied to cultural sensitivities, perhaps. If that's where Mr Boulten is going, it should be focused on that.

THE CORONER: I don't think there needs to be a preface. He is being asked, "Does he understand that jumping in – over a fence into a private space in a community is different from an urban centre?" That – there is nothing confusing about the question.

MR OFFICER: Well - - -

THE CORONER: There is nothing about the language. There is nothing about the tone.

MR OFFICER: No, no, no. I am not complaining about the tone.

THE CORONER: No, well, I'm just – I don't understand the objection. It is a clear question which is being asked, and your client has every capacity to answer it. What is the issue?

MR OFFICER: Your Honour, the confusion is when you say, "It is different to jump over a fence in a community as it is to a place in Darwin." Well, how high is the fence? What's the fence made of? What – of course, they are different. I don't understand.

THE CORONER: I think your client probably understands. Why don't you let him have a chance at answering the question?

MR OFFICER: (Inaudible).

MR BOULTEN: You see there is a difference, isn't there?---Similar fence, similar yard regardless of the city. No difference.

As far as you understood it at the time?---Yes.

What about now?---Same answer.

Well, did you regard it as potentially being disrespectful to enter the property the way that you did?---No.

Do you accept that that space was likely to be an extension of those occupant's normal living space? With little difference between the outdoor and indoor sections of the property?---I don't see a difference between the – in that situation, the house and the yard. It's the same concept that I see in any other city, in any other house and yard.

When you went to that house there was very limited information available to you about your suspect's life history. Do you agree?---Agree.

Had you made any attempts to find out background information about him before you went out to gather intelligence about him?---Only regular interrogation of the police systems.

Did that tell you about any cognitive impairments that he had?---I don't believe so. I would have to refresh any alerts that were on here at the time.

Do you have a view about whether police who were about to executed a planned arrest would be assisted by the police system having information about particular cognitive issues that a person has?---Definitely, if there was a way to work in conjunction with those mental health facilities in town and morph that information, most definitely.

During the time that you were here, being a police officer, did you receive information over the police data bases or from the police data that assisted you in assessing the cognitive function of a target?---I believe sometimes there were alerts to that effect, yes.

You've spoken about startle response, I think particularly as you saw it in the video tape of Mr Lanyon Smith and Mr Hand's interactions with Kumanjayi?---Yes.

Clearly, people you police also have startled responses to police, don't they?
---Like other police officers have those same startle responses?

No, the people that you are policing?---The people we inter - yes.

And those suspects - would it be fair to say that in your experience here in Alice Springs and in other communities around Alice Springs, did you get the impression that quite often people were a little bit wary at least, of their interactions with police?---Yes.

And did you get the impression that it was very common for Aboriginal people here to be frightened of police, even if they had done nothing wrong?---I'm not sure of "frightened" and I would say their feelings towards I did not notice any more or less wariness than I would in an interaction with anyone of any other race.

Do you understand that many people in Alice Springs have had interactions with police that they would regard as traumatic?---I'm not sure what "many" means in regard to the population but I am - I'd accept some would, yes.

Did you have sufficient understanding that people's life experiences might cause them to react to police in negative ways?---I knew people's previous life experiences would affect their decisions in some ways.

Did you modify your methodology in any way to account for that?---I tried to treat everyone as politely and respectfully and calmly as I could.

You didn't always though, did you?---I tried to.

Would it be fair to say that there were times when you acted on muscle memory?
---Yes.

What do you mean by that, by the way?---A reflex response, such as raising my left shoulder and left arm when I was being stabbed.

So what do you say to the suggestion that one of your reflex responses was to go into an aggressive mode of detaining people by use of force?---I would disagree and I would need more time to consider the actual - and helpfulness of an answer if I could delve into it.

Are you aware that there is a review into the Northern Territory Police Service Force on foot?---No. Unless you - I believe there's a small review being conducted into PSE, apart from that I'm not aware of anything.

Okay. This morning some of your notes were produced to the court. These were notes that had previously been intended as communications with your lawyers, right?---Correct.

You were anticipating that you would be questioned about your racist attitudes - perceived racist attitudes at this inquest, weren't you?---Yes.

So you did a lot of thinking about what answers you might give to the questions about those topics?---I believe I - there was not that much thinking I need to do in that regard at all.

Well, you certainly thought about it sufficiently enough to write yourself notes and then to provide them to your lawyers about what you might say if questioned, right? ---Not in regard to that I don't believe. I believe I was - in that page I was - that was under the impression if I was asked about, for example, racism in the - as a culture in the police force. In regard to myself personally there's no need for me to think about the wrongness of what I said.

But what you were going to do, it would seem from these notes, is exactly what you did do in your evidence on Monday when you were taken to the racist language in your notes, turned your answer into spotlight on other instances of - overt racism that you were or aware of or believe you were aware in the Northern Territory Police, right?---I answered the question that I was asked, yes.

But that's the way you answered, right?---Yes.

It would seem from your notes that one aspect of racism in the Northern Territory Police that you thought might be pertinent was the use of Aboriginal Community Police Officer to be present during the arrest of an Aboriginal person, agreed? ---I believe that my - these are thoughts at the time that I was still reflecting on, obviously I didn't answer that question but now asking why I put that on there, I was reflecting and thinking of it. I believe if the rule is made that an APRO or an Aboriginal person has to be in the presence when arresting an Aboriginal person but there is not a similar rule for other races - that is racist. Clearly, to me, I believe that is racist.

