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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 26 OCTOBER 2022

(Continued from 25/10/2022)

Transcribed by:
EPIQ

THE CORONER: Mr Coleridge?

MR COLERIDGE: Good morning, your Honour. The next witness is Acting Senior Sergeant Meacham King. He is present in the body of the court and I call Acting Senior Sergeant Meacham King.

THE CORONER: Thank you.

MR SUTTNER: Your Honour, before the witness is called.

THE CORONER: Yes, Mr Suttner.

MR SUTTNER: I need to address you on the position of my client.

THE CORONER: Yes.

MR SUTTNER: Yesterday, my colleague, Ms McNally, told you that Mr Coleridge had told the Supreme Court that Mr Bauwens would not be called today and that he would be called in the future. Mr Coleridge denied it and what we will do, in due course, is we will put before you the record of what happened in the Supreme Court and we will put before the Supreme Court the record of what happened here, so that there can be no dispute.

THE CORONER: Well, it's not - - -

MR SUTTNER: But the question - - -

THE CORONER: - - - relevant to anything that I'm considering, Mr Suttner.

MR SUTTNER: No, but - - -

THE CORONER: And as I understand it, the proposition was that it was likely that your client wouldn't be called.

MR SUTTNER: Yes. All I want to do is lead up to a proposition about how we should deal with this. And I'm going to – I know your Honour is pressed for time, but I'm asking you for 10 minutes to address you on my suggestion of how we should deal with this, and I need to explain to you why?

THE CORONER: Deal with what? What are you asking me to deal with, Mr Suttner?

MR SUTTNER: Well, let me give you the – I'll give you the final line and then I'll come back to justifying it.

THE CORONER: Okay.

MR SUTTNER: We are being told that tonight, a decision will be taken about

whether Mr Bauwens will be called tomorrow.

THE CORONER: Yes.

MR SUTTNER: Your Honour, we are under very strict cost constraints. We have also made arrangements. We were set to give evidence yesterday. We kept a day today. We were due to fly out tomorrow. My colleague, Ms McNally, has a 10-month-old baby where she has had to make arrangements. We are being rolled over and rolled over. If your ladyship is indicating facially that you're impatient - - -

THE CORONER: I'm indicating that I disagree with the proposition that you were being "rolled over and rolled over" because I know the extensive efforts that have taken place to prepare witness lists and plans for witnesses, taking into account the various availability of witnesses, together with all the various availabilities and needs of the many, many counsel who are at this table.

And that is continuing to occur, and it is not the case that needs and inconveniences are being ignored. In fact, they're being considered as best we can, but the outcomes don't suit everybody all the time. There are just too many different moving parts and too many different needs to ensure that everybody has the desired outcome.

MR SUTTNER: Your Honour has considered that in conjunction with counsel for you. You have not heard me in respect of our position.

THE CORONER: Sure.

MR SUTTNER: And your Honour is indicating short shrift with me, and I'm asking you – I asked you for 10 minutes. I wanted to explain to you what our difficulty is. That's all. I'm not trying to - - -

THE CORONER: Have you explained it to counsel assisting?

MR SUTTNER: I have explained to counsel assisting. I got a call this morning at 8:46 to say, "We're not calling Bauwens today". I also asked counsel assisting whether, bearing in mind that the court wasn't starting until later, we couldn't dispose of this issue at 9:30, so that we could see where we are.

The approach appears to be, we ambushed counsel assisting yesterday by going to court and we have to take the consequences for that. Now, I just want to tell you what the consequences are for us, because we would like to – what I was hoping was to make an arrangement that I wouldn't need to address you.

So, our position is this. First of all, we may be told tomorrow that Bauwens is not being called. That means that today and tomorrow are wasted costs, wasted time where other arrangements have to be made, et cetera. If he is called tomorrow, we roll into Friday. If he is called on Friday, we've got to be here for the weekend.

Now, all I want to put to you is that we come back on another suitable time. Bauwens wants to testify. Whatever counsel assisting may want to get from him, he wants to help you about the need for an IRT or an IRT equivalent. He wants to do that.

Now, one of the difficulties which I understand which counsel assisting told you yesterday, was that she was faced now with having to deal with Bauwens on two separate occasions.

Firstly, in relation to the non-penalty privilege issues and then at a later stage, in respect of the penalty privilege issues. Now, what I wanted to put to your Honour is two things. First of all, if you want Bauwens to come back on a date other than the one I'm going to suggest, then he'll have to come back on that date.

But what I wanted to suggest to you is, there is a date for the issue that was in court in the Supreme Court yesterday. There is a date for that. When that matter is heard, then we will be in a position to hear Bauwens on both issues. That is my suggestion. It is a suggestion which takes – but even the other suggestion, all I'm saying to you is why must we have to languish here, away from the personal aspects of home, which I mentioned at great cost to our client, et cetera.

We are saying our client will come and give evidence and we're asking for an accommodation which takes into account - even last week, we wrote to counsel assisting and said, "Can you assure us that Bauwens will be called on Tuesday?" And the response was, "This is the timetable."

I'm not pointing fingers. I'm trying to reach a situation which is reasonable. So, my suggestion to you is, please release us today. Please release Sergeant Bauwens today and let us come back at a suitable time?

THE CORONER: Is there any possibility that Sergeant Bauwens could be reached today?

DR DWYER: Not today, your Honour. If I just might address you briefly. Up until yesterday, your counsel assisting team had no notice that any point would be taken in relation to any penalty privilege issue.

And of course, that would make sense because, in my respectful submission, there is likely not penalty privilege issue with Sergeant Bauwens, or at least there may not be, because what we heard from Dr Freckelton is that in relation to the text messages which seem to have excited the objection, those matters have been dealt with again previously by the Northern Territory Police and there is no proposal to deal with them again.

And that is on the record now and it can be placed on the record. It could have been dealt with when Sergeant Bauwens got up to give evidence. Last week, we received correspondence from Ms McNally addressed to me on 13 October enclosing the tickets for Sergeant Bauwens' trip, indicating that she did not know

until this morning that he was scheduled to land in Alice Springs at noon on Monday, the day he was currently scheduled to testify.

So, she says, "Would you mind moving him to Tuesday, 25 October to overcome this position. I really do appreciate that enormity of your task, but what with possible injury time and the availability of other witnesses in Alice Springs to do a swap, I request that we move Lee to the Tuesday. So, that was done to accommodate Sergeant Bauwens.

The witnesses from Tuesday were moved to Monday and he was listed on Tuesday. Yesterday, at around 3 o'clock, we found out his proposal to go to the Supreme Court. Of course that wasn't – I used the term "ambush" in my discussions this morning with Mr Suttner, because that's what it was.

We had no idea that that was coming and of course, that causes great inconvenience to the – the inconvenience is caused as a result of this late notice to the Supreme Court. I am not suggesting for a moment that Sergeant Bauwens is not entitled to claim any privilege that he wants to or to test the legal opportunities for him, but it needs to be done in a proper, orderly way. And in my respectful submission, there was no reason not to give counsel assisting notice of that. He then could have got in the witness box. We could have called all the evidence that we could from him. And he could have taken the objection, at an appropriate time. In my respectful submission, what happened, with no notice, was entirely premature.

And it put Mr Coleridge in a difficult position, and this court in a very difficult position, because with no notice, Mr Coleridge went in an effort to assist the court. But he was not in a position to take instructions. In those matters, it is the normal course that your Honour would have a submitting appearance, and the Solicitor General may appear. But it is abundantly clear from the – even the email that was received from the Supreme Court Associate, that the – that no full instructions could be taken.

What I'm told, is that Mr Coleridge informed the Supreme Court, that it was unlikely, in his view, that Sergeant Bauwens would be called this week. But he did that, without any instruction, and without any ability to assist the Supreme Court. He made it clear that he was not in ability to – not in a position to do so, in a more complex way, because of the short notice. It is a shame, that Mr Suttner, and Ms McNally, are personally inconvenienced, as a result. But the suggestion that counsel assisting has not tried to accommodate them, is non-sensical.

The parties at this Bar table, from the very beginning, long before Mr Suttner and Ms McNally were involved, have been urged to communicate with counsel assisting, and to come to this court in a way that is genuinely respectful and helpful. As your Honour knows, and has been explained many times, these proceedings are being summarised at the end of this week. And then we're having them interpreted in – in the Warlpiri language. And the family of Kumanjaji Walker, and the community, Aboriginal and non-Aboriginal, are very interested in these proceedings.

But as your Honour knows, the communities of Yuendumu, and the communities for the families that Kumanjayi belonged to, are following these proceedings with great interest. And we are trying to ensure that they make sense. That it does not appear, to families or communities, that information is being hidden from them. And that they can participate in these proceedings, in a way that is meaningful. And I urge again, all parties, to communicate with counsel assisting, well ahead of time, if there are legal issues that they want to ventilate.

And that we do so in a way that is calm, and respectful, and appropriate. In my respectful submission, what we should do, is get on with the witnesses this morning. We have Sergeant Meacham King ready to go. As I explained to my learned friend, Mr Suttner, this morning, because of the late notice, I wish to consider the position carefully with Sergeant Bauwens. I wish to take further advice about it. And I need to do that calmly, not in a manner that's hurried. And I'll advise him as at the earliest possibility.

THE CORONER: But at least we can advise that he's not going to be called today.

DR DWYER: Yes, your Honour, and I have advised that. And that was the email that went out this morning to parties. And I, as an act of courtesy, appropriately called Mr Suttner, before the email went out, so that he would know, at the earliest point, that I did, or thereabouts, that his client would not be called today.

THE CORONER: So, Mr Suttner, even before you got to your feet, there's clearly been detailed and ongoing consideration, in relation to the application that was made yesterday, and how that might impact the timing of the calling of witnesses. We are – I am still considering that situation, along with counsel assisting. And we will advise you as soon as possible, when Sergeant Bauwens will be called, taking into account, the indication that you have provided. But it might not be until the end of court today, when we've got an opportunity to properly consider the matter.

But certainly, he's not going to be called today, and you would – certainly do not need to remain in the courtroom today.

MR SUTTNER: I appreciate that, your Honour. I do want to make the point, that I appreciate, first of all, assistance given in the past by your counsel. And I appreciate the efforts that she has had. We also do understand the impact that our application had yesterday. All we're saying is, there are other days. There are other days. Instead of making us languish, let us come back at a suitable time.

THE CORONER: I've heard you, Mr Suttner, and - - -

MR SUTTNER: As you please.

THE CORONER: - - - we'll deal with that, once we've had an opportunity to consider it - - -

MR SUTTNER: Thank you, your - - -

THE CORONER: - - - but I won't be using further court time today to consider it. I'll be considering it outside of our sitting hours.

MR SUTTNER: As it pleases you.

THE CORONER: Mr Coleridge.

MR COLERIDGE: Thank you, your Honour. I call Acting Senior Sergeant Meacham King.

THE CORONER: Sorry is it Acting Senior Sergeant?

THE WITNESS: Just Sergeant will be fine, your Honour.

THE CORONER: Sergeant.

THE WITNESS: Sergeant will be fine, make it easier.

THE CORONER: No it's not easier, I'm just trying – I'm trying to understand. I just didn't hear Mr Coleridge. I didn't quite hear. Is it Acting Senior Sergeant.

THE WITNESS: I was Acting Senior Sergeant on the weekend, but I'm back to sergeant duties now.

MEACHAM KING, affirmed:

XN BY MR COLERIDGE:

MR COLERIDGE: Sergeant, can I ask you to restate your full name for the record please?---Yeah, Sergeant Meacham King, registered number 2120.

Now I'm just going to identify some documents that have been provided to the Coroner, that you authored, or are associated with. You gave a statutory declaration on 17 November 2019?---I believe so, yes.

Your Honour, that's 7-76.

You also gave – I should say, that was a one-page document, in effect a chain of custody statement?

THE CORONER: He probably – may not remember but - - - ?---Yes, yeah I do remember. That was taking evidence from Alice Springs back to Darwin?

MR COLERIDGE: That's right?---Yeah.

You also gave a statutory declaration on 25 November 2019?---That's correct.

That's 7-77.

And that's a much more substantial statutory declaration that sets out your recollections of the events of the ninth, 10th and 11 November?---That's correct.

Your Honour, also on the brief, is a video, at 7-77B. It's a video I'll play at some point during the examination.

Now, Sergeant King, can I ask you to give her Honour a very brief career overview. Where you started in the police force, and where you've ended up?---Yeah sure. So your Honour, I joined the police force in January 2000. And I did my training in the police academy. I moved down to Alice Springs in July of that year. And I did three years in Alice Springs. In August 2003, I started my career in the Territory Response Group in Darwin, and until January this year, I was in that unit the whole time. And now I'm a supervisor in Casuarina Police Station.

Now, perhaps leaving to one side the training that you formally received as a member of the Northern Territory Police Force. Have you from time to time, done training courses outside the police force?---Yes, I've got extensive experience in training with NT Police and other agencies, yeah.

Have you undertaken training courses in leadership, for example?---Yes, sir.

Could you tell her Honour something about the training that you've done in that area?---Outside the police force, or within?

Both?---Well within the police force, obviously there's the leadership through rank, as a senior constable, to the sergeant, up to where we're up to – where we are now. In the Territory Response Group, there's a significant amount of leadership courses within the unit, to train people up as team leaders, to commanders, as well as leaderships within the teams as well. I've done – I'm a firearm instructor since 2008. And I've done leadership in relation to courses there. I've done a leadership course with the NT Fire and Rescue Service. And I did a – one last week to senior fire fighter. So moving on to station officers about that – undertaking responsibility and moving up to that next level and what's encumbered upon them, as – as senior managers. And also I'm with the Army Reserve. And I've done 20 years with NORFORCE. And I've done – undertaken leadership roles as moving up through the ranks, and also mentoring other people through those as well.

I'll ask you a little bit more about leadership and training leaders in a moment?---Yep.

But can I ask you some questions about the Territory Response Group. Do – I'm assuming her Honour knows something about the TRG, but in your own words, could you explain to her Honour what the TRG is?---So the TRG is a police tactical group for the Northern Territory Police. And our main aim is for high-risk and counter terrorism operations for active violent offenders and such. But we're quite unique in relation to other jurisdictions, because we also cover search and rescue, close personal protection. We also do bomb response. And supporting the front line, in

general support tasks, wherever they may need to be doing. So we're pretty much a jack of all trades. That if you need us to come down, we're in the position to assist you from anything from a resourcing issue for a special operation, right through to someone with a firearm threatening people.

And I take it that you have been a member of the TRG for some time?---When I left in January I'd done 18 and-a-half years in the unit, yes.

But you're no longer a member of the TRG?---No, that's correct?

Okay. Now, I think you mentioned that in some ways the TRG is different to specialist tactical units in other jurisdictions in Australia and you were distinguishing I think between some high-risk deployments and some more general support deployments. Is that a sensible distinction between the two types of work the TRG does - high-risk and general support operations?---Yes, yes, distinctive.

Can you tell her Honour something about what a high-risk deployment would generally involve?---Well, a high-risk deployment generally revolves around the risk to people's lives, so to speak, or there's a risk to critical infrastructure. So there's - the consequence of the incident is high and the likelihood is probable or higher.

And that might involve things like large scale civil unrest, an active shooter, a siege, things of that nature?---Yes, that's correct, yes.

Can you tell her Honour something about the types of general support you might give as a member of the TRG to a police station - let's say a remote police station? ---Yes, sure. We could be tasked to go down and support an operation such as a large football carnival where they want extra police to come down and help with that. There could be operations for traffic or drug-related matters where they want to go down and do an operation there with roadblocks and general support also includes search and rescue, where we've got a missing person, we'll go down and help do the search and rescue operation, support local front line and managing that - that resource.

I think one of the police officers who has given evidence thus far has used the expression "force multiplier". Is that an expression that you use in the TRG to describe the type of general support you get?---Yes, it can be. It's a difficult work that "force multiplier" but yes, it is. It's more so of extra police on the ground with a high level of training with a different set of skills, more so with general support.

So it's not just about having more boots on the ground, it's having more boots but officers who have a higher degree of training, specialist skills, disciplined, et cetera? ---Yes, so when we send people general support they're normally accompanied by a team leader and they're used to working in environments, a lot of them are bush police officers who understand how to work in remote communities. So going forth - they go forth, they can be elected to do a certain task and with search and rescue obviously, they are the experts in search and rescue mission controller so they'll go forward and coordinate the search because that takes - they undertake a significant

amount of training to get that - those skills up as opposed to front line and normal settings don't receive those training.

You've spoken a little bit about search and rescue, but is the TRG ever asked to assist in the arrest - apprehension and arrest of or serious offenders?---Yes, yes, we do that, yes.

And would they generally be categorised as a general support deployment or a high-risk deployment or does it depend?---It would depend on the risk assessment. So we'll get a request for services and it comes to our unit and our attack intel cell will conduct a risk assessment on that person or those persons that are being - to be apprehended. We'll determine the risk from there, then we'll categorise it and send it up the chain of command to get approval to go. And if it's a general support task it could be a case of we've got people in the community who have got some links to violence but not exhibiting violence now. Or there might be people that they want us to help arrest due to other stations such as Alice Springs or Katherine, who don't have the resources, can we go out and help them and go out there without affecting front line capability in those areas. So we will go back and support them and arrest them.

I don't want to assume that you're very familiar with the evidence that has been given in the Coronial inquest, but are you aware that Kumanjayi Walker on 6 November 2019 threatened two police officers in Yuendumu with an axe?---Yes, I was aware of it.

If you were provided with information of that kind by local members, is that the kind of support, I suppose, arrest that the TRG might from time to time become involved in?---Yes, definitely.

And maybe it's difficult on the basis of that single piece of information, but are you able to say whether that would be a general support deployment or a high-risk deployment?---Well, again, we would get the attack intel cell to do a risk assessment on that individual and we would look at Kumanjayi's history right through to his involvement with police and any violent matters and the rest of it. And then we would make our assessment from there, whether it was high-risk or general support and we would've responded accordingly.

So you would need all of that information?---Yes.

You'd do the risk assessment?---Yes.

And then you'd decide whether the deployment would be general support or high-risk?---Yes, we would make our recommendation. That's including speaking to the OIC and the members involved down there, from their dealings with it as well.

I want to ask you some questions about training. I appreciate that there are some sensitivities when talking about training - the training of a group like the TRG. I am not going to ask you to disclose tactical details, things of that nature, but can you

give her Honour a very general sense of the type of training you receive when you join the TRG?---So they have to pass a selection course to be accepted and when they come into the unit there's approximately four - four and-a-half months of basic courses they undertake and they have to pass each course to move on to the next one. Once they pass those courses we consider them to be a basic operator that can be deployed on high-risk operations and then from there they move into specialist skills and those specialist skills may be dictated by their character or aptitude that they have a natural interest in, or it could be a case of we have a deficiency in that area due to people leaving, we will move them into there. Once they move on to their specialist skills they'll get some exposures as 2IC's on operations, normally general support operations. Then if they show the right attributes and we think they are ready, through experience and otherwise and maturity, they will then undertake a team leader course and from that team leader course they will then be ready to support high-risk operations. Ideally we will give them general support operations to give an understanding and let them mature and gain experience and get some exposure to that leadership role, with some mentoring where required and then they will get to move on to higher level stuff for high-risk operations if they determine that we think they're ready.

THE CORONER: And how, if someone has the right attributes?---Yes.

And is progressing well, sort of what time frame would it take to get through that training from the entering and doing the first four to four and-a-half months of courses through to someone having the competency to be a team leader of a high-risk operation?---We want to be looking at putting him on a team leader course for at least two years. But there are some exceptions to that, your Honour, that if we have a person who's done extensive acting sergeant roles in remote communities or on the road - front line - they've already assume been exposed that's the - they probably have a bit a step up. Where it gets tricky is that they don't have much exposure to what the unit does. So it's okay to be a sergeant in front line, but you're not a sergeant, so to speak, in that unit because they're doing different things. But in answer to your question, I would say they wouldn't be looking at being developed to a 2IC at least in two years - the two-year mark we would start seeing them and giving them some opportunities to step up and do some things, maybe some admin aspects. And then probably around about the four-year mark - and where that comes into is that there's a national course called "Australian and New Zealand Counterterrorism Group Tactical Group Skills Enhancement Course" and that is run every year and we send four police officers from our Police Tactical Group from every state and jurisdiction to a location. They spend two weeks training and that provides us the capability to be in top ability. So we have big operations like G20 or CHOGM or a national counterterrorism incident like the Lindt Café. They can call us and we can send our members interstate to work together and we're all working off the same page. Once they attend that course and it shows that they're ready to do that, that's when we start looking at them to move into an instruction role as an assistant instructor so they understand how to teach. And once they know how to teach they understand the skills they are teaching, then we start giving the opportunity to be a team leader. Because the big component of that unit as a team leader you have to run the team in relation to training as well, 90 percent of our work

is training. We do the operations obviously. And in order to run the training you need to understand how to train your members and counsel them when there's things going on in relation to skill. So if we can get them as an assistant instructor then move them on to an instructor and they are competent in that area and they've had a bit of leadership, then we'll start to delegate them to be in charge of those guys in an operational era. It's quite intensive and it takes a lot of time and we invest heavily in our staff and it's challenging with. But I would have to say, it's a very sound structure and we've developed some really good people with some really good skills over time.

Can I ask you, it does sound like there is a very structured process for monitoring and then progressing - - -?---Yes.

- - - members of the TRG. How do more senior members of the TRG team leaders train as the OIC, the two 2IC, how do they monitor the progress of the more junior officers? What does that actually involve? Are there interviews? Are there tests? Is it kind of ad hoc, just checking in with people?---Sorry, are you talking about when they're ready to move on, or a week by week or a month by month basis?

Perhaps let's just focus on when they're ready to move on, but I will ask you on a week by week, month by month basis as well?---So, the first thing I've spent time with the OICs for a number of years. The first thing we do is speak to the sergeant and say how they're going, whether they're liking – you'll go away for – every job we do, we come back and we have a debrief. We talk about what went wrong, what went right, what we can do better, how things - it's about the education after an incident. And how we can implement new things in training to develop deficiencies. Well, the OIC will sit down with the team leader, whether it was a sergeant or not, and say, "How'd that job go?" And if we've got new people coming up, we'll ask them how did they perform. And then over a period of time, you'll get a picture, well this member is actually quite good and he's showing good attributes to step up, they're keen; they're eager. Once we develop that, we'll probably bring them in and we'll have a chat with them and say, "Look, you're showing some good signs of stepping up. Are you interested in that leadership role, or do you want some more time on the floor?" And sometimes they'll say, "Look, I'm not really comfortable right yet. I think I've got some more development to do." And we'll say, "Why? How?" and we'll give them an opportunity to do it. Other times, they'll come in and they'll say, "I want to do it. I want to do it." And we'll say, "You're not quite ready yet." And we will give them some opportunities in training and exercises or more operation on operations under some mentoring of a good 2IC. So, we may put them as a team leader with a very senior member to be with them to provide counsel and mentoring on the job, or we'll say to them, I'm happy to give you these, sort of left and right of (inaudible), but if it goes out of that, you need to call me back in Darwin and run some ideas past me, so I can pick your brains and make sure you're going down the right path. Ultimately, we're a small unit. We know each other really well. We work together very well, so it's easy to determine where those people are, but we'll always give them an opportunity, if they want to step up, and we'll try and develop them from there.

What if you, as OIC, 2IC team leader, identify that someone's got a deficiency in a skills area? What's the response in those circumstances? Is it, you just take them aside? Is there a formal process for addressing it?---It's always informal through the sergeant first. Ultimately, the sergeant's responsible for people on his team, or their team. They'll talk to him and say, firstly thing we'll ask, "What's going on at home? Is there issues at home?" And we'll determine whether that's a problem. And then we'll talk to them about why we think there's a problem. We'll say, "Look, we're noticing these traits. What's going on?" And we'll determine what that is usually first. And then after that, we'll tell them where we're seeing deficiencies and allow them an explanation as to why or whether they can acknowledge the fact that they're doing those things wrong. And then from there, it's just a matter of just implementing things in place to curb any behaviour we may see as an issue or curb any incidents or develop them through training. And if – yep.

Does the TRG do anything to ensure members of the TRG remain suitable for deployment, I mean medically suitable for deployment, psychologically and physically?---Yes, good question. So, probably about six years ago, I reached out to ESS and I started to arrange for the police psych or the ESS unit to come to our unit every six months to talk to the members. And it wasn't so much that we had concerns where they were, it was about building that rapport and the familiarity with those people. So, if you were involved in a critical incident and the person turned up, they would know who that person was, because they already had a rapport. So, we started the inroad to that – in relation to that.

Would there be an expectation, if a member of the TRG was suffering from a relatively significant psychiatric condition, would there be an expectation that they would bring it to the attention of their senior officer, and say look - - -?---Yeah, definitely, yeah, yep.

You would need to know – I know that these things are private, but your expectation as a leader of a tactical unit would be that you would know these things so that you could make a risk assessment when deploying a member. Is that right?---Yes, definitely. If we had concerns for a member or they were going through, say a marriage break up or some custody issues, we'd talk to them and then we would take into consideration, if I'm going to deploy that member on a critical job where there's an extreme amount of stress and they're already under stress, can they perform or are we going to put them in a position – now we'll always the member an opportunity or that thinking, saying, "Look, we're worried about you. We're concerned we're going to put you in some positions." Nine times out of 10, they'll be honest and say, "Yeah, I wouldn't mind a bit of a break, if you can." Other times, operationally, we don't have a choice. If we've got something like the Hoffmann shooting and I need everyone because the public is in critical danger. But we would talk to them and we would manage that as best we can, with the expected consultation with that member.

From time to time, police officers, and I'm assuming TRG members, might be the subject of disciplinary investigations, or even criminal investigations. Is there a process for monitoring that? Would that affect their eligibility for deployment?---Not

really. That would come down to the superintendent. If there's a complaint against police or an investigation, the OIC attends a monthly meeting about all complaints against police, about members under their command; the consultation with the superintendent as to whether that person is fit for duty for certain matters. If they weren't, well that's up to – that's normally dictated higher. Sometimes, the OIC will get some discretion in managing that, but nine times out of 10, they're very resilient members. They crack on with the job. They know there is an investigation underway and they know they will be professional the next time.

Yes. Just to confirm, it's the OIC of the TRG who would have a monthly meeting with which superintendent?---It's with his superintendents, all superintendents and the commander.

Yes. So, if someone was the subject of a criminal investigation, there would be at least a discussion, you would hope, between the OIC of the TRG and the superintendent about whether they were suitable for deployment?---Definitely. If a complaint or a matter came in between those monthly matters, that would happen as well. We're not waiting a month to find out. We would be informed in the first instance. We would talk about the implications on the unit and on the member, especially if that member has a specialist skill, and then from there we would work out whether we could use them and how we could use them, or whether we even effected them at all.

Now, this may sound like a silly questions, but would it be clear at any point in time who was and who wasn't a member of the TRG?---Yes, definitely.

And would it also be clear at any given point in time who the OIC was?---Yeah, there's not disillusion on who the OIC was at the time.

