

# Investigation Report

## Operation Beaufort

Section 50(1) of the *Independent Commissioner Against Corruption Act 2017*.

November 2024

Office of the  
Independent  
Commissioner  
Against  
Corruption NT



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## Introduction

[1] I am the delegate for the Northern Territory Independent Commissioner Against Corruption and have been engaged to complete an investigation commenced by Commissioner Riches to enquire into whether:

- Members of the Territory Response Group (TRG), tactical unit of the Northern Territory Police Force (NTPF) at any time in the past 12 years issued awards that are objectively racist, thereby constituting improper conduct on the part of those members under the *Independent Commissioner Against Corruption Act 2017* (ICAC Act).
- Whether statutory declarations prepared by five members of the TRG contained false information and if so, whether, the deponents to those declarations knew that to be the case, thereby constituting potential criminal conduct and/ or improper conduct.

[2] My power to investigate derives from an Instrument of Appointment signed by acting Commissioner Naomi Loudon dated the 25th of June 2024.

## Background to this investigation

[3] On the 26<sup>th</sup> of February 2024, during the course of giving evidence before the Northern Territory Coroner, a former police officer, Constable Zachary Rolfe made allegations of racism within the TRG.

[4] As a consequence of those allegations statutory declarations were sworn by five Northern Territory police officers.

[5] Each of the deponents refuted the allegations made by Mr Rolfe. In various ways each contended that the “Nugedah” award was given to the TRG member who had acted in an unhygienic manner, however that the award had no relationship to race.

[6] On Friday the 1<sup>st</sup> of March 2024, when continuing his evidence at the inquest, Mr Rolfe produced 3 documents purporting to be copies of awards given to TRG members in 2012 and 2013. It was contended that those documents were provided by a former NT Police Officer upon becoming aware of the responses by the five mentioned police officers referred to above. One document purported to be a certificate to a recipient of the “Nugedah” award. The 2013 certificate, on its face, appears to be printed with the Aboriginal flag as a backdrop.

[7] The Office of the Independent Commissioner Against Corruption (OICAC) and the NTPF executed a joint agreement to conduct the investigation on the 18<sup>th</sup> of March 2024. The agreement was signed by the Commissioner of Police and Commissioner Riches. The stated objective of the investigation was:

*“To investigate allegations of the making of racist awards by members of the TRG and to investigate the truthfulness of affidavits prepared by senior police in respect of those allegations.”*

- [8] Importantly from my point of view, Commissioner Riches, in a letter to the Police Commissioner on the 19<sup>th</sup> of March 2024, emphasised that he did not see any utility in pursuing an investigation with a view to making adverse findings against general members of the TRG. He noted that such an approach would no doubt result in the taking of entrenched adversarial positions, creating unnecessary and undesirable delay in addressing the important issues which needed to be addressed. For that reason, he said he had decided to offer certain protections under the ICAC Act to any person who cooperated with the inquiry. Those protections included an undertaking that their identities would not be disclosed.
- [9] On 26 March 2024, Commissioner Riches issued a public statement advising of his investigation and requesting all current or former police officers to provide truthful information in relation to the investigation. Assurances were given to those who came forward that the information provided would be protected communications.
- [10] Consequently, upon those assurances being given by Commissioner Riches that their identity would remain undisclosed, a number of police officers and former police officers did come forward and provide statutory declarations concerning the issue.
- [11] On the 24<sup>th</sup> of May 2024, Commissioner Riches made a further public statement in which he advised that during an analysis of the data stored on the NTPF electronic system, two further Award Certificates of interest (both from 2007) were brought to his attention; however NT Government systems did not allow him to access any point in time records before 2015. In light of the material that he had already received concerning offensive awards generated before 2015 he then called for further information from witnesses that may have other evidence on personal computers or devices relevant to this investigation. That material included some of the certificates which had been produced by Mr Rolfe during the Inquest.
- [12] Consequent on those further public assurances from Commissioner Riches that their identity would not be disclosed, further witnesses did come forward with relevant information.
- [13] The ICAC sought legal advice from Crown Counsel, Solicitor-General's Chambers, concerning the non-disclosure of those declarations obtained in light of the request by the NTPF as part of the joint investigation to include them in a brief of evidence to be submitted to the Director of Public Prosecutions.
- [14] As the delegate for Commissioner Riches I have been provided with that advice. Taking into account all matters relevant to the investigation, including that legal advice received from Crown Counsel, I as delegate then determined that it would be inappropriate to disclose any of those declarations.
- [15] For that reason, none of the declarations provided by police officers or former police officers as a consequence of the assurances given by Commissioner Riches were disclosed to the police or the Director of Public Prosecutions.
- [16] It is evident from the memorandums provided both to the OICAC and to the Director of Public Prosecutions by an investigating officer on 12<sup>th</sup> of August 2024 that the police investigation was very thorough. It included analysis of data stored on the NTPF electronic system which also included the TRG drive.
- [17] The NTPF forwarded a brief to the Director of the Public Prosecutions requesting advice as to whether there was sufficient evidence to charge any of the five named police officers with any offence. As noted at paragraph 15, the brief did not contain any of the declarations which were then in possession of the OICAC.
- [18] On the 4<sup>th</sup> of September 2024, the Director of Public Prosecutions provided advice to the NTPF

that there was insufficient evidence to charge any of the five named police officers with any offence.