Okay, so just so that everybody understands the context of my question and your answer, the note at the point we are discussing reads, "Racism. The idea that an ACPO is required to be there to arrest an Aboriginal person. Racist. No mention of any other races requiring people of their own race to be there, despite cultural differences." That's the note that we've been discussing just now?---Yes.

So you regard – well, firstly. Is there a requirement that an ACPO needs to be present for the arrest of an Aboriginal person?---No, not at all. I was just thinking – I believe, at some point, that was put forward as a potential idea in this Coronial.

Do you believe that it's often very useful to have an ACPO assist in an arrest of an Aboriginal person?---I have arrested a large number of people who are Aboriginal, and depends on the situation. I haven't – it depends on the situation. It also depends on the ACPO, whether they're good or bad at their job.

Do you believe that it's inappropriate to criticise you for – or any other officer – for failing to involve an ACPO in the arrest of an Aboriginal person?---I believe that is too vague and it would need to be situation-dependent.

So I want to tackle you on this idea, that all people should be policed in exactly the same way. That's your philosophy of policing, isn't it?---I believe it's on an individual, personal basis.

Yes?---I don't believe a generalisation to a race should be involved in policing.

But what if Aboriginal people in central Australia have many, many characteristics that are almost the point of uniformity? Does that make a difference to the way that they should be dealt with?---That, to me, sounds like a great generalisation and I don't agree with it.

So in another part of these notes you focused on a question that Peggy Dwyer asked of Mitch Hansen in this inquest. Quote, "You know, don't you, that not all Aboriginal are the same and it's offensive to think of all Aboriginal people being the same culture?" And then you say that, "Paddy McCormack was referred to as a typical Irishman, which would be similar in the way of it being an umbrella of ethnic or national discrimination"?---Yes.

So are you suggesting that there might be a problem with treating Irish people in racist ways in Australia, are you?---No, that was just me pondering how – it's just me pondering the differences of people being – how people are being treated in the NT, in the police, in this Coronial.

On Monday, you made some very, very serious allegations about the TRG annual party?---Yes.

And you're aware, aren't you, that since then, a number of police from the TRG have made statements that refute some aspects, at least, of what you said in evidence on Monday, right?---Yes.

Do you have any further information about the awards ceremony that you referred to that would assist the Coroner to find out the truth of the matter?---Yes.

What have you got?---I believe my lawyers are in the possession of a certificate for the award, the – I believe it's called the Noogooda Award(?), issued in 2013 for a caution for a rape to a recipient called – who was a police officer at the time called - -
-

MR OFFICER: Just - sorry to interrupt the answer - - -

THE CORONER: Well, you haven't objected to the question.

MR OFFICER: No.

THE CORONER: I'm not sure why you're interrupting an answer.

MR OFFICER: Your Honour, just that there be a – perhaps I can raise a matter with counsel assisting before the answer is complete.

DR DWYER: If my learned friend is worried about the name being given in public, then Mr Rolfe could write it down on a piece of paper.

MR BOULTEN: Sorry, what name are we talking about?

THE CORONER: I don't know.

MR OFFICER: Subject to the interim non-publication, your Honour.

THE CORONER: Is there a name that's already the subject of a non-publication order?

MR OFFICER: No, your Honour. It's not.

THE CORONER: Right. And you're asking that a non-publication order be made in relation to a specific name?

MR OFFICER: Yes, your Honour, so that any enquiry can be undertaken by the investigating - - -

THE WITNESS: I think I've already written on it.

THE CORONER: Are you content to receive on a name of piece of paper, Mr Boulten?

MR BOULTEN: Is this the name of a rape – a rape victim?---No, no.

MR OFFICER: No.

DR DWYER: No.

THE CORONER: No, it's the name - - -

MR BOULTEN: The recipient of an award?---I'll finish the answer without the name and I'll put the name on the paper.

THE CORONER: A police officer who apparently received this award.

MR BOULTEN: Well, okay. Well, if - - -

THE CORONER: And it's being asked that there be a non-publication order at this stage so that the matter can be further investigated.

MR BOULTEN: I have no problem with that, your Honour.

THE CORONER: Okay. We'll get the name written on a piece of paper and it can be handed to you. It can be marked for identification and the – once it's made available to counsel at - any counsel who wish to see it, it can be placed in a sealed envelope.

DR DWYER: Okay. So I think Mr Officer - - -

THE WITNESS: Sorry, I just said it could be wrong spelling, but it should be right enough.

THE CORONER: That's MFI TTT.

MFI TTT Name of police officer allegedly a recipient of the Noogooda Award.(?)

THE CORONER: I note that these are documents that were subject of a call not yet been given a marking, either.

DR DWYER: So they should be - - -

THE CORONER: Well, they could be an exhibit, but they're suppressed other than for those areas that have been openly addressed in court.

DR DWYER: Might they be – that might – might that document in your hands, perhaps that should be TTT and this should be UUU, I think.

THE CORONER: So this is MFI?

DR DWYER: Yes, please, your Honour. TTT. It's the first in time. And the piece of paper Mr Rolfe has just written on, MFI UUU please, your Honour.