And right down through the command structure to OIC team leaders, they're clearly designated positions?---The sergeants are designated positions. The team leaders can be people who are acting in that role or just senior members who completed the team medicals or somebody who may seem as suitable. For example, we might be doing a close protection job and the person hasn't done the team leader courses, but he might have done the second peer course for the national close-protection course, which dictates he would be able to run that close protection activity or that operation.

THE CORONER: So, is it determined operation by operation who the team leader is?---Yes, so we may have an operation, for example, out at Port Keats, and we have members who have worked at Port Keats. So, we might send a team leader out there who'd worked out there before because they have a good rapport with the community, they know the layout and it's – and you're a team leader who has been to the community before. Or it might be the case, this is a – well, the lower end of the scale, low risk, good development opportunity for someone to go. So, each case is based on its own merit and in consultation between the OIC and the sergeant, we have an on-call team and there is always a sergeant on-call with others. Normally, the on-call sergeant is the one that will go to all incidents and we may look at it and go, well this isn't really a matter we would send the on-call team to, because you

want to maintain that high-risk capacity for the whole of the Northern Territory. So, we would say, well we can give this to another sergeant or another team leader to go – to lead the on-calling. But the on-call sergeant would be the one, as an OIC, I would speak to and say, “We (inaudible) got this job. We’re doing this. This is the way I look at it. Have a look. What do you think? Go back, go away and come back to me who you want to send and how you want to do it, to give them some responsibility in leadership and decision-making. Then they would come back to me and I would either agree or disagree. There are some instances where I would say no, you’re taking these people for whatever reason, every now and again. But it’s a consultation process ideally, and the only time, I guess it would be a little less consultation would be the urgency of deployment, if we had to get there quickly, then “People around the office, get your gear, you’re going, get going, get going now”, so to speak.

And the planning still goes on behind the scenes when they’re on route?---Planning never stops.

Yes. And if you put together a team, it is clear that – who is allocated as the team leader?---Yes.

And the team leader will not necessarily be the most senior in rank. You could, for example, have a team leader who you’re developing and have a more senior person there asking as mentor, or for some other reason?---Yes, and a classic example would be a search and rescue incident. We may send a sergeant out there to run the team, but the senior constable is the search and rescue coordinator. So they’re in charge of where the resources are allocated, and how that search is run. But the sergeant’s at a higher rank. So there will be some respect, and some consultation. So the sergeant may look after the HR issues, the rostering issues, the over-time issues, and any discipline issue, so to speak. But the senior constable as a SMEAC, would look after the operation, per se, of how resources are deployed. And how that operation’s undertaken because they’ve got the skills.

MR COLERIDGE: I want to ask you some questions, this may sound like a silly one, but would you describe the TRG as a disciplined unit?---Highly disciplined, yes.

Why is discipline important in a tactical team like the TRG?---Well discipline’s important what you do. But I guess in – in our sense, disciplines important is that the – as an operator, as a constable, you have certain situational awareness about what you do and what you are. And as a team leader, as a sergeant, you have a greater situational awareness, and as a tactical commander, or OIC, your situation is bigger. If we give you an instruction to do something, you may not be aware of the reasoning why we’re doing it. You just need to trust us. You need to do it, and you need to do it now. So it’s important that when you’re told to do something, there’s a lot of trust in there, and the discipline’s important, just generally, as a paramilitary organisation. We have rank. You respond to rank. You respect rank. And you do as your told. Now we do encourage members to speak out. If they find something they believe is negligent, or potentially unlawful, we want them to speak out. And also if they see a better way of doing things, we want them to speak out, and say, had you considered

this. Because we're all – more minds are better than one. But discipline, yes, it's highly regarded. It's critical, absolutely critical in that unit to maintain that.

Two words that I think you used were “trust” and “respect.” So it's fair to say that trust and respect up and down the chain of command is essential for discipline?---Yes. Yes, definitely.

How do you instil that type of discipline in the TRG? Is it something you have, you know, actual conversations about, is it just an expectation?---I guess, we're fortunate, when they come to the unit, by doing that four and a half months of training, I'm the instructor, you're the student. So there's a level of respect, and a level of understanding, that I'm assessing you for everything. From your personal attributes, to your confidence, through to your skills. Your trainability, your confidence, and your attitude. So straight away they realise that if they don't pass those courses, and they don't pass well, they're not going to be in the unit anymore. We'll transfer them out. So we, right from the start, they build – we build that trust and respect through our adult learning principles, and how we treat them, and how we do it. Once they finish that course, they go on to (inaudible) to be trained. They're treated the same. And when they go to do operations, and they see the way we lead, and the way we run operations, they understand, that he is the boss, she is the boss, then we will do as we're told. And they understand why it's important. Because they can see the outcomes of our operations.

THE CORONER: You mentioned “adult learning principles”, are they principles that are documented in the police service?---They're starting to bring it now in the college. We went through a transition, probably about three or four years ago, from talking to other police tactical groups, and other people, that – we had to change the way taught, and the way we started to talking to people. The old days where we were very dictatorship in how we instructed, and how we told you to do stuff. Whereas now we've changed everything to try and create – the only stress we create on a student, is the stress they create on themselves. So we put it back on them, as opposed as stress from us. We don't yell at them anymore. We used to yell to encourage them to work harder, and to get that internal controlled aggression. Now we want them to find it themselves. So the adult learning stuff is about talking to them on a level, understanding where they're coming from. Give them an opportunity to explain what they thought, and then turn around and say, well did you think about this or this, as opposed to, you were wrong, you were wrong, you did this wrong, you did this wrong. So we would go back and say well you were here, and what did you – what were you thinking at this time, for example, or do you think there's a better way of doing it. Yes, we could have gone here. Why's that? Because of this. So they're actually learning, as their going – like I could talk about this for hours, but – but reality is that by talking to them like that, and treating them like that, it creates a far more bit of mutual respect. And when they don't do what they're supposed to do, we want them to feel like they let us down, as opposed to I'm telling you off because I've got rank, if that makes any sense.

MR COLERIDGE: It does.

THE CORONER: I'm just wondering, those adult learning principles, where did you acquire them from?---From teaching in that unit for a long time. I saw what was happening, then there was – we had some people come up and run some different shooting packages, and some different reality-based training packages, that were being adopted. And the person running that, I arranged for them to come up to the – they came back up to the police force, did some more training. I got a scholarship with the – with the Army, and paid for him to come up and do some more training with TRG, to try and instil that. And just being – once I saw how beneficial it was, we just started taking it on. And then once everyone else so how beneficial it was, it just became the norm. And the people we're developing now, are far better, ever, than what we ever saw before. They're really competent. Very intuitive, and it's just worked in our favour so much. It's unbelievable what we've done.

MR COLERIDGE: I want to ask you some kind of hypothetical questions about a deployment. Let's assume a deployment to arrest a high-risk individual. The TRG gets the call. You're in Darwin, and you're being tasked to attend a remote community on the Police Air Wing. Let's say you get the call from a remote sergeant, and they're saying we need some help, we're really fatigued. What's the next thing that you would do?---Well we wouldn't normally get the call from the remote sergeant. They would pass it to the chain of command. And normally the OIC, or maybe the remote sergeant, depending on where it is, would call me and say, we're putting a request of services into TRG to come along. I say yep, no worries. And we – we encourage that. Because then I can start understanding any impost to my current training and operational calendar. Then they would normally go through their superintendent. Their superintendent will send a general support request through to my superintendent. It would come through to us. I would advise our superintendent whether the unit was in a capacity to assist, taking into consideration other operational tasks, our training commitments, and also the capability to provide the Northern Territory Police and the community, a high-risk response. Then if that was approved, then we would make contact with the OIC, to determine exactly what was happening, what's going on, what they needed us for, additional things, how long they need us, what the accommodation was like. What we needed to bring, and all those sort of questions to enable me to form an appreciation of what our task was, before I gave it to the team leader to say this is what we've got, start putting your head towards it. Work out what people you want, and go from there.

So you would try to communicate directly with the remote sergeant, if possible?---Yes, definitely. We have to. We do. We must. Because they're the ones requesting us. And I'm very conscientious of Chinese Whispers as it goes through many people, they're the one help – who want us to do something. There'll – obviously there'll be some consultation with their OIC or superintendent, about what their mission focus is, for that region, so to speak. To ensure we're aligned with what they want. But the OIC is critical in telling us what is happening, and the reason we're going.

So once you've got a good sense of what's going on, on the ground, what do you do in terms of thinking, your thought process?---Well the first thing I'm thinking about is

Air Wing available. Are we flying, we driving. Because the – the biggest issue we have in the Northern Territory is a tyranny of distance. And – and then it comes down to the urgency of us being there. Then it's about do I – how many people do I send. Do I send six, or four, or more. And obviously the Air Wing can normally take six people with equipment, and four is ideal. And the impost on the unit for that. And then, how long they're going for. And once I get that out around, I'm really thinking about what are – what do you want from us. So sometimes the expectations of what we want to do isn't achievable, or it's not really a TRG task, have you tried to source resources from your local command first. And – and sometimes you're really good, but I'm really conscious about being used, just because we're available, and no one else is. But once I achieve – once I understand what the mission is, it's a matter of working out how we can achieve that.

Once you've got a sense of what the mission is, and you've identified your team, and you've nominated a team leader, you know, you've identified quite a few people who've been involved at this point in time. Do you do anything to ensure that the command structure is clear, between yourself, your team, the remote police, the remote sergeant, their superintendent, or is this just assumed?---No, as soon as we get an operation or a task, one of the first questions we ask is who the police forward commander, straight away. So who is my team referring to, in the first instance. So we know the chain of command.

And if the remote sergeant was the most senior officer in rank, would they ordinarily be the police forward commander?---Ordinarily, yes, yes.

What would happen if the TRG team – the team leader was more senior in rank than the remote sergeant, would they become the forward commander?---No.

The remote sergeant would?---Yes.

And what's the reasoning there?---Well it's not our patch. It's not our area. We're there as an assistance. We're there to be a resource to assist the local area. So I can't think of – the only time it gets a little bit clouded, potentially, with search and rescue operations, a (inaudible) sometimes undertakes that full commander role but we then pushing back and that - and it depends on a resourcing issue. I can explain that if you want, your Honour, or move on? But no, the forward commander is a forward commander, we work for the forward commander.

I think you said two things. You work for the forward commander and also you try to work out what their expectation is?---Yes.

They are effectively the ones coming to you with the need?---The forward commander is in charge. Everything falls under it and they're in charge of all the resources, they are responsible for all the outcomes and it's - they're responsible for all of it so if anything goes good, bad or otherwise, it all goes to that.

When you deploy a team to a remote area it could be that there might be disagreements between - polite disagreements - between the forward commander

and the TRG team about the best way to achieve the mission objective, is that right? That happens from time to time?---Yes.

And it's perfectly all right, I take it for the polite conversation to happen between the TRG and the sergeant?---Yes.

But I also take it that the TRG's job is to understand as best as they can, what the expectation of the forward commander is of them, is that right?---That's correct.

Okay, because unless they understand that expectation they can't have a meaningful dialogue about how to achieve the mission objective, would you agree?---Correct.

So, for example, if the police forward commander put a document in someone's hand, a TRG member's hand and said, "This is related to the mission" you would expect the TRG member to read it, understand that, so that they can have that conversation with the forward commander?---Yes.

Now, you're aware, are you not, that there is some evidence that suggests that there has been a communication breakdown - or was a communication breakdown in the Yuendumu Police Station on 9 November 2019?---Look, I've - I've heard stories in the media but I'm not totally familiar exactly the circumstances.

I want to make it absolutely clear that I am not going to ask you to weigh into the debate of where the responsibility lies - if it lies anywhere but I wasn't to ask you what can the TRG do - or what does the TRG do to ensure that there aren't communication breakdowns when the TRG arrives and starts engaging with the forward commander?---So, when the team leader leaves Darwin they will go to the OIC. The OIC will be very clear in what his expectation of that unit - or that team - will be. The team will land on the ground, go straight to the station, speak to the OIC and if there's any difference between what the OIC TRG said to what the forward commander said, the team leader will ring the OIC TRG and say, "Boss, just let you know I've spoken to the forward commander, things have changed a little bit or they're saying this - are you aware of it?" And sometimes "Yes, sorry, yes there's been a change while you've been in route" - because it could take hours to get there - or "No, that's not part of that." Okay and will say, "Where did that come from?" "No worries, I will speak to their boss - superintendent - or I will advise my chain of command to report up. At this point in time, depending on the urgency, we will say" - he might go, "Look, I'm happy with that, that makes sense to me, alter your plan and go with it" or "Hold, don't do anything. Let me make some calls - I will get back to you."

And if, for example, there was evidence that the remote sergeant had devised a plan and that plan had been approved by their superintendent, if there was to be a significant change to the plan - non-urgent change, would you expect that there would be some communication up the chain of command?---My chain - the TRG chain of command?

No, no, no, the remote sergeant's chain of command. If their superintendent approved a mission?---Yep.

And the remote sergeant was thinking, "Oh maybe we need to change the mission" would you expect them to notify their superintendent of the change?---I think it would depend if there was a drastic change. The superintendent may give the forward commander some leeway about some bits and pieces but I would expect that yes, if they said they were going to do something at some time at some place and that changed, I would expect the forward commander to probably brief up and just say, "Just let me know" for example, "the TRG unit arrived, they've given me some advice and I've taken that on board and I think it's a better plan. I just want to run it past you or we could let you know I am changing that plan now, we are doing this and I am comfortable with it". Or they maybe ring up and said, "I'm seeking your advice sir" or "ma'am, can you give me some clarity on whether you prefer to do this or that." So yes.

If, for example, the plan was - and I don't want to beat around the bush - to affect an arrest at 5 am in the morning and if the TRG and the remote sergeant have a chat and they say, "Actually, this might not work" for various reasons, "Let's do it at 7 pm the night before" would that be a significant enough change - a change from 5 am to 7pm the night before to warrant ringing the superior officer?---Well, from my perspective as a TRG team, yes, I'd expect them to notify me about the change - they're doing something different because that means they might be able to get out of there early. In relation to the remote sergeant doing it, I guess they would have to make an appreciation as to whether the trust or the communication they had with their boss as to whether they've done this before and that boss has been happy for them to do something different or whether they would say, "No, I'll brief up on this because I've been given explicit instructions to do it this way and now I'm changing it, I'm going to brief up." And we always encourage people to brief up for an awareness, so if you're going to change something it doesn't hurt, and - because there's nothing worse than if you're in a position of management and you get a phone call from your boss and it says, "Why did they do that?" And you go, "No, we didn't, they're doing this - you didn't know about it?" So I would probably say if there's a distinct change of something you would probably err on the side of caution and just give them - and it may not be a case of seeking permissions, it may just be the case of just giving them the heads-up, "Hey, we're doing something differently, we're going to go with this way, I'm comfortable with it, but just a heads-up so you know."

And maybe you're not seeking permission, but when you have that conversation, that gives you, the superior officer, an opportunity to say, "Actually there was a part of my risk assessment I didn't tell you about. There's some information you need to know before you make this decision". Is that something you might say in a conversation? ---Definitely. If something else has come to light - an example I gave you that someone has come with a different idea or you've received information from the community, for example, that "The person you were going to get tomorrow is now - it needs to be today because he is about to leave or he's doing offences now, do you

want to change the plan" then I would transfer the risk up higher and say, "What say you, sir/ma'am, do you want us to go now? And these are the reasons why."

If you were about to leave a police station - a remote police station - or the TRG was, to arrest a local Indigenous person, would you ordinarily try to take a local police member with you?---Yes, ideally, yes.

Why?---We don't know the person we're going after. A lot of times you're not going to recognise them till you get them and also the local knowledge of which traits are where, what house you're going to, so. There's been instances where members of the unit have worked in that station and know people, so in that case they'd maybe go out by themselves where they've got that relationship with people to go and say, "Hey, we're looking for so-and-so" or "We're doing this". But ideally for me every time I've gone on operation I insisted we take a local member with us so I can ask them questions - especially if the community is a little bit ancy, at times, because there might be sorry business, football or other things going on - other people bringing alcohol in, I'll say, "Is this sort of behaviour usual or what are they like? How are they receiving us?" Or "who lives in this house - and who's this person and where do they fit into the scheme of things. So I'll ask them. It's all part of intelligence gathering.

Is that something that you would try to gather intelligence about at the station before you leave, whether anything is going on in the community in general?---Definitely, yes. Yes, before we leave, definitely.

Is it your experience as a member of the TRG that things like funerals, footy matches, sorry business, can really significantly change the dynamic in a community?---Well, it can because you can have an excess amount of people in town for starters. So you've got far more people in town and also it's the mood of community what they're doing, so yes, it's important to understand what's happening in that area and how you respond accordingly.

You used the word "intelligence gathering" a moment ago. If you were, you know, going at some point to arrest an offender and you wanted to do a little bit of intelligence gathering, what would that involve?---Well, for starter we'd look at Google Earth obviously and a map of the station. Every police station normally has a map of the community where the houses area. So we look at the roads. The roads to the houses or where the road to the clinic, the road to the police station, the road to the airstrip, just to get some situational awareness of where everything is. Then if they could nominate houses where these people were going to be then we would look out - or how can we drive in, how could we drive out. The last thing you want to do is drive into a cul-de-sac or to an area then a confrontation occurs and we haven't got an egress route to get out of the area, so we're looking at all of that. Then of course we're looking at the house themselves, where's the front door - where's the back door - are there dogs there - how many people in the house. The list can go on, depending on the circumstances.

Would there be occasion where you might to a drive around the community, and do some intelligence gathering?---Yeah, that's an interesting question. Ideally, as like to, but what we found when us – are we talking about a TRG perspective?

Yes?---So in a TRG perspective, once they know we're in town, there's a high likelihood they'll probably leave. So we have to weigh up the fact of going out for a driving around, and getting that situational awareness to let them – if they know we're here, they jump in cars and go. We don't get an opportunity to apprehend that offender. So it's a fine balance. There may be a case, we may go out at night time, and we won't engage with people, or we might just say, look, we just won't do anything. We'll rely on what our plan is later on, and we'll do that.

So once you disclose the additional police presence, the game might be up?---Yes.

Would - - - ?---Also in saying that, sometimes they know we're in town, and they produce them to the front counter of the police station as well. So it's a double edged sword, depending on the intelligence we have at the time.

Would driving up to someone's house, jumping over the fence with four members of the TRG, and standing outside the front door, and telling family members we're here to grab up the offender, would that be intelligence gathering? Or is that just a search?---Are they asking for the person they're after, that you're saying that - - -

Yes, that's right. If they turn up at the front door and say, we're here to arrest this person. Is that what you were talking about when you described intelligence gathering?---Look not ideally, no, but I guess the case would be, if you've been to three or four houses where you thought that person was, and they're not there, then you're going to each house asking, well then you're seeking intelligence where they are. But a reference to the conversation we've been having for the last 20 minutes. If you first turn up to a place, intelligence gathering isn't actively searching for the person, no.

No. If that's the first thing you do, then effectively, you've notified the community that the TRG wants to arrest the offender?---Well it's actively searching for apprehension isn't it.

Actively searching for apprehension?---If you're actively going to houses knocking on the door looking for them, you're actively searching for the person for apprehension.

Okay.

Your Honour, I'm going to turn to a new topic. Which is the events of the 9th. We started late, but I note the time, and I'm in your Honour's hands.

THE CORONER: Let's go on a bit longer.

Is that okay with you?---Yeah, I'm happy.

MR COLERIDGE: I'm going to come to 9 November in just a moment, if I might, Sergeant. But just quickly, you're aware that there was an attempted arrest on 6 November?---Yes.

At any point do you - - - ?---Sorry, when I say attempted arrest, I was aware there was an incident where two members were threatened with an axe.

A relatively serious incident?---Yes.

THE CORONER: We call it "The axe incident"?---The axe incident, okay, yep.

MR COLERIDGE: At any point between the sixth and 9 November, to your knowledge, was the TRG contacted, or informed of – of the axe incident?---No they weren't.

Had a request come through to the TRG, do you have a sense of whether you would have authorised the TRG to deploy?---Well I wouldn't have authorised them.

That wouldn't have been your responsibility?---No, the authorisation comes from our superintendent.

I see. I guess what I'm asking is, is that the type of job that the TRG might have assisted in?---Yes.

And whether or not the TRG did assist, would depend on the risk assessment that you undertook at the time?---Yeah, so even if it came back as a general support task, the – the – it would have been the superintendent saying you've been requested to go, what's your capacity. And if we had capacity to attend, then we would have gone.

You said a moment ago that one of the biggest problems in the Northern Territory is the tyranny of distance?---Yes.

I take it at that time that the TRG was physically based in Darwin, is that right?---Yeah, we're all based in Darwin. We're only based in Darwin.

What sort of thinking would you need to do before – or the superintendent need to do, before deciding to deploy the TRG to a remote area of Central Australia?---So one of the first things a superintendent thinks about is the capacity to respond to other high-risk incidents. Then it's back to the OIC to provide that advice, saying, look we've got people interstate on a course. We've got a training course we're running, which has significant impact on us. Or it might be a case we've got other operations happening. And he might go, well that's not as important, stop that, do this, under consultation with the OIC. But in nine times out of 10, it all came – I would say, comes down to manning. If we have enough in town to implement a high-risk capacity, then we will always try to send people to go and help where we can.

The IRT has since been disbanded. But can you remember if back in 2019, there was consideration of whether the TRG should go, or whether it was a job that you could just send the IRT to. Did the availability of the IRT factor into your decision about whether to send the TRG?---For this incident, or any incident?

Just generally?---Yeah, if we had a – we've used IRT to assist with close personal protection jobs, because they are trained – some of them are trained in that. So we had an – at search and rescue incidents, we've asked them to come and help along, but noting in fact they were a part-time unit, and they had other roles and responsibilities within Alice Springs. So if Alice Springs had operations on, and they needed those members, then we would see if we – they could assist, if they're on days off. There's a whole range of complications. But yeah so we thought they could bolster our unit and be of assistance, we would ask. And we've had operations down here for violent offenders. And we have had them come along and assist us for an operation.

Do you have a sense of whether if you had received a call on the sixth, or between the sixth and the ninth, asking for TRG support, do you have a sense of whether you might have said, actually just leave it to the IRT. Or is that impossible to answer in hindsight?---I can't recall the staffing. I think we would have gone. I think – only because I know the seriousness of the offence. But if they – I guess they – they wouldn't call us unless they want us to go. I guess that would be my answer. If they rang us and say, no that's an IRT problem, we wouldn't – we wouldn't normally do that. We would say, look we'll send a couple of guys down if you can give us some IRT members to bolster that team, that'd be ideal. But it wasn't often, that I – I can't recall any incident actually, other than a search and rescue incident, where we said, no that's an IRT deal job, you deal with it.

So your sense is, if you had been asked, you probably would have sent at least a couple of members?---I'm pretty confident, if we'd been asked that job, we would have sent a team, yes.

THE CORONER: And that's from looking at the video of the axe incident?---It – it's hard to say, your Honour. I've had incidents where they've come and just rang up and said we've gone through an incident, we've had some spears chucked at the members. We've had a police vehicle damaged. Can you come – we want you to go out, and we'll just go. And we've gone, in Port Keats, or all throughout Arnhem Land, we've just gone. Having seen the (inaudible) report of two members threatened with an axe, and they asked us to go, then it would be a definite yes, we'll come. Duly, purely for the fact of the propensity for violence against the police in that instance, and – and our capacity to use less lethal means, which the front line doesn't have, would have been an added advantage.

I want to ask you some questions now about 9 November. You were the on-call tactical commander for the TRG?---That's correct.

What is the on-call tactical commander?---So the tactical commander is in charge of all tactics at high-risk incidents. They answer directly to the forward commander. They're in charge of all TRG members and operations as tasked in its capability.

THE CORONER: Before we go to the ninth, sorry, I'm interrupting?---Yep.

You mentioned "less lethal means", what – what do – what do you mean by that?---So we have a range of less lethal impact ammunitions, and chemical ammunitions that we can use on people or crowds, to – to control them, so to speak. So we have the bean bag shot gun. We have the PepperBall 40 mil ammunitions. And they have a range of impact ammunitions which strike people in a less lethal capacity. And then we have a combination of impact with chemical agents, such as OC or capsicum spray, or CS BNT(?) gas that we can use. And that - - -

MR COLERIDGE: What is CS BNT tear gas?---Don't ask me to pronounce it, that of about 41 letters.

You mentioned the PepperBall?---Yes.

What is the PepperBall?---So the PepperBall is an air operated system that has projectiles that can – being hit with it, it causes pain, or you can have (inaudible) rounds which is a chemically induced OC capsicum spray, so when they get hit, they get effect of an agent, which affects their visibility and their capability to be aggressive.

Now, I think you said that the tactical commander reported directly to the forward commander?---Yes.

When you received – sorry. You received a telephone call at 7.45 pm, from Acting commander Shaun Gill?---That's correct.

And did he – I might just ask you this. What did he tell you?---He said there'd been a shooting in – police shooting in Yuendumu. He says start putting your mind together about deploying. And I said "Are we going now?" He says "Not yet, but highly likely." So it was basically just a heads up that this has just come in, so he's obviously just found out, think about it, and start getting in your head, how you're going to respond to this.

I think you then had a later telephone call, is that right?---Yeah, he called – I can't recall how much later. He says "You're going, get going", pretty much.

And I think it's in that telephone call that he might have told you who the forward commander was?---No, I think I asked, and I think he – he said "Sergeant Frost is on the ground." And I think they were talking about sending resources from Alice Springs, so it wasn't until I got to the Air Wing or to the airport that I think I got told who the forward commander would be, which was Terry Zhang on his way out.

Terry Zhang?---But he wasn't on the ground then.

No. So, is it fair to say, and just reading from your statement, that in that first phone call you were told that Constable Rolfe had left the community, but OIC Yuendumu Sergeant Julie Frost was the police forward commander, and there were extra resources heading in?---Yes.

Okay.

THE CORONER: Can I just ask you the concept of “forward commander”?---Yes.

Is that a concept that’s well understood within the police service?---I think the term and the responsibility is well understood. I think we are lacking a little bit in relation to understanding the role and the confidence undertaking the role. But everybody knows who the forward commander is. We get taught that from college when we go through the academy and our ongoing operations of the forward commander. We see it in all planned operations such as the V8 Supercars, New Year’s Eve operations, football carnival operations. It will be clearly on the observations who the forward commander is, and that person is responsible for everything.

So, it is taught to recruits?---Yes.

MR COLERIDGE: Is the police forward commander occasionally called the incident controller, or is that a different role?---No. So, we used to – what happened was, we used to run off NTEX and we’ve now changed to ICCS Plus, which is a management system. And NTEX with AIMS. And AIMS is a management system for emergency management like cyclones and floods. And that’s used across Australia. And they refer to the person in charge as the incident controller. With ICCS Plus, we’re referring to police-specific operations, in which case, it’s the forward commander. So, there was a bit of confusion for a period of time, incident controllers, forward commanders, operations commanders and – well, ideally, an incident controller, if it was referred to in a police perspective, is still the forward commander, it’s just a different name. The role, the title, the responsibilities are exactly the same.