- [19] Based on the material that was provided to the Director for opinion, I consider that his advice that there was insufficient evidence to prosecute for any offence to be both reasonable if not inevitable.
- [20] However, that is not the end of the matter. As a consequence of the public statement made by Commissioner Riches I am in possession of a number of declarations from former and current NTPF Officers some of which are signed and some of which are not.
- [21] In that material there are some statements which tend to contradict some of the statements made by the five police officers mainly with reference to the origin and meaning of the “Nugedah” award.
- [22] As Commissioner Riches pointed out in his public statement of the 24<sup>th</sup> May 2024 some of these certificates from 2007, 2013 and 2015 are evidently on their face racist. It is difficult to conclude how any person of reasonable intelligence could conclude otherwise.
- [23] Even one of the police officers who provided a further declaration on the 1<sup>st</sup> of May 2024, after being shown some of these images, acknowledged that they contain racist connotations and used language which was inexcusable and offensive. He then apologised for any distress or offence caused.

## Discussion

- [24] Commissioner Riches commented to the Commissioner of Police on 19<sup>th</sup> March 2024, in a letter which I have already referred, that responsibility should more properly rest upon the NTPF as a public body rather than upon individuals, to the extent that there has been any improper conduct in the form of racist conduct associated with certain awards in the TRG. He then went on to emphasise that having identified that there had been racist conduct in the form of issuing of those certificates positive action needed to be taken to prevent it in the future.
- [25] Bearing in mind those comments, I have reached the conclusion that considering a number of factors there is no further utility in investigating this matter, at least in so far it would involve pursuing the truthfulness or otherwise of the declarations sworn by the five named police officers.
- [26] The first and most important factor is that none of the five police officers have had any opportunity to read or comment on the redacted material which is now in the possession of the OICAC.
- [27] It hardly needs to be stated that before making any adverse findings about any of the statements made by those police officers that they must be given the opportunity to answer the allegations which have been made which contradict their sworn declarations.
- [28] That factor alone makes it impossible and inappropriate for me to make any adverse findings about the allegations against them.
- [29] However, there are other factors which militate against the continuation of this investigation generally into historical behaviour of members of the TRG or the NTPF.
- After a thorough police investigation which included analysis of a huge quantity of data stored on the NTPF there has been no further evidence of any racist material produced after 2015.
  - The investigation thus far has brought to light historical behaviour in the NTPF between 2007 and 2015 which is now acknowledged to be unacceptable.
  - Commissioner Riches’ comments in his letter of the 19<sup>th</sup> of March 2024 to the Commissioner of Police, stating that what is now important, is that positive action be taken to prevent any further such conduct in the future. I agree with those comments.

- Furthermore, positive actions are already evidenced in the steps already taken which are described in detail in each of the five police officers affidavits.
- On the 3rd of August 2024, Commissioner Murphy made a formal apology to the Indigenous Communities of the Northern Territory. In his statement Commissioner Murphy expressed his intention to confront uncomfortable truths about the police service's historical and ongoing impacts on the Aboriginal Communities and he committed to a future of reconciliation and justice.
- The Commissioner of Police on 1st July 2024 appointed a very experienced member of the Indigenous community Ms Leanne Liddle to an executive position as Executive Director Community Resilience and Engagement Command within the NTPF. In that capacity Ms Liddle will be able to drive policy reform with specific reference to the Indigenous Community.
- It is plain from the fact that the commencement of this investigation required the ICAC to execute a joint agreement with the NTPF that the OICAC is not resourced to conduct an ongoing wide-ranging investigation into racism within the NTPF.
- Although the investigation to this point has uncovered some evidence of historical racism within the police force, despite a very thorough investigation there has not been any evidence of any further racist conduct or material produced after 2015.

## Conclusion

- [30] There is no admissible evidence of any conduct of the five named police officers which warrants any further investigation of any potential charge against them.
- [31] The OICAC does not have the resources to conduct any further wide-ranging investigation into racism within any unit of the NTPF, nor in my view, given the positive steps already taken by the NTPF is it necessary.
- [32] To a large extent this investigation has already fulfilled one of its objectives by highlighting historical evidence of racism within the TRG.
- [33] I am satisfied that there is no utility in investigating this matter any further, the investigation should be closed.



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13 November 2024

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