MFI UUU Piece of paper written on by Zachary Rolfe.

THE CORONER: Yes, Mr Boulten.

MR BOULTEN: Mr Rolfe, your answer got interrupted. There has been a fair bit happen. How about we go back and do that again?---Yes.

You were telling us that there is something extra that helps to prove your allegation. Tell the court what you're talking about, please?---The officer I just mentioned was a member of, I believe, the Dog Squad in 2013. The Canine Unit in Darwin. He has passed on some certificates, one that he received. He states – one that he states – alleges he received in 2013 on invitation to this annual party. This award, I believe, is the Noogooda Award given for a, I believe the wording is, a caution for a rape with the backdrop of the Aboriginal flag. He has given two further awards for – that were given out in 2012, the names of the recipients for all three have been blacked out. I believe one is a Noogooda Award and one is a Sooty Award(?). I can't recall what they were given before. I believe they are in the possession of – now in the possession of my lawyers.

Sorry, they're what?---I believe now they are in the possession of my lawyers.

Call for them.

THE CORONER: Mr Officer?

THE WITNESS: I think the first one is already - - -

THE CORONER: Mr Boulten, do you want to have a look at those - - -

MR BOULTEN: If the court allows me to, I'd be very interested in them.

THE CORONER: They're called for and produced by looks of things.

MR FRECKLETON: I'd like to see them also, your Honour.

THE CORONER: Yes.

MR BOULTEN: Where did you get these?---Pardon?

Where did you get them from?---These were passed on this week, from that officer, as previously mentioned.

So the man whose name's on the piece of paper?---Yes.

Right. Was he the recipient of these awards?---I believe he stated he was the recipient of the 2013 award.

And what about these ones from 2012?---I do not know whose those recipients are - -

Well he had them?---Yes, and I believe he is willing to provide a statement to police or others.

How did you come to know about these awards?---I was aware of it through speaking on the grapevine during the - the job, whilst I was in the service. I wasn't aware of these certificates existence until I mentioned it on Monday, I believe, when people started to reach out.

So you weren't aware of the certificates until Monday?---I believe I didn't - after - no. So I didn't know that there was certificates involved - - -

Sorry - - - ?---I don't believe I knew there were certificate involved. But once I mentioned this award on Monday, ex-members of NT Police started to reach out, and this is when they were provided after Monday.

Stop. This is a 2013 award, it's got everything to do with Aboriginality, hasn't it? ---Definitely.

It's got - it's the whole award is an Aboriginal flag, isn't it?---Correct.

So did the person who got the award tell you why he got the award?---I believe he's spoken to my lawyers. I haven't spoken to him personally.

All three of these photocopies have got blackouts - texta blackouts, do you know why they've got blackouts on them?---I believe they blacked out the recipients names.

One from 2012, is the runner up for the "Sooty Award", has anyone talked to you about why the award's called - or was called the "Sooty Award"?---Only the same reason given in the statements provided by the police.

So basically, it's a form of black face?---Potentially. I honestly have never - not heard the term "Sooty" before I've received this award.

So the 2012 runner up for the Sooty Award is for outstanding lack of excellence in approaching a strong hold. And it's got a picture of a police rescue vehicle, tactical vehicle, with superimposed on it, photograph of the same Mr Bolt?---Yes I believe so.

With the head blacked out, right?---Yes.

So presumably this was a pastiche that had an officers head where Mr Bolt's head would have been in the original photograph.

THE CORONER: I don't know that - - -

MR BOULTEN: Okay, I don't - don't press that.

THE CORONER: I - I am - I read some statements that have been tendered, and are on the website, I might be wrong, but my understanding of the statements that were provided, in relation to the use of the word "Sooty" is that it was a reference to - it was a nickname of a police officer. But I might be wrong about that.

MR FRECKLETON: Perhaps I can assist in this regard, specifically, there's the statement of Sean Hill.

THE CORONER: Not - I'm not saying anything about - - -

MR FRECKLETON: No.

THE CORONER: - - - what is in the statements. I'm just saying that's the information that's contained in the statements.

MR FRECKLETON: Correct, your Honour. At par 8.2, he gives his understanding of the background to the name, and that's his statutory declaration of 28 February.

MR BOULTEN: Thank you.

Have you read all those statements from the police officers that have been gathered since Monday?---I read the relevant parts of the statements in regard to the award, not their background in policing etcetera.

Okay, well in your - so - in your dealings with police that have proactively sought you out since Monday, have you received further information that might differ from the accounts of the police that have provided statements?---No I just receive - oh different from those statements, yes. Have just - information disagreeing with those statements. But those officers have stated they are willing to give statements of their own. And that would probably be better from them, but they are - yes, the evidence, or the information I received, disagrees with those statements. Or at least that they are omitting information.

So may I ask, as an outsider to all of this, what, if anything, has been done, to point the investigators towards those people?---I believe the investigators have spoken to one of these people, whose been willing to provide statements. This first - this person I wrote down, so there's another name who would be willing to provide evidence to the police about this, I believe he's already been in contact with police, and he is awaiting instructions on how that will be done, either through the police or ICAC. This person, I don't believe his name has been passed onto the police.

Which person?---The one on the piece of paper. I believe he is willing to go down the same process.