Okay. And so, at least at the time that it was authored – I’ll leave that, your Honour.

THE CORONER: In this case, and I’m not sure and I might not have read everything properly, but there was, I understand, a forward commander in Yuendumu and there were other people who other the title of incident controller either in Alice Springs or Darwin?---Yeah, I so I would take them as the operations commander. So, the – I guess the easiest way to explain it, your Honour, the forward commander is on scene.

Yes?---The forward commander is right at the coalface of the incident, seeing everything in front of them; making decisions which directly affect the people in front of them. The operations commander sitting back is thinking about that incident and anything that the incident can cause issues, graded wide or extra resources to assist on the ground and the background work. The operations commander is still in charge of the whole incident, but it would be rare that the operations commander

would reach in and tell the forward commander how to do a job, unless it was – had impact graded from the scene.

Yes?---Yes.

But it doesn't matter if other people are calling themselves incident controllers, everyone on the group would understand that the person in charge in Yuendumu is the forward controller?---Forward controller.

And that is the sergeant of the station?---Well, yes.

At that time?---At that time, it would have been Sergeant Frost, yes.

Yes.

MR COLERIDGE: Now, I don't want to take you through, step by step, your very detailed statutory declaration. I'll just ask you a couple of questions about specific parts of it.

MR FRECKELTON AO KC: (Inaudible) if you don't mind. Is that 7-77 that you're referring to?

MR COLERIDGE: It is, yes.

MR FRECKELTON: Thank you.

MR COLERIDGE: Over the next hour or so, you had a number of conversations with Shaun Gill, Acting Senior Sergeant Neil Mellon. Can I just ask you who Neil Mellon was?---So, Neil Mellon was the acting OIC at that time.

Of the TRG?---Of the TRG, yes.

Okay. Now, you became aware that the Air Wing was not available. Can you tell us about issues surrounding the availability of the Air Wing and how that affects TRG deployments?---So, your Honour, the Police Air Wing has an exemption to obviously carry police with firearms and that's for munitions and chemical munitions over CASA exemption. Private Air Wing doesn't, and we've had issues in the past at times when, if the planes are down for servicing or we are out of pilot hours. I think, and don't quote me, but I think that night, the pilot was out of hours and they'd done enough flying, they needed to have a regulated rest before they could fly and the plane wasn't available until 7 o'clock the next morning.

And I think you said one of the consequences, when Air Wing is not available, can be that you can't take chemical munitions with you?---That's correct, yeah.

So, they're things like tear gas and OC spray?---Yes.

And how does that affect, if at all, the operational capability once you hit the

ground?---So, chemical munitions provide us with the ability to control crowds. It's an option that we can use and also includes smoke, where sometimes we may deploy a smoke grenade first to see where the wind goes or to move a crowd back before we actually use an agent on them. But if we're not taking that, it limits our capacity to deploy that, if we have to, for public safety for the community and for us. And I was extremely conscious of that when we went there.

Now, you reached Hardy Aviation at around about 9:30 pm. Does that sound right?---Correct.

And you say in your statement that you were flying down with six members of the TRG?---The on-call team, yes.

And that Sergeant Smith-Lester(?) was nominated as the team leader?---He was the on-call team leader, yes.

Okay. So, even though you, the tactical commander, were deploying with the TRG, the command structure had a team leader. Is that right?---That's right.

Okay. And in your statement, you say that at around about 11 pm, you took off?---Yeah, this was 11 minutes - - -

10:58 pm, okay. Before you took off - - -

Your Honour, this material is not on the brief. During proofing, the witness identified a number of further videos that I've not viewed and I don't propose to play them now, because I haven't seen them, but I will identify them.

Did you turn your body-worn footage on at the Hardy Aviation hangar?---Yes, I did.

And why did you do that?---I wanted to record all the information I had at that time. I wanted to record my appreciation process of all the concerns I had and what my future planning was, so I could, one, just walk through all my options, the course of actions open to what may happen at the community, and the course of actions open to police and to TRG.

And some of those courses of action would be things like contingencies; if then, then we'll do this?---Yes, definitely.

And they might include things that you sincerely hope won't happen, but need to think about, just in case they do happen?---Yes. So, part of the appreciation process, I'm thinking to the worst-case scenario that more lethal force is being used or police officers have been seriously injured and killed, right through to the point we turn up there and it's a matter of just engaging with them and nothing happening. So, I'm thinking of every single thing that could occur. So, I'm prepping myself that, if something was to occur, then I've sort of like got an understanding of how I could implement something to prevent getting there, and to identify the triggers happening

that we've moving down to a stage where this could be really bad. What can I do beforehand. And it allows me to identify things when you're overwhelmed with so much sensory overload of things happening, I can just refer, oh I've already thought about that, I want to do this.

THE CORONER: And are you going through that process just for your own clarity of thought, or are you communicating that to other people when you're recording that?---I do it just to myself.

Just yourself?---I'm doing it for this very reason why I'm sitting here today.

So that you've got an - - -?---So, I've given evidence in Coronial matters before and I was in a position where I wasn't able to take detailed notes because of the urgency of deployment, and one of the points when I was being spoken to by the Coroner and the internal investigation was, I provided good intel – sorry, good information for my decision-making, but it was post-event, and they were saying, it's not worth anything. You need to provide information on what you're thinking at the time, the information you have at the time; and at that time, the commander and superintendent suggested some options and one of them was just recording it in your phone, which

I did. And then once we started using body-worn, I started using body-worn a lot to say, "This is what I know. This is what I think. This is what are the problems I have. These are the options open to me. This is what I want to fix, or this is what I need to know when I get on the ground." So, it's just putting it all out there to show that I'm thinking about all those options and if I never deployed one, there could be a reason, but why did you think of it? Well, I did and it will show me why and beforehand.

Is that something that you train when you're training leaders, team leaders, about making critical decision?---Definitely. It's something I strongly encourage to anyone I speak to in an elicited role, even the frontline from Casuarina to the TRG to the Firies when I was doing a lesson with them last week.

And I think you've talked a little bit about it allowing you to capture your thought-process. But does it also allow you to capture emotion or things of that nature?---It does, especially if you're in a position where – at the scene, you're doing that and you're under an immense amount of pressure, especially if you haven't been trained in it, you can see how rattled or how affected you are by that, and then you go back and say, "Well, you didn't make - take effective leadership - you didn't make critical decisions - why not?" And you look at this person - this person is shaking - they can't put two words together - they're trying to talk to people and you just think, "Look at how stressed that person is, that's no wonder they couldn't do those - make those decisions or that." It also - the reason I like it also it allows you to switch on, it says, "Right, you're in the game now, this is what is happening. You've got a really serious incident in front of you - switch on - put all those issues you've had at home - previous work or other things away - focus on this" and by voicing all those concerns you sort of like switch on and get into that mode of - for me, the tactical commander, or as a team leader.

THE CORONER: A lot of self reflection and reflection - shared reflection in amongst the team at the TRG by the sound of things?---There is, and I've shown some videos to team leaders of jobs I've done and then we'll go through an incident and the good and bad and we'll - and the other thing I like about it, your Honour, is that I've been in incidents where I've been told, "Why didn't you act on that?" I've said, "Well, I didn't know about it." And they've said, "Yes you did, we told you." I said, "Well, my body-worn has gone through all the information I had at the hand and what I make my decisions on. If I had known that I would've mentioned it. Now, it could've been the case that you told me and I was just so overwhelmed that I didn't pick up on it. It could've been a case you told someone else and you told me and I didn't hear it, or you didn't tell me." So it counts for your decision-making at that time with the information you have at present. So that's a really big advantage why I use it.

THE CORONER: What role are you in now?---I'm with the Casuarina as a supervisor, yes. I do - I've been acting as watch commander at the communications centre lately.

MR COLERIDGE: As you're applying, I take it there's be a lot of perception for a little while?---For most the trip, yes.

I want to ask you about your perception of risk in Yuendumu. Can you tell her Honour something about what you perceived the risks to be?---For this incident? It was pretty high, I must admit, there was the - I was - I wasn't stressed but I was extremely concerned. I've been down to Yuendumu - I think it's 2010 for the riots down there. I was obviously working in Alice Springs and been out to Yuendumu for other civil disturbances when I was in general duties in Alice Springs. With a police shooting and one of the community being killed, it could go either way. It could've gone to the point where - as it happened, we had good, effective communication with the community and we've moved on to where we are now, or it could be the case where they turn up to the police station or would - we could've had a confrontation which would lead to an extremely violent matter. I was concerned as to whether we could even get on the airstrip. I've been to operations where we've had people at an airstrip with a firearm waiting for us. We've been - or they've put obstacles on the airstrips when the police plane would land and probably crash. So I wasn't even confident we would even get to Yuendumu that night. And then once I got there and I had no visibility of what had happened from the time I left to the time I was over, that what could've happened. I could've been flying into a riot, I could've been flying into nothing, we could be flying into another shooting. It was just in limbo and I just - well, I'll deal with what I have at the time, but there was a real potential that it was going to get confrontational. I was extremely concerned about that.

You've told her Honour a little bit about prior experiences in Yuendumu in 2010. You've written about them in your statutory declaration. I won't ask you any more questions about that?---Yep.

But had you been told anything by anyone during your various conversations about what the level of risk might be?---Sorry, I'm not understanding the question. Before I left from people or - - -

Yes, before you got on the plane had anyone told you, "Look, we're worried that people will break into the police station and we're worried that there's a crowd" or? ---I had a conversation with Superintendent Gill before we got on and he said, "There is some talk about them evacuating Yuendumu and just leaving". And I said, "I don't think that's a good idea". He agreed with me, but that was still a bit of conversation that was still being had. But other than the risk, I guess I've worked with Superintendent Gill for a lot of time. I've known him as when he came to the unit as a sergeant and I worked under him as an OIC, he's a mentor, he's a good friend and we have a high level of trust between each other and I wouldn't expect him to tell me, "This is really risky - this is really bad." We've worked - he would know - I would know - and when we were talking about options and how we were doing things it never really come up because we both understood the seriousness of the situation straight away.

THE CORONER: Did you speak to Sergeant Frost at all before you left?---No. No, I didn't.

Is there any reason why you didn't?---I guess - look, I guess I - from speaking to Superintendent Gill and Acting Senior Sergeant Neil Mellon at that stage, I got everything I needed and I knew there was going to be changes from the time I left to I got down there. So even if I spoke to her what she told me now isn't going to be relevant in two and-a-half hours when I land. I was confident with the information I received from Superintendent Gill that I had what I needed and if I rang her I would also be conscious that she is busy. There is a lot to do and she would be trying to manage that. The last thing she needs is me ringing, "Hey, what's going on, what's happening there?" "So there's a lot - get off the phone - I'm busy". So I wasn't going to take that away from her when I didn't think anything she could give me would be relevant. I had an understanding who was there, I had an understanding of the community, I had an understanding of the seriousness of the situation and I had an understanding what my role was. And I anticipated to potentially communication with Superintendent Nobbs before we landed to get a bit of an update before we landed, which I did because we - I wanted confirmation the airstrip was clear before we landed. I knew I'd get a bit of a heads-up but - no, sorry, your Honour, I didn't think of it.

MR COLERIDGE: On the plane, you've written about your thought processes on the plane and you say that you thought that this was going to be more challenging than most responses to, for example, a riot or a family fight, for example and you say this:

"By police shooting someone in the community all the focus was on police as opposed to a family et cetera and police being the mediator. I was extremely conscious of this fact and how we (police and TRG) reacted would set the foundation of police in this district for many years to come."

What did you mean by that?---Well, 90 percent - well, all the operations I've been to have been because there was unrest in the community due to family matters. So the

focus wasn't on police for the cause of it, the focus was on police was trying to resolve it peacefully otherwise. In this instance we caused the unrest so all the focus of all the families are now onto police. So because they're onto us, then it's how we behave and how we move forward will dictate how things would happen afterwards. So if we had, for example, gone down there, been involved in a violent confrontation and more people of the community had been injured, then how are we supposed to build a rapport with the community and move ahead with that when they say, "You've hurt us again" or "hurt us more". And we were always going to move on from this. The thing was that there are still cops who have to live in that community - be part of that community and we didn't want to be a point where it made it harder for them, I guess. Are you happy with that, your Honour? I can - I can expand that a little bit more but I think I've given what I can.

MR COLERIDGE: I note the time, your Honour.

THE CORONER: Yes, we will take the morning tea adjournment now, thanks.

ADJOURNED

RESUMED

MEACHAM KING:

MR COLERIDGE: Sergeant, I was asking you just before the break, some questions about your thoughts processes as you were on the plane, flying to Yuendumu.

Your Honour, just before I continue examining, I just wanted to confirm, really for the benefit of the parties, that I don't propose to play any of the two videos that we were given this morning. I think it's appropriate that police legal have a look at them. I don't think there'll be an issue, but there's a process, and – and we'll respect it.

THE CORONER: Sure.

MR COLERIDGE: Now at some point during your flight, am I correct that you started drafting a – a concept, for Acting commander Gill?---That's correct.

What is a concept?---So concept is basically, you don't have confirmed information on what you're trying to achieve, you have limited information. You're just trying to – in that – in that case there, I was trying to provide Acting commander Gill and understanding of where I was coming from, and what my intentions were. So he would know what I was trying to do. And then if he had any issues with that, he could feed back and say, no, yes, or otherwise.

I might just throw the concept up on the screen for a moment. Bec, if we could have document 7-77. It's appendix A. It's appendix A, I'm sorry I don't know exactly what page. It's after the body of the statement, you might need to scroll through it Bec?---I've got it, I've got it, yeah.

Fantastic, it's page 16, I think. You're welcome to follow along on paper, but I'll just throw it up on screen so the parties can see?---Yep.

Perhaps while that's occurring, I'll just ask you some questions about the document. You've got a copy in front of you. Now, the document is an email that you sent to Shaun Gill at 1.12 am?---That's correct.

And I'm correct, aren't I, that that was when you first received, or got reception, as you were circling over Katherine, is that right?---Yeah, so when – when we took off, I started drafting that on my phone. And then I just had to wait to an opportunity where I got reception. I think it was over at Katherine, or I think it may even be – what was the time, 1.12, probably say closer to Tennant Creek, when I got reception, and I sent that through.

Bec, could we scroll down slightly.

Sergeant, you can see that on the document you state your location, Yuendumu, you state the situation. You state your mission?---Yep.

Which you describe as “Preventing serious harm to any person.” And then the next heading is “Execution”?---Yes.

And you say, “On arrival, liaise with PFC”, police force commander, “And establish the following.” So is it fair to say that even before you landed on the ground, you were identifying information that you would need, once you hit the ground, to make a risk assessment and go forward?---Yes, and it’s also to provide to Acting commander Gill that I’m thinking of those things, to give him some confidence in what my plan was, and what happens. We might get down there and we might lose communications, for whatever reason. And he could brief up that – that he was happy that I had a good understanding of what my role was, and what we were going to do.

Bec, can we have the next page please.

Over on to the next page, you have “Task one.” Which is, “Establish safe zone at police station”?---Yes.

And there are some bullet points, a couple of lines down. And you say, “Develop actions at station for hostile crowd via lethal threat, i.e., firearm, non-lethal threat, i.e., rocks, projectiles, injury/man down.” Now are those things that you knew had happened, or where they contingencies?---They were basic contingencies, that if we got onto the ground and those things happened, I wanted everyone, all police, to understand what we were going to do and how we were going to respond to them.

So I take it that your sincere hope would have been that those things wouldn’t happen?---Of course, yes.

But you had to turn your mind to what you would do if they did happen?---Yes.

All right. Upon arrival, can you tell her Honour, what state you found the Yuendumu Police Station in?---At the police station?

Yes?---Yeah, so once we landed at the police station, I walked in, and I saw Kumanjayi was still in the watch house, or laying where he was laying. And I wasn’t aware – or as far as I was aware, he was actually gone. The members looked pretty – I wouldn’t say shattered, but they were definitely uneasy. In an uneasy state. And they were definitely relieved, that once we walked in, they could – they could see some relief. And then of course when I spoke to, or saw Sergeant Frost, she was – you could see that she was heavily affected by the situation.

In what way was she affected?---You try to talk to her, you could just see that she was upset, just that – you know when you look at someone, you can just tell straight away, they’re not coping. And I think that she was also a bit relieved once we started speaking to her. When I started talking to her, I couldn’t get good, clear, communication from her. I said “Where are we up to, what are we doing?” And she was a bit all over the place. And that’s where I grabbed her and Zang and went off

to a room, and I sat down and said, "Right, let's start from beginning, what's going on."

And did you have a sense of why she was in the state she was in?---I had been told that they'd been fatigued, due to the work load. So I was aware of that before we left. So I was taking into account fatigue, plus it was 1.30 in the morning I think we arrived. So it's already early, and the fact of what's happened. Anyone in that position would be under incredible amount of stress.

Tell me about your perceptions of Sergeant Zang?---I'd never met Terry before, until that time. And I sat down with him, and I was clear to him what his role and what I was there to – be there to support him. And he said yep, he was looking for some guidance. I asked have you ever been to any incidents like this before, have you undertaken the forward commander role before, have you been to anything that's as – not – obviously not as serious as this, because we hadn't had a police shooting in 17 years involving a death. Then when we started having the teleconference with Darwin, I encouraged him to take notes, heavily, because he was – he was a little bit unsure how to do it. And I said to him – I can't recall if I said to him before the conversation or not, I said, "This is the biggest thing this organisation has seen in 17 years. You need to be conscious of the fact that everything we do right now is going to be looked upon from everyone, right from this point, to managers, right through the Coroner's, and the families. We have to show effective leadership. We have to show effective control. And if any stage you don't think – you don't know where you're going or doing, ask me. If you think you're not happy with me, tell me." So I was just trying to let him know the serious of it all, what we had to do, and we had a lot of work to do to get on top of it.

You've given evidence that you asked him some questions about his level of experience?---Yeah.

What were his answers?---I think he said no, I've never done this. He was – I think he was the shift supervisor in Alice Springs at the time. I can't recall. But there was nothing that gave me – oh good, I've got a guy who's been exposed to some of this. Straight away I knew that he was probably unprepared, just pure lack of experience.

I think you're very – quite commendably say in your statement, that these observations were in no way a criticism of him. He had the experience. He had - - - ?---Mm mm.

- - - but was your expectation, as you were approaching Yuendumu, that you might have a more experienced police forward commander, given the seriousness of the incident?---Yes.

Who did you think that might be?---I asked where the senior sergeant in charge of that region was, and he was doing other tasks. I asked where the superintendent of the region was, and obviously that was Superintendent Nobbs coordinating resources back, and to be honest, I was – I was a little bit – well I don't want to say disappointed, but a little bit surprised, with the seriousness of what we had, why we

hadn't sent someone out more senior to control that. And I'm not aware of the impost of organisation requirements back in Alice Springs. So I – because I can't comment on that. But I did expect someone of a higher rank. Especially when I spoke to Terry, and he said "I have to go tomorrow," because I think he was going on leave. So I said, "Okay, that's fine, I'm happy with that." But that means I had to get another forward commander coming, which I would have to brief, train up, and then build on with. And who was to say where we would be in two hours to 24 hours.

You also gave evidence that you saw the body of Kumanjayi Walker?---Yes.

Was that a surprise to you?---Yes it was.

Why?---I didn't think he was there. My understanding was he had been, I think – I think in my notes, I was informed he was being taken to the clinic. So I wasn't aware that the health staff had evacuated. And I would assume that he would have been taken back on the plane, or would have been removed.

Did it change your perception of what needed to happen next, knowing that Kumanjayi was still there?---It changed the priorities I guess. As soon as I saw that the body was there, my next question was, do the family know that he's here, and do they know he's deceased. And they said no and no. I said right, that changes things. And said – and then I started questioning, all right, what's our strategy to inform them, when we are doing an arrest we obviously went down that path, but my fear was, if they knew he was there, and they knew he would be deceased, they would want to come and see him. And I knew we do not want to do that. So it was –and so I changed my priorities on what we're doing and how we're going to respond.

Why didn't you want the family to see Kumanjayi's body. If they were going to go and see him in the station, they're going to get extremely emotional. And I've been to numerous incidents where we've had to pass death messages for Aboriginal people who have died through riots, search and rescue incidents. When they get emotional, then they can get – aggression comes in and if we were in the police station and that emotion was overcome through to potential aggression, then it would be deflected straight onto us in a controlled environment where we couldn't handle it. I just didn't want them to be in the station to start with to see that. I didn't want them coming to the station demanding to see him, for cultural reasons obviously for the smoking and what no, which I knew we would do later on. So, it was a difficult decision, because I had to provide some advice to them in relation to cultural awareness and cultural significance to the fact that we had a body of a deceased person who had been involved in a police shooting. Forensics are extremely important to do, that sort of thing as well. And I didn't want to compromise anything from a potential investigation that may become.

During the briefing with Sergeant Zhang and Sergeant Frost, you note that you were involved that Kumanjayi's grandfather was Eddy Robertson?---That's correct.

And that he had links to Canberra and that they were worried about potential interference. Can you explain, as best you can recall, what they told you?---I think

they said he was a primary (inaudible) representative for Yuendumu. And I said, "Okay". Then I asked about his standing in the community and was he the right person to speak to, and everyone told me, he was out point of contact. It wasn't a concern, it was definitely a consideration. We have had police interference from Canberra before for incidents in communities in Darwin, especially at Port Keats in an incident I was involved in in 2012. And I was just conscious of the fact that we were still trying to work out how we were going to respond and Eddy may ring Canberra and say he wasn't happy with police, or happy with anything else, which then would provide potentially some communication to our leadership, then back to me, which could be another – not so much a hindrance, but another consideration I would have to take on when I've already got so much work to do to start with. I didn't see it as an immediate issue, but I could definitely see it as a potential issue in the days to come. And it was just something we were just – it's just more of an awareness.

Did you also have a conversation with Sergeant Zhang about the chain of command and what you would do if you weren't getting clear directions from your superiors back in Alice Springs or Darwin?---Yes.

And what did you say?---So, when I arrived, Sergeant Zhang told me that Superintendent Nobbs wanted to talk to us and I said, "He can wait. I need to find out what's going on." I had an impression of what was happening. I've just walked in and seen Kumanjayi in the station. So, everything before what I had had changed and I needed to understand where we were at and what we were doing. And he says he really wants to talk to us. I said, "It doesn't matter." I said to Terry, "You're in charge. We are running this. It's all for us. No one else is coming. We have no resources coming until tomorrow. We need to get on top of this as quickly as we can to instil leadership in our troupes, leadership in the community and how we were going to respond." And I said, "We can talk to him in a minute." And then, of course, he rang again and that's when I knocked on the door and said, "You want to talk?" I said, "Cool." And there were – I could see that Terry was getting a little bit frustrated from both ends. So, I was like, "Let's talk to him and let's see what they want to do." And I know they were desperate to get some information and we were the ground and what my intentions were, and I acknowledged that. And I said to Terry, "Let's talk to them and if it gets too much, we'll just say to them, stop and we'll take control."

I'm going to ask you some questions now about that telephone call. In your statement, you say it occurred at 2:06 am in the morning?---If my statement says it, yes.

Yes, 12th. And I think you say that Sergeant Zhang answered the phone from Superintendent Nobbs?---Yes.

And that on the telephone conference with you, in addition to Sergeant Zhang and yourself, were Acting Assistant Commissioner Wurst?---Yes.

Acting Deputy Commissioner White?---Yes.

And Superintendent Warren Jackson?---Yes, yeah.

Was Julie Frost also a part of this telephone call?---Yes.

Okay?---Well, she was in the room with me.

Okay. Now, one of the videos that you identified for me this morning, body-worn videos, is in fact a body-worn recording of this conversation. Is that correct?---That's correct.

I don't want to play it for you now, but can you tell her Honour why you turned your body-worn video on?---I think it was important to recount all the instructions and communication between us and Darwin, and with Superintendent Nobbs in Alice Springs at that time. It was – again, it was like an appreciation process that I did back in Darwin before I left. We got there. They were telling us what they knew. We were telling us (sic) what we knew and the step forward. So, it was just a basic – to record the decision-making at that time which would affect how we would respond.

You set out in the relevant passage of your statutory declaration a couple of bullet points of what was discussed. That's at par 12. I want to ask you about two of them. The first is, there was a plan to respond to a confrontation at the station. Can you recall whether you were discussing a contingency, what you would do if there was a confrontation, or whether you were discussing something that was already happening?---I think we were talking about if the confrontation - if the people came to the station, how we could respond.

Can you recall whether there was already a crowd at that point?---There was no one when we arrived.

No? All right. Why were you discussing that contingency if there was no one at the station at that point?---Well, they'd been at the station that evening and I'd asked - - -

I see?--- - - - Julie how that went and how it worked and she said that ACPO Williams did an outstanding job in communicating with the community, and I asked where he fit into it all. And I said, "If they come back again, how are we going to engage with that?", and she wasn't as confident. And then, I said, "Well, if they find out Kumanjayi is deceased and he is in the station, then that could escalate heavily."

And what was your plan?---The plan was obviously communication to start with, to try and engage them and find out what they wanted to know. We discussed on the phone with the Assistant Commissioner Wurst about whether we would tell them, and the thing was, "No, we won't tell them that he's deceased. We'll go along with the line that he was potentially in Alice Springs". Because I can't recall, I'll have to listen to the body-worn. But there were pros and cons of both, but the thing was we were just engaging with them first. And then if we couldn't engage with them, we would say, "Stay out the front. We'll be out and tell you what to do", which goes – we

go back, ring up high to Darwin, say, "Look, they're here. They're demanding answers. What's our course of action now?" If it turned violent, then we would come up with some strategies on how we could potentially push them back away from the station to try and prevent that violence where the harm to police officers could occur.

The other bullet point was when to tell the community. I think you've already covered that off?---Yep.

But is it fair to say that the decision was made by Acting Assistant Commissioner Wurst not to tell the family at 2:06 in the morning?---I would have to look at the body-worn. I think it was almost a unanimous decision. I was against anyone being told that Kumanjaya had died before the body was removed and I may have had an influence on Terry's decision-making in that, potentially. But I know that Superintendent Nobbs and Assistant Commissioner Wurst discussed it and we just had it as a collective group. And I think we were all pretty much in a unanimous decision at that time that it was the best course of action at that time.

Can I just ask that that statement be put back up on the screen?

In your statement, Sergeant, at par 20, you discuss beginning to plan for Eddy Robertson to view Kumanjaya's body and you began cleaning the sallyport for that purpose?---Yes.

Could we please have Annexure B, which I think you'll find at page 18? It would be over the next page. All right, one more. Here we go. Now, can we go down a little bit.

All right. You would agree that this is an email from yourself to commander Nobbs, copying Warren Jackson(?) at 3:52 am?---Yes.

And you advise them that the body is ready to go and then provide a concept?---Correct.

Yes. And what you're effectively advising them is that the body is being moved to the sallyport to be placed on a mattress for viewing by Eddy Robertson?---That's correct.

Can I ask you, what had changed in your mind, that made it safe enough to allow Eddy Robertson to see the body, at that point in time?---I think it was probably the discussions with the – with Mr Nobbs and Mr Wurst, and even to Julie, that they felt that he was in a good position to – to see the body. And there was a big push for identification. They wanted to make sure, to ID Kumanjaya was actually the person they went to arrest. Because we always try to seek independent viewing from family for – regardless. So I think that I queried would Eddy be likely to go back and tell everybody, and wake everybody up that now he's deceased, or do you think he'll be on side, and working with police to form a best strategy of how we would inform the community. And they gave me advice to the latter.

I want to ask you now about some conversations that you had the next morning. The first of those conversations I think was at House 577. Do you know the house numbers?---Is that the house where we informed the mother or the family that – where Rakeisha was, that he – he was deceased?

Yes?---Yep.

At that point in time, did you know whether the family members were all aware that Kumanjayi had passed away?---I highly suspected they didn't from – we only told Eddy, and Eddy said he wouldn't tell anyone else, so I – I suspected no.

Did Eddy ask you to inform the rest of the family?---Yeah, so when Eddy came to the police station, and Sergeant Zang and I spoke with him, we talked about the strategy to do it. He wasn't comfortable going forward and passing the message, which is totally understandable. I asked if he could come and at least help assist, if any language barriers were there, and also to give us any indication as to whether the death message would be – that we all – we understood there would be obviously emotion, but whether that emotion could turn to anger, to say look you guys need to go, you've told it, you need to go. So I wanted the heads up. So we asked Eddy just come along for that.

Do you know if – do you know where ACPO Williams was, at around about that time?---No I don't.

Do you know if any consideration was given to taking him to inform the family?--- Yeah, that's a good question actually. So we spoke about that during the night, and there was some concern as to whether ACPO Williams was at risk. So we tried ringing him. He wouldn't answer. I sent a TRG team to knock him on the door, to inform him that Kumanjayi had died, and whether he was safe where he was, and how he felt. He said he was fine, he was happy. The next morning, there was some discussion about taking him with us. I wasn't keen on doing that. I – I'd said that's not his job, it's our job to do that. And additionally, I was thinking, if there was to be some confrontation, negative reaction, or some higher-level emotion in the community, and they needed to re-engage with them to – to do that, he would be my ace up my sleeve to bring him back out. I didn't want the emotion and anger from the family being – receiving the news from us that he had – that Kumanjayi had died, and Derek to be there, and be associated with police. I wanted him off to the side, and he would be a valuable asset to come back and engage with them again.

And that was also, was it not, about ensuring that – protecting his relationship with the community of Yuendumu, in an ongoing way?---Definitely. He's still part of the community. We knew he was related to Kumanjayi, I believe. And the thing was, we just – I just wanted him distanced from that for a little bit if we could. He did an outstanding job the night before. And now it's time for our guys to do our job.

Sergeant, you recorded that conversation on body-worn footage. I'm about to play it to you.

But perhaps for the benefit of the families, and anyone looking on, it is distressing footage. It's approximately eight minutes long I think, your Honour.

And you refer to the deceased, I think by the name Aaron?---Yeah, I stuffed the name up, yes.

But that's just a warning for any family members.

Perhaps before we play this, you were present, obviously, but Sergeant Zang was also present?---Yes, Sergeant Frost, Sergeant Zang, and myself were the three people at that - - -

Thank you.

DVD PLAYED

MR COLERIDGE: I think if we pause it there now. At that point in the conversation am I correct to say that Eddy Robertson suggested that you go to House 511? ---Yes, so I started picking up we -we'd passed the message on, it wasn't going to help being there any longer and they needed to start doing sorry business start to in the family, so I'd started - and we needed to go, and the aim was to go to the mother's house and go and speak to where the mother was, in the house there and it was twofold. One is to inform her as well, but also to seek permission to get to the house where the shooting occurred so we can establish a crime scene.

And you spoke to Kumanjayi's mother?---I think when we - there's body-worn of that, if refresh from memory, we pulled up and Derek was there and we spoke to Derek. I spoke to Kumanjayi's grandfather after a little bit and then I think we spoke to Eddy and they gave us permission to go to the house and secure the crime scene because I thought that was extremely important to try and get an opportunity to try and grab that.

I just want to ask you a couple of questions about what we heard in that conversation.

THE CORONER: Can I ask you just before we go, did anyone else have their body-worn video on for that?---I would suspect there that Julie Frost and Sergeant Zhang would have their body-worn on as well.

MR COLERIDGE: And I think I heard you say that you, in fact, had your body-worn video activated at the second house?---Yes. Yes, there's a short one where Eddy actually took us to 511 and I said, "We don't want to be here, we want to be at the next one" but I had it on when we spoke to family as well.

And that is something that you would still have available and be able to bring it to - - -?---Yes, I've got - - -

(Inaudible). Thank you. I want to ask you two questions about things that were said during that conversation. The first one is at one point you said - you were talking about Constable Rolfe's interactions with Kumanjayi Walker. I think you might have referred to a pair of scissors but certainly you said, "He - he got stabbed" or words to that effect, and "He thought he was going to die." Where had that information come from?---Well, I knew he'd been stabbed, once we got to the station I was informed before we left Darwin and when we go to the station, I think, I asked what the weapon was and someone said, "A pair of scissors".

Did you assume that he must've thought that he was going to die or did someone actually say those words to you?---I can't recall. I know I asked what the injury was and they said that he'd been stabbed in the shoulder and I said - I think I said, "Was it life-threatening?" As - and they said, "No." But I think I probably put a bit of context on that. If I was a police officer being stabbed how I felt that I would've been. So I was just - I guess the aim there was to try and say, "There's a lot more to this", and Aboriginal people you talk to them and they start saying, "No reason - no reason" but trying to explain to them, "There's a lot of other factors here. He didn't just walk into a house and just shoot him in cold blood, so to speak, just listen to us, take on the terrible news that you lost a family member" but we needed a bit of narrative out there about how it happens. I am really conscious of the bush telegraph and how it works and I just didn't want them to think that to go out that it wasn't what it was.

The other comment was one that Lottie Robertson made and I think it was directed to Sergeant Julie Frost and she said something to the effect of, "You said" I'm assuming on the 6th or 7th - "that the IRT would come out and hunt him down like a dog"?---Yes.

Can you remember hearing that?---I'm only just seeing this now, yes.

Can you recall any conversations that you had with Sergeant Frost about that interaction after what we saw on he body-worn footage?---No, that's the first I even heard of it when I was present that morning.

I see.

Your Honour, those are my questions.

THE CORONER: Mr Mullins?

MR MULLINS: Thank you, your Honour, can I just grab my - - -

THE CORONER: Absolutely.

XXN BY MR MULLINS:

MR MULLINS: Sergeant, my name is Mullins. I appear on behalf of the Brown family?---Good afternoon Mr Mullins.

You spoke about the TRG and am I correct in saying that it is a para-military type organisation?---I wouldn't refer to it as a paramilitary organisation though.

That wasn't the term that you used?---Well, I don't recall.

In any case, I think when you were talking about discipline you suggested that discipline was important?---Yes.

And the hierarchy of control was important?---Yes, definitely.

And it was important that people follow their orders?---Yes.

And that leadership is important?---Yes.

Is it the case that the sergeant who was in charge - or the officer-in-charge of the operation is primarily responsible for the management of the behaviour of the members of the IRT?---Sorry, the OIC of Yuendumu or the OIC of Alice Springs?

I'm talking about the TRG?---No.

No? So who is primarily responsible for the people who are operating as part of the TRG?---The IRT fall under Southern Command but ultimately the commander of that region.

And who is their direct report?---Sorry, Mr Mullins?

Who was their direct report?---Who direct report?

Who do they - who do the member of the IRT directly report to?---Well, I think at that stage IRT were reporting to Sergeant Bauwens in an IRT perspective and then they would go through the station sergeant and then to the superintendent of the command.

Sorry? Did I say "IRT"? I meant "TRG"?---Sorry.

Who do the TRG directly report to?---The TRG report to the OIC then goes to the superintendent and then through to the commander and the assistant commissioner.

And is the OIC of the TRG a sergeant?---No, he's a senior sergeant.

Senior Sergeant?---Yes.

So both the IRT and the TRG members report to a sergeant? One is a senior sergeant and one is a sergeant?---No, the - sorry, I'm a bit confused. The TRG have sergeants in the unit as team leaders.

Right?---And then they report to the OIC, being the senior sergeant. It goes from there. The IRT members - it was very tricky because, your Honour, they are normal general duties police officers, they respond back to their sergeant in their patrol group. They might be members who work in prosecutions, they might work in traffic. Then they respond back to their sergeant in that area they work through, through to the OIC of the station. In relation to an IRT capacity, they would then fall under the team leader and then would work under potentially the forward commander. Sergeant Bauwens as the leader of IRT at that stage would work through their training, their equipment all the stuff like that.

All right. The reason I ask is this, this was a death in custody?---This matter - definitely.

Yes. The death of Kumanjayi Walker was a death in custody?---Yes, definitely, yes.

And you're aware of the general order relating to death in custody?---I'm familiar with it.

And are you familiar with the obligation of a member to segregate from all other witnesses including other police, after the incident?---Yes.

And obviously segregation in this situation was quite difficult because the member were, to some extent, confined to the police station?---Yes.

But ultimately, members were obliged to segregate until such time as they had been interviewed, is that right?---Ultimately, yes, if they could.

All right, so once they returned to Alice Springs, for example, there shouldn't have been any meetings until they had all been interviewed?---Yes, ideally, yes. Their chain of evidence should have been collected. But I do - I think - when I got there I was conscious of that, like I still had IRT members on scene who had been involved in this so I spoke to Frost what she had done with that and apparently Constable Rolfe's gun and everything had been secured, which is fine. I think I spoke to them and said, "Look, you're still here, you're working for us but don't talk about the incident any more" and I think we broke them up into different teams with different rosters and I believe they were interviewed that night.

So is it the case that you gave instruction to the IRT members not to communicate? ---Yes. They'd already received that already by Sergeant Frost and I think I just confirmed it.

And as time wore on, who was the person responsible for maintaining that segregation? Was that Sergeant Bauwens?---On the scene or back in Alice Springs?

Back in Alice Springs, it would've fallen to the OIC of the police station, the senior sergeant.

Would that be Sergeant Bauwens?---No.

Now you've mentioned, during the course of your statement and evidence, that you had planned to take equipment to manage the community. There's a document –

And can the witness please see – it's document 7-77, which is the statement, what I have as PDF page 23.

Now this document you can see on the screen, it's headed, "Northern Territory Police Emergency Action Orders, Civil Disorder Incidents"?---That's correct.

Is that a document that is proforma?---Yes.

And what's it designed to do?---That's an order that we have within the Territory Response Group to cover off our response, in relation to a civil disorder incident.

And is that completed proactively, as in before the order is executed?---Ideally, yes. In some circumstances, we may deliver those orders as a concept to the tactical commander, or the OIC, because they're flying into a situation. But where they can. So this – these orders here were delivered after we arrived on scene.

And do they authorise you to use force, in certain circumstances?---Yes they do, but it's more about the planning on how we're going to respond to inform the forward commander, that if we were to have an incident, this is what we planned on doing. And the forward commander ultimately approves that plan.

And do you prepare this progressively?---Yeah, so we may have a – we might fill out parts of it, bits and pieces, and as the incident progresses, and goes on, we may add more to it, add more to it, add more to it, and become a better plan as we go on.

So can we just scroll down. The date of its 9 November 2019. And we can see there there's reference to the forward commander and the tactical commander, which is you?---Yes.

And then on the next page - - -

THE CORONER: What's the "A commander"?---Emergency action, your Honour.

MR MULLINS: We can see the situation, which is a member of the IRT has shot a 19-year-old Aboriginal male, etcetera. And it says "The Yuendumu Community has reacted to the death, and it is anticipated that potential hostilities towards police could occur." So you're identifying that as a possibility?---Correct.

Can we scroll down to the next page please.

And that's a photograph of the Yuendumu Community?---That's correct, yep.

Go down to the next page please.

Now, "It is the mission to prevent serious harm to any person."

And then, if we can scroll down to the bottom half of that page, and the execution, etcetera. And then on to the next page.

These are some of the things that will be utilised, in order to do that, is that right?---They're some of the options we have to use. I'm not saying they would be utilised. I'd say it's some of the options we have.

And is that – do you have some of this equipment with you?---On that night, so I think I'll take you back – on the date it said the ninth, that's not correct. I think this was signed by forward commander, being Sergeant Pace(?). So we would have had something like this in place in an informal capacity. And then this was written later on. But we never had it with us that night. We never received any type of that capacity until very early I think, when the Alice Springs team, or vehicle arrived with some munitions we had in Alice Springs, or when the police plane flew down that mid-morning.

All right. Now I don't want you to – I think another lawyer is going to ask you some questions about that, but if we go to the next page. Can I just – without taking you – I'll take it to you in a moment?---Yep.

But you actually signed this document yourself?---Yes.

At – I'll just get the exact time, 1158 on 11 November?---That's correct.

So moving on to the next page, we can see the local police, and these are the people who have been briefed. And we can see reference there to "ACPO Derek Williams has been spoken to, and has passed on the less lethal capability. Traditional owner and grandfather of deceased, Eddy Robertson spoken to, and less lethal options explained"?---Yes.

Was that the conversation you had with Eddy, that we saw on the screen? Where you explained the less lethal options - - - ?---No.

No?---No. I – when – when Eddy came to the police station, we asked him to view the body. That's when I explained to him that I had been down there before, to try and put some relevance, so I wasn't just some person who came from Darwin, and didn't understand everything. I was trying to say I've been here before. And I spoke to him briefly about some of the options we have. Because even he was concerned that – that hostilities could occur.

Was he concerned about the use of even a less lethal options?---He didn't express that to me that I recall, no.

All right, go to the next page.

And then continue on to the next page after that please.

So we see the team leader. What's "RV" mean?---Rendezvous point.

Right?---Yeah.

And then we go down – scroll down please.

So we can, "Arrest team will be responsible for arresting the person, and subsequently searching and placement in a caged vehicle"?---Yes.

"Munitions will consist of TRG members armed with chemical and impact munition options" etcetera?---Yes.

And then "Over watch will consist of TRG members with primary weapons. The main role of the over watch is to prevent any serious or lethal harm coming to police." And there's reference there to the decision to use lethal force rests with each police officer. "The EA commander should give instructions as to when the over watch team may be needed. Example, if the participants are turning towards police, and spears are being placed in woomera's." Have you seen that before?---Yes.

And – toward police?---Yes.

And where was that?---Port Keats, Wurrumiyanga, but Willowra I've seen it, Groote Eylandt I've seen it.

What year was that?---Port Keats was ongoing from 20012 to 16. Groote Eylandt, I think we went to an incident there in about 2015. Willowra, I can't recall.

Ever seen it at Yuendumu?---Yuendumu, in 2010, they were armed with weapons, but they weren't putting spears in – in woomera's. That case there, all their aggression was turned towards family in the house. So it wasn't against police.

And go down to the next paragraph.

"It must be noted that in nearly all civil disorder incidents, most weapons are those hand held in nature, and spears are often used." So you were concerned about the use of spears, that's right?---Definitely, yes.

Was there any information that you had at that time, that any single person had brandished a spear?---No.

Did – was there any information you had at that time that a single person had brandished any weapon, what so ever?---I don't recall, no. I asked – I asked when the crowd was at the police station, early in the night, were they armed. And that people were saying they had – I think some said they looked they had some nulla nulla's or something, words to that effect. I can't recall. Then I was informed that the

convoy taking Alice Springs members from the airport to the police station had been rocked, and a nurse had been injured. So I knew they had done that.

So going through to the next page.

We just have the team tasking's. And just at the bottom of that page, just so I understand these distances. "Depending on the intentions of the crowd, but if it is believed that the crowd is violent, and intend on harming police, the following actions will be implemented. Fifty metres from the compound, use of visible lasers from M4's, and verbal communication for crowd to stay back." That's right?---We changed the "will" to "may", and I'll like to stress, your Honour, this was a plan, as a pre-emptive plan. Doesn't mean we were definitely going to do it. It's just there to provide some structure in case we were confronted with a violent incident, and some options available to us.

"Thirty five metre deployment of CS (inaudible) and 40 millimetre direct impact munitions and PepperBall"?---Yes.

"Twenty metre deployment of 12 gauge bean bag munitions. Deployment of hand thrown grenades"?---Yes.

"Less than 20 metres, all less lethal options and lethal force if warranted"?---That's correct.

Now, I understand that – I think at the top paragraph – sorry it's in that first dot point, "50 metres from crowd, use of visible lasers from M14's" - - -

THE CORONER: M4's.

MR MULLINS: - - - "And verbal communication for crowd to stay back." What would that be?---What did it mean? So if – if we had credible intelligence a group was coming towards the police station, they're armed, and we would get insight through traditional Elders, through Eddy or through Derek, that they're extremely unhappy. We've had people come in from other communities. They're coming to the police station. That's where that's coming from. So if they're walking down the street, and they're armed, and they're angry, we would communicate with them to stay back. We would try and form some sort of negotiation through Elders, or people we identified, to keep their distance. If they continued on, the idea of the visible laser was, people just see that on them, would be a lot less than lethal option, to say, just keep your distance, and allow us some time to maintain communication.

But in terms of maintaining communication, how were you going to translate that to Warlpiri?---How to Warlpiri?

Yes, how were you going to translate that to Warlpiri, given that English was not the main – the first language for many of the people?---Well it was the same option why we took Eddy to tell the death message. We would use either Eddy, or Derek, or

other people who were there. If we had no option, and we had no communities, we would have to provide English.

So there was no plan, for translating that to Warlpiri, is that right?---The plan would be relying on Derek or Eddy, or other community Elders, if we had identified them, to use them, if – if they were present.

Well, you'd need to give the warning in Warlpiri, wouldn't you, if Warlpiri was not – if English was not the first language of many of the community members?---Look, it's an interesting point, but I've been to a significant number of similar circumstances throughout the Northern Territory for a whole range of reasons and I haven't had a major issue in communicating them with English to understand where - what they needed to do or not to.

Now, the information you've relied upon for the development of your plan - - -

And you can take that down now, please, but I think it will be used later.

- - - as I understand it, emerged firstly from your conversation with Assistant commander Gill, that was the first time you received information. Is that right?---When he rang me at home?

Yes?---Yes.

Now, am I right to say that you – did you say in your evidence that you didn't know – you did not know that Kumanjaji Walker was deceased when you arrived?---That's correct.

Are you sure about that?---I'm not 100 percent sure, but I'm – I think in my body-worn before I left, I think I say that he'd been shot and he'd been taken to the clinic.

Yes?---And I don't recall whether I was confirmed that he had been deceased and if he was, I didn't believe he was still in the community.

Well, it's just in your evidence, you said that – as I understand it, and I don't have a real time transcript, but that everything changed for you after you arrived at the police station and you realised he was dead.

MR COLERIDGE: Your Honour, I think, in fairness, the question was, "Was it a surprise that the body was still there?"

THE CORONER: Everything changed. There was the combination. One that he was deceased and two, that the – he was still at the station.

MR MULLINS: That was my recollection of the evidence. It's just that, in your statement, you say at par 2, the first line, "The next call from Gill was that the person shot was now deceased."?---Look, he may – you've right, he might have told me he's deceased, but my evidence before when I was speaking was about the surprise of

seeing him still at the station.

Okay. So, it was him being at the station, was it, that worried you, not that he was deceased?---Well, obviously both. You know, the male had now died – I'm sorry, Kumanjaya had – no disrespect, Kumanjaya had died, so of course, I was concerned. But now it had just been aggravated by the fact that he was still in the community.

When you arrived at about 1:15 am, you travelled from the airport to the police station?---That's correct.

And was your vehicle or any of your vehicles belted with rocks?---No, they weren't.

Did you see any people on the road?---No, I didn't.

Did you see any people outside the police station?---No, there wasn't.

So, at least at the time that you arrived, things were quiet?---Yes, definitely.

And there was no apparent threat, at that point in time, of anybody breaching the police station?---Not that I was informed, no.

Now, you then had some conversations, as I understand it, with people at the police station?---Yes.

And that included Officer in Charge Frost, that you've described?---Yes.

And then, in due course, you had a telephone conference with is it Commissioner Nobbs?---No, Superintendent Nobbs.

I apologise, Superintendent Nobbs?---Yeah, Acting Assistant Commissioner Wurst.

And the – at par 11 of your statement, you summarised the various things that you were told and you've described them in your evidence, including that ACPO Derek Williams had spoken consistently to the crowd and managed to diffuse the situation?---That's correct.

And it was identified in that conversation that members were ambushed with rocks when they were bringing the vehicles back from the airport the first time a plane had landed earlier in the evening?---That's correct, yep.

Now, you say this in your statement, "I got the impression that everyone was just in a -", this is at par 11, page 7, you need not bring it up, "I got the impression that everyone was just in a holding pattern until TRG and Crime Forensics arrived on scene. I can sense the tension of all the members present and that we're expecting the whole community to return at any minute and pretty much storm the station." Now, why – first of all, did you think that?---What that the – impression of the holding pattern, or impression they're going to storm the station?

Well, the whole community was going to return at any minute and pretty much storm the station?---I guess the fear was, when we found – when I found out that Kumanjayi was still in the station, and I think and said to them, what's going to happen if they find out? I said, "If they find out, they're going to come back. If they come back, their behaviour may be unpredictable." And that's where that concern came from.

And had you ever experienced that situation before?---Being besieged in a police station?

No, no, where there had been a body in the station and the community had come back and stormed the station?---Not where they stormed the station, but I've been present numerous times when we've had a body present and trying to show family. We've had family members come up and be extremely emotional or extremely agitated and violence has occurred.

And what sort of emotion were they demonstrating when they attended the station on these other occasions?---Well, the one in the Daly River, there was a crocodile attack where an Aboriginal male was killed by a crocodile. We recovered the body and returned it back to Daly River Police Station. I had the wife come in and ID the body, so we were going to get a funeral service to take it. I was back in the station and I was typing up some notes and I heard more yelling, and it wasn't sorry business. I can tell the difference. I thought that's different. I walked out and what's happened is family from Pepperminarti have come out, they've realised the wife has seen the body before her and they've actually started fighting. There was a lot of weapons being thrown. There was equipment in vehicles being damaged. So, that was a case. There was one instance where things can go from one side to the other very, very quickly purely for the fact of having a deceased person.

So, when Eddy, at 2:50 am, during the course of a conversation with you, indicated – I'm sorry, that should be 4:50 am, par 26?---Sorry, what page was that?

Page 10?---Sorry, there's no page numbers on this document. What paragraph, sorry? I'll find it that way.

Paragraph 26?---26, yep.

So, Eddy attended the station at 4:50 am?---Yep.

And you say he was amicable and calm?---That's correct.

And said that he understood what was going on, but refused to see the body?---That's correct.

And did you understand that he refused to see the body for cultural reasons?---I think it was a combination between cultural reasons and he didn't want to be put in a position where he would – they would ask and the family would say, you saw him, but I didn't see him. So, I have been extremely conscious of the fact

of, there is a hierarchy of how that works in Aboriginal culture, who gets to see who. So, I respected his decision when he said that.

Well now, during the course of that conversation, there seems to have been some discussion between you, Terry Zhang and Eddy Robertson and you state in your statement at line 4, I'll read the sentence from the second line, "He explained his relationship to him --", that's Eddy, "and we explained that the police officer involved had left Yuendumu and that the reason he had discharged his firearm was that he was in fear of his life", or words to that effect, "Refer body-worn video." Now, do you have that body-worn video?---Yes.

You have it here?---I submitted it this morning, yes.

All right?---They've got it.

So, is that the second body-worn video that you've given that counsel assisting referred to?---No, I think there's about six body-worn videos in total, and they've all been supplied.

Okay. Let me ask this question, you understand that the term "feared for his life" - - -?---Yep.

- - - is a subjective term?---Definitely. And I was – like I said to your Honour earlier, I was just putting that in perspective, if I was a police officer who had been stabbed, how I would have felt. I can't talk for how Constable Rolfe would have felt, but that was surmising.

Well, isn't the effect of that statement that the threat of Kumanjayi Walker was so great that the constable in question discharged his firearm because he feared for his life?---Exactly right. That's what I anticipated.

Yes. And that was not true, to your knowledge?---Well, as a police officer being stabbed, again, I would feel fearful and if Constable Rolfe felt justified in firing his firearm, he must have felt in fear of his life, otherwise, he wouldn't have done it.

Well, that was your – I'm sorry. You're saying, he must have felt in fear for his life, otherwise he would not have done it?---Well, yes. Because as a police officer with our training and where we are, we know we deploy firearms for lethal threats and to protect ourselves or others. So, for him to discharge his firearm, again an assumption, I admit, my assumption would be that he must have felt the need to discharge his firearm, because him or someone else was under immediate threat.

And do you accept though that you did not know, at that point in time, that that was actually true?---No, absolutely, yeah.

It's simply an assumption?---Yes, exactly right.

And it's an assumption that you have made and conveyed to the family of the

deceased?---Yes.

And can I suggest to you that you've conveyed that assumption because you wanted to justify, the best you could, the shooting?---Your Honour, I don't exactly think so. I think I was just trying to put the narrative down there, again, as you see when I'm talking to the family the next morning, that wasn't what we call a "no reason shoot". There had been an incident where a police officer had been injured and as a result, he discharged his firearm. I was trying to communicate with Eddy that circumstances had occurred resulting for Constable Rolfe to discharge his firearm. Those circumstances will be investigated later on, and I was just trying to convey with him that if I was in that same position that I probably would have - I may have done the same as police officers.

So are you saying that you considered it was appropriate for you to put a - in your words - a narrative out there?---No. On reflection I agree that probably I could've articulated it a little bit better.

All right, now you had a meeting at the basketball courts - I will be quick, your Honour, I know my ten minute is up. You had a meeting at the basketball courts, that you attended?---There was two. Which one are you referring to?

And one of them had 300 people there?---They both did sir, are we talking about the one with Acting Assistant Commissioner Murphy or Commissioner Jamie Chalker?

Well, it's the one referred to in your statement - - -

THE CORONER: They're both referred to?---I attended both - both community meetings.

MR MULLINS: In any case those meetings were calm?---No. No, no. They weren't - weren't calm meeting.

Was there any violence?---There wasn't any violence, no, there's a - there's a large amount of emotion agitation but there wasn't any physical violence, no.

No. Now, at any time did you observe any attempt by any person from the community to breach the compound?---No.

Any person attempt to assault a police officer?---No.

Any person assault a police officer?---Not that I'm aware of, no.

Any person attempt to breach the police station?---No, not - - -

Any person attempt to breach the police station door without first knocking?
---No.

Did you observe the Elders maintaining calm the best they could?---Yes, I'll have to say that at the basketball courts there was some agitation but then that was understandable though.

When you visited Eddy Robertson and I think another counsel have asked you about that, when visited Eddy Robertson at his home - and Lottie Robertson in the body-worn video that we've seen, you actually had two vehicle stationed about 50 to 100 metres away?---That's correct.

And did those officers in those vehicles have assault rifles?---Yes, the TRG members were kitted up with all their equipment ,yes.

And did you think that the community might find the presence of guns distressing? Given that a community member had been shot by police with a gun?---Yes, exactly right. That's why I made them stay in the vehicle. They didn't get out.

But there were many officers over the ensuing days, about the torn - or about the Yuendumu community with rifles that were visible, weren't there?---Yes, there were. So I'm happy to explain on that. So I was at the crime scene - we established the crime scene and I stayed there for probably about two hours, your Honour, with detectives and some members there, just in case family came up, 'cause when we established a crime scene there was some concern from commander Currie as to whether the police could be confrontational, so I stayed there. I arranged for general duties members to come and replace for security of the crime scene and I returned to the station. I was no aware they were carrying long arms. If I was aware I would've told them to put them away because there was no requirement for them. So I'll take responsibility in that in not conducting a proper hand-over with those members to be parked in vehicles. I didn't anticipate they would use it - or sorry - carry them in public view. There was no requirement for it. And I'll just put that down to probably just a lack of understanding with junior members not appreciating the impact.

Well, do you understand that the impact of the fear to members of the community in circumstances where one of their own members had been shot by a police officer with a gun?---Absolutely.

Thank you, your Honour, nothing further.

THE CORONER: Does anyone else have questions?

MR EDWARDSON KC: I certainly do, your Honour, but I might be a while so (inaudible) - - -

THE CORONER: Is there anyone else? Is there anyone who is going to be short?

MR HEARN: Relatively, for the Walker, Lane, Robertsons.

THE CORONER: Yes. Well, how about we try and get the shorter one and it is Mr?

MR HEARN: Hearn.

THE CORONER: Thank you, Mr Hearn, yes.

XXN BY MR HEARN:

MR HEARN: Officer, to be clear, you became aware of the fact that Kumanjayi had been shot and was deceased prior to boarding the plane, is that correct?

---That would appear so from reading my statement, yes.

And upon arrival at the police station that was something which (a) surprised you and at least altered the prioritisation of the tasks ahead of you?---What's surprising was the body was still present - of - Kumanjayi's body was still present. That was what surprised me.

Did you learn early on that the families had not been informed about the death?

---As soon as I walked in I saw Kumanjayi in the cells as I walked in. I think in a very - in a very short period of time I asked Sergeant Frost, "Does the family know?" And she said, "No".

And did you understand from that point onwards it would become your responsibility in order to inform the families?---Not my direct responsibility, no, but it would be the responsibility of police, yes.

In that regard I understand that you sent Sergeant Frost home very shortly after 2:06 am due to her exhaustion?---Yes, I think it was about an hour. We had the talk with Superintendent Nobbs and Assistant Commissioner Wurst. We went out and I addressed everyone and I explained how we were breaking the people up to manage fatigue and then I said, "Go home, you need to rest" because she was going to be instrumental the next morning when we spoke to the family.

Just in regards to the conversation of the phone call that happened with Superintendent Nobbs and Assistant Commissioner Wurst, was Sergeant Frost a part of that conversation?---Sorry, say it again?

In regards to the conversation that you had with Superintendent Nobbs and Assistant Commissioner Wurst - - -?---Yes, she was present.

She was present?---Yes.

What did you do during those early periods at the police station to inform yourself about relevant cultural matters attendant to dealing with the family?---Well, the first thing I wanted to do was confirm the point of contact in Eddie Robertson, so - - -

Can I ask how did you do that?---It was from the conversation on the phone with Superintendent Nobbs and Assistant Commissioner Wurst they mentioned Eddy and Julie had already mentioned how affected that he was - sorry - that they were the

point of contact and I said, "Are you guys happy that he is our person"? They said, "Yep, cool happy with that you go off - this is your station (inaudible)."

Did you say how effected he was initially?---Did I ask?

Did you say that you were told how affected he was?---No, I meant Derek Williams, sorry - I mean how affected Derek Williams was. I asked whether Eddy Robertson. I asked, "Is there anyone else, we could get a couple of Elders together to provide a multi-family approach?" And they said "No" that as far as they were aware Eddy was the person to talk to.

But you must have understood that he was not the extent of Kumanjayi's family?
---Absolutely, yes.

So did you take any steps to identify other families or other family groups that you may need to communicate with?---Yes, I asked Sergeant Frost, "Is there anybody else?"

Okay, and did you receive that information?---Yes, that Bish Kumar(?) said, "Eddy seems to be the person we need to talk to.

Again, you must have known that he did not represent all of Kumanjayi's family groups?---Exactly right. But I don't know the town, I don't know the families and if I have a sergeant and a superintendent and a commander telling me "This is the person you need to talk to" I wasn't going to question them.

After Sergeant Frost was sent home did you have any local police - or police with local knowledge by your side during the hours of darkness I suppose?---There would have been someone. I can't recall whether the Yuendumu members were split between two groups or one went down to rest and one stayed on but I can't recall whether it was Alefaio or Hand or whoever - or whoever was there. There would have been someone, I would've made sure there would've been one local member available to ask questions of.

In the conversation that you had with Superintendent Nobbs and Assistant Commissioner Wurst at about 2:06 am, one of the things that was traversed was when to tell the community about the death?---That's correct.

Now, you said that Sergeant Frost was a part of that conversation. Are you sure about that?---Yeah, I've got body-worn footage. She is there.

What was the - when you were discussing when to tell the community, what were the factors that were being considered or informing that decision?---The first point was that we weren't going to tell the community until Kumanjayi had been removed from Yuendumu, that was the first one, straight away.

Why?---Because of the fear - like I mentioned before, that if they found that he was at the station it was likely they were going to come to the station, which means they were going to likely want to come in and see him and we weren't going to permit that.

What else?---Once that was done we talked about how we were going to communicate that through that and then there was obviously some discussion on the ID of Kumanjaya to confirm he was and then that turned to, "Well, we'll use Eddy to do the ID and then potentially ask Eddy for advice on who we tell or when we tell them, which is what we did when he came in.

In the list of matters that you set out as having been discussed during that conversation, you do not say specifically that there was any conversation about when to tell the family?---I think the only thing we mentioned was once Kumanjaya had left then we would work out the plan of when. I was conscious of - I think we discussed briefly of waking people up at 4:30 or 5:00 in the morning or wait until daylight, when everybody is quiet, everyone is asleep, so I think most likely we were - I personally was aiming for first light but we were still at that point waiting for forensics to get back to us that they had finished – done in their examination, and the body – Kumanjaya could actually be released.

So were you waiting for first light, or were you waiting for the body?---I was waiting for forensics to finish first. And we anticipated that'd be done by first light. My aim would be to go to family at first light. I wasn't comfortable doing it at night time. But – if the forward commander had said no we want to do it now, then I would have - - -

If I suggest to you that community safety was the dominant consideration in determining when to inform family, would you agree with that?---Yeah, absolutely.

You've mentioned that there was a big push for identification. And that was, I understand, inconsistent with your – the position you took that the – informing the families and the community should wait until the family had left the community?---Yeah I – I'm not a detective, but I spoke to detectives there and said there an urgency to ID the body. We know he's got extended family in Alice Springs, or we could arrange for transport for family to Alice Springs. So why don't we just let forensics do their thing and then go. And they said it's a valid point, but we should make the effort. And I said, yep, I'm happy with that.

I just want to ask you about some interactions – communications with Eddy Robertson. At par 22 of your statutory declaration, you mention that Sergeant Zang called Eddy Robertson at some point, not (inaudible) but some point prior to 4.08 am?---No we were going to call him, and ask him to come to the station. And that par 22 is reflecting about we discussed with Superintendent Jackson, if he didn't answer the phone, as to whether we were going to go forward and knock on the door and speak to him personally and ask him to come to the station.

Well so just – sentence – the second sentence of that paragraph reads, "Zang had spoken to him earlier, so we agreed a possible option", is that in reference to a conversation with Jackson, or a conversation with - - - ?---Look if Zang had spoken

to him earlier, maybe he'd told me he'd spoken to him earlier, but I don't know in what capacity.

Okay, well if I suggest to you that there were phone calls made at – to Eddy, or at least conversations by phone, with Eddy, prior to the phone calls at about 4.40 am, do you – is that something that you recall or not?---No, first I recall that Sergeant Zang spoke to Eddy was in that conversation which I have on body-worn when we first rang him and asked him to come to the station.

Now, during that phone call, Eddy expressed some reluctance to come to the police station?---Yes he did.

And during that phone call, he wasn't told why he was being asked to come to the police station?---That's correct.

He asked why he was being asked to come to the police station?---He – I think he kept saying well is bad, and Sergeant Zang just said it's really important we talk to you, can you come up.

Now Eddy was asked to make his own way down to the police station, is that right?---We offered to pick him up, but he said he would drive, from my recollection.

Right, I suggest to you that that was a contingency plan if he wasn't prepared to get himself there?---Yeah, the plan was, if he didn't answer the phone, we'd drive around and knock on the door and ask him to come up. And then we spoke to him on the phone. We offered to come pick him up. But he said no it's all right, I'll get my wife out of bed, and we'll drive there.

It was a deliberate decision to have Eddy alone in the police station when he was informed?---As a – yeah, yeah, because we just wanted to talk to him by himself, yes.

Did you consider that perhaps the person you understood to be his grandfather might wish to have someone by his side, for emotional support, when receiving such information?---Yeah, so I spoke to Sergeant Zang about that briefly, and we said, look when we inform Eddy of Kumanjayi passing, that if he wanted someone else to come we would make arrangements for it. But we thought we'd just judge it on his behaviour, or his response, sorry. And from what I understood that he would take it okay. He was on-side with everything, especially what he'd done earlier in the night.

Well, just talking about the – the email which was put up on the screen earlier. I won't ask that it be put up again. But there was explicit statement in that email that Eddy was to be spoken to alone?---That's correct.

Why was that?---When Aboriginal people are together, and we're talking about something, sometimes they have to act a certain way, or do a certain thing. And he wanted to speak to Eddy by himself, just so that we could judge – I wanted to judge

his response, and how he was – which side of the fence he was sitting on, and how he was feeling about it, and whether we could use him.

What do you mean which side of the fence he was sitting on?---Well in terms of that, if he was willing to work with us, and he understood it, and we could use him, and I could do what I did – we did with him the next morning at the house, if he was very anti-police, very upset, very emotional, I wouldn't have asked him to be in a position to come to the house with Rakeisha and put him through that again, and put him in that position. So that was where I was coming from.

Is this why police had decided that he was the point of contact? Because he was going to be useful?---No I think you'd have to speak to Assistant Commissioner Wurst, or Superintendent Nobbs, or even Sergeant Frost. I was told he was the person in the community. And I just trusted their judgement.

Well you formed that view yourself, did you not that - - - ?---I formed the view from their information. And then once I had that conversation with him at the station, I thought he could be a good person to work with us, to talk to the community.

But he was reluctant to come to the police station. He was also reluctant to see a body?---He was – I think he was reluctant to come to the police station because we rang him so early in the morning, and he was still in bed.

Well why do you say that that was the reason?---Well because any person getting up at four o'clock and coming in, and because he's naturally questioning what do you want me for. So I think that's a perfectly understandable response. He was reluctant - - -

But did you give consideration to the possibility there were also cultural reasons as to why he was reluctant to go to the police station to identify a body?---Well we never told him what he was coming up for. So he didn't know he was coming to view the body. We just asked him to come and talk to us. So he – we were – he may have presumed we just wanted to talk to us to find out what's going on. We may have just been asking, how how's the community going.

Why was he not told on the phone?---We didn't want to tell him on the phone, because we couldn't control the narrative, in case he went out and started telling everyone in the community that he – that Kumanjayi had passed. And we didn't want, like we said, multiple people from the families coming to the station. We thought that it'd be a less – a better way to less impact the community in a way that we can control. And I really wanted to get some impression from Eddy, how he thought the community would respond. Because I've been down there before. I've spoken – as we mentioned before how - - -

That was 2003?---Ten I think it was – nine – 10, around about then, 2003 I was in Alice Springs as a general duties member. And 2010 I went down for the riots where the houses were – with a member of the family in the house. So they'll tell me Eddy's good, your Honour. They're saying he's the man. I've never met him. And

I'm not going to judge a book by his cover. So if he could come to the station, I could sit down and talk to him and say, how do you think the family's going to react. How are you going. What do you think we should do from here. It'll allow me valuable insight in how I could work with Eddy to try to move on from there.

Did you give any consideration as to how this information should be given to him, or who should give it to him?---The death message?

Yes?---I said to Terry, it's your job, you're the forward commander, and he was – he actually told me he was doing it, and I was comfortable for that.

Had you - - - ?---And we were just going to just do it as we did at the body-worn, as we said sorry, there's – Kumanjayi's passed. He's here. We would like you to see him and just give us the ID. And I think he said no, and that was perfectly fine with us.

So, in addition to his – well his reluctance to come to the police station, I began asking you about his reluctance to view the body?---Yes.

And that's ultimately a request or something that you chose to respect after some time?---Yes, yeah.

You, in your statement wright, "Personally I felt that he was trying to distance himself away from the incident. He wanted to help, but if he saw the body, and then went and told family Walker was deceased, it would place him in a difficult position"?---That's correct.

Did you interpret at the time, that Eddy was saying he was uncomfortable, or inappropriate for him – well I withdraw that question. Did you understand that what his concern was, being burdened with that information, and the complications that would cause in terms of him having to communicate that to other people?---Yeah, exactly. Like I mentioned before, if he was there, and he saw the body, and due to Aboriginal hierarchy, he wasn't the person to view it first, I didn't want to put him in a position where family could accused him of you knew, you never told us, so to speak. And I didn't want to do that. On one, it's unfair for him. And he said no. And secondly, from all indications he was – he gave me the impression he wanted to work with us. And I didn't want to – I wanted him to work with us. I didn't want to put him in a position where he would turn around, I can't trust police, they did this to me. Does that make sense? And your Honour, I've been to numerous incidents, even with – regardless of race, where people have refused to see body of loved ones for various reasons, and I respect that.

Do you think that that in fact was as reason, based in culture, as to why he was – may have been reluctant to see the body?---I think it was a case of culture. I think it was also a case of where he sat in the community, of being in that position. I think it was a combination of both.

Eddy went home, or was taken home, sometime around 6 o'clock in the morning. He

was then asked, or was asked at some point during the morning, whether or not he would accompany police to another family member's home at a time when police were going to communicate with that family about the death?---Yes. So, when we left – when we finished that conversation at the police station, we asked him the best time to talk to and who to talk to first, like the hierarchy of people informing the death message, which was what he thought was best. And he actually advised us not to tell family, and he actually gave us advice that we needed Kumanjayi to go. He said you need to – Kumanjayi needs to leave the community before you tell them. We agreed that we would go to the house where – I think it was Rakeisha, the first time we showed the body-worn, we agreed to go – to go to that one first. Then, I said, “Anywhere else” and I think he mentioned is it 577?

Well, that's Eddy's home where Rakeisha - - -?---Sorry?

That's Eddy's home?---Is it Eddy's home?

Yes?---I don't know. I had the impression he said, because we said “We would pick you up on the way.” And he said, “No, I'll drive and meet you there.” And when we drove there, we waited a little bit and we waited around the corner and then Eddy drove up in his Pajero, I think it was, Pajero Prado, and he got out of the car. So, he – he drove to that location. Whether he went somewhere else after the police station, I'm not sure.

Just talking about the meeting or the attendance at the Robertson home?---Yes.

You've seen the recording of the interaction which has been played to the court?---Yes.

I want to ask you a couple of things about that. Firstly, you agree that you got Kumanjayi's name wrong?---Yes.

And you also accept that you were at least attempting to refer to him by his name?---Yes.

Do you understand that referring to an Aboriginal person by their name following their death is something which is considered to be culturally very disrespectful?--- Yeah, your Honour, that's an interesting point, because I've been to communities where I have said the name before or not and then of course, I wanted them to understand – talk about – who we were talking about to start with, in case it was anyone else. When you see the body-worn footage back at the crime scene, I speak to Derek Williams and I say, “Derek, just to confirm, are we referring to him from now on as Kumanjayi or Arnold?” He said, “No, Kumanjayi”. I said, “Cool.” So, I never have an opportunity to clarify that. I understand, especially with that circumstance, it would have better, one to get the name right, but secondly to probably refer to him as “Kumanjayi”. But if I walked in and said, Sorry, Kumanjayi died”, they might go, who, car accident in Alice Springs or anything else? So, I had to try and put some reference into this instance in the first case, and then - - -

Do you seriously think they might have been confused about who you were talking about?---Well, potentially, no, but I wasn't going to deal with assumptions. I wanted to get it right from the start. And then, when you see me talking to family at the mother's house, I don't refer to the name again.

And it didn't help getting his name wrong, I suppose?---No, it didn't. No, it didn't.

I just want to ask you about the request that you made of Eddy to then accompany police to, I think it was the Brown's home?---Yes.

In par 28 of your statement, you say, "It took a bit of convincing."?---I think he's talking about convincing to attend us when we passed on the death message to family in the first instance. Are you referring to 28? That's before we left the station. He was still at the police station at that time and we were talking to him about the body and what to do next. There was a bit of confusion when we left that house. He took us straight to the crime scene. Is that what you're referring to, as opposed to family's house?

Yes, I think I got that wrong.

Those are my questions, thank you.

THE CORONER: Thank you.

We'll break for lunch and we'll return at five past 2:00.

ADJOURNED

RESUMED

MEACHAM KING:

THE CORONER: Mr Coleridge, you did have a couple of extra questions that you wanted to ask, or not?

MR COLERIDGE: Not at this stage, your Honour. I can do it in reply if need be.

THE CORONER: Sure.

Mr Edwardson? Or sorry, Ms Wild? Sorry, Ms Wild?

MS WILD JC: Yes, thank you, your Honour.

Sergeant King, my name is Wild and I am a lawyer for NAAJA?---Good afternoon, Ms Wild.

You said in evidence today, Sergeant King, that when they get emotional they get violent? Can I ask you to clarify when you say "they" who do you mean?---I think I was probably explaining Aboriginal people when they are in a position of conflict or a position of sorrow, of death, namely that they can get very emotional and when they get very emotional they can bring a lot of anger and I know that they do have a bit of trouble dealing with anger sometimes and that can be exhibited in some violence.

So when you say "they" you mean Aboriginal people in general?---Not so much in general - it's hard to say, Ms Wild, because I've been to nearly every Aboriginal community in the Northern Territory - probably about two or three - for a whole range of incidents, sometimes for violence, for riots, sometimes for search and rescue where people have died, other times just for other matters and generally they're a very emotional people, they are. They're big families. I don't want to generalise but that's just my impression.

Okay then perhaps would it be fair to say when you say "Aboriginal people" you mean Aboriginal people living on community?---Yeah, that would be a fair assumption (inaudible).

And is it your view that Aboriginal people living on community are more violent when emotional than the general population?---No, I wouldn't say that.

No?---I would say that they're more emotional because there's more groups and more family and more people and that mob mentality that happens when people get emotional.

All right, but you said that when they get emotional - meaning emotional, they get violent?---They can do, yes.

Right, so therefore if they are more emotional then they have a greater likelihood of becoming violent than the general population, is that your evidence?---Yes, it would be. I think, your Honour, the case would be in the circumstances of the emotion, like there's nothing wrong with sorry business and people being upset, but I have seen cases when they get into sorry business and they start wailing and going through their process they - it can turn - not all the time. Definitely not all the time but it has in certain circumstances.

And in fact I think you said "When angry they may be come unpredictable"?
---Yes.

And is it your view that Aboriginal people living on community are more unpredictable than the general population when angered?---Well yes, for those reasons I stated before, yes.

You were concerned that a large group of people may descend upon the police station, is that right?---That's correct.

The fear of the police members at the station was that police - that people - a large group of people may come with sticks, is that right?---Yes.

And that was forming part of a risk assessment?---Yes.

Would you agree that that - that you could describe that as a mob mentality that you were concerned about?---I was concerned that when a group of people get together with emotion and an underlying cause in which case justification of why police had done it, a mob mentality may be formed.

Yes?---Yes.

And you mean and this community in Yuendumu at this time you were concerned about? Is that right?---Yes, because I was right there in front of it, yes.

Sergeant, I am going to take you to the footage that we've seen this morning. The – part of your role as a tactical commander was to be part of the team to inform the rest of the family about the death the following morning, is that right?---My role as tactical commander wasn't part of that but I introduced myself into part of that because I thought it was important that I was present.

Right. In fact your priorities changed when you realised that the family weren't aware that he had passed, is that right?---The priorities changed in the sense I'm still providing advice for the commander that we still were going to implement a range of options and plans in case something happened. I guess the fact is that just – I thought it was a bit more of a likelihood of confrontation if the body of Kumanjaji had been removed I thought we'd have a much better chance of negotiating and engaging with the community and talking to them and the chance of them coming to the station and potentially forcing a confrontation, would be significantly reduced. With Kumanjaji still present and if they found out then came to the station, I wasn't at

that stage confident that we could engage with them in a civil sense because I didn't have any relationships with anybody, I knew Sergeant Zhang didn't have any relationships, we had to rely back on the local members and Derek to help - - -

You thought it was important for you to be present when the family were told about Kumanjayi's passing?---Yes. That's a good question actually, I'm glad you asked it, but there was a couple of reasons for that, was that I want - Julie Frost is the OIC of the station, she has a relationship with the community, it's important she is there and she talks to them, she knows them. I wanted Terry to come along and he had had to come along as forward commander, as your senior sergeant he is the boss man, he is in charge - all things come to him. And then I wanted to come down and explain why TRG were there. We wore a different uniform, they wondering, "Why are you guys here?" And I also wanted to explain the them I've been to Yuendumu before. I've worked in Alice Springs, I've worked in desert country, I've seen things and I came down for the riots in 2010, so to try and say, "This isn't some person from Darwin trying to tell us what to do - it isn't the case at all - I have an understanding of what you are going through and what you are doing" and that way if they had any concerns about TRG I was the person responsible for them, so you can come and talk to me.

And it's fair to say, Sergeant, that your actions and words are planned and deliberate?---My words - sorry - were?

Would you agree that being switched on the minute you go to Harvey Aviation - is that right?---Yes, getting into that mind frame and what we're doing, yes.

Yes?---Yes.

So you're in practical command and mode from the time you hit the airstrip, is that fair?---Pretty much from the time that Superintendent Gill range me at home with - I think straight on there.

And everything you do from then is intentional, is that right?---Yes, I'd agree with that.

And you've rightfully recognised that your actions may define relationships between police and people of Yuendumu for years to come?---Yes.

When you first arrived at the house at 9:30 in the morning that we've just seen, the first interaction you had is with Mr Eddy Robertson and he's trying to express his concern that there's a man with a gun sitting in his yard. Do you remember that? ---No. My understanding with Eddy I was trying to confirm with him that the right people were there for us to tell the death message to. I don't recall anyone with a gun.

Well he said that "Sitting down in my yard there with a machine gun, one of your people"?---No person with a long arm was present during that death message. It was just Terry Zhang, myself and Julie. Everyone else was back in vehicles.

Okay. But Mr Robertson was expressing concern that there was someone with a machine gun outside his house and his little son was inside?---Can you give me a reference of the time - sorry - your Honour?

THE CORONER: Can I just understand, was it the house that they were at delivering the message to Rakeisha or was it at a different house that he was talking about?

MS WILD: The first house that we've seen in the body-worn this morning.

THE CORONER: Right, so he's - you're suggesting that Mr Robertson is saying that there's someone with a gun in the yard - at that house?

MS WILD: Yes.

THE CORONER: Right. I wondered whether he was talking about a different location or a different time when I heard it myself, but - - -?---Your Honour, there was no-one there with a long arm. The plan right from the start was myself, Terry Zhang and Julie Frost would walk in just with our normal accoutrement belts which we wear every time. All other members would stay in the vehicles and stay back. We didn't need any greater police presence. I was more than comfortable, Eddy had guaranteed us that - well, not guaranteed - but had told us it would be fine to walk up and we just walked in. So I'm not too sure where he's - where that's come from.

THE CORONER: And we have, of course, heard some evidence from you that there were later on in the morning, police with rifles?---Yes.

Which you didn't know about at the time?---Yep. That's at the crime scene.

At the crime scene. And when you went out to deliver the message to Rakeisha, were there any other police out in the community at that time, that you're aware of? ---Only in the vehicles, which was my team 150 or 100 metres back, just ready to respond if needed.

MS WILD: And the members in those police vehicles, what weaponry did they have with them?---They were with the TRG members, the ballistic vests, helmet and their M4 and less lethal options.

All right. How visible were they?---Well, I guess if you walked up to the police vehicle from 10 metres away you would have seen them, but most of their weapons sit in front of them, they would've been pointing down.

Yes?---So you would have to almost point to the point where you are looking into the car to see them, they wouldn't be brandishing them or holding them up because that's just not practical the way we hold them.

How many metres away were the police vehicles?---From where I was? From my statement I think it's 100 - 150 metres. We picked a point that night when we planned we would come, where they would be to be close enough to respond, but I didn't want them anywhere near the house and I didn't need the anywhere near where I was.

You never discovered what Mr Robertson was talking about when he spoke to you about the machine gun in his yard?---Sorry?

You never discovered what Mr Robertson was talking about?---The first I've head of it is when you mentioned it right then. I've never heard of him talking about anyone with a machine gun in his yard at all until you mentioned it five minutes ago.

Well, in fact, on the body-worn it's audible. You say - you told him to focus on the reason that you were there, was the interaction you had with him?---I don't think I was talking about that. It would be mor the case that people were starting to get upset and to focus on what we were doing. I could be wrong but I - when people were coming out and everyone was getting agitated and I think - from looking at the body-worn, my recollection is he was starting to engage in family with different reasons. I said, "Let's focus what we're here - we're here to deliver the death message to family, then move on to the next group and then go and get the crime scene. That was my understanding.

Perhaps you can listen - watch the footage later, but I submit to you that you dismissed his concerns about the machine gun.

THE CORONER: In fairness, I think it needs to be played.

MR COLERIDGE: Yes, it would be best?---Mm mm.

MR FRECKELTON: Thank you, your Honour.

A PERSON UNKNOWN: Your Honour, just before we start I note that there is a transcript as well.

THE CORONER: Where is the transcript?

A PERSON UNKNOWN: Apparently it's not in the transcript. I apologise and sit down.

THE CORONER: All right.

DVD PLAYED

THE WITNESS: No, I can't hear it sorry, but.

THE CORONER: Do you want to just?---I can't hear whatever he's saying clearly enough where I'm sitting right now.

MS WILD: Could we have the last 30 seconds again.

Just from there, Bec.

DVD PLAYED

THE WITNESS: I could hear the word “machine gun.” And I don’t know, by looking at that, my interpretation of that is talking about when they went and tried to apprehend Kumanjayi the night before. When, I think there’s some footage or some discussion about a member – IRT was approached about why you’ve got that gun, is that correct? I think, but no one was present there. And we didn’t need to cordon it off. We didn’t need those sort of weaponry, because it just wasn’t required.

MS WILD: Mr Robertson was clearly concerned about it, wasn’t he?---Well now you point it out, it looks like it, yeah- - -

Yes?---He raised a bit and then yes.

But you’ve asked him to focus on the issue that you’re there for?---Yes.

And you haven’t then asked him any further about what his concerns were, would you agree with that?---That’s correct.

Now further in that interview, when you’re effectively trying to sympathise with the community, you say this. You said “Police are hurt also because this is going to cause problems for us”?---Yes.

And the problems that it may cause, potentially political problems, is that right?---Well it’s just about, police are part of the community. Like they live there. They work with – they have relationships, and – and there’s always going to be dissent. We saw that in Port Keats, what happened years ago, and – or any incident where we go and arrest and police are involved in a matter, and we want everyone to be stable. We – it – just because we live there, and we come and go over two years, that doesn’t mean we’re part of it – not part of it so.

So add relationship problems?---Yes.

Yes. Reputational issues?---Definitely.

But it’s hardly equivalent to the death of a family member is it?---In what context sorry?

What – the way you’re framing is that it’s equivalent. The police are hurting as well, when we’re trying to – when you’ve just told family that their (inaudible)?---But I think that’s a just statement. Police are hurting. We’ve got a significant amount of police who are very passionate about bush policing. A significant amount of police officers that work in Yuendumu, who know family. So we, as an organisation, will be feeling

devastated by this as well. The last thing we want is our police officers involved in a critical incident with a shooting, especially with a community we're part of.

Okay, thank you Sergeant. To Lotti, you say this, "But Lottie, but Lottie, I have to point out that a policeman was stabbed. And he had to go to hospital as well." And the reason – I'm paraphrasing, "But the reason the policeman did what he did, is 'cause he thought he was going to do"?---That's correct.

Right. You've given evidence today that the reason you said that is because you wanted the community to listen to you?---Yes.

And that you needed a bit of narrative about what happened?---That's correct.

That's correct. You wanted to control the narrative?---Yes.

You were concerned about the bush telegraph?---Yeah, yep.

Right, at that stage, you didn't know who was, and who wasn't a witness, is that right?---No, no.

An eye witness?---No, no.

In fact you asked Lotti later, if she was there or not?---Yeah, because she started talking about people who were there, and I said were you there, come forward, give us the information.

Would you agree that this is, to control the narrative, has the potential to contaminate witnesses?---Yeah it definitely has the potential, but I would also that the bush telegraph, and the reason I said that to her was that I could see that she was starting to get emotional and go off track a bit. And I just wanted to put it back. I wasn't getting an opportunity to say it again, because she was getting worked up. We – fully understand.

Okay, you've also said that the officer went to hospital. Was that to convey that the injuries suffered were serious and required hospitalisation?---Yes, and also just to say that a police officer had been injured.

And that was part of controlling the narrative?---Yes.

Now a part of – apart from the potential to contaminate witnesses, you'd agree that it's not exactly a sensitive approach?---I agree by looking at it, yes. There's probably a – you could say a lack of empathy in my – my talking to them. But the reason for that, your Honour, is that Julie had started to talk, and they weren't interested. Terry had tried to come in, and they just turned away from him. So I thought it was imperative to try and take a leadership role to say, to try and bit a bit – I won't use the word dominant, but a little bit more controlling, saying this is what we're doing, this is where we're going. I didn't want to be there 15 minutes to talk

about it. I wanted to get in, pass the message, tell them what was next, and let them carry on with their business. I didn't want to be there any longer than I had to.

But you've agreed that it wasn't exactly a sensitive approach?---Yes I agree.

You're telling a grandmother that her grandson's passed away, at – and essentially saying, that well, it was his fault, do you agree with that?---Who's fault?

Kumanjayi's fault?---I wouldn't necessarily agree with that. I – no, I wouldn't agree with that, that it was his fault. I said there was a circumstance, we're trying to work out what happened.

Yes?---I said that a police officer discharged his weapon. I said there's two people here, the Coroner will get involved, investigators, detectives, will determine what happened, and it's important we get witnesses to find out.

You have said that it wasn't a no reason?---Yeah.

And was that also – as well as to control the narrative, was part of the reason so that – to essentially control her emotional response (inaudible)?---No it wasn't about that. It was about getting the message out to the bush telegraph, to everybody, so if we go back to Lajamanu, Kalkaringi, all Warlpiri mob, also in Alice Springs, so they said "The policeman shot him, the policeman shot him, what happened?" And I said, the policeman was stabbed and the policeman shot him. So trying to put a bit of perspective on it, rather than, they just came into the community, went through the house, and they just shot him. And once those sort of messages and that sort of messaging gets out, that's all they listen to. And it's very hard to come back and try engage them to try and try and say, no, no, there's more to it. So I – I just want them to understand that it wasn't a case of he just went in and shot them. There was an incident that's occurred, and as a result, a police officer had discharged his firearm, as a result of that fight, Kumanjayi unfortunately passed away, and we're now conducting an investigation to find the reason why.

Sergeant, I want to refer you to the Police General Order, in relation to Deaths in Custody. Now number – Order 22, states that "An investigation into the death of a person in custody must be, and must be seen to be objective and partial, as well as comprehensive and professional." Now I'd ask you to comment on how that directive sits with your attempt to control the narrative at such an early stage?---The General Orders are a guide on we refer back to the investigations. At that point in time, my mission was no ensure no further people were going to become injured for any reason. And with my experience attending numerous communities, with these sort instances, it was really, really important to set that – that messaging from the start. Now I acknowledge, yes, that it could have been seen that you're contaminating a witness, because a police officer had been stabbed. But I also acknowledge the fact that they had already told everyone in the community he'd been stabbed, and the police officer had done it, because they all came to the police station that night demanding what happened. So it wasn't a case of something happened in an outstation and no one knew what happened out there. They'd had all night to talk

about it. So I, good, bad, or otherwise, I assumed, that they would have understood some of that narrative already. I was just trying to put in some context.

Okay, but to go back to the words “Objective” and “Impartial.” And not only must it be objective and impartial, but be seen to be objective and impartial?---In relation to my messaging?

Yes?

MR COLERIDGE: Your Honour, I think that the second half of par 22 of the General Order should be put, just in fairness, because.

THE CORONER: Sure.

MS WILD: Okay, so the second part is, “However, the psychological effects of such incidents on members and families of victims involved, can be significant, and need to be considered during the subsequent investigations.” Does that change your understanding of the - - -?---Look, I’m not familiar with the general order enough to read it and then recite it back to you. But again, I’ll go back to the point, my focus at that point in time was to make sure no one else got hurt. I was subsequently aware that there would be a Coronial investigation and how the detectives would do that. I do not believe that my comments at that time, now even on reflect – that would affect that investigation. And if it did, then I would say, I felt the need to control it and it was far more important, at that time, than it was for the general order to take place. We, as police officers, have discretion in how we apply that. Now, I could be proved wrong and I’m happy to be corrected, but my experience again in dealing with communities with emotion and the potential for an escalation of force for all parties involved, that was – I’ve done that before. It’s worked very effectively, and I relied on that experience to ensure that we could maintain calm and order and we could move on with the business of the process or the grieving.

Okay. Sergeant King, at the end of your conversation, you encourage Lottie to tell people to come down to the station if they were present at the house?---Yes.

You agree that it’s important for people to tell their story as soon as possible - - -?---Definitely, yes.

- - - to an event. And the way you do it is this, you say, “Lottie, if there were people there last night, it’s really important you can asked them to come to the police station. Detectives will put them in a room by themselves and speak to them all by themselves.” That’s what you said to Lottie?---Yes.

And she said to you, “How can we go and talk to somebody when someone’s hurt?”?---Well, that’s a justifiable answer, yeah.

Yes. Do you understand what she meant by that?---I guess she’s saying, we’re grieving right now. We don’t have time to come and talk to you and tell you the story. We need to talk families about our process.

Okay. Sergeant King, do you think your approach was effective in encouraging people to come down to the station and make statements?---I would have to expect it did, because we did the same at the next house that we went to and I spoke to the grandfather. We spoke to everybody and sent the message as well. I'm not too sure if people came. I know that there were some people who come down to the station later that morning to ask what happened, if we could explain what happened, which we did. In relation to witnesses, you'd have to speak to detectives, because if they – if a witness came forward, we would have pushed them straight to the detectives and say, hey you need to talk to them.

Okay. The TRG often get called out for critical incidents. Is that right?---That's correct.

Do you think it would be useful for TRG members to have some training in how to meet their tactical objectives when dealing with family in a sensitive way?---Yeah, for sure.

I have no further questions, your Honour.

THE CORONER: Mr McMahon.

MR MCMAHON AC SC: Thanks, your Honour.

XXN BY MR MCMAHON:

MR MCMAHON: Sergeant, my name is McMahon and I appear for the Parumpurru Committee of Yuendumu, which is a justice committee?---Good afternoon, Mr McMahon.

Good afternoon. Have you got your statement there?---Yes, I have.

I'm going to take you to some practical matters in your statement towards the end at about the sixth or so last page, you showed a whole lot of weapons. I'll hold the page up?---So, is that on the emergency action orders, is it?

Yes. It says, "Emergency Action Order" and then it's got, "Gas --" first word, "Gas will be deployed in the form of -"?---Is that page 5? Yes.

Sorry, (inaudible) same page?---Yep.

Okay. So, what I'm going to do briefly without wasting any time is just to explain for the court what some of these weapons are able to do and then I'm going to ask you some questions more along the line of what you've already been asked to follow?---Yep.

So, starting at the top of the page, you've got under "Gas", which will be deployed in the form of 40-millimetre CS gas. So, a CS – a CS muzzle blast, are they all the

same kind of weapon, a 40 millimetre cartridge?---They're a cartridge, but the difference between the last one and the other two is the OC is capsicum spray. The ones above it are tear gas.

Are which, tear gas?---Yes, CS or tear gas, yes.

CS is tear gas. And sorry, a range of about 70 metres. Is that right?---Yes, the CS gas can go out to potentially 70 metres, depending on wind. The muzzle blast rounds are about a five to 10 metre range.

And they're fired out of what weapon?---A 40 millimetre launcher.

Is that more like a shotgun or a grenade launcher?---It's more of a grenade launcher, because it's a 40 millimetre land launcher, but - - -

Yes. And when a round is fired, there's a delay before the cartridge, what, explodes?---With the CS gas, yes, it will send the pellets out and it will land – and when they land, they start burning, because it's a compressed pellet and lessens the agent.

And if it lands on people's skin, what happens?---Well, in those sorts of rounds when they land, they're just going to be bounced straight off.

Yes?---If you had a case of potentially someone was unconscious laying on the ground and it landed on them, yes, it could potentially burn them.

But it can actually kill a person, can't it, if it hits the person in the wrong part of the body?---The CS gas, I would say, no, because the velocity is not as high on those rounds, so no. Well, highly unlikely.

Yes. What's the velocity? How many 100 metres a second?---Look, I wouldn't know, but I know I've fired them numerous times and what they land and hit other structures and targets and it has caused minimal impact.

The next issue with grenades, can you just give a brief explanation of what those four grenades are?---So, a smoke grenade is – just puts out a smoke. It's non-toxic. The OC Pocket Tactical was a grenade that puts out a capsicum spray cloud and the CS Triple-Chasers, it's a tear gas grenade that breaks into three components and puts out, again, the CS agent and the Pocket Tactical, the same as the OC Pocket Tactical.

And (inaudible) answer they don't hit people but hit the ground and then explode?---No, they actually – with those grenades, they have a pellet inside, so when you throw them, it has a little hole on the side and it just pumps out gas.

All right?---It doesn't actually explode in any way.

So, it's thrown in the same way as a lethal grenade?---Yes.

All right. On one of your other pages, you talk about using visible lasers on M4's?---That's correct.

Just so people understand what that means, that means that if someone has a rifle, an M4, AR-15, they raised the rifle to their eye, they pointed it at the centre mass of a body and then the laser light shines on the body?---If they activate the laser, yes. It's – the laser beam can be seen.

Lasers that are mounted on like a telescope, like a scope on your rifle. Is that correct?---It mounts onto the rifle itself, yes.

So, when someone sees a laser beam on their chest, what that means is they have a rifle, like an AR-15 or an M4 pointed at their chest?---It could be perceived that, your Honour, but sometimes when we do it, we do it from a great distance. They won't see the AR rifle, they'll see the dot. And the aim of that is they see the dot, hang on, they're looking at me. So then, I have to take – they have to take into appreciation, they're looking at me. Maybe I'll stop what I'm doing or anything else.

THE CORONER: It's more than looking at me?

MR MCMAHON: What it means is that the person who sees the dot on their chest – sorry, your Honour, will I go on?

THE CORONER: No, no.

MR MCMAHON: What it is, if the person sees the dot of their chest knows that a rifle is lined up pointed at their chest?---They could perceive that, yes.

How else could they perceive it?---Because people use laser pointers to point at each other all the time. We have people pointing at aircraft.

MR MCMAHON: When they're heading towards, as you – the example you used was "Heading towards the police station in a crowd marching at the police station", you want to keep them at more than 50 yards, you point the lasers at them, put them on their chests and it slows them down or stops them. That's what you said before, isn't it?---Yes.

And clearly the perception within all of that is they're being lined up with a rifle?---Again, they could perceive that could be the case.

The rifles that are used a that moment in time, should they be used, would they be loaded?---Yes, they would.

With lethal ammunition, right?---That's correct.

The next item there is the 12 gauge bean bag?---Yes.

So, that's a 12 gauge shotgun. The bean bag is a nonlethal - - -?---Round, yes.

A nonlethal round. Correct?---Yes.

It covers what 70 metres a second, something like that?---I'm not sure of the velocity.

Okay?---I'll have to check it.

Okay. And it's a bag of lead-shot which explodes when it hits the human body, right?---No, it's a bag of lead-shot which is wrapped up in a polycarbonate type material.

Pillow?---Like a pillow.

Yes?---And then when it hits then, it just distributes a force, but it doesn't – the aim is not to cause any penetration.

THE CORONER: And it's not supposed to break open?---No, it's not supposed to break open.

So, it's to hit you?---Yeah, it just hits you. It's the same as if I threw a rock at you, it hits you, the rock wouldn't break open. It's the same thing. It just hits you and it stays together. The pellets – the reason the lead pellets are in it is just to give it some weight for – to be able to - - -

Sorry, I used the wrong word that it "explodes", but as it leaves the barrel, it expands and becomes approximately several centimetres, square centimetres, and hits the body like my hand is half open?---They used to have an old bean bag round which came out as a pillow, as a square. But we don't use them. We use a different one that looks like a sock with some tails on it. But the covers are probably an inch squared circumference, yeah.

When it hits the body, it's a square?---Yeah, yeah, yep.

All right. The next three in your list there are 40 millimetre exact impacts, direct impacts, OC and CS?---That's correct, yep.

So there – they're 40 millimetre cartridges are they, which directly impact and hit the body?---Yes.

So that it's like being shot, except the round is not lethal?---That's correct.

Do they – the directing of (inaudible) impact CS, do those cartridges, which are shot, and which hit the body, do they also contain those chemicals?---Yes they do. So it's a polystyrene cup, and when the cup hits you, it breaks open, and it releases a powder, being OC or SC. The aim is that you've been hit, to distract you, and then also and you are affected by the agents. So it's a very effective way of being struck by something. And over - - -

Overpowered by the chemical?---By the chemical. Because if you're engaging people at great distance, and you might hit them, they could still throw something, or be a threat of you. With the agent, if affects their eyes, they can't see, or they start - - -

For quite some period of time, correct?---Up to 15 minutes some people can be affected by it. It – some people are really sensitive, some people they're not, so it depends on the individual.

Just a bit of luck?---Yep.

What about PepperBalls, same idea?---Yeah, the PepperBall has a lot smaller projectile.

So it's a longer lasting. Does it last up to an hour, an hour and a half do you think?---No, no, because the PepperBall PAVA round, which is very, very small, it just has an immediate effect on what it is, and it's the same as the OC, depends on the person.

All right. Down the bottom to the left, it says, "40-millimetre exact sponge", is that the same as the exact impact you've referred to up above?---Yeah exact impact sponge, it's just a – it's a foam round.

Anyway, you had – you didn't have all of those, when you landed at Yuendumu on the – early in the - - - ?---We didn't have any of the munitions with any chemical agent in, no.

You didn't get them until early the next morning?---Yes.

Just looking more broadly at the evidence you've given today. You seem to be a bit confused about whether you describe TRG as a paramilitary organisation or not. And I suggest at the beginning of your evidence, you were describing how the unit worked and so on. And you did describe it as a paramilitary organisation. Do you accept that from me?---I may have described it, but I don't think I said the word "paramilitary."

Okay, well take it from me that you did, because we've checked the quote with people in the room, and we heard you say it?---Okay.

All right. But I just want to explore that word with you for a moment. You identify – and now we won't quibble about whether you said it or not, okay?---No, yep.

The point is, I'm picking up what I heard you say, and whether you think you said it or not, no longer matters?---If you said I did, I'm happy to accept that, yep.

Okay. But I'm going to use the word now, because it's a – it's a fair enough word to describe TRG isn't it?---Look, from an outsider point of view, potentially, yes. But from a police perspective, no.

Well it's a unit which adopts and integrates military training. You do training with the Australian Defence Force, TRG? Had trainers come over from ADF?---No.

No?---No, we use ADF facilities, but we don't have ADF people come and directly try and (inaudible).

This is just from this morning, to focus your mind, so we don't waste time in the next five or 10 minutes. "As a team leader, as a sergeant, you have a greater situational awareness, than a tactical commander or officer in charge of situations bigger", this is you, I'm quoting, all right?---Yep.

"You just need to trust us, you need to do it, and you need to – you need to do it now." This is about giving instructions?---Okay.

"So it's important than when you're taught to do something, there's a lot of trust in there, and the disciplines important, just generally, as a paramilitary organisation, we have rank, we respond to rank, you respect rank"?---I guess, your Honour, where I was referring about to that is police is referred to paramilitary, that we have a rank structure. And most other agencies, being the ambulance, and, well except may be fire service, and government agencies, don't have rank structure. So we're very similar in the military that we have rank. And has responsibility. And we are obliged to the *Police Administration Act* to – to follow rank, and follow instructions. That – that's where the context - - -

But unlike the rest of the police force, the way you describe your unit, which – essentially you described its excellence. And I'm not criticising that?---Yeah.

But you describe its excellence. It's an elite unit. You don't quibble with that?---No.

And quite aside from the physical training, which I've just taken for granted, is it a very high level?---Yes it is.

The sorts of training that the members do, would be beyond the capacity of most people, including most police officers, in terms of endurance?---Yes, we run a selection course to choose the people, or allow the people to be selected.

And then the way you progress through the unit, in terms of people like you, closely studying the psychology of people whom your training, so that you don't get bad eggs, or people who are going to crack under pressure?---Yeah, I agree with that.

And that you – you study them carefully, so (inaudible) decide whether they pass, and then if they pass, based on their psychological characteristics, you decide which part of TRG they might go into, correct?---No, that's not correct at all. We – we study them in relation to we assess their trainability, their physical capacity, their aptitude

and their attention to detail, and a couple of other attributes. But what unit – what specialised area they go into is – can be a general expression of interest, they're interested in it, or like I said before, we're short in that area, and we want to train where it provides us capability.

Well you also said depending on their characteristics, didn't you?---The characteristics in relation to their trainability, for example, if you're going in to be a bomb technician, you have to have a good understanding of electronics, and you need to have a good understanding of reading material, manuals and so – and technology with the drones. So if we had someone who hadn't had any experience in learning, or work very hands on electronics, I'm not going to make them try and be a bomb technician.

All right, I get that point now. The – the – the underlying point is that the way that you work, the focus on excellence, on complete trust in each other, which you do have, don't you?---Yes, correct.

It's essential for the work you do, complete trust?---Yes it is.

And complete readiness to follow a command, which you may not understand why Sergeant King is giving a command, but you sure as – you sure know that you have to follow it immediately?---But there's also, if that command is unlawful, or manifestly negligent - - -

Yes, we're not – I'm just talking about how you operate on a good day?---Yes.

That's all very much the nature of a special forces military unit, isn't it?---I wouldn't say special forces. I would say any unit. And I've worked in Casuarina Police Station. I give people instructions, and I expect them to follow it.

I strikes me odd that you're quibbling with this, because it's the nature of the presentation of TRG that it's a force of excellence, of professionalism, of elitism, and so on?---Yes.

That's how you present yourselves?---Yeah, I agree, yep.

And it's a reality, isn't it?---It is, yes.

And - - -

THE CORONER: Did they get a bit of a shock at Casuarina when you arrived?---It was a bit of both, your Honour. I think that one point they would ask a lot of questions. They enjoyed I guess I have good leadership skills I hope, but yeah, I think they did. And they valued some of the opinions I did. And I put a whole different perspective to front line, that some of them hadn't been exposed to before.

MR MCMAHON: And you're – correct if I'm wrong, but did you say you're in the military as well, in the reserves?---I'm in - - -

THE CORONER: NORFORCE?---NORFORCE, that's correct, yes.

MR MCMAHON: And have you been in NORFORCE for a long time?---Twenty years next month.

Okay, so NORFORCE, 20 years ago, was actually part of the special action forces of the army, wasn't it?---No, I disagree.

In command with SAS signals and other units like that?---When it was created in 1984 it was – it had a strong affiliation with special forces. But when I joined in 2002, that wasn't the case at all.

(Inaudible)?---Yeah, it was its own entity of the defence force.

One of the matters that's come up in this hearing, is the number of ex-military people who are, and have in the last 10 years appear to join the Northern Territory Police. And some of the skills that are suitable for your unit, taught in some parts of the army. So are you able to give us an idea of how many of your successful recruits, on an annual basis, are coming from the Australian Defence Force?---Recruits as in NT Police, or recruits for TRG?

No, into TRG?---Well I was there from last year. It's hard to say, I think – there will always be a couple there, and - - -

How many people join TRG a year?---Well it depends on the vacancies. If we have vacancies, we apply. But it also depends how many people pass selection course as well.

Sure, just give us a rough idea. I mean, do you have – do more than 10 people join a year?---Well it's a very hard question to answer. I would say that we get between maybe six to 10 people apply. And we would probably have a pass rate of 25 percent of people – those people who pass selection. And then from then, they have to go an internal selection process throughout the agency, to actually come to us. So even though you pass, they still have to apply for gazetted positions. They still sit before a panel. And those people – that panel will still choose if they come to us. We have no governance over who comes to us. We just basically say, you've passed selection, you're eligible to apply. And it's up to the unit.

So you might only get a few new faces a year?---Yes.

Correct?---Yes, correct.

And are you able to say how many of those, typically, in the last say – you were there for how many years?---Eighteen and a half.

So in those 18 – let's say the last 10 years, how many of those were

ex-military?---Well I know we've got members who have come through with military backgrounds, and there's people with military backgrounds still within the unit. But I couldn't tell you how many. I'd have to look that up. And even then, I couldn't be entirely accurate. And I couldn't even give you a percentage, sorry.

Couldn't what?---I couldn't even give you a percentage to try and average that out.

Okay. One thing I thought I heard you say earlier to day was that you were sometimes involved in general support tasks as TRG?---Yes, that's right.

So we've heard quite often in this court the discussion "general duties work by police" is that the same thing?---No.

So just explain what a general support task is?---A general support task could be a bomb response, search and rescue, close personal protection, or you're supporting the front line at a special operation such as the V8 Supercars, a youth operation for youth crime, going to a football carnival - that sort of stuff. It's supporting the front line in a capacity where the risk was seen to be subsidiary lower than - - -

Some of the items you just mentioned - and some of them seem natural to TRG like bomb - a bomb scenario?---Yes. Yep.

And others seem natural to normal policing work, like going to a youth sporting event?---That's correct.

So you've got TRG doing both those things?---Yes.

And you roll it all under the heading of "general support tasks"?---That's correct.

Well, one of the things that impressed I am sure, most people in this room when you spoke about it earlier today was the capacity and focus on self reflection, not only yours but within the unit and the way that you seek to learn about what you do by self reflection. Do you agree that's an outstanding quality of TRG?---From debriefs, yes, but as an organisation we always conduct debriefs after operations as well.

When you're given a task to go to a youth concert or something like that do you conduct any kind of analysis on whether it is appropriate for an elite force like yours to go out into policing the general community in that way?---Well, the analysis for us being used is decided by the superintendent, so the superintendent requests us, our superintendent will look at it and see whether it's viable, it goes to our OIC to - like I said before, whether we've got the staff to assist with that and then from there will go where needed. We're happy to help the organisation whenever they need us to do it as long as it doesn't compromise our ability to respond to the community throughout the Northern Territory and other aspects.

What I'm interested in the sense of this dichotomy I suppose between (inaudible) and I'm calling it paramilitary whether you like it or not, I think that's an appropriate term?---Fair enough.

An elite paramilitary force with many of the qualities of an elite military force then deployed to control civilian populations. Is that something that you reflect on when you get deployed? Are those general duties tasks?---No. Not at all. To control them without a support, you're requesting (inaudible). We're all cops at heart - - -

You're all what?---We're all cops - all police officers regardless of - - -

Cops?---Yeah, cops - police, yes. So we're all police officers at heart regardless whether we work for TRG or not and I think it actually brings us great balance because we are incredibly resilient and able and flexible and able to scale up for something like the Hoffmann - I don't know - running around with a firearm indiscriminately shooting people, right back to going to a youth crime incident where we've got people breaking into houses, we'll - and that's what actually makes us so effective at times as well.

And that is one perspective. The people who are in TRG, are they full-time members of TRG?--That's correct.

So when you go to work, if you're in TRG, it was clear from an answer you gave earlier today, you just say, "I'm in TRG" there's no dispute about whether you're in it or not, you're clearly one or the other?---That's correct, yes.

You always go to work at a particular place, which is the TRG place and do your work at the centre?---At our office, yes, or at the office we used to work.

Right. But earlier you said today you sometimes arrive in the community to do your work and in fact you stay in the police station, you effectively hide in the police station so that you're not seen until you can go and do the specific task that you've been sent to do?---Yes, that's correct.

And you appreciate that does sound extraordinarily different from the idea of (inaudible) policing and working with the community, building up relationships and trust in a community. It's an extremely different kind of task isn't it?---Well, your Honour, it is, but it depends on the task that we were sent. If I - we've done - we get sent to Port Keats to do warrants in the morning because people are outstanding, then we'll stay out of view because we know they will leave. If we're there just to bolster numbers and engage the community, we'll jump in cars and drive around and we'll talk to them, we'll talk to the kids and they go "Blue light - blue light", we'll turn the red and blue lights on, we'll get out and talk to them.

I will come to how effective that might be in a minute. When you were in the TRG are you using different weaponry to the rest of the police force?---We have access to different weaponry, yes.

Yes, and when you - well, it's not just access. When you go out and do a TRG task, as I understood your evidence, and other material, you're fully kitted up. You take a

range of impossible chemical munitions and weapons, different kinds of guns, firearms?---For high-risk - high-risk operations are you talking about?

Yes?---Yes.

Was going to Yuendumu classified as a high-risk operation?---Yes, definitely.

With your involvement with IRT, you've been involved in - you were 18 years in TRG - TRG, so you would have seen the development of IRT in this - from 2016 through to 2019, you were involved in some of that?---Yeah, I never had an opportunity to go down and actually train the members themselves. I helped write - re-write some lesson plans to make them more contemporary to what we're doing, and I spoke to the OIC of the station, Mike Williams at that stage to - when he was writing the SOP's for IRT he asked me to run my eyes very it quickly before it was forwarded to the OIC but direct training of the members - no. I haven't had an opportunity - - -

Okay, not you personally, but your unit, TRG, was involved in direct training?
---That's correct.

And some people from TRG ended up - well, I think Sergeant Bauwens - was he once in TRG?---That's correct.

So there's a personnel crossover, did people move from IRT to TRG?---We've had people who were in IT pass selection and join the unit, yes.

So the training, for instance, we've heard about - I think it's called "Green role" and "black role", "green week" and "black week" and the two week training course. Are you familiar with that?---I'm familiar with the terminology of the roles, yes.

Did TRG get involved in that training?---Yes.

But the whole training itself went for two weeks, that black role and green role - one week of each as far as we understand it. Does that sound right to you?

THE CORONER: We're talking about IRT training?---Yes, yes, I am familiar with that, your Honour.

MR MCMAHON: What I am heading to, Sergeant, is that IRT is a bit of a shadow of TRG in some ways, it has weapons that other police don't use, do you agree with that?---Yes, I'd agree with that.

Apart from TRG?---Yes, I agree with that.

There's been refence to stun grenades and flash hand grenades and - - -?---That's correct.

And AR-15's and M4's and so on. That's all the weaponry of either TRG or IRT but not the rest of the police force, correct?---Well, there are AR-15's throughout the police force already, during that time. We always had access to them and now the patrol rifle is in every station - or aim to be every station.

So the other weapons I mentioned they are more of the confines of the IRT and TRG?---Yes.

Have you seen the videos of the IRT around the houses on 9 November?---I've seen snippets the media but not - - -

Just snippets in the media?---Yes, not as in the full - - -

You've never studied them and how the operation was carried out?---No.

So you're not in a position to form - to state an opinion on how well they did move through the houses and how well they carried themselves at those houses?---In Yuendumu?

Yes?---Like I said, I've only seen snippets of media and bits and pieces throughout this inquest. I haven't seen - - -

Would it surprise you to know that the IRT members who were there on 9 November aren't able to tell this court who the team leader was of the four of them moving around the house?---Look, I can understand that because they didn't have a team leader.

This is - how do you know they didn't have a team leader?---Well from listening to the inquest so far as in like - and I'll go back a bit. I ran a team leader course for IRT which was Mike Williams and his wife, Hayden Hunt(?) and Lee Bauwens. Shortly after the Williams' left the organisation and Hayden got cancelled(?), went back to (inaudible). So the aim of that was to provide IRT team leaders to make assessments, go to jobs and do stuff. We raised the issue about running another course and I'm not too sure why the course wasn't run but - - -

I'll just stop you there for a moment because we might just be having a question of language?---Okay.

On 9 November at the point leading to the arrest which became a shooting, there were a number of IRT people going into one house and then another house. Do you understand that?---I believe so, yes.

Yes. And questions have been asked in this court about who was in charge. Now if you have four men on the ground, carrying out an operation for a person who is three days earlier, used an axe or a tomahawk against two police officers, which led to the whole scenario of IRT being there. Wouldn't you expect out of the four men on the ground, someone to be charge, so that decisions can be made by somebody when a decision needs to be made?---I'd agree with that.

You agree with that. And what do you call that person?---Well that would be the team leader - - -

That was the word I was using - - - ?---Through experience or rank, yes.

- - - so you agree with that, yes. So you accept for those four people for one of them to be the team leader, so someone can make decisions and be accountable. Difficult decisions on the ground, which have to be made?---Yes I agree with that.

THE CORONER: So the question was, did it surprise you that there was no team leader when they were out conducting those tasks?---It's a difficult question, your Honour, yeah, if they're raising there was no team member present, I knew there wasn't a formal team leader that I had trained present, afterwards. Because I knew that Sergeant Bauwens wasn't (inaudible) - - -

MR MCMAHON: Yes, but that's a distraction, we're not talking about - - - ?---Okay, yep.

- - - whether someone went through a team leader course with you or - - - ?---Yeah, okay.

- - - Sergeant Bauwens, or somebody else. We're talking about four men on the ground, carrying out an operation, with lethal weapons. One of them has to be in charge. Are you surprised to know that no one was in charge?---I'm surprised to know that no one nominated themselves that I am in charge of the team, yes. Formally nominate themselves.

What was the last thing you said?---Formally nominate themselves within the group that I'm in charge.

Well it's worse than that, because one of them thought Hawkings was team leader. Another one thought someone was team leader, and one of them thought no one's team leader. It was – that would be completely unsatisfactory from your point of view?---Well yes, we've seen the issues.

Just to clarify one earlier question and answer. Did you say that most of the jobs that you do at TRG were – when you were at TRG, were being called out to community? Now I might have misheard you, that's why I'm asking you the question?---Most of the jobs we do at communities?

No, most of the jobs you do, when TRG are called out, were in communities, Aboriginal communities?---No, I wouldn't agree with that.

So that's me assuming it, that's why I'm asking you the question?---Yeah, yeah, yep.

You were asked about AR-15's, and you – from Mr Mullins in the back row there. And – about the fear in the community that people carrying AR-15's can generate.

And you said you understand that fear, that people when they see an AR-15, you understand the fear. So I just want to ask you, what do you mean by that? What is it that you understand when you say “I understand the fear that Aboriginal people in community have when they see police with AR-15’s in their arms”?---I guess the thing is that they’re just not used to seeing police armed with those weapons, and they’re – it’s a case of education, understanding, why they’re there, and what they’re for. When they wouldn’t normally see it, as I think it puts down to the community as well, as a whole, we were not used to people parading. We see them in airports now, and we see what we see overseas. It takes a bit of adjustment, from their perspective, they’re going why do you need that? What’s that here for? We’re not going to hurt you, we - - -

Now Sergeant, I’m going to ask you some questions about the video that you’ve been shown. And some of my questions will seem a bit critical of you personally, but I want you to understand in the context, you’ve spoken a lot in this court about the professionalism of your unit?---Yes.

And no one’s doubting the excellence of the work that unit does, or the professionalism of the unit. Do you understand that?---Yes.

And I think everyone was impressed by your comments of self-reflection, and so on. And I’ve been asking you about questions to do with being a para-military unit, which is something that I’m interested in, for my client, in this court. And I’m going to contrast some of what you’ve said, with what you’ve perceived yourself to be doing. When you were with Sergeant Frost, and – is it Sergeant Jang?---Zang.

Is he a sergeant as well?---Yeah.

At the Robertson house, you’ve had the video played to you. And when you arrive there, you essentially said, amongst other things, you said that “We’re here – the TRG are here”, follow?---Yeah that’s correct. This is the death message, when we went to the first house in the morning, when said it.

And then you say “The TRG are here, is because we have bean bag shot gun and other stuff.” So you’re announcing the fact that the TRG did – do you know whether or not, because I might have missed it from an earlier piece of evidence or something, do you know whether or not the people to whom you were speaking, had any idea what the TRG was?---I believe they did. Because when I was down there in 2010, we had an active role in those riots, and up to about 10 days afterwards.

So anyone from that time would know that the TRG were the sort of people you get in when there’s a dangerous riot?---Yes.

So that’s what you were referencing when you say “The TRG here, and we’re here with bean bag shot guns”, right?---That’s correct.

Now do you accept from me that what you’re really saying there, that the message you’re delivering, to put it colloquially, is that there’s a pretty tough and serious

police unit in here, and we've got weapons that can hurt you. That's the message you're delivering?---Look, in hindsight, I'd probably admit that it was – probably wasn't appropriate to mention we had that weaponry. I could have just said we're here, we've been here before, we're here to make people safe. But there was no, way, shape or form to intimidate people that we've got these weapons. That wasn't the intent.

But - - - ?---It wasn't the intent.

Okay. Do you accept that it was the effect of your words? You announced presence of an elite, tough unit, a unit of very tough men, whom you say, "And by the way, we're here, there's been a shooting, we've got the bean bag shot guns." That's the effect of what you're saying?---The effect of what I was saying, is that they had said "Who are that mob over there?" I said "Oh that's them TRG mob." I wanted them to understand who we were, and why were down, because we look different. We behave different. We would probably have a more active role in the community than the local members, and you're going to see us around for a while, while Alice Springs members are flying in, flying out. That was all that was intended for. So if you see me, you know who I work for.

You've switched – see you've switched that. I'm not saying what you intended?---Okay.

I'm pointing your mind to what the effect of what you said was. The effect of what you said was to announce the extremely tough, well-armed men are in town. That's the effect of your words. Do you accept that?---It could be perceived by that, that was – as the effect, yeah.

And then you went on – and then you went on to say, "Just to be clear, I'm the sort of guy who comes down here when there are riots." And three or four times today, you've referenced your familiarity with the community of Yuendumu, with the fact that you turn up and there's a riot?---Not always the case. I mentioned search and rescue incidents as well.

That's effectively what you said, that's what I'm putting to you. Do you accept that?---Yes.

Just finally, the – this question of you announcing to the people who – to whom you were speaking in that house, that this was not a case for shooting for no reason. And the evidence basically is from what the transcript is, and what you've said today is, that the policeman did what he did, because he thought he was going to die, because he got stabbed. All right? That's what you said to the people at the time?---Correct.

And you've defended those words several times today. Can I suggest to you what you've done there is immediately announced, as you would say, controlling the narrative, that there's been an act of self-defence by the shooter. That he was being

stabbed. He thought he was going to die, so he had to shoot. That's the – that's the message that you're intending to announce, correct?---Yeah, I agree with that.

You speak about controlling the narrative, and what I'm – what I suggest to you there is not that you're controlling the narrative, but that you're creating the narrative. You're creating a narrative that it was a legitimate shooting, because it was self-defence, correct?---I wouldn't say legitimate at that time, because – well yes, upon that time I could, but my aim was to tell them, again, this wasn't done for no reason. There's no need to overwhelmed that police have done the worst thing. There's two sides to the story here, let's just use some time to absolve – absorb this.

With respect, Sergeant, you don't seem to have any sense of what a shocking thing it is that you said. What you said was, "This was self-defence." In other words, the person who died, died because he was lawfully killed by the policeman?

MR EDWARDSON: I object to that, your Honour. That's not the words that he used.

MR MCMAHON: All right, I'll give him the words that he used, fair enough.

MR EDWARDSON: Well put – use the words that he used.

MR MCMAHON: "The reason that policeman did what he did, because he thought he was going to die, cause he got stabbed."?---Yes.

You're proposing an action of self-defence?---Yeah - - -

He thought he was going to die, that's why he shot him?---I agree that can be perceived, yes.

And suggesting plainly, that it was a legitimate thing to do?---I guess from my perspective as a police officer, I probably thought it was justified - - -

That's right, you thought it was justified - - - ?---From my - - -

- - - because it's legitimate self-defence?---Yes.

And as one of the other counsel put to you, the effect of that, is to say it's the fault of the person who died?---Well that's a perception that could be taken it from the family - - -

(Inaudible) this isn't - - - ?---Yes, yeah.

Yes. But in fact, you had no idea whether any of that was true, did you?---And I did explain that detectives and everyone else that we had to get to the story and find out what happened.

Sure, that came later. But at that time, what you were doing was creating a narrative which you wanted to control, as you repeatedly said, but you had no idea whether it

was true. Do you agree with that?---Yeah, correct.

For all you know, the shooter was not acting legitimately. Now, I'm not suggesting he was or he wasn't, I'm just putting it to you, for all you know, he was not acting legitimately. Correct? It's plainly correct, isn't it?---Well, it is, but also when the members – yeah, you're right.

Yes?---And didn't factually, I wasn't there. So, I – there's no way I could have determined whether that actually happened or not, yes.

For all you know, the shooter was behaving in a completely unacceptable way?---That's correct.

Correct?---Yep.

For all you know, he was excessively violent and filled with malice. For all you know, do you accept that?---Well, there's always a potential, but again, I had to weigh up the situation of the end result, which was to make sure no one else got hurt.

And you chose to do that by inventing a narrative with fitted with a - - -

A PERSON UNKNOWN: I think, in fairness, invention is a bit strong.

MR MCMAHON: All right.

A PERSON UNKNOWN: The information was relayed to him.

MR MCMAHON: All right, I'll pull it out. I'll withdraw that.

You chose to do that by creating a narrative?---Yes.

All right.

No further questions.

A PERSON UNKNOWN: Your Honour, I think Mr Edwardson is next. I just note the time. Mr Edwardson will - - -

THE CORONER: No, there's - - -

MR ZICHY-WOINARSKI: I've got a couple of brief questions, but I can wait until after the adjournment.

THE CORONER: No, you can go first, Mr Zichy-Woinarski.

XXN BY MR ZICHY-WOINARSKI:

MR ZICHY-WOINARSKI: Thank you, your Honour?---Good afternoon, I won't say

your name, I've got no idea what it was.

I appear for NT Health. Do you still have your statement there?---Yes, I do.

Paragraph 41?---Yes.

Over the page on my version. You discussed all the actions you took on Monday, 11 November 2019, that's the Monday after Kumanjaya died - - -?---That's correct.

- - - to ensure medical assistance was available to the community?---That's correct, yep.

I want to ask you about your knowledge at the time in relation to the other medical support that was available to the community, were you aware that extra nurses had been deployed to Laramba and were providing emergency cover to Yuendumu at that time?---I have a brief recollection that there were other health services in the area, but I had nothing immediately provided to me within the community itself.

Sure. Were you aware that police had only confirmed to NT Health that morning that it was safe for the nursing staff to return to Yuendumu?---No, I wasn't aware.

And that following that confirmation, nurses travelled by ambulance to Yuendumu to reopen the clinic there?---I can't recall when that happened.

So, you weren't aware whether – if the clinic was open by 1:30 pm that afternoon?---I know that the night before, I asked what's our medical capacity or response to the community. Are we able to provide them with assistance. And when I spoke to them that morning, was that the Monday morning, that paragraph?

Yes?---The Monday morning, I was told we're working on it. And that's when I sought approval to use a Yuelamu ambulance to provide that capacity to the community. So, if that was happening, it would probably have been happening in the background with the IRT or the forward commander, but I wasn't aware.

Sure. So, it wasn't communicated to you that there were extra nurses available?---No, I think I just got told they were either on their way or they were there at some stage, but I can't recall when.

Thank you.

No further questions.

THE CORONER: Yes.

MR EDWARSON: Does your Honour want me to start on it straight away or do you want to break – by the way, I don't think I'll be an hour (inaudible).

THE CORONER: Okay. Look, I think we'll take a break.

I just want to say, are you aware that the community, at least, have expressed to us how upset they were by what they perceived to be as a very heavy-handed and uncalled for policing response after this incident?---In what context, your Honour, in the days following or?

Yes, in the days following. So, for example, police standing with rifles at the house and also at the community shop?---Yeah, I'm not aware of - - -

Did you see that?---Yes, definitely. I'm not aware of the one at the shop. I don't know where that's come from.

All right. Well, I think we've got photos of it?---Yeah. I'm aware of the crime scene. I've seen that in the media, but yeah, definitely, yeah.

Not at the shop?

MR COLERIDGE: We do certainly have photographs of armed guards at House 511, I'm not sure whether we have photographs of anyone at the shop.

THE CORONER: The shop? The house. All right, well, certainly there's been some evidence that it was at the house?---Yes.

And a young lady who gave evidence, Samara Fernandez-Brown said that she went to the police station - - -?---Yes.

- - - to try and obtain some information and she found the police officer, who I think she said was in a camouflage uniform?---That was me, your Honour. That was myself and Terry. I remember that conversation.

You remember that conversation?---I remember that conversation, yes.

All right. Well, she felt that there was a complete lack of empathy being shown for her, as a member of the community, wanting to enquire about the circumstances of a family member being shot?---Yep. That was surprising when I read that, because when she came, to start with, Terry and I had to work out who she was. We were really conscious of who in the family we were speaking to, and when she said she represented them, that was fine. I don't believe I came across unempathetic. She was quite good. She asked what happened. We told her. She said, "What happens next." We told her and when she left, Terry and I actually thought we had a good inroad into the community through those two, Samara and her friend. So, I was a bit disheartened to read that, that I came across like that. If I did, I apologise to her, that was never my intention. But we had a good conversation for at least 20 minutes. And I wish I had that on body-worn, but I think both our body-worns were being charged or downloaded for the detectives from crime scene, because I don't believe I came across - - -

Do you think the conversation with Rakeisha was good?---Rakeisha?

Yes, when you went to the house, the first conversation that we've been watching?---Look, watching the video today, I can understand definitely how it comes across like that. But what you can't see is the people in the background getting a little bit antsy, a little bit uptight. And when I interjected and said to her, "Come to the station" was because she started going along the line of accusing Sergeant Frost of, you were going to bring them out here and shoot him like a dog, or something, or words to that effect. And I was just trying to say, look get the message out and then go. Yes, there could have been a lot more empathy and talking about that, but I was also conscious of, I didn't want to spend too much time talking to them and trying to justify either way. I just wanted to let them get on and do their thing.

And there were roadblocks?---Roadblocks?

Into and out of the community?---That's a good question actually. So, what happened there was, I was asked – we were receiving information that a significant amount of family was coming in from Alice Springs, potentially bringing alcohol and weapons. There was talk about family coming from Lajamanu and Kurkujara, all coming to Yuendumu. And we're going, well we need to get some assessment of that. So, I was asked to send members out to Tilmouth Well and just talk to people and find out what's happening. I got a call probably about a couple of hours after they were there saying someone had released to the media that we had armed roadblocks with people with rifles stopping people coming out. I said that's not true. I rang one of the members who was out there, I can't remember who it is, and I said, "What are you doing?" And he says, "We're having a meat pie. What are you doing?" I said, "We're just chatting to people." They were just talking to people, they weren't stopping people. They were just asking, where are you from, what are you doing and all that whilst (inaudible) of what cars were coming in and out. And I'm not aware of any roadblocks that I had any control over. There might have been ones otherwise, but there was never any intention anyone to stop people coming to community, especially when sorry business started. It's definitely something we wouldn't want to stop. So - is that the roadblock you're referring to?

I don't know. I'm just relaying the concerns of community. You just understand that there might be, whilst you might have legitimate reasons for taking certain actions - - -?---Yes.

- - - where you might feel justified in those actions, there's a different perception out there by the community that, in fact, the response was very heavy-handed and lacking in respect. They had had a community member shot by a police officer?---Yes.

They had not – I know there were some rocks thrown and very unfortunately, the ambulance officer and perhaps another couple of police officers were hit by rocks. But by and large, the community had contained their response to what had happened?---Yeah, that's a good point. And you're right to that degree. That's why it's so important for us to liaise with Eddy or Samara and Derek Williams to – if there were any concerns or they had anything, to come and talk to us. We were open to

that road of communication. And I understand our presence there could be seen as an agitation.

Do you think that people would be comfortable coming to speak to the police and being in a room by themselves with a police officer after someone has been shot, and when there are people standing around the community with long arms?---In response to asking witnesses to come forward, that comment I made – yeah, you're right. There could not be – well, it was difficult. I haven't been to a police shooting before. I've been to plenty of other circumstances where they have come up and they - - -

This was different?---It was definitely different, yes, I would agree with that, yeah.

So, there might need to be a little bit of reflection putting yourselves in their shoes about the impact of what happened afterwards, taking into account also, of course, the communication issues and the delay - - -?---Yes, I would agree with that.

- - - in communicating the passing?---Yep.

And they do just – I'm told, you know when we're talking about communicating information about a passing, that that would be a better way of referring to such an incident that in a more direct way?---Yes.

So, I'm just – there's a lot of things there that, you know, that I think that we can reflect on and learn from?---Yeah, I'd agree.

We'll adjourn for the break.

ADJOURNED

RESUMED

MR COLERIDGE: My apologies for the delay, your Honour, that was my fault. I think Mr Edwardson was next.

THE CORONER: Yes, Mr Edwardson?

MR EDWARDSON: Thank you, your Honour. I don't think I will be able to finish by half past 4:00, I am sorry, your Honour, but I - - -

THE CORONER: I am sorry, there were some other matters I needed to attend to.

MR EDWARDSON: No, not at all. Not at all.

XXN BY MR EDWARDSON:

MR EDWARDSON: Sergeant, I want to start if I can firstly with the fact that you said you were really conscious of the bush telegraph and how it works. You've had a lot of experience it would seem from your evidence, amongst various communities? ---Yes.

Including Yuendumu?---Yes, correct.

And when you were talking about the bush telegraph, you're talking about Chinese whispers I take it, within community?---Pretty much, yes.

Misinformation, rapidly being distributed amongst members?---And especially with no control to control that, yes.

And that was something that you were attempting to achieve when you had that conversation as we saw and you gave that description which you have been criticised for a moment ago and you said something to the effect of, "The reason the plan" - sorry - "the reason that the police officer did what he did was because he thought he was going to die" or words to that effect?---That's correct.

At that point in time you were aware, weren't you, that there was a real risk that the community may have a misconception that this was simply, as it were, an execution - killing or a shooting for no reason at all?---Exactly, yes.

What you did know of course, at least at that time, was that you had information that Zachary Rolfe had been stabbed?---Correct.

That he'd been stabbed with a pair of scissors?---Correct.

And because of your training you are acutely aware, are you not, of the potential lethal nature of the deployment of a pair of scissors?---That's correct.

I want to ask you a little bit about training. Training as a police officer first and then I'll come to the TRG, the IRT and so on. But is it correct to say that a pair of scissors, as benign as they might look to the ill-informed, are probably one of the most dangerous edged weapons you can use?---It can be, yes.

And it's your experience, is it not, over many years, that it's quite common for some Indigenous people to use or carry them?---I've had personal experience of finding people carrying them, yes.

And sometimes the scissors are cut in half?---Yes.

And that creates an even greater danger?---Yes.

And the reason for that is that you can swivel it around and it's very difficult to retrieve from a person who seeks to deploy it?---Correct.

And that's a weapon that you're familiar with and that you have seen before?
---Correct.

And you knew, when you made that comment we have just mentioned, you knew that from the information you had at least, that Zachary Rolfe had been stabbed with a weapon such as that?---I'd been told he'd been stabbed with a pair of scissors that night, yes.

Thank you. Now, I want to also deal with the concept - and I don't want to go back over evidence that is in detail from the trial, but in simple terms, the expression "edged weapon equals gun" is an expression that is well known to you?---Yes.

It's something that forms part and parcel of your training as a police officer and has been developed over quite some time?---Correct.

I'll come to changes in due course, about the TRG post this tragic shooting. But I want to deal with the position, as it were, before 9 November 2019. Six metres is regarded as being a significant distance isn't it? That is, the minimum threat for a firearm, for example?---Minimum such as for an edged weapon?

Yes?---Yes.

So if someone produces an edged weapon, is the first weapon you should use or draw, being a firearm?---Depending on circumstances, they – at six metres or - - -

Yes?---Yeah, at six metres, you should be considering using lethal force, or a lethal option, sorry.

And when you say "Consider using a lethal option", you're talking about drawing for example, a Glock?---Yes, correct.

And be prepared to fire the gun if necessary?---That's correct.

And the quicker the incident in question, and the closer the proximity between the two, of course, minimises other options?---Yes, the less reactionary time you have to respond, yes.

And so as far as training's concerned, six metres is the minimum threat for a firearm as you've described. So if somebody's in next to you, or in very close proximity, as I understand it, the training that existed, up to, and including 6 November – sorry, 11 November 2019, was that if someone produces an edged weapon, such as a pair of scissors, and deploys them, at you as a police officer, you have to consider, and seriously consider, using your firearm, in those circumstances?---You have to consider the – a lethal force option, yes.

Now I want to ask you a little bit about two different options, the difference between say the TRG on one hand, and what I'll call the general police officer. The training, in terms of shooting, or actually firing a firearm such as a Glock, is that you shoot for the centre body mass?---Centre of scene mass.

Centre or scene mass?---Of – of scene mass. Of what you see.

And what's the logic behind that?---The idea is if you see a part that you can shoot, you want to try and maximise your ability to hit that target, because it's the greater target area.

And the idea is to achieve immediate incapacitation?---Well its subject control through immediate incapacitation.

As far as the TRG is concerned, in similar or identical circumstances, are there differences as to where you should aim?---Yeah your Honour, for – for TRG because primary role like I said this morning, the police tactical group, we focus on counter-terrorism, high-risk, or hostage rescue situations. So we – we practice for the worst case scenario, there's a threat or a bad guy holding a gun up against a hostage, with his finger on the trigger. So for that, we aim for head shots. Which is aimed to take out the medulla at the back of the head, which is a brain stem. And the aim for that is that you hit that area and incapacitate it, if he was still alive, or the threat wanted to pull the trigger and shoot that hostage, he couldn't because the nerve passage through the brain, to their limbs, is – isn't able to be achieved.

As I understand it, when you - - -

THE CORONER: So where – sorry, where's the – where's the – sorry, the specific area that you're aiming for in that situation?---From the front. We're aiming for just here. The back of the head. So top of the spine, where the brain meets the top of the spine, it's called the brain stem.

MR EDWARDSON: You did your course, that is your instructor course, in 2005, is that right?---Firearm instructor course?

Yes?---2008.

2008?---Yep.

You subsequently became a tactical commander, is that right?---In 2012, yes.

And that's a national course?---Yes.

And since that time, well was it soon after that, that you became part and parcel of TRG?---I was a TRG member from 2003.

Thank you. And TRG actually train the IRT, or did have a role in training the IRT?---That's correct.

Was the IRT, conceptually at least, as you understood it, when it was created, was it designed predominantly to be a cordon and contain, in high-risk situations, until for example, TRG could get there?---Originally, yes.

And did that change?---Yes it did.

How did it change?---There was some discussions about the capacity for IRT to deal with a situation if they had cordoned it, and if the person inside the building was now shooting hostages, what would they do next, and if TRG was still enroute. What was that – what were police's responses to that.

So in those circumstances, if there had been for example, an escalation, which didn't permit time for the TRG to arrive?---Yep.

Did the training deemed developed to allow them to have the skills to, as it were, get into the house, and – and take out the target?---Yes, your Honour. So we – it was what we called in an immediate emergency action, and that's that black role that was referred to earlier today.

Now you would have an understanding, I assume it applies equally, but correct me if I'm wrong, to TRG as opposed to IRT, but in essence, the IRT might be deployed for a high-risk target, or a high-risk tasking?---If any deployment of IRT for high-risk had to go through the approval of the OIC TRG, but there was – there was the capacity to assist TRG in high-risk operations.

Did you know much about Kumanjaya Walker, before your deployment to Yuendumu, on 9 November 2019?---Only in the (inaudible) report that the two officers at Yuendumu had been attacked by an axe, or the axe incident. That's all I knew.

So you knew about the axe incident?---Yes.

And it was described in detail?---The (inaudible) report, your Honour, was basically the watch commanders, or the Territory duties sergeants report a quick brief to the executive about any interest – incidents of interest throughout that shift, that eight

hour period. And I was, as a OIC, or Acting OIC TRG, I was privy to that information. So anything that's come through of interest I would be part of, and that's how I saw it.

Did you actually view the footage before you were deployed to Yuendumu?---No.

Have you seen that footage since?---Of the axe incident?

Yes?---I saw some of it that night, I think. And then other than that, I've only seen what's been in the media, or snippets through the inquest. I haven't seen its entirety, no.

Again, you would agree would you not, that that is an extremely troubling and potentially very dangerous situation for a police officer?---Yes, definitely, yeah.

And would you agree that as a consequence of what happened, as seen on that footage, on 6 November 2019, Kumanjayi Walker necessarily would be described as potentially at least, a high-risk target?---I'd agree with that.

And he'd be a high-risk target because he had on the sixth, sought to resort to an axe, which would properly be described as an edged weapon?---Yes, correct.

Had the capacity to inflict fatal wounds, if that was the intent of the person holding it?---It could do, yes.

Had used that weapon, effectively, to escape police?---Well he did, yes.

Yes. And it would therefore inform police, would it not, that if he armed himself again, there was a real prospect that he might again, seek to deploy a potentially fatal weapon against the police officer?---I – I'd agree with that.

And so that's what made him a high-risk target?---Yes. Sorry, would – would have made him.

Would have made him?---Yeah.

Yes. And so what I want to do is ask you this. You said, that had you been asked to go and, as it were, be responsible, that – when I say you, I mean TRG?---TRG, yep.

Be responsible for the apprehension of Kumanjayi Walker, you would have accepted that, subject to all the other constraints of other jobs, and the like?---Yes, yep.

And that's because of the skill set of the TRG?---Yeah I think so, yes, yep.

And potentially, the prospect that if Kumanjayi Walker did resort to using a fatal weapon again, you would have the skill set to try and deal with it?---We were better trained and prepared for those of incidents, yes.

And likewise, members of the IRT, as trained, would be better equipped than say a general police officer?---Yes.

And so it was appropriate, and you can say this of course, because of your expertise, training and the like, as much is self-evident, it would be appropriate in those circumstances, for the IRT to be deployed, as it were, to effect the arrest?---For high-risk?

In the case of Kumanjayi Walker, it was appropriate for members of the IRT to be deployed in those circumstances?---Well they are higher trained, and they had the bean bag shot gun, the less lethal options. So they – it enhances front lines ability to arrest people, yes.

All right. Now I want to ask you a little bit about the plan. Well, firstly before I go there. Have you got your statement in front of you?---Yes I have.

I don't want to go through the details, but it is important, particularly in the context of what you were seeking to achieve when you attended on 9 November 2019. But it's important that you were informed, were you not, about your background and experiences that you'd had within the community, not just at Yuendumu, but anywhere else?---Informed – sorry, informed to who? Or for - - -

Of potential danger of the community unrest?---From personal experience, being there, yes, so I knew of the risk, yes.

Now you mentioned that you'd already been to Yuendumu back in 2010?---Yes.

And that was a – on an occasion where you were the tactical commander?---I was the team leader.

Team leader?---Yes.

As a consequence of riots that occurred back in that year?---Correct.

And there were a number of houses and cars which were burnt?---Correct.

When you arrived, there were quite a number of people, 30 or 40 people in a house, who had barricaded themselves inside?---Yes.

With an angry mob of about 150, who were armed with an assortment of weapons, who were intent on injuring those who were inside the house?---That's correct.

So your task was to protect those who were under siege or threat within the house?---My immediate task was that. The task was to go down and stop obviously the fighting overall, but my immediate task was to move those people to safety.

Cars were burning, and a number of houses were badly damaged?---Correct.

After a briefing at the station, you went forward to the house and spoke with the occupants?---That's correct.

You engaged the traditional Elders?---On both sides at the house.

That is on both sides?---Yep, with the CEO, yep.

And when you say the CEO, what do you mean by that?---The Administrator, the CEO of the community. There's a CEO, a Minister Council; distributes money, looks after – I'm not too sure what they're called.

How many members of the TRG were deployed to those riots in 2010?---I think there was only six of us because that's all we could fit on the plane.

In any event, you conveyed to those who were assembled, the men and women that you've just mentioned, you stressed the involvement the TRG was being to ensure that no police were injured?---Correct.

And no more violence would occur between the warring parties?---Correct.

And it was, I think, as you say in your statement, that managed to negotiate a truce for a short period of time?---Yes.

Which permitted you to escort the people out of the house to a woman's shelter?---Yes.

Following which the crowd moved in on the house and destroyed it?---That's right.

The TRG then maintained controls over the next few days to maintain order and arrested the main instigators?---That's correct.

When you went in and you were deployed by the TRG or with the TRG on that occasion, did you have – what sort of weapons did you have?---We had everything but the pepper ball that we took to Yuendumu.

And were those weapons visible when you were dealing with the riots as described in your statement in par 6 on page 3?---When I went and spoke to the family then I did the same on the Kumanjayi Walker incident where they were in a vehicle. I had them stay back 50 metres while I walked forward to engage them. They were ready to respond and protect me or the other police officer who was with me at the time.

So in order words, you had your officers ready and in a position, if necessary to use those weapons?---Yep, in full kit.

In full kit?---Yep.

And it was that incident that you were specifically referring to when we saw the conversation that you had on the video where you were trying to dispel the bush gossip?---Yeah, yes.

And trying to invoke their assistance?---Yes.

In other words, you were saying in effect, you've seen this before, let's just take things slowly?---Yes, definitely.

Now obviously – and I think anybody in this court room would recognise that hindsight is a wonderful thing and it's easy to go back, look at the exact words that were uttered on a given occasion and say I could have expressed myself differently or better?---I agree with that.

And you've expressed those sentiments in this court?---Yes.

But at the time, at the time that you were dealing with, can I suggest, an incredibly difficult situation – it was, wasn't it?---Definitely.

And your concern was – and certainly given your experience in the past – at the flip of a coin things could suddenly accelerate?---Yeah. And also, your Honour, the family, (inaudible) like related to Kumanjaya Walker, they have an important role to play in what happens afterwards. And like I said, I agree my comments were not as empathetic as they could have been, but I thought it was important to convey with them we need to work together and move on.

Now attached to your statement is what I call, for want of a better description, your plan. I'll just find it. It's annexure A?---Yep.

Can I just take you to that for a moment if I may?---Yep.

We can see that it's an email from you to a number of people identified in the email on Sunday 10 November 2019 at 2.28. And you say, amongst other things, in that email, "Very rough draft but this is something to start with until I get on the ground and establish the situation"?---That's correct.

So in other words, you had limited information at that point in time?---Yes.

What you were trying to do in that plan was to foresee as best you could the different permutations that could exist on the ground when you got there?---Correct.

But any final decision making could not be made, self-evidently, until you did get there?---Until I spoke to the forward commander, correct.

And importantly at the time between the creation of this document and your ultimate mapping in speaking to the forward commander, obviously things can change, it could change dramatic?---Definitely.

So it doesn't matter whether this is your plan or any other plan, ultimately you have to be incredibly flexible, don't you?---Yes, exactly right.

Because things change?---Things change, yep.

Now when you're talking about general police, you've been involved, I assume, in multiple arrests over many years, all sorts of different situations?---Correct.

Every situation is different?---Yes.

Every situation turns on its own facts?---Correct.

Indeed the way in which a police officer responds to a given situation will often be governed by the way in which the prisoner or the person who's been apprehended, responds to police presence?---Yes, but also I would say it's also up to the police officer's experience and exposure and what they've learnt over time.

Of course?---Yeah.

And to give you a simple example, if we go back to knife equals gun, the six metre rule and all those sorts of things?---Yep.

Obviously if a person is quite some distance away, they might be armed with an edged weapon but because of the distance between you and the offender, that gives you greater options?---Definitely.

For example, trying to deescalate by conversation, negotiation, things of that sort?---Correct.

Warn them that if they don't – if they come any closer you might deploy, for example, a taser or something else?---Correct.

All those sorts of less lethal options are available in certain circumstances but it may not be possible?---That's correct.

Because it can be split second timing?---Yes.

And proximity can make those other non-lethal options simply not possible?---Viable, yes.

All right. Now back to the plan. At that stage you didn't know how serious the situation was on the ground?---No.

When you were circling in the plane but coming in, you were communicating by phone, were you?---I contacted Superintendent Nobbs by phone to say – to confirm the members on the ground and the airstrip had been cleared and we were able to land.

I think you mentioned earlier in your evidence that there was a concern by you, for example, from previous experience that it might not be safe to land, for example?--- Exactly right. Or it might be a case that the members may be dealing with an incident and we get off the plane and no one's there to pick us up. So there's a combination of factors.

Again, you have to keep an open mind?---Yes.

The plan has to be flexible?---Yes.

And it was your plan because you had the skill set as a TRG member and the person in control or the like of those TRG members?---Yes.

Certainly the commander, the officer in command who was – sorry, what was his name again, the forward commander?---Terry Zhang, Sergeant Zhang.

He didn't have any real experience, did he?---From when I spoke to him, no, I don't think he did.

He certainly didn't have experience in such a serious situation as the one that potentially was unfolding before your eyes?---No, I'd agree with that.

And that's why your skill set was so important?---Yeah.

And can I put this to you. It must have been self-evident by him and to the forward commander that he was relying very much on your expertise to make sure, as best you could, that there was no escalation?---Yes.

There was no repetition, for example, of other officers being put in a position where they might have to deploy weapons, whatever that might be?---And also their capacity to deal with those situations, yes.

So he was deferring, as it were, to your expertise as to how this situation should be managed?---Yes, correct.

We know from what you've told us that when you spoke to Sergeant Frost, by the time you get to speak to her she's plainly exhausted?---Correct.

And I think I don't need to go into the exact words that you used in your statement, but basically she was not in a position to really assist you at all?---Correct.

And it was at your direction – when I say direction, you suggested that she really did need to go and get some sleep?---Suggestion. Definitely.

She was plainly exhausted and no doubt traumatised by the whole experience?---Yes.

As anyone would be?---Yes.

Now the plan. What I'm going to do is ask you some questions about just basic policing and then I'll come to the situation that existed as confronted by the members of the IRT in the leadup to the shooting. I can tell you this much. Police officers, that is the members of the IRT and an officer who's in control of the dog by the name of Mr Donaldson, arrive at Yuendumu Police Station. They had been told that they were deployed. They had been told what their hit was to comprise of – and I'll come to that in a minute. And they were told that the mission was the apprehension of Kumanjaji Walker. Just assume all of this for a moment?---Okay, yep.

Can you assume also – and it's common ground – that at that point in time, that is when they arrived, no one knew where Kumanjaji Walker was?---Okay.

Can you also assume that all police officers knew that his last – the last known address that he'd been at was House 577 where the axe incident occurred?---Okay, yep.

Can you also assume that they were told that if you come upon him, arrest him?---Yes.

All right. Just take that onboard for now, which is not controversial. I want you to assume that they were deployed at 7.05 by Sergeant Frost, 7.05 pm that night and they went from there directly to House 577?---Okay.

What I'm going to do is I'm going to get some footage played to you, which is – if you like, some describe as a search, but the attendance at House 577. And from your expertise I want to ask you about the approach that was taken by these officers at that location. You understand?---Yep.

I wonder if you could play please the Rolf body-worn video 1 of 2 is it - 1 of 4, my apologies.

DVD PLAYED

MR EDWARDSON: I think the person in the passenger's seat is Constable Zachary Rolfe - you can't see it but the driver of the car, I think on the evidence is officer Kirstenfeldt?---Yes.

And they are driving with two other officers behind and separate the dog handler to house 507.

DVD PLAYED

MR EDWARDSON: I might just pause there for a moment.

So, so far we've got these men all belong to house 507 being the last known where Kumanjaji Walker had been?---Yes.

Where, as you've heard, and the axe incident occurred. And you can see Zachary Rolfe engaging with a member of the community on two fronts. He has told them why they are there. He has asked for permission to go into the house and he's asked whether Kumanjayi Walker was there?---Yes.

Now, just talk generally about being a police officer, and you talked about the bush telegraph?---Yes.

Police officers who go into the community in plain clothes, it's going to get around that community very quickly isn't it?---Yes. I would say any police officer they're not familiar with would get around the community quite quickly.

Exactly. If a person has a warrant out for their arrest and they're a known flight risk, for example with two days before, he took off with an axe?---Mm mm.

On that occasion. Does it not, from a police perspective - from your perspective, make sense that as soon as they move to that location and try to identify where he might be inevitably if Kumanjayi Walker is in the community he is going to get tipped off fairly quickly. It makes sense, doesn't it?---Yes, definitely, yes.

And also in terms of trying to find out where he is if you don't know where he is, you'd have to, as a police officer, rely on what we call - what has been called "intelligence gathering" but in simple terms, asking members of the community if they can say where he is?---if you don't have that intelligence from the local police yes, you have to go and ask, and ask people where he is.

All right, I wonder if we can keep playing for a moment. I'm sorry, just stop it for a moment. Whilst Constable Rolfe is engaging with that member of the community, you can see there's a police officer has positioned himself and the evidence is that other police officers are positioned around the house. Would you expect that to happen?---To put a cordon around the house, yes, in case he tried to flee.

Just for the record, what is a cordon around a house?---We just surround the house so if anyone was tried to escape you can capture them. It is to prevent them from leaving, yes.

Now, you said, I think that in your situation which is after, of course after this tragic shooting, you confined the members of the TRG to a police vehicle even though they were armed with long arms and the like?---Mm mm.

And you said that you weren't aware - I think your evidence was you weren't ware of - you may have said you weren't aware of the crime scene but - - -?---Only after the effect with inquest or the media.

But you weren't aware of and you didn't think - consider it was necessary at that stage for long arms to be exposed in any form?---That's correct.

Just questioning here that the issue of police officers carrying a bean shotgun or a long arm of some description in the community, from your perspective looking at it there, was that appropriate or inappropriate, bearing in mind the target and the mission to find him and arrest him?---The bean bag shotgun?

Yes.

A PERSON UNKNOWN: It's an AR-15, it's not a bean bag.

MR EDWARDSON: AR-15 sorry, my fault?---AR-15? Your Honour, look, that's a difficult question to answer. From my perspective at TRG, no, we wouldn't have gone out with an AR-15 in the community. I would have someone maybe in the car potentially, but we don't normally bring those weapons out, unless we believe we're about to be in imminent threat. Now, if there was credible intelligence and we definitely knew he was in there and he was exhibiting violence, different story. But with that sort of case, where they're just walking around asking, I don't think that's appropriate, no.

Thank you. And you'll see, if he hasn't already, but Zachary Rolfe identifies two buildings(?) as he approaches this house?---Correct, yes. I remember him saying that.

DVD PLAYED

MR EDWARDSON: Just pause there for a moment, please.

I want you to assume, well first of all, do you know what the expression "clearly a house" is?---Yes.

What does that mean?---It means you're moving through the house to find out if there's any people, threats or otherwise, inside the house.

And bearing in mind that the target, the person that they were looking for was Kumanjaya Walker, who's got a warrant out for his arrest and the background which we've discussed already. Is that what you would properly describe as "clearing a house"?---We were actively searching or clearly it, looking for him, yes.

So, just making sure that he's, contrary to whatever information might have been conveyed to police, he's not in the house?---Yes.

And is that perfectly consistent with normal police training?---Yep.

And I want you to also assume that in the course of those exchanges, further intelligence or information was given to the police, in particular, that is to (inaudible) and Walker - and Rolfe, that they had missed Kumanjaya Walker by a matter of minutes?---Okay.

And that he had headed off to one of two houses. One of which was House 511?---

Okay.

If you had that information in those circumstances, would you expect those police officers to immediately follow that lead?---In the sense that they were actively searching for him?

Yes?---Yes. If you had information that the person you were looking for was at that location, yeah, you would go to that location and look for them.

And then, if you attend at that location and you subsequently find that he is actually within one of those houses, you would expect him to be apprehended?---Yeah, in a general duties' form, I assume he's going from, but I guess the difference for me, and I would have a local member with me, but yes, you're right. They would go to that house and look for him, as they've done just here.

Now you say you would have had a local member with you. Would you, if you'd attended Yuendumu Police Station, would you have had asked specifically for a local member to accompany you when you were deployed at 7:05?---Yes, I would have.

Now, there's an issue, a factual issue that you can't resolve. It's some that the Coroner has to resolve. But I want you to have a look at the actual plan which is annexure E to the - I think it's the affidavit of Jody Nobbs.

THE CORONER: I think it has become an exhibit now.

MR EDWARDSON: 14 is it? Exhibit 14 I think? You should have a copy of that in front of you?---Yes. The email from Sergeant Frost to the watch commanders and CT Nobbs, yes.

I want you to assume this much. That email was sent at the time that the members of the IRT were in transit?---Okay.

That is heading to the Yuendumu Police Station?---Yep.

There is a dispute which her Honour will have to resolve as to whether this - the contents of this email was ever explicitly brought to the attention of the members of the IRT?---Yes.

That is the content of it explicitly or whether, if it wasn't, it was verbalised nonetheless by Sergeant Frost?---Okay.

But the important part of it that I want to direct your attention to is that you will see that the deployment contemplates that they be deployed at 11 pm that night, upon their arrival on 9 November 2019, on page 2?---On page 2, sorry.

Do you see that?---Yes, and the plan, day 1?

The plan day 1, Saturday 9 November 2019, 11 pm IRT commence duty. Well, we know that they were deployed at 7:05?---Yes.

We know that they didn't know which house or where Kumanjayi Walker would be located?---Yes.

THE CORONER: When we say that "We know that they don't know where he is located" they had information that he is likely to be at one of a number of houses, which is what we see here going from house to house?---Yes, I can only assume the information they have from Mr Edwardson telling me, sorry, your Honour, I don't know for a fact what information they had at the time.

Yes, so no-one knows for a fact where he is or if he is even in the community? ---Exact - I would assume that is always the case we go - we never - unless we actually sight them we have no idea where they are.

Yes. But there's information available about the houses that he normally frequents and stays at?---Yes, yes, and I expect the local members have an understanding where family ties are and where he hangs around, especially since his girlfriend Rakeisha is in town, that would definitely be a place of interest.

MR EDWARDSON: And you know that house - as I have told you - 507 is the last known address that he was at which is where the axe incident occurred?---But I must note that was three days earlier.

That's right?---Yes, and they are very transit in moving between houses and things, yes.

Of course, of course, No - there was no firm intelligence at all as to where he would be, if anywhere, but in the community as her Honour has just said, to be in the community or all we knew - know is there were at least two houses identified which would connect (inaudible)?---Yes, correct.

All right. With an arrest plan - and again TRG is obviously in a very different position can I suggest?---Yes.

But even in the - and given your knowledge and training in respect of the IRT, you mentioned before that you would've expected that when they left the Yuendumu Police Station, one of the officers amongst the IRT would have been the nominated team leader?---Yes, I would agree, that someone would've taken responsibility for the team.

And how should that, in your view, have manifested itself?---Well, I guess it comes down to you have a conflict of interest in relation to seniority, in relation to rank and then you have another one in relation to experience, so you may have a - for example, a senior constable in a team but you might have a constable who has done - been in the IRT three or four years and might have done three or four deployments, so his experience is higher, so I guess either way, they would have to work them out

themselves and I think generally as police we tend to find someone will put their hand up, a natural leader will put their hand up and take responsibility.

When you say "might put their hand up and take a natural - a responsibility", that doesn't necessarily mean "I am going to be team leader, you will obey me", it might be self-evident who is taking the lead (inaudible)?---Yes, I'd agree with that.

And if somebody appears to be taking the lead you'd expect those who work together so closely in that format would just follow?---Yes.

You will see in the plan, if I can turn to page 3 - - -

THE CORONER: But what about an IRT deployment where it's different people going out every deployment and it's not necessarily that they've got experience working with each other in that way?---Yes, it's a really interesting question, your Honour, but I guess it comes down to you might get two vans in Darwin go to a domestic, for example, the supervisor doesn't go, and it may be a case of someone has got more experience will step up. With IRT I guess because they come from different areas within the police, within Alice Springs and different patrol groups, traffic or wherever they come from, they don't normally have that consistency like TRG does where we all work together, we all train together, we understand that hierarchy so with IRT I guess it would come down - I would assume from my experience would be that they would look to the person who has been in the unit the longest. It's an IRT deployment, who has got the most experience and they would probably look to that person for guidance I guess.

MR EDWARDSON: Can I just come back to that concept and pick up where - on the issue that her Honour has just raised. There is obviously a difference between a high-risk deployment of IRT members and using the IRT for general duties, to arrest a potentially high-risk target, and we have heard a lot about that in this Coronial? ---There's more governance in a high-risk job than in a simple support task, yes.

And when you're talking about having a nominated - the expectation of having a nominated leader, are you not talking about it more in the context of a high-risk deployment?---Well, yes and no because even our general support tasks in TRG we make sure we've got someone in charge, but that's our thing. But I guess, Mr Edwardson, this is the reason why, I guess, some people have had a few concerns about IRT being deployed as in where was their command and control for them going. They've got a higher level of skill, a higher level of experience, they're going for this - for example, going to see Sergeant Frost. She might not know everything that they can do, so who is going to convey with her, "Hey, this is what we can do for you" or what-not. It's - this is the problem with that unit at times, that you have a group of people who are on a part-time working something, you don't have effective leadership through training, experience or other reasons, it gets a bit messy - I don't know - - -

It get messy and it gets worse if there isn't clear communication and direction? ---Yes, it does. I'd agree with that, yes.

You will see in the plan, it says, "Implementation of the plan" you will see on page 3. "Locations of interest House 577 Yuendumu, primary residence" that's the house with we've just seen on the video footage and then a number of other houses are mentioned, do you see that?---Worry, whereabouts - down the bottom of page 3, yes, yes.

Down the bottom. And we've got a heading "Equipment" the equipment includes bean bag shotguns by 2. Two AR-15's, swags and safety equipment"?---Yes.

Given our understanding of the IRT as it existed then as at - from your training packages and the like, was there any specific training as to even though you might be kitted with this sort of equipment, about when it was appropriate or not appropriate as the case may be, to have visible any one or more of those items? ---I think it was up to their discretion what equipment they took on the jobs they did but one thing we did instil upon them in the TRG training, again was that tyranny of distance. It's better to have it and not need it than be in a position where you needed a bit of equipment and it could take hours before you could use it. In this case here, because of the edged weapon I would expect them to take the bean bag shotgun as a - as a must.

Yes?---The AR-15s - I'd leave that to the members' discretion and I guess - I am only summarising here, your Honour, that they probably took it just in case "What happens if we find Kumanjayi Walker and he's in a house and we end up with siege situation and TRG are called down, wouldn't we want to have a better capacity down with us" and that's again, it's purely an assumption.

THE CORONER: That was a slightly different answer to the question which was asked, which was making decisions about when it's visible in the community and taken out into the community as being taken to the station and available if needed? ---Okay, so being visible in the community with those firearms, that's the member's discretion I always say it would be the team leader's discretion as to what and when they should carry it or how they should carry it.

Thank you.

MR EDWARDSON: And again, that might be going to an example about how quickly you might need to access a situation arises about that particular weapon? ---Yes.

And of course that is a resourcing issue too, how many members are you? ---Yes, how many people you've got, how much equipment you've got.

Is it realistic or - so you've got this - the capacity, for example, if something arises which is - requires urgent attention, to actually go back to the police station to retrieve a particular weapon and then return to the scene. I mean, that might be practically completely unrealistic?---It could be, yes.

Now, you mentioned before - again in a completely different scenario, that you would not by choice arrest somebody at night or go into a house at night - or something along those lines?---I'm sorry, you'll have to refresh my memory what context that was discussed in?

Well, I think it was talking about whether you'd go into the community at night or whether you would wait until daylight. I can't remember how you expressed it. It doesn't matter, I will try a different way?---Yes. Sorry, I can't - - -

The plan itself contemplates, and if you look carefully at the plan, it contemplates a number of things. But the first is that the plan – day two, Sunday, 10 November, at 11 pm, IRT commence duties. Conduct high visibility – sorry, my apologies. Day one, it should be. 11 pm, Saturday, 9 November 2019, 11 pm, IRT commence duty and conduct high visibility patrols and respond to call-outs. And Sunday, 10 November 2019, 5 am, Donaldson, Alefaio, whose the community officer - - - ?--- Yep.

- - - commence duty along with IRT members to effect an arrest on Walker at 5 am. Now self-evidently, that would assume you would know where he is at 5 am?---Yes, yeah.

Now, as a police officer, and I'm talking about the practical realities, leaving aside for the minute, specialist training such as TRG and IRT. Is it preferable to arrest an individual in daylight, if possible?---It depends on the time, and the daylight. The late afternoons can be tricky, because there may be alcohol involved, people drinking, people out and about. Mornings are normally best. But the advantage of daylight is that if someone was going to escape or run, you can see them. So you can chase – chase them. So if you if have a foot pursuit for example, and you can see them.

If it's going to be, or the plan is it a 5 am arrest, then presumably, you'd need to know precisely where that person is?---Well yeah, you may hedge your bets on a house, which is what we've seen, but the idea of that 5 am one, was to catch them asleep, which is safe to everyone.

But if you don't know where he is, you don't know where he is, but you've got intelligence that you've only missed him by a matter of minutes. You've got an arrest warrant out for his arrest. In those circumstances, you'd expect a police officer to follow that intelligence, wouldn't you?---If you had credible intelligence at the time, and you knew where a person was, yes you would follow it up.

All right. Now I want to turn, if I can, to a completely separate incident.

MR COLERIDGE: I'm just rising to my feet. I'm not cutting Mr Edwardson off, I just note that we're five to 5:00 - - -

MR EDWARDSON: (Inaudible) tomorrow, if that's all right, your Honour.

MR COLERIDGE: - - - and I don't know where - - -

THE CORONER: Are you available?---Yeah that's fine, that's fine, your Honour.
Yeah I can work with that. Whatever you need.

Sorry that there was some extended late start, and some extended breaks, that's not
our normal course - - - ?---Perfectly fine.

- - - we try and run a tight ship, but there were a couple of other matters that we had
to deal with today. So I apologise for delaying you, and we will continue with your
evidence at 9.30?---No worries.

WITNESS WITHDREW

ADJOURNED