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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 21 OCTOBER 2022

(Continued from 20/10/2022)

Transcribed by:
EPIQ

THE CORONER: Good morning, Mr Coleridge.

MR COLERIDGE: Good morning, your Honour. The next witness would be Acting Sergeant Shane McCormack. Before I call Sergeant McCormack I understand that Mr Gnech has something that he wants to say in relation to a non-publication.

THE CORONER: Sure.

MR GNECH: Thank you, your Honour.

THE CORONER: And the non-publication order is in force - the interim non-publication order is in force until further order of the court.

MR GNECH: Thank you, your Honour. I must thank learned counsel assisting in regards to the error that occurred overnight in regards to the publication of a transcript. The swift action she took once it was brought to her attention so I thank her for that.

Your Honour, I am seeking to be excused immediately after addressing you. I just thought it would be fair to the parties, a further matter I just wanted to address in response to the written outlines that were submitted overnight.

THE CORONER: Sure.

MR GNECH: It's a very narrow point but if there is some suggestion that the inquest is being conducted in a secretive way, it is my submission that suggestion is entirely invalid. The inquest is being conducted in an entirely open way.

Yesterday's evidence of my client, although the live stream was cut, evidence was in open court with the family able to be in court and most certainly with the families' lawyers present in court and that's relevant in submission in regards to the very narrow aspect of my application in regards to those authorities that I refer to in my written outline where, when there is a removal of the open justice principles, it should only be done to the extent that it is necessary. And, in my submission, those matters are entirely relevant when assessed with the narrow type of application that I am making.

So I just wanted to put that on record.

THE CORONER: Thank you.

MR GNECH: And (inaudible) colleagues and seek your Honour's leave to be excused.

THE CORONER: Yes, thank you.

MR GNECH: Thank you.

THE CORONER: Yes. As we have received further submissions, I won't be making a final decision on that matter today, so it will be dealt with some time next week.

MR GNECH: Thank you.

MR DERRIG: Your Honour, just to say that NAAJA is adopting all of the submissions of Walker, Lane, Robertson family and (inaudible).

THE CORONER: Thank you.

Yes, Mr Coleridge?

MR COLERIDGE: Your Honour, I call Acting Sergeant Shane McCormack.

SHANE MCCORMACK, affirmed.

XN BY MR COLERIDGE:

THE WITNESS: Your Honour, it is Senior Constable.

MR COLERIDGE: Senior Constable McCormack, can I just ask you to say your full name for the record?---Shane Andrew McCormack.

Casually known as "Paddy McCormack"?---"Paddy", yes.

Now, your substantive rank is senior constable, is that correct?---Correct.

But from time to time you have acted up into higher ranks?---Correct.

Including the rank of acting sergeant?---Correct.

Now, you provided a number of documents to the inquest. I might just identify them for the record. The first document is a recorded statement that you gave on 21 November 2019, does that sound about right?---It does. Yes.

That is 7-95? The second was the recorded statement on 29 January 2020?---Yes.

At 7-96. And you also gave evidence at trial on 14 February 2022?---I did.

And the transcript of the examination and cross-examination, your Honour, is 7-96A. Can I ask you where you are currently stationed, Senior Constable?---I'm stationed in Casuarina station up in Darwin.

And what type of role do you fulfil at Casuarina station?---Currently I'm working on a special project, the new police database system.

I take it that wasn't the role that you were in in November 2019?---No, it wasn't.

Where were you stationed at that time?---I was stationed at Alice Springs and at that time I was acting Sergeant for point of sale intervention.

I think that you abbreviated that as "POSI sergeant"?---"POSI" correct, yes.

Can you just tell her Honour what that involves?---Yes. Your Honour, it involves all the auxiliaries that work at the bottle shops, so we'll pick that Saturday so we have all the bottle shops need to be manned until half nine in the evening, so looking after the welfare, making sure they got the needs, making sure the meal breaks are looked after, make sure there's proper support, so it's pretty full on.

You say that's a full on role. I take it that you're pretty busy - or were pretty busy? ---It's probably the busiest role you can do on a Saturday.

Saturdays are busy days for drinking in Alice Springs?---Yes, it's the busiest - and the bottle shops are open for longer.

You might not be able to remember - I can refresh your memory if you can't, but how many staff did you have on that Saturday?---On that day - I did look at the roster last week and we had - I think it was 14 auxiliaries and two constables in a cage where normally you'd have six constables and 14 auxiliaries.

What type of contact - I take it that the majority of your auxiliaries and the constables during the day are stationed at point of sale?---They are, with the constables they will - we'll try and run three cages - three police vehicles. They'll - by having the extra - so we have to have one cage as support in case something important happens, while with the other two cages it's more like they'll go around and replace batteries, give water to the guys and cover the meal breaks but that day we only had one cage.

Can I just ask you, what do you end up doing on a day like that Saturday 9 November? I take it you're not at point of sale?---No, a lot of times I'll try and cover meal breaks, so it's - the staff of predominantly only rostered till half 7:00 in the evening but the bottle shop is open till 9:00, so that becomes an issue in itself.

So you might cover at the end of the shift?---Well, there's 12 bottle shops, I can't cover - - -

Can I just ask you what you would be doing during the day? I mean - - -?---Like it's a completely admin role.

Picking up the telephone call, fielding - - -?---Telephones, emails, giving support on the radio, you know, jack of all trades for that day really.

And a lot of information coming in and out?---Yes, definitely.

In 2019 you were also a member of the IRT, is that correct?---Correct.

I think you'd been a member for about a year and-a-half at that time?---Yes, possibly, yes.

That sounds about right?---Yes, it does, yes.

How did you become a member of the IRT?---There was an expression of interest. You had to submit a memo which then got reviewed by, I think it was then Senior Sergeant Mike Williams and there as a member from the association and there could've been one other person who'd review your memo.

Who was Mike Williams?---Mike Williams was a senior sergeant in Alice Springs at the time, your Honour.

And was he affiliated with the NTPA or IRT?---IRT, yes.

Was he - there has been some evidence that Sergeant Lee Bauwens was the OIC or de facto OIC of the IRT?---Yes.

Was Mike Williams in a "management" or leadership role?---He was, he was a senior sergeant and Lee Bauwens was a sergeant, so.

Within the structure of the IRT, not so much the ordinary chain of command structure?---Yes.

Was he OIC, 2IC, team leader, can you remember?---I can't remember.

What went in your memo when you applied for membership of the IRT?---I think it was why I wanted to join, what experience I've done and I'd imagine it would've asked why I think I'd be a good fit for the team.