THE CORONER: You said "Ex-members", you've nominated two, are there others?---I'm sure there are, I don't recall their names. These two may have mentioned others, but I don't. These - these two are the ones to ask.

MR BOULTEN: On Monday, you talked about there being photographs - - - ?---Yes.

- - - and movies. What were you talking about?---I've heard that there are photographs and movies.

Whose got them?---I'm not sure, but I have heard that members involved, ex-members, are searching for them.

I tender these certificates.

MR FRECKLETON: Could I - could I see them first?

MR BOULTEN: Well I wish they be tendered.

DR DWYER: They will be exhibit 28, your Honour.

THE CORONER: Yes, the three certificates as a bundle will be exhibit 28.

EXHIBIT 28 Three certificates as a bundle.

MR FRECKELTON: Your Honour, just before my learned friend resumes. What I can say to you is that the professional standards command is in the process of an investigation, oversights in the usual way by ICAC, into the matters that have been raised by Mr Rolfe. And no doubt would be pleased to receive any other information from him or anyone else that is relevant to these issues.

MR BOULTEN: Do you know the names of any other recipients of the Magetta or Magoota(?) – Noogooda, (inaudible)?---I don't, no.

What about members of the IRT? Have they ever received that award, or awards at the TRP? The type of awards that you have been talking about?---We have never been in Darwin as IRT.

No, no that - my question is, have members of the IRT where you served, have they received such an award?---I have - - -

At the IRT annual party?---I have no knowledge of that.

At all? Not even second-hand?---No, I don't.

Right. I just have one more thing to ask you. One more thing about your notes to ask you?---Yes.

THE CORONER: And then we will break for lunch.

MR BOULTEN: Thank you.

Under the heading, "Racism police." There is a dot point that simply reads, "Black diary?"---Pardon?

"Black diary, 'Katherine Penata?'"---Yes.

What are you talking about?---I heard that there was a – I don't – I haven't looked at the Penata, I can't recall what that was. But I believe, "Black diary," was also known as the – and this is complete hearsay. This is just – this is why I didn't bring this up -

--

Pause there. Tell me after. And we can see whether it is worth?---Tell you?

Exposing it in open court?---Okay.

Do you mind if I ask you after you?---I don't mind it.

MR OFFICER: As long as I can be present, Mr Boulten.

MR BOULTEN: Yes, yes.

THE CORONER: Sure.

MR BOULTEN: Can we have a little break, please?

THE CORONER: Yes, we are going to adjourn for lunch.

I am just going to put on the record that by my estimation we lost about two and a half hours of evidence this morning. It may be that we will not be in a position to complete the evidence today as planned.

MR OFFICER: Your Honour, I am prepared to sit until 5:00, 5:30 if (inaudible) - - -

THE CORONER: I don't know whether that will be sufficient to complete the evidence.

MR OFFICER: Sure.

THE CORONER: That I – there was no plan to finish earlier than our normal sitting time.

MR BOULTEN: Yes.

THE CORONER: But given that we have lost two and a half hours today, and our days this week were extremely structured, it may be that we are unable to complete the evidence today.

WITNESS WITHDREW

ADJOURNED

RESUMED

ZACHARY BRIAN ROLFE:

DR DWYER: Before we commence, I understand that there is – there has been an application by the media for the certificates that were recently tendered. And as I understand it, Dr Freckelton has an application in that regard.

THE CORONER: Dr Freckelton.

MR FRECKELTON: I do, your Honour. There's - - -

THE CORONER: Can I – just, what is the exhibit number?

THE COURT ORDERLY: 28.

DR DWYER: 28, I think your Honour. Good.

THE CORONER: Yes, Dr Freckelton.

MR FRECKELTON: As your Honour knows, those certificates have come via a circuitous route to the attention of the court. I am not in a position yet to know whether they are legitimate. They may be, they may not be. I need instructions. I need to ask appropriate people to investigate so as to identify whether they are conducted. Whether they have been tampered with, or whether they are completely as they appear to be.

In those circumstances, in my respectful submission, those documents should be marked for identification for the moment. But there should be no – there should be a non-publication over them until such time as, as a matter of fairness, we are in a position to know whether they are what they purport to be.

That will not take long. But it will take – look I can't, to get to the bottom of the situation this afternoon. The issue is extremely sensitive. It may be contentious; it may have significance, or it may not. But in view of their ambiguous status in terms of their legitimacy, it is my submission that the unit within the police force ought to receive the benefit of a non-publication order until those matters can be enquired into. And up to the point of time where I can be given instructions as to the situation relating to them.

So, I have asked that it – to be given a copy of them so that those inquiries can commence to be made at this day.

THE CORONER: So, which provision under s 43 of the *Coroners Act* are you relying on?

MR FRECKLETON: You are under s 43(1B), you are obliged, with respect, to order that evidence given at an inquest not to be published if you reasonably believe that to publish it would be contrary to the administration of justice.

My submission, that is the situation here, because the status of these documents is so unclear. To say something which your Honour knows already, the current witness cannot speak to the legitimacy or reliability of these documents. He has been given them allegedly by some other person.

So, the situation is purely hearsay. They are obviously copies. Obviously, things have been done to them. No one is in a position to know yet whether these documents are what they purport to be. And it is contrary to the administration of justice to release to the general community documents whose status is as yet so unclear.

Wrong inferences might be drawn very, very unfairly to the Northern Territory police force. To everyone associated with the TRG during the relevant years, if they are not what they appear to be. Now what I can say to your Honour is that we will set about these investigations promptly, and as soon as the situation clarifies, we will let your counsel assisting know.

THE CORONER: Dr Dwyer, there is some force to that argument.

DR DWYER: Yes, your Honour. I would – I mean, I certainly think that in respect of the images, the images are inflammatory and hurtful. And so, there is a sensitivity around them and there are on a number of bases that might be contrary to the administration of justice to release them.

The nature of the certificates may well need to be described regardless of whether they are authenticated though. And so, your Honour may wish to distinguish between the images themselves, which I agree with respect to Dr Freckelton should not be distributed. And a description of what is on the certificates.

To some extent, Mr Boulten has already described the contents of those certificates. So, that – they might well be shown to the media who are here so that that can be accurately reported on. I do with respect support Dr Freckelton with respect to not distributing the images until there is a further opportunity to investigate the source (inaudible).

I think your Honour will see Mr Coleridge suggesting the argument. And it's consistent with what I have said earlier, that Mr Boulten was dealing with these certificates on the run as they were being produced. But he did, with no disrespect or criticism, describe them onto the record.

And the – effectively, the cat is already out of the bag. And my respectful submission is that the media who are here now should have the opportunity to look at them and determine whether or not that description is accurate. And might report

on a description of the certificates. If they are not authentic, then that will be an important part of the evidence going forward too. And if they are authentic, then that needs to be ascertained.

THE CORONER: Dr Freckelton.

MR FRECKELTON: Your Honour, in my submission, these documents should be described at this stage as, "Purported certificates." I am in no position to concede that they are actual certificates.

THE CORONER: Sure.

MR FRECKLETON: They are pieces of paper that have been produced from a witness who has no primary knowledge of them, or their legitimacy or otherwise, at all. So, they are purported certificates.

And in my submission, some descriptions have been given by our learned friend, but it should go no further than that. Because to go further is to arrogate to them a legitimacy to which as yet they are not entitled. So, in my respectful submission, they should not be given to anybody yet.

The day is not far off where if there is any confirmation as to their legitimacy, we will withdraw our application. And in my submission, it is premature for them to be given to anyone as yet when they are no more than pieces of paper that could have come from anywhere or have been produced in any circumstances.

No one in this court – the witness in the box included, does not know. So, in my submission, you should make a non-publication order in respect of them for the present under 43(1B).

THE CORONER: Does anyone wish to be heard – else, wish to be heard?

Yes, Mr Boulten.

MR BOULTEN: I oppose the application. If the test is whether the publication of the image is contrary to the administration of justice, none of the arguments that have been presented so far in respect of the application demonstrates how the publication will be contrary to the administration of justice.

The inquest hears evidence of varying degrees of certitude every day. The probative value of evidence and its weight will ultimately be determined after all of the evidence is received and submissions considered. The fact that this witness gave evidence on Monday was broadcast throughout the Northern Territory and other parts of Australia. The fact that some of it might not have been accurate, but other parts of it were, was not contrary to the administration of justice.

If it proves that these certificates are wrong, inaccurate, misleading, fabricated, or in any other way inauthentic, then that no doubt will be published as well. But the

mere fact that there has not yet been a tight chain of authenticity established does not mean that the publication of the image is contrary to the administration of justice.

For there to be an order that allows the newspapers and the broadcasters to quote the description of the documents, but not publish the document, seems to be inconsistent. It's not likely that the administration of justice will be impaired by the publication of the evidence that was already received before lunch. The mere fact of the broadcasting of the image itself cannot said then to be so deleterious to the public trust in the administration of the – of justice, as to be contrary to the administration of justice.

So just finally, this is a matter of significant public interest. It's been a matter of backwards and forwards in the evidence that has been gathered over the last five days. That itself is a matter of public interest. And the way it's developed has been a matter of interest to you in the determination of the issues that you are deciding.

And the way that this evidence is unfolding in real-time is itself a matter which affects your consideration of issues such as police responsibility for investigating police. And the extent to which there are racist attitudes held amongst serving officers of the police.

So, my submission is, just let it be published, please.

THE CORONER: Does anyone else –

Sorry?

MR FRECKELTON: Might I be heard very briefly in response to what Mr Boulten has said? There is no doubt it will be of interest to the public, but whether it is a matter of public interest that at this stage, these purported certificates be published is a quite different matter. That's not the test. The situation has arisen in a highly irregular way. It's not that there is an absence of a tight chain of authenticity.

The situation is that the documents have come toward you from a witness who can say nothing about them, save that he has been provided with them by some other person in circumstances, even then, which are somewhat unclear. What you don't know is whether there are any indicia of authenticity about these documents, save what you can see by looking at them. And documents can be generated in this era in all manner of ways.

And so provide them to the community with the risk that assumptions and inferences will be drawn as to their authenticity at this stage, with all the consequences that follow from those – from the power of a pictorial image, in my submission, is contrary to the administration of justice. It's premature, it's unfair and the situation can be remedied by simply provision of a little time in order to investigate the status of these pieces of paper.

THE CORONER: Obviously, you've been aware of these purported certificates for a little time already, Dr Freckelton. How much more time do you say you need?

MR FRECKELTON: I've – we've been aware of one to some degree as of last night. The other two we did not see before you did, at all. So I have not had the opportunity to obtain instructions from any persons who may be in a position to give informed instructions at all, as yet. We'll set about that task straightaway.

THE CORONER: I'm happy to stand the matter down for you to take instructions in relation to the certificate that you have had since last night, which might resolve that matter.

MR FRECKELTON: Yes, I can do that. We'll do the best we can in the circumstances, your Honour.

THE CORONER: I note the time.

MR FRECKELTON: Yes.

THE CORONER: We will not be able to complete Mr Rolfe's evidence today.

MR FRECKELTON: No.

THE CORONER: In part, because of the matters that have arisen today, in part because of technical difficulties, in part because there was an additional objection to him giving evidence on all matters and in part because there have been a number of objections throughout the evidence that have taken up some of the time this week. In my view, it might be appropriate to, in fact, conclude his evidence now and return at about 4:15 to address this issue further.

MR ABBOTT: I'm not sure when I will get a chance to conclude my examination of him, which I anticipate will take about five minutes. I might not be able to come back next time.

THE CORONER: Sure. In those circumstances, I'm not going to rule in relation to the non-publication order now. I will complete Mr Boulten's evidence of – or examination of Mr Rolfe and then I'd propose to adjourn – we also have received, you know, additional evidence today that we just have to manage administratively as well.

DR DWYER: So in that regard, your Honour – just to take the mystery out of that – might I just note – and in fairness to Mr Rolfe, particularly – that an email was received by the Coroner's officer from a former Northern Territory Police Officer, long-standing, relatively recently retired, no – I have no evidence to suggest any connection to Mr Rolfe, or that Mr Rolfe has been in correspondence with him.

It's – that correspondence is copied into at least one other person and it asks that the – at the moment, for anonymity, but offers further evidence for your Honour

and he indication that he would be prepared to give evidence at summons. And in that email, he corroborates – to a significant degree, at face value – some of the evidence that Mr Rolfe has already given. So that would have to be investigated.

MR FRECKELTON: We accept that, your Honour. There's a related matter which I should like to raise with you. You will recall that Mr Rolfe made an allegation against a Commissioner of Police and you have granted an interim non-publication order in relation to his allegation. That matter was taken up immediately by the Office of the Independent Commissioner Against Corruption, who was watching the proceedings via livestream.

Mr Richards has conducted an investigation into the matter and has now determined as follows: he cannot say whether Mr Murphy made the comment alleged, nor can he determine the circumstances leading to Mr Murphy's departure from a restaurant in the order of a quarter of a century ago. He has decided that it is not in the public interest to investigate further, given the conflicting versions of events arising from his investigation, your Honour, and the fact that this incident occurred, as he puts it, "At least 21 years ago, if at all."

He says he has closed his investigation and we understand, your Honour, that he has sent this letter to you, this day. In the circumstances, we ask that – in the interests of transparency – we ask that you take off the non-publication order and we are content for the letter which, as we understand, has been directed to you to go on to the inquest file. And those instructions come directly from the Commissioner of Police.

DR DWYER: I don't wish to be heard on that, your Honour.

THE CORONER: So the non – does anyone else wish to be heard in relation to that? Then the non-publication order in relation to the – if I can call it the restaurant - - -

MR FRECKELTON: Incident?

THE CORONER: - - - incident is lifted, including as to the name of the officer - - -

MR FRECKELTON: Yes.

THE CORONER: - - - alleged to be involved in that incident.

MR FRECKELTON: Yes.

THE CORONER: Together – and we will also receive, as an exhibit, the investigation findings of – or the ICAC findings.

DR DWYER: Yes, your Honour. That's exhibit 29.

EXHIBIT 29 ICAC findings.

THE CORONER: Thank you.

MR FRECKELTON: Thank your Honour.

THE CORONER: And that will be placed on the website?

DR DWYER: Yes, your Honour.

MR FRECKELTON: Thank your Honour.

THE CORONER: Yes?

A PERSON UNKNOWN: Your Honour, one more person jumping up. Can I just be clear on a – I haven't seen the certificates, so I didn't make a submission about them. But during this break, are we – other counsel permitted to see these certificates in order to contribute to what may be an argument when you come back about publication on those?

THE CORONER: Yes.

MR FRECKELTON: Yes, I wonder if we could be given a copy for all of us, of the purported certificates, your Honour?

DR DWYER: Ms Walz will make those copies now.

MR FRECKLETON: Thank you.

THE CORONER: Mr Boulten.

MR BOULTEN: In the hours after the shooting, you exchanged joking text messages with your – with a member of your family?---The following night?

Yes?---Sunday night?

10 November, about 2:12 pm, 604. Text message 604?---Yes, I did.

You said to the – some members of your family, "Are you guys going to an Indigenous art auction tonight"?---Yes.

Next message, "Pick," next message, "a," next message, "side." And then a little after that, you sent a message, "No, all good, just joking around." Correct?
---Correct.

You were joking?---Correct.

It wasn't a very good joke, was it?---That was a - that's an example of dark humour at a time when the Black Lives Matter situation was rolling on. I definitely - that's

definitely an offensive joke. That's an example of dark humour - maybe in an attempt to ease their minds of the stress of my situation but yes, I agree with you.

I was a racist joke?---Correct.

Well, in a sense it wasn't all in jest either, I suggest. It really had become, by that time, an "us versus them" issue, right?---Unfortunately, that is part of the - the timing and the society that we are in and that we were in at that time. I agree that it did become seemingly an "us versus them" situation in aspects to not all people but there was definitely an aspect of that, yes.

The way you saw your position when you were charged was (a) it was a false charge, correct?---I don't know if that's the right wording, but I didn't agree with the charge.

You thought you had been arrested improperly?---Correct.

You thought that your particular personal profile had contributed to the decision to charge you, did you not?---I believed that the fact that I was a - a white male ex-veteran did.

As you said to Ms Shorten in that interview, "I am a white police officer, I am male and I have military experience" and later, "I am a single, white male police officer. I don't have children or any dependants, I have background in military experience and I understand my image isn't ideal for everyone, but if I was a female or if I had had dependants or children, I don't know if they would have done the exact same thing." That's what you said, right?---Correct. That's in regard to the - my opinion of the police that arrested me and the executives that pushed for that charge.

Along the same lines and immediately after that you said, "If I was Indigenous I couldn't see the same uproar. If the man I killed was a white man or if he was an Asian man or any other race, I can't see any uproar at all. So yes, I do think my image has a fair bit to do with how this has been treated", correct?---Correct.

Do you think that you are the victim of racism, do you?---No. I believe I am the victim of poor policing decisions.

Part of which is based on the fact that you are white?---Part of that - it has to be looked at as a larger picture. I think you have to look at the - a bit more of the forest rather than the tree.

This is a large part of the forest?---The race of myself - - -

Yes?---And of Kumanjaya I believe - - -

Yes?--- - - - was taken into account.

Yes. So you think the racist action as opposed to racist words - "the racist action" in the evidence that has been received so far is the fact that you got charged, is that right?---I have never thought of it in those terms, that I was a victim of racism. I've always thought that the race of Kumanjaya played a part in the decisions made by officers to arrest me. So I still believe that it's an element that led to their decision but I've never thought of it in terms that you've just said that I am a victim of racism - and I don't feel that - but I can understand why - where you're - where that's coming from, yes.

It was a race-based decision?---I believe there was an element of race that led to the decision - in the minds of the detectives and the executive.

Sure. Thank you.

THE CORONER: Given the other matters that we still need to attend to this afternoon, I am proposing to conclude Mr Rolfe's evidence for today. There are administrative matters to deal with later today but in relation to the receipt of any additional evidence and the completion of Mr Rolfe's evidence, I am going to adjourn the matter, I think to 29 April. I think the witness might need to speak to someone? ---Yes.

MR FRECKELTON: We can manage that date, your Honour.

MR BOULTEN: What is the date?

MR FRECKELTON: The 29th.

THE CORONER: I am suggesting - in fact, I am suggesting 29 and 30 April.

MS OZOLINS: Your Honour, are there alternative dates available?

THE CORONER: No.

DR DWYER: Yes, maybe if we discussed - or given we've got the time, would your Honour adjourn for - - -

THE CORONER: Sure. I won't fix a date at this stage. We can address that as part of the other matters that we need to address in relation to applications and the like. I propose that we then adjourn for half an hour.

DR DWYER: May it please the court.

THE CORONER: And we will come back (inaudible).

WITNESS WITHDREW

ADJOURNED

RESUMED

THE CORONER: Dr Freckelton?

MR FRECKELTON: Thank you, your Honour.

Pursuant to your Honour's request, we have spoken with Acting Commander Shaun Gill, Senior Sergeant Meacham King, Senior Sergeant Mark Clemens and Acting Assistant Commissioner James Gray-Spence.

You will be able to see the background of each of these men in the TRG as follows; par 4 in respect of Mr Gill, par 3 in respect of Mr King and I am referring to their first affidavits.

THE CORONER: Yes.

MR FRECKELTON: Paragraph 1 and par 6 of Mr Clemens and par 6 of the affidavit - or statutory declaration I should say, of Acting Assistant Commissioner Gray-Spence.

Each of those men have said the same thing and requested it be passed on to you, to the best of their knowledge and recollection they have not previously seen the document to which you asked that their attention be directed, your Honour, which is the document purporting to be a certificate in respect of the 2013 winner of the Noogooda(?) Award.

Now, your Honour, we are prepared to - and most assuredly will - conduct further enquiries in respect of these matters of relevant personnel and we will conduct those enquiries in respect of all three documents and we will do so with expedition, but we have not been able to do more than I have described to you in the half an hour or so that was available.

THE CORONER: Yes.

MR FRECKELTON: In those circumstances I repeat my submissions in relation to the application for an interim non-publication order in respect of all three documents.

THE CORONER: Yes. Does anyone wish to say anything further?

DR DWYER: Your Honour, just before you make a ruling on that, could I just invite Dr Freckelton to enquire as to whether or not the other two certificates have been the subject of enquiry at this stage?

MR FRECKELTON: They have not. Your Honour asked about one document. We had very little time. We asked about one document to four different people in under 30 minutes.

THE CORONER: Thank you.

MR MCMAHON: Pardon me, your Honour?

THE CORONER: Yes, sorry. I forgot that you wished to be heard. Sorry about that, Mr McMahon.

MR MCMAHON: Just briefly, your Honour. Our submission, the Parumpurru Committee is we adopt what Mr Boulten has said. In circumstances where our instructions have always been to expose and fight racism and to get to the truth of this entire matter which, as your Honour knows from our client's position, includes a mosaic of issues. The fact that there is an uncertainty of providence of some documents or a conflict in legitimacy or providence is no impediment to publication or the administration of justice in circumstances where the documents have already been described in detail in court and the evidence surrounding them has already been the subject of a number of series of questions.

The administration of justice includes the proper understanding of what has been happening in court and these certificates, true or false, are now an important part of this week's narrative and, in our submission, should not be subject to a non-publication order.

MS MORREAU: Your Honour, for the record, the Walker, Lane and Robertson family adopt the position of - the submissions of NAAJA and (inaudible).

THE CORONER: Thank you.

In my view it's not just a question of reliability, authenticity or uncertainty concerning these documents. At this stage there is a lack of evidence concerning the provenance of the documents.

Given the incendiary nature of what the documents purport to be, in my view an interim non-publication order of short duration is necessary to investigate their provenance. It is necessary in order for me to determine whether or not the images should be released to the public and I require further information to finally determine that issue and whether it is contrary to the administration of justice to publish the images.

Accordingly, I make an interim non-publication order to preserve the position and I will provide a timetable in which further submissions can be made as to whether or not that interim non-publication order should be maintained or lifted. That will be - a timetable will be communicated to the parties by counsel assisting.

MR FRECKELTON: Your Honour pleases.

MR BOULTEN: The court pleases.

THE CORONER: So the interim non-publication order is in relation to the images. There is no order over what has been led and heard in evidence. The next sitting day will be 27 May, which was the week that had previously been allocated for

submissions. There are no other suitable dates to the various persons and I respect the fact that arrangements have already been made, and that is the first available date for the parties and for Mr Rolfe to return to continue his evidence.

The exact timetabling of that week, again, there will be further communication by counsel assisting with the parties to determine what days are set aside for any additional or continuing evidence and what else might be achieved in that week. Are there any other matters that need to be resolved today?

MR FRECKELTON: For our part, your Honour, we identify a significant benefit to most – if not all of the parties, and to the general community – in bringing this long-running inquest to a conclusion. And if that means that the time allocated to oral presentation of submissions, in addition to written submissions, is truncated, we would have no objection to that course. That said, there is the outstanding issue of the claim of legal professional privilege and the call for the document that is – remains to be determined. There may need to be a timetable in relation to submissions in respect of that.

THE CORONER: Thank you. We will make sure there is a timetable in relation to that as well.

MR FRECKELTON: Thank your Honour.

MR BOULTEN: I think your Honour already set a timetable for written submissions.

THE CORONER: And that will have to be adjusted, Mr Boulten, because we will not have completed the evidence.

MR BOULTEN: Would your Honour consider maintaining the timetable with a view to allowing the parties to make supplementary oral submissions in the week of 27 May, in light of the further evidence that would be received, presumably early that week?

THE CORONER: What I anticipate – and I'm in – having formed a fixed view, Mr Boulten – is potentially hearing some oral submissions that week which would then be supplemented by written submissions.

MR BOULTEN: Right, okay. Hadn't thought of that. I'll sit down, your Honour.

MR FRECKELTON: In that case, I'll stand up again. Sorry, your Honour. Just wanting to be very, very careful about the terms of the interim suppression order in respect of the images. Can we assume that it is open for the legal representatives for the Northern Territory Police Force to show these images to such people as need to see them in order for us to undertake our enquiries - - -

THE CORONER: Investigate them.

MR FRECKELTON: - - - about their authenticity?

THE CORONER: Yes, I – there's no issue in relation to that, I don't believe.

MR FRECKELTON: Thank your Honour.

THE CORONER: And that will be reflected in the order.

DR DWYER: Your Honour, there will be – as I anticipate – further summons that I will invite your Honour to issue. It doesn't need to be dealt with now. It can be dealt with administratively out of court, but to make sure that we exhaust this enquiry into these certificates which include – potentially – a summons to Northern Territory Police to produce what other material – what other information they have in respect to any award that was provided or any physical objects exist, given what we have in the documents already provided, the statements, as to the existence of a physical award. So I anticipate that summons being issued. So no doubt that if those items exist, they will be held – I've got no doubt – safely, until that summons can be issued.

MR FRECKELTON: They will be.

DR DWYER: Similarly, the – with respect to the remaining seven pages, I note that Mr Officer is an officer of the court. I have no doubt – perhaps your Honour wants to invite him to give an undertaking that they will be kept safely, if they are not going to be required to be handed up?

THE CORONER: I think Mr Officer has effectively given that undertaking through Mr Abbott. Is that correct?

MR OFFICER: Yes. As an officer of the court, I have undertaken (inaudible).

THE CORONER: Thank you.

MR FRECKELTON: As her Honour pleases.

THE CORONER: It has been a lengthy week. I thank you for the care and attention and attention to detail that continues to be shown to the very important issues that we are inquiring into in this inquest. It is unfortunate that there is a further delay however, to rush it at this point would be a disservice to the work that has already been engaged in, and I do not wish to do a disservice to the important issues that are currently being aired and have been aired during the court of this inquest.

And we will adjourn to 27 May.

ADJOURNED