Can I ask you about what the type of experience you highlighted that that application was?---Type of experience, so I was a previously a police officer in New Zealand. When I was over there we have armed offender squad which I did the selection course for, well I didn't get chosen after that but I volunteered a lot of my time with the armed offenders so I think it - I was able to show a basis that it was something that I was always interested in.

Did you have any prior military experience?---No.

When you were explaining to Senior Sergeant Mike Williams and the others reviewing your application why you thought you'd be a good fit for the IRT, can you remember what you said?---Well, it wasn't a formal interview, it was just a memo.

So it was on line?---Yes. Remembering what I said - well, I suppose you're only going to say good things about yourself. Probably the type of person I am. I'm easy going, I do work well with people, I take instruction quite well, or so I believe, yeah, I'm compassionate. I like what I do. I care about people.

In addition to those commendable qualities, would you have highlighted things like, you know, you're hardworking?---I would, yes, yep.

You are good under stress?---Yep.

And the nature of the IRT is that they deal with, generally, more stressful situations than at GD officer might do?---Potentially.

Potentially higher risk?---No, I'd probably say general duties is probably the most stressful. General duties, you don't actually know what you're going to. So, you could go to a noise complaint job, which just really is 20 people angry and drunk and really aggressive. But the job just comes in as a noise complaint.

Whereas the IRT might require a more structured and tactical approach?---Yeah, and probably a bit more knowledge behind why the IRT are there.

Okay. And you would expect when the IRT is deployed that there would be a higher degree of forethought and planning?---Yes, generally.

You, I think, became – and there is some uncertainty in your recorded statements, became a team leader of the IRT?---When?

Prior to November 2019?---No, I don't think so.

Can you describe your role within the IRT?---We kind of all had similar roles, but as for a team leader, no. Like, it really depends on what the job is you're going to and what you've been allocated. You get to have a person who be allocated to make sure their forced entry kit is organised. Someone could get the shields. It really was what was delegated on the day.

At one point in your recorded statement, you were asked what your role was within the IRT and your answer was, "That's a tricky one". Why was it tricky for you to identify what your role was within the IRT?---Because roles are really depending on who is actually available when they arrive - - -

Okay?--- - - - for a job, if you get me.

I do?---Yep.

So, on an ongoing basis - - -?---Yep.

- - - you didn't have a consistent role within the IRT?---No, no.

But you were known as someone who knew a fair bit about the IRT?---I suppose – it's kind of a hard question. I don't know what people would know me as.

I suppose what I'm getting at, and I'll be blunt to you?---Yep.

Why do you think it fell to you to coordinate the deployment of the IRT on 9 November?---Okay, so we're getting to that, right. It was probably because I was at work when the phone call came in.

Okay. And you just happened to be acting up in the sergeant position?---Yeah, there was one – well, the deployment – it really quite of depends on what type of deployment it was going to be. I knew when the – I'm confused whether it was Lee Bauwens was on nightshift or one was on leave, or Jason Locke was on nightshift, maybe I'm confused. But it really depends on what it was. So, at that stage, as I – there was no way I was going to call whoever was on nightshift until I found out what it was, and that's when I spoke to Superintendent Nobbs.

It might refresh your memory, but there has been evidence that Lee Bauwens was on leave?---Okay, cool, thank you.

Had you not been involved in the IRT, would it have fallen to any other ordinary member of the IRT to coordinate the deployment on 9 November?---Yeah, I would imagine.

So, for example, Constable Rolfe might have received the telephone call and with two and a bit years, three years' experience as a police officer in the Northern Territory, could have been tasked with deploying the IRT?---Yeah, but when you say "deploying the IRT", it's – there's probably a lot more to deploying the IRT. So, it's like – I know I've said in my statement, it wasn't actually an IRT deployment.

I want to come to that?---Yeah.

But, you received a telephone call from Superintendent Nobbs?---No, so Superintendent Nobbs rang Shaun Furniss, Senior Sergeant Shaun Furniss. Shaun Furniss came in next door where the POSI room is and he said, "Who's the point of contact for IRT?" It could have been something like that, it might have been something similar. And I said, "Well, I suppose it would be me." I said, "What do you need?" And I went into the room and then that's when I had a conversation with Superintendent Nobbs and Shaun Furniss.

So, I just want to be clear about what you understood your role to be, you were a mere point of contact. Is that correct?---Well, I was the point of contact to actually find out what the point of contact would be, I suppose.

But you didn't find another point of contact, did you?---No.

Okay. So, you were the point of contact?---I became the point of contact, yes.

Okay. What does the point of contact do?---With anyone, or with this one in particular?

With this one particular?---I did what was asked of me.

Okay. But I guess what I'm trying to clarify is, were you making operational decisions about who was suitable for deployment?---No.

What the plan should involve?---No, no.

You were simply relaying things from one person to another?---Yeah, I was like the conduit.

Okay?---Yep.

Just like Shaun Furniss?---Yeah.

Okay?---Well, I – yeah, yeah, yep.

All right. I want to go back. I was asking you some general questions about your role in the IRT and how you became a team leader, and you explained that you weren't a team leader, you were just a member of the IRT?---Yeah.

So, it's fair to say, and I think you said this at page 48 of your first recorded statement, you had received no training regarding working in this deployment role?---No, no.

No. It had never been explained to you what one does when one receives a telephone call from a superintendent of police and is told, I want you to coordinate a deployment of the IRT for me?---Well, it wasn't actually those words that were asked, so I kind of asked Superintendent Nobbs what he wanted.

Okay. I want to come to what was said. I want to focus on your training for the time being?---Sure.

You had received absolutely no training in being the point of contact for deploying the IRT. Is that correct?---Correct.

Okay. Now, I think you've given evidence that you wouldn't recall whether Sergeant Lee Bauwens was on leave or unwell?---Yep, I did, yep, yep.

But I take it that there had been no formal handover of "Command of the IRT" or anything like that?---No.

Okay. And you would be aware that, ordinarily, he was the point of contact?---Who was?

Sergeant Lee Bauwens?---Yes.

But what he did when he was contacted by someone like Superintendent Nobbs was something that he knew and you didn't know about?---Correct.

Okay. I want to ask you some more general questions about training. I think your

evidence was that there is some preliminary training for you to become a member of the IRT?---Yeah, there is. So, we do – we go to the range at least once a month and that really depend on what your rostering was. Sometimes I went to the range with IRT when I wasn't rostered, so it was in my own time. And then we'd have other training days where you'd do forced entries, cordon and contain, just stuff like that.

Okay. And roughly, how long does that initial training take?---Sorry, I'm wrong there, your Honour, sorry. We did a two-week induction course for it.

Okay?---Yeah, sorry.

And thereafter every now and then, there might be a rostered training day?---Yes, correct.

But you say in your recorded statement, they weren't mandatory?---No.

And they weren't necessarily delivered on days where people were rostered so that they could attend them?---Correct.

So, it was ad hoc?---Probably not ad hoc, as that it really boils down to when you can get so many people together, when the range is available. Yeah, so we did have a lot of members doing them in their own time. If you were rostered on and you get trained there, that was great, because you get paid for it, so yeah.

Who would lead the training on the training days you did?---Predominately, Sergeant Bauwens.

Okay. Now, you note in your first record of interview at page 88 that a number of members of the IRT had different backgrounds?---Yes.

Some of them, Defence Force backgrounds?---Yep.

And that you tried to lean on people's skills?---Of course.

Including the skills that they developed in the military?---Yep.

Okay. And in the context of training, your evidence was on that occasion that Luke Bevan, who was he?---Luke Bevan was one of the members of IRT, ex-army, I believe, and really well-experienced with practically everything, yeah.

I think that's consistent with your recorded statement. You say, "Luke Bevan was doing it. He's ex-army as well --"?---Yep.

"and I know on training days, he'd take training days, because he was actually quite knowledgeable?---He was, yeah.

But he wasn't a team leader either?---No.

Okay. And what you're saying there effectively is that in light of his military experience he was quite knowledgeable?---Yeah.

He had the skills necessary to perform the function of an IRT member?---Yep.

Use of weaponry?---Yep.

Entry into buildings?---Yep.

Cordon and contain?---Yes.

Siege situations?---Yes.

Military skills that you use when apprehending a very high-risk offender?---For example? Well, what were the military skills?

Well, you tell me. You're the specialist?---Well, I wouldn't really say we're using military skills. It's not, like, the information the ex-armies brought were kind of more about trying to really keeping us safe. Like, I remember one instance when we were out at the range and we were talking about walking in formation and how we would walk, how it's safer, how we'd keep an eye on each other. And how also that can be brought over to search and rescue.

They would also provide you some instruction on how to stay safe when, for example, entering a building?---Yes.

Where there might be a person who's armed with a firearm?---Yeah, I'd probably rather not go into a building with a firearm, but, yeah. Sometimes, you mean, that's what you sign up for sometimes, your Honour. You just have to (inaudible), yeah.

I'm not saying - - - ?---I agree, we would receive - - -

THE CORONER: Normally for IRT you would expect cordon and contain and if it was known there was something more serious inside, you would hope that TRG would arrive?---Correct. You'd rather, yeah. Yeah, I like my body. I don't wanna - - -

MR COLERIDGE: I'm not suggesting to you that you would necessarily enter the building?---Yep.

But a part of that safety training from someone like Luke Bevan might be, "Look, in my experience as an ex-military officer you don't go into a building where you know that there's an armed insurgent", for example?---Yeah. Like, we did as part of our training, we did have immediate action plan where you do cordon and contain and you're waiting for TRG. It's a hostage situation in there. How long do you wait? Sometimes the decision would have to be made that you're going in. So, that's probably more (inaudible).

Now, I accept that they are two different fields of study and expertise but there is obviously some crossover between the types of specialist skills the military employ and the types of specialist skills you were using in the IRT, would you agree?---Some crossover? I don't know.

You don't know?---I've never been in the army, so.

Okay. Your evidence is certainly that you're relying on people like Luke Bevan who were knowledgeable because they had been in the army to teach you the skills you needed to work in the IRT?---Yeah, but that doesn't mean the skills we're learning are army skills.

Okay. You don't know?---Well, I can't see how did the army, teaching army skills when in the police force. I don't know. Like, at the end of the day I imagine in the army, clearing a house is clearing a house. Formation is formation. That'd be the same with policing. Well, in the army, they're not going in to arrest someone. We are.

Okay. Are you acquainted with the IRT SOP's?---I am now.

Okay. Do I take it from your answer that you weren't acquainted with them on 9 November?---No, I knew we had them. But, no, I can't say I knew them that well.

I think that you were asked whether you were acquainted with them and you said, "I was aware of them"?---Yeah. If I said that, yeah.

You were aware they existed?---Yes, sure.

THE CORONER: So, they weren't taught as part of the two-week training?---No, not that I can recall, your Honour.

MR COLERIDGE: All right. This was the only – and I'm using it in quotation marks – 'formal' document that regulated the deployment of the IRT. Would you agree?---Yes.

Okay. And it's not something that members of the IRT were taught?---No, I don't think so.

And it's not something that you, a member of the IRT, whose responsibility it was to be point of contact on 9 November knew very much about?---Yep. Yeah, I'll agree with that, yeah.

You are aware though or you have been made aware since 9 November of the contents of the document?---I have.

I think a folder has been prepared for you. Can I ask you to just go to tab 4? There are a couple of emails in the front that we will talk about in a moment?---What colour? Yeah, here we are. Yep.

All right. The first thing I want to ask you about is can you see on page 9 of that document?---Yes.

There is a heading at the top of the page, “3.1.6: Responsibilities”?---Yep.

And the first line reads: “It’s the responsibility of the OIC, 2IC and team leaders to”, and then there is a colon?---Yep.

Who was the OIC?---Lee Bauwens.

And who was the 2IC, OIC?---Sorry, the 2IC?

The 2IC?---I don’t know.

Okay. Is it possible there wasn’t one?---Possibly.

And what about the team leaders?---I don’t know.

Again, is it possible that apart from Lee Bauwens, everyone within the IRT really had a kind of fluid role as member and potential point of contact?---Yeah, it kind of really depends on who you can get in. Like, the issue of you allocating team leaders and then all of a sudden you want 10 people for an IRT job and you have no team leaders available. So, it’s kind of like you’re really – it’s like we’re not a dedicated team for this. It’s like you get who you can get sometimes.

So, the difficulty you see with allocating a 2IC and team leaders is that on a particular day when the IRT team needs to be deployed?---Mm mm.

It might be thought that each IRT deployment needs a team leader?---Does that say that here?

No, it doesn’t say that?---Okay, yeah.

But I’m just trying to unpick what you have just said?---Mm mm.

You have said, “We can’t always get a team leader”?---Yeah.

Are you saying that it would give rise to effectively rostering issues if every time you sent the IRT out you needed a team leader?---Correct.

Okay. That is not what this is talking about though. This is talking about the responsibilities of the OIC, 2IC and team leaders effectively to oversee the IRT, you would agree?---Yep.

To do things like ensure the skill level and competency of each member is maintained, okay?---Yep.

To ensure each member of the team is current with all OSTT and IRT requalifications?---Yes.

To oversee the correct and safe conduct of any training undertaken in line with OH&S requirements?---Yep.

Okay. And to conduct other training. That is effectively a responsibility that fell solely to Lee Bauwens?---He was the OIC, yes.

But in the absence of a 2IC and team leaders, it was Lee Bauwens and Lee Bauwens?---Yes.

Okay. The next thing I wanted to ask you about in that document is – I'm sorry, just to clarify. And while Lee Bauwens was on leave those responsibilities fell to no one?---It possibly would have been Jason Locke(?) but I don't know what conversation Lee Bauwens and Jason Locke would have had.

Can I ask you to turn back to page 4?---Yeah.

What I want to do now is ask you some questions about operations in deployment?---Yeah.

Specifically high-risk deployments and general support operations?---Yeah.

Before I ask you the questions, would you agree that the designation of these two types of deployment as high-risk and general support operations can lead to a bit of confusion?---In what way?

Perhaps I will put it to you this way. General support operations involves specialist skills, correct?---General, general duties support?

Sorry, okay, let's do it this way. The first category is a high-risk deployment, you would agree?---Yeah, yep.

And that specifically refers to incidents involving sieges?---Yep.

Hostages?---Yep.

Active shooters?---Yep.

A barricaded person?---Yep.

Civil disorder where death or injury has or is likely to occur, you would agree?---Correct, yeah.

All right. So, the degree of risk is very, very high, you would agree?---Yeah.

And the degree of specialist training that would be required for an operation of that kind would also be quite significant?---Yes.

Now, a high-risk deployment requires the authorisation of the Assistant Commissioner level?---Correct.

That's a reflection of the seriousness of that type of deployment?---Yes.

When you deploy in that capacity you deploy with - it is mandatory to take full IRT kit, you'd agree?---Correct.

Including your camos?---Yes.

Everyone goes out with patrol rifles or bean bag shotguns and the like?---Yep.

You wear siege helmets, correct?---Yes.

Okay, so that is a - maybe the word is problematic, but almost a para-military style deployment, you'd agree?---Para-military - - -

I won't press the question. It's problematic?---Yeah, I'm - yeah, I'm from Ireland so para-military means something a bit different.

Fair enough. General support operations - and you can turn over the page. Now, the IRT is available to assist other units in certain circumstances you'd agree?---Is this 1.2?

This is?---Yep, yep.

And that assistance includes the arrest of violent offenders?---Yes.

Persons who have escaped or are evading police custody?---Correct.

Targeted operations?---Mm mm.

Armed offenders?---Yep.

Re-establishing order following civil unrest?---Mm mm.

Third-last point, you agree?---Yes - sorry - yes.

Southern Command support at a large scale community disorder?---Yes.

So you'd agree that while it's not a "high-risk deployment" the level of risk can still be quite high during a general support operation, you'd agree?---Yes.

And you are being deployed as the IRT?---Are we talking about from November?

1.2 "General support operations"?---Yes.

"The IRT is available to assist other units"?---Yes.

It is the IRT that is being deployed?---Yes, as per this, yes.

Yes, and indeed, an authority needs to be obtained from the relevant superintendent - sorry - from the Southern Commander?---Correct.

Okay. You would agree that the IRT is deployed in situations such as these because they have specialist tactical experience?---Yes.

And you'd agree that when deployed they are deployed frequently with weapons that a general duties officer doesn't use on the streets of Alice Springs?---Can you say what weapons because - - -

An AR-15, a beanbag shotgun?---Yes, so the reason that Alice Springs members don't - well, I've - I've taken the beanbag you out as a general duties in Alice Springs. It's non-lethal, why wouldn't you? Well, I'll agree with the AR-15, yes.

Okay. In this case the AR-15 was specifically authorised by Assistant Commissioner Wurst, were you aware of that?---On which case?

On 9 November you were informed by Superintendent Nobbs, were you not, that Assistance Commissioner Wurst had approved the deployment of AR-15s?---No.

Okay. Would you agree that the availability of those weapons to the IRT means that in addition to their specialist expertise they are deemed to be responsible enough to use weapons such as these in the community?---Just for IRT members?

During an IRT deployment?---Yes.

One of the reasons that an approval is required is that they might be required to do more or exercise specialist skills that an ordinary general duties member doesn't possess?---I don't really know how to answer that.

Is it really - - -?---Because general duties officers are also trained in AR-15's.

Okay. Is it really your evidence that you think that the only reason you were calling the IRT is that they might have picked up the telephone on 9 November?---The only reason I was calling the members?

Well, you called - in addition to the IRT members who were actually deployed on 9 November?---Yes.

I think something like four other members of the IRT?---Correct.

Were you calling around just any old general duties officer who wasn't in the IRT?

---No, I was - because I was asked to get four members from the IRT, yes.

Okay, so you were asked to get four members of the IRT?---From the IRT.

So you're saying that the request was four members of the IRT? But you weren't asked to deploy the IRT?---Four members from the IRT.

Is it just coincidence that they happened to be in the IRT?---Well, the reason you'd ring the members from the IRT is because you know they'll answer.

And have absolutely nothing to do with their specialist training and experience?
---Well, it is. Well, the fact is that nobody else - you cannot ring other cops. So we don't have anyone who makes themselves available to technically be on-call with it and getting any allowances for it. But you know with the IRT when you ring them - and if they are - the IRT guys, you ring them and they are available, they will come in. So they - it's like even - I've done it in the past, where you ring a police officer who's not in the IRT and you ring about something else and they'll complain down the phone that they're not working "Why are you ringing me?" et cetera, but with the IRT it's either they'll answer and if they answer and they're not available - they're not available - there's no complaining about it, do you know what I mean.

So I understand that that's one of the advantages of calling in the IRT, but I do want you to think about and answer my question?---Mm mm.

The question is, "Did it have nothing to do with the specialist training and skill the IRT possessed?---I think that's probably not an answer for me because then that would be trying to say what Superintendent Nobbs' decision was.

Yes. What was in your mind?---Well, I was in - - -

You thought it was completely coincidental, it was just about the fact that they'd pick up the telephone call?---Well, it was not in my mind he said all four members from IRT.

Why did you think it needed approval?---Need approval from who?

From the Commander Southern, in this case Assistant Commissioner Wurst?
---I never said it needed approval from him.

We will go to some of the evidence - you - conversations between yourself and Superintendent Nobbs but is its your evidence that you were never told that an approval had been given by Assistant Commissioner Wurst?---I don't believe so.

Okay?---Well, we're going back three years, so.

In any event, there was no doubt in your mind, was there, that the level of risk for this deployment was high?---Well, not necessarily.

Not necessarily?---At the end of the day it's - for this one you just have an arrest target in community. So it was not like it was a firearm incident or anything.

Okay, so it was actually just a kind of standard arrest?---Yeah, like it was, like you mean - I obviously know about the axe incident, well you mean you arrest people to do a weapons all the time. Most times they're doing that on general duties but.

You gave evidence about this at trial, do you recall?---I recall being at trial, I can't really recall what I said.

You were asked precisely the question I just asked you?---Mm mm.

In your mind what was the level of risk for this deployment?---Yes.

And you answered, "It was high-risk?---Yep.

Were you asked that question and did you give that answer?---If you're saying I did then I would've.

Do you want to reconsider the evidence you just gave three years after the fact - - -?
---Can you ask me the previous questions again?

The question was, what was the level of risk for this deployment? Was it high?" And you said, "No, not necessarily." Your evidence at trial was that it was a high-risk. What has happened in the intervening years?---But that - okay. I don't know.

You've obviously had a long time to think about events?---A long time has passed. I've tried not to think about it.

Is it the case that you feel like minimising the perceived risk excuses - or might excuse, any perception that your degree of oversight or instruction to the IRT on 9 November, was inadequate?---No.

You don't?---No.

Okay. You'd agree, wouldn't you, that the higher the degree of risk the greater the degree of planning and oversight there should be?---Correct, and staff as well, yep.

Yes, okay. Do you have any reason to doubt that it's unfair? You might not recall their contents, but if I put it to you that over time your evidence about the degree of risk that you perceived on 9 November has evolved, what would you say to that?---Evolved which way?

You have gone from an acceptance that it was high-risk and then, in your second statement, started to query whether this was just a general duties' deployment?---Possibly, I'm not sure.

I want to ask you some questions about 9 November now?---Yep.

It's correct, isn't it, that around 2 pm in the afternoon, Shaun Furniss came into your office?---Correct.

And you knew that Shaun Furniss had been contacted by Superintendent Jody Nobbs - - -?---Yeah, told me.

- - - around about 1:30?---Yep.

Yes?---I didn't know what time, but yep.

All right. If I put it to you that his evidence was that that call happened at around about 1:30/1:40, does that sound about right?---Yes, it does, sir.

Now, the next record we have of action by you is a telephone call to Adam Eberl at around about 2:13 pm?---Yep.

Now, is it fair to say that your conversations with Furniss occurred between his call at around about 1:30 and your call to Eberl at about 2:13?---Yeah, possibly.

All right. What did Furniss say to you?---I remember when he came into me and he asked a question about a point of contact for IRT. And then he was – I can't really recall.

All right?---I would be putting you wrong if I kind of came up with something.

Did he say anything about Superintendent Nobbs?---Yes, Superintendent Nobbs was on the phone.

Okay. And can you recall what Superintendent Nobbs wanted?---For people to go to Yuendumu.

And he wanted you to identify those people?---Yes.

THE CORONER: Did you go in and have a - - -?---Yeah, I went in. I kind of cut out Shaun Furniss as being the middleman, so I went in. His office was next door to mine.

THE CORONER: Yes, so you went in. He was on the phone?---Yep.

And it was a speaker phone?---Yeah, I think it went on speaker, yep.

MR COLERIDGE: Okay.

THE CORONER: Sorry, I interrupted you.

MR COLERIDGE: That's all right.

THE CORONER: You were telling us what you could recall Superintendent Nobbs saying.

MR COLERIDGE: So, the first conversation you have is in your office with Furniss?---Yes.

Okay?---That was just him coming to the door and asking me and then I think we both went into his office.

All right. And you had a conference call then?---Yep.

With Superintendent Nobbs?---Yeah.

And what did Nobbs tell you on the phone?---I can't remember.

All right. Did he tell you whether the IRT were to be deployed in uniform or in - - -?---Yeah, I actually specifically asked that question.

Okay. And his answer?---Is it greens or blues, and he said "Blues".

Okay. And what was the purpose of the IRT deployment?---For an arrest target in Yuendumu.

Okay. And who was the arrest target?---Kumanjayi Walker.

All right. And he identified that person?---Sorry?

Did he identify Kumanjayi?---Yeah, I don't know what the words were said, yeah.

Okay. Did you have any awareness of Kumanjayi at that point in time?---I knew of the axe incident.

Okay. You were told, were you not, that there was a funeral on that weekend?---Possibly.

Okay. If I put it to you that at page 28 of his first – second recorded statement, Eberl, Constable Eberl says that he was briefed by you at Alice Springs about the fact that a funeral was on that weekend. Would you accept that you must have told him that?---If he says that, yeah.

Yes, all right. And you were told, were you not, that the nurses had left the community?---I was, yes.

Okay?---I think Superintendent Nobbs told me that.

Yes. And that that is one of the reasons that general duties support was required by the IRT or from the IRT?---Well, it's one of the reasons why they wanted more staff, I suppose.

Yes. So, there was arresting Kumanjayi Walker, but there was also managing the additional property offending that was occurring in Yuendumu?---Yeah, I was told about the property offending as well.

Okay. For example, the IRT could conduct patrols of Yuendumu. Correct?---Are you saying this was part of the conversation, or are you saying in general, it can be?

I'm asking you whether this was something that you were told?---I can't recall.

Is it possible that you were told?---Yep, I don't know. I'm trying – I'm trying to think about it, sorry.

I'm not suggesting that you're doing anything but your best to remember?---Yeah.

But if people like Shaun Furniss and Superintendent Nobbs have written down that they've said things to you in those conversations, you would accept their accounts as reliable?---Yep.

It's just the case that you can't remember what was told to you on the 9th?---So, yep – well, it's three years ago.

Fair enough. I want to read to you some of Superintendent Nobbs' evidence?---Yep.

Now, Superintendent Nobbs gave a statement, I believe, on 29 November 2019.

Your Honour, for the record, this is 7-100.

And annexed to that statement is – his statement was a recorded statement and annexed to that statement was a statement he had typed up sometime earlier?---Okay.

So, this is his recollection within a week or so of these conversations. He says, "I provided particular advice to McCormack preparatory to the deployment. Advice on health self-removal from Yuendumu, including details, although not confirmed, as to remote health's intent to provide medical services from Yuelamu." Do you recall that?---No.

Do you accept it was said? It could have been said?---I accept that he said it, yes.

Would you have any reason to doubt his recollection?---No.

"The alleged increase of property crime impacting the medical staff"?---It's something similar. He wouldn't have said it like that, but I did know that the nurses had evacuated, yeah.

What is it about the alleged increase of property crime impacting the medical staff that caused you to question whether or not he said it?---I think it just refreshed my

memory a bit.

Okay.

THE CORONER: What do you remember him saying?---It's hard to know whether the property bit came from him or came from someone else in the station, or that came after. I did know the nurses that left. There was a – I think there was a suggestion that Kumanjaya Walker was one of the offenders for it. I think I do remember that.

The – I think there might even be – yes. The next line reads, “The fact that Walker remains outstanding and although not confirmed, that he is possibly linked to the property crime spike”?---So, he's using those words he said to me, is it?---

I'm reading from - - -?---Okay.

- - - his statement?---Yep, sure, okay.

It's says, “I provided specific advice to McCormack.”

THE CORONER: So, what he told us - - -?---Yeah.

- - - was that on about the Monday night after this incident, he started typing up his recollection of all the conversations?---Yep.

And (inaudible) the conversations. So, they were reasonably fresh in his memory. But it's not suggested that the words are verbatim?---Okay. All right, okay, thank you.

They're just of the conversation - - -?---I didn't think those – yeah, okay.

- - - that he had with you?---Yep, sorry, that was kind of what I was getting at, those words.

Yes?---I apologise for that.

That's my mistake. I think - - -?---Yep.

- - - it was the way I was asking you the questions. I am really not asking you whether you have a memory that, word perfect, these things were said. I'm just asking you whether you remember knowing about these things?---Yep, yep.

And whether they could have been said?---I apologise for that, yep, sorry.

Now, the next dot point says, “Walker's YFSF, Youth Family Safety Framework, links and risks regarding Rakeisha Robertson”. Is that something you could have been told?---I cannot recall that. I think the first time I heard about Rakeisha Robertson's name was probably after the incident.

Is it possible you were told about potential links or concerns to a domestic partner who was just not identified?---I can't recall, sorry.

Now, I asked you some questions about your knowledge of Assistant Commissioner Wurst's involvement in this. This page of Superintendent Nobbs notes to say, that says that he then told you that Wurst had approved IRT comprising four members and the dog unit, comprising general purpose dog and handler for general support deployment to Yuendumu. Do you recall that?---I don't recall that but I know when the guys came in, when I called them in, I wasn't aware that a dog handler had been sent out to Yuendumu. Where it wasn't, no.

THE CORONER: Okay?---'Cause I would have told her when they came in.

MR COLERIDGE: I just want to clarify there. You weren't aware that a dog handler had been approved?---I don't think so.

Or that a dog handler had been sent?---Approved.

Okay. So, your memory is that you didn't think there would be any involvement from a dog handler?---Not that I didn't think there'd be any involvement with a dog handler. I just don't remember being told about it.

Okay. It then says, "Approval from Wurst that members take non-lethal munitions, beanbag rounds and AR-15, this was approved." Do you recall that conversation?---I don't.

Do you recall any conversation about munitions?---No, I don't.

Okay. Do you recall any conversation about Assistant Commissioner Wurst?---No.

Okay. Then the final dot point says, "Tasked to McCormack to ensure that IRT were briefed accordingly based on details provided and that I received written advice to deployment advice stipulating same. This task was complete and email received at 4:24 pm." A couple of questions about that. Let's take it in stages?---Sure.

Do you remember being tasked with briefing the IRT by Superintendent Nobbs?---No, I don't remember that.

Are you saying it didn't happen or you just don't have a memory?---Well, I didn't really know a lot of what they were going to do to brief them.

Okay?---But, sorry, that didn't answer the question, did it?

No?---Sorry.

That is a reason why it might have been difficult?---Yeah, I can't recall, sorry.

You can't recall, okay?---Yeah.

The next question I wanted to ask you, sorry. I might just deal a little bit more with Superintendent Nobbs's evidence?---Yeah.

Before Superintendent Nobbs called you, his evidence is that he made some decisions about whether it was appropriate to deploy the IRT or to approve the deployment?---Mm mm.

And he has listed his considerations that he says were relevant at this point in time. So, before he spoke to you. One of them is safety of police. It says that, "Walker had already demonstrated violence towards the police." And that he had received advice from Frost during his conversations that Walker was known to run. That the arrest plan developed at a local level will be heavily reliant on letting Walker run. And this is the bit that I wanted to emphasise. That there was a need for members to be given respite over the following 24 hours.

Did Superintendent Nobbs let you know about the level of fatigue in the Yuendumu Police Station on 9 November?---I don't think so.

Okay. When you say you don't think so, you don't have a memory of it or you think it didn't happen?---I can just think back when I called the guys in and I told them they would go out to arrest Walker and bring him back. Which that's quite different than they're going to go out and basically look after the station while the members rest.

There is definitely a difference between the two things?---There is.

The next line reads: "Prior to advancing any plan to locate and arrest Walker, which may not be necessary if he surrenders." I think that that follows on. So, there is a need for members to be given respite prior to advancing any plan to locate and arrest Walker?---Yep.

"As such any IRT deployment, first priority over first 24 hours will be general duties response capability into Yuendumu." Is that consistent with what you were told?---I don't recall.

Okay. You don't recall whether you were told that?---I don't recall and it would, yeah, I'm kind of thinking – no, I don't recall, sorry.

I also want to ask you about some of Shaun Furniss's evidence?---Mm mm.

Now – I apologise your Honour.

He had obviously had a telephone call with Superintendent Nobbs?---Is that when I was in the room or it's a different one?

It sounds like your evidence is he receives the call, he goes and gets you?---Yeah, sorry.

And brings you in?---Yep, correct.

I just want to put to you in fairness his recollection of what the plan was?---Mm mm.

He was asked:

“Now, did he, Superintendent Nobbs, tell you anything about the specific plan for the arrest of Kumanjayi?---It was proposed that was early the next morning they would go and arrest him and that was the plan. And that was something that happened regularly based on my policing experience as well, where things are certainly a lot less frantic in the morning than what they are generally during the evenings, into the late evenings, early mornings. The community is generally asleep.”

THE WITNESS: Mm mm.

MR COLERIDGE: First of all, does that sentiment, that arrests in the morning can sometimes be safer, is that something you have heard before as a police officer?---My experience in New Zealand, arrests in the morning were safer. I think working in the Central Desert, it's probably a bit different.

Okay. Now, had you been stationed much in the Central Desert?---Yeah, I was here for six years.

Okay. Whereabouts?---Alice Springs.

Okay. In remote communities?---No, all my remote community work was up north in Ramingining. But in Arnhem Land.

So, you didn't have any experience in effecting arrests in remote communities?---Not in the Central Desert. I did in Ramingining, yes, and Millingimbi and Croker Island.

Certainly it appears to me Senior Sergeant Shaun Furniss's evidence that, one, that was his experience. You would accept that?---I accept that, yep.

That that is his evidence. I'm not - - - ?---Yeah, yeah, sure, yep, yep.

And it's also his evidence that he was told this by Superintendent Nobbs?---Yeah, if that's what he said, yeah. I will accept that.

Is it possible that that is something that was said during the conference call but you just don't remember?---I think I said in my statement that if I knew there was a 5 o'clock arrest – I'm paraphrasing here – that I probably would have called out different people from the IRT.

Wasn't your evidence in your statement that if you had known that the deployment time in the Frost arrest plan was 11 pm, you would have let the IRT rest a little bit

longer before sending them out?---It's more the fact that the guys I rang I knew they were on evening shift. That's why I called them as per the roster. So, apart from Tony. I think Tony was on leave. Because generally when you try and deploy people from IRT, you look and see, "Well, who's actually going to be coming in?" So, for example, I think I rang them about 1 o'clock. It could have been 1 o'clock. But I knew most of them were going to start at 3:00. So, obviously they would at some stage they'd be ready for work. So, I'm pretty sure I would have went through the roster like that first. Like, I'm not gonna ring people who are on night shift who are asleep. I wouldn't wake them up.

Assuming that there had been a request for IRT to be deployed there and then to Yuendumu?---Mm mm.

Why would it make a difference if the arrest of Kumanjayi was to occur at 5 am?---Because I'd aim for people who were going into days off or people who, yeah, have days off so they could maybe get the overtime and then there'd be less of a – what's the word I wanna use – less of an inconvenience to the general duties staff. Does that make sense?

So, is it your evidence that you thought the IRT would be back that day?---Yeah, that's why I organised their caged vehicle because the view was is that they were gonna go out, arrest him and bring him back.

All right. Same day, in and out?---Well, if, you mean, if possibly obviously.

And if not possible come back?---Well, no, not come back 'cause I think they were bringing swags or something.

Isn't it the case that you deployed them until Monday?---No, I can't recall that.

Didn't you tell them that you would be out for two to three days?---I thought it was overnight.

So it was overnight?---Possibly overnight.

So they'd be back on the Sunday morning?---Possibly.

Okay, possibly, but not necessarily?---No, not necessarily, but I wouldn't have said two or three days. Because I think I would have that discussion over the phone with them, because people might have plans.

But I mean, I'll put it you that there is evidence from a number of members of the IRT - - - ?---Yep.

- - - that at least two, and possibly two to three days, was the estimate that you gave, during your mini briefing at the Alice Springs Watchhouse?---Okay.

Would you accept that that's what you said?---I'll accept that they said that, yes.

You'd also have to accept, wouldn't you, that the arrest of Kumanjayi Walker was going to be dynamic?---Every arrest is, yes.

You couldn't predict when or where it would happen?---Definitely not.

You couldn't predict whether they'd be back same day, or on Monday, or Tuesday - - - ?---Correct. I wouldn't have made the promise that they're coming back the same day, yeah.

Okay, so how on earth could that factor into your rostering decisions?---Because of what time I was calling them out.

I'm still not sure I understand that but I'll move on. Can I ask you this. If you understood that there was work for the IRT to do in Yuendumu, before arresting Kumanjayi at 5 am, wouldn't it have made sense to call the members you called, then?---Can you repeat the question?

Well, assuming that – Superintendent Nobb's understanding of the plan, was, that there was work for the IRT to do in Yuendumu, before they arrested Kumanjayi Walker. This is the relief work because - - - ?---Yep, yeah.

- - - the station was so fatigued. If you had understood that on 9 November, it would have made sense, wouldn't it, to call the IRT in at two o'clock that afternoon, because there was stuff for them to do in Yuendumu?---I'm not sure.

You're not sure?---No, I'm not sure when I – that would have made sense.

So if there'd been a request, look I want you to send out some general duties police officers to Yuendumu, because the station is really fatigued, they need relief through the night, and then the arrest will occur the next morning, you wouldn't have called in Rolfe, Hawkings, Eberl and Kirstenfeldt?---I probably would have looked at – no. I'm not saying I wouldn't have called them, because sometimes you get what you get, or I probably would have looked at the roster a bit different. Maybe who's on days off, who wants to get some overtime.

Right. I want to ask you some questions now about the process of making those calls. So I think your evidence is that you did a ring around?---Yep.

How did – in your first recorded statement, you say that there is a list somewhere?---Yeah.

But you know whose on the list, and did it from memory?---Sure.

Tell me about this list?---The list would be – it's just be a phone list.

Okay, so it's phone directory?---Yeah, yeah, so we've got a phone directory, Alice Springs members.

All right. And this isn't an IRT specific document, you were just expected to know who was from the IRT?---Yeah, yeah, because I think even for some of the members that came out, I didn't have their phone number, so.

You relied on them to contact each other?---Yeah, some of them, yeah, yeah.

But certainly, it's – and I think you say this in your recorded statement, it's not on the list whose done what training?---Correct.

It's not on the list who has particular disciplinary history?---Correct.

Or is being investigated?---It's just a phone list in Excel.

So you're literally just going down the phone list?---Yep.

And I think that in your recorded statement, you said that this process was effectively random?---It was yeah, yeah. Well I kind of looked up who was off, I kind of – you kind of go to a roster.

Your word "random"?---Yep.

You spoke to Emma Reynolds first I think?---Yep.

"I called her first because she'd missed out on some previous deployments"?---Yep.

You then called Paul Henderson?---Yep.

He didn't want to go? You can't remember?---Sorry, yes I did, I do remember that.

And Sam Tait(?) and Ashwood Everett-Smith(?) had both been drinking?---Yeah they were at a christening.

Nothing inappropriate with that - - - ?---Mm mm.

- - - they were at a baby shower?---No, they're not on-call.

So was there any particular reason why you called – why you "chose", and I use that word in quotation marks, Rolfe, Kirstenfeldt, Hawkings and Eberl?---Sorry, any reason why I rang them?

Sorry, I suppose what I'm saying is, had those other members picked up the phone, is it possible that you wouldn't have sent out, Rolfe, Eberl, Hawkings?---Yeah, I just needed four people.

Okay?---Four's four, and that's – that's it.

And if one of them had been unavailable, or had been drinking, you would have kept ringing down the list?---Of course, yep.

Okay?---And then there could have been an instance where I could have got nobody.

Was there any consideration of the skills or expertise of the members?---No.

Okay?---We've all done the same training.

Okay. It – you didn't understand it to be your role at all to work out whether the members you were identifying, or contacting, were suitable for deployment? They were in the IRT, that was enough?---Yeah, well they're in the IRT, so clearly they'd be suitable.

Your first telephone call was at 4.13. I put it to you that it was to Tony Hawkings – sorry, I put it to you that it was for Eberl?---I think - - -

THE CORONER: Sorry, which – these are the people who actually accepted - - - ?---Because I think my first – yes, because my first was Emma Reynolds, yes.

MR COLERIDGE: You then called Tony Hawkings at 4.14, sound about right - - - ?---Yeah, yeah I - - -

- - - I don't expect you to remember those times?---I – good, yeah, okay, thank you.

I just want to ask you briefly about the conversation that you had with Hawkings. Was this a discussion, or can you remember whether there was discussion with the members about what kit they would bring?---I think I just told them the blue uniform.

Now, can you remember discussing that with Tony Hawkings, specifically?---No.

Can I put it to you that you suggested to Tony Hawkings, or he asked you, look is it going to blues or camo, and you said blues?---Yep, well possibly, yep.

I then want to read you some of his evidence. He says "I think I queried this with him. I was going to say to Paddy – to Shane McCormack, yep, okay, yep okay", and then Hawkings says, "But he said 'Like I'm sorry I know, but we've been – a high up authority has said to come out in blues, and we'll do that', and I said 'That's fine'". What were you apologising for?---Well I can't really remember the conversation, but if anything, I probably would have been saying it to cut off the phone call, like sorry, as in like this is it, I've got stuff to do.

Okay, so when he recalls you saying "I'm sorry I know, but we've been to a higher authority" - - - ?---Mm mm.

- - - your apology was for ending the telephone call?---The apology was like, sorry Tony, I've got other stuff to do. To get – you know when someone's talking, and your like 50 things to do.

All right. Did you get the sense that Tony Hawkings would have preferred to deploy in his camo?---I can't even remember the conversation, I'm just guessing what I would say.

Is there a perception in the IRT that it's more fun?---More fun, no, no. It's definitely hotter.

You then spoke to Rolfe, at around about 4.22?---Yes, yes.

And to Kirstenfeldt at around about 4.23?---Okay. Did I have – did I call Kirstenfeldt?

The phone – the CCR's and RCR's suggest that you did?---Okay, fair enough.

THE CORONER: I think you thought that maybe you got Rolfe to call him?---Yeah I can't – I can't remember if I had Jimmy's number. I know I didn't have Eberl's number, but anyway, sorry I'll accept that, yep.

May be you got the number off Rolfe?---Yeah, I can't remember.

MR COLERIDGE: Everyone turned up in Alice Springs, correct?---Yep.

Can I ask you to describe the muster room?---Yes, it's a long rectangle part of the building. It's separated by a whole lot of double – double – two high lockers. On top of that, there's cameras, four monitors either side. So it's like a partition. Four monitors either side on that – the watchhouse, CR – or CCTV cameras. So the first bit, as you come in the back door, that's classed as the POSI Area, because that's all auxiliary's come in – I would have given a briefing that day. And then obviously chat at the end of the brief. And then, passed those, generally where all the constables sit.

So that first area, the POSI Area, that's where you think you gave the briefing?---Yeah well that would have been the closest place in the door, and it's where I can see from my office.

What did the briefing involve? Sorry, before I ask you that. Who was present at the briefing?---It was the four, Jimmy Kirstenfeldt, Tony Hawkings, Zachary Rolfe and Adam Eberl.

And what happened?---I basically told them, well, I obviously told them on the phone they were going to Yuendumu. I think I told them, they asked what they're going for and I said to arrest Walker. I think I said about, I probably would have said about a vehicle, a caged vehicle to bring him back. Yeah.

Okay. You have watched the footage?---I didn't.

You didn't?---No.

Okay?---I've seen the footage two days before.

There was no discussion of risk assessments?---No, well, the view was for them to pretty much get moving and go out and see. I did tell them to go see Julie Frost.

Okay. You told her that she would instruct them?---I didn't tell her, that she would instruct them? I probably would have told them, 'cause Julie had all the information anyway, so.

Okay?---Sorry, Sergeant Frost.

Where did you think, I mean, you would have assumed that there would have been some degree of planning for this arrest?---Yes.

And your evidence is that you certainly weren't involved in that planning?---Yes.

Where did you think the planning would occur?---In Yuendumu.

Okay. And in terms of chain of command who was to be responsible for the planning?---Julie Frost.

And you would have conveyed that to the IRT?---Yes, yeah.

How long did that briefing take?---We're talking, it was very quick. I had, there was 50 other things to do at that time.

Okay. This is all the police auxiliary stuff that you were working on?---That, yes, yeah. And obviously I had to find out, like, 'cause obviously, you mean, with the police there is always have to be, there has to be a record of it, of not so much the briefing but about what you're trying to organise. So, I knew there'd be something on the IRT system for that so, yeah.

Okay. And did you make any records of this briefing you provided at Alice Springs?---No, that was really quick. It was, like, well, it was pretty simple. Like, I told them what they're gonna, they need to do. They're gonna go out and see Julie Frost. She's got more information for them and pretty much for them to hurry up and get going.

It's the case, isn't it, that Constable Rolfe provided a briefing to the other members of the IRT?---When I was there?

Possibly not in the POSI area. It could have been at the constables' desks. But somewhere within the muster room?---I don't know. It's possible.

And during that briefing he showed the footage?---I don't know.

Okay. Did you discuss the axe incident during your briefing?---When they come in?

When they came in?---I can't remember if I said or someone asked was it the axe incident or I said it's the axe incident. That's what it was.

Okay. Did you discuss how serious it was?---No.

Okay?---I don't think so.

Were you talking about how you thought that the community police officers had mishandled the situation?---What, when they came in, you mean?

During the briefing?---No.

Okay?---I can't, no.

Did you tell the IRT at some point or a member of the IRT at some point that you thought that they had mishandled the situation?---When you say at some point, like, altogether?

You're saying, I mean, before they left?---Yeah. Did I have a discussion with someone else about the axe incident, is that what you're saying?

I'm saying at some point in time. I'm asking. It's an open-ended question?---Yeah, yeah, sure.

At some point in time would you have said to one of the members, one or more of the members who were deployed, "Look, these community police officers really screwed this up"?---It's possible. I don't really use those words but, yeah, it's possible. But I don't think anything like that happened when, when I called them in, if you know what I mean.

When you say you don't think that you used those words?---Yeah.

What do you mean? You're not discouraging?---I don't – no, I don't use the word screwed up.

Okay?---I swear a lot.

Are you saying you wouldn't swear about another police officer?---No, I'm saying that if I was to say anything about them you would probably have a swear word in it?

There would be a swear word?---Possibly. I do, yeah.

It's the case, isn't it, that you became aware of the axe incident on 7 November?---Yeah. Yeah, yeah, before I called them in, yes.

And I think you say in your recorded statement someone showed it to you?---No. I seen it, I think I seen it on in a video in the muster room. 'Cause we use this, we use body-worn so it's Axon, yeah, evidence.com. And I think, like, it's kind of one of those things that it timestamps it and ID's it for a reason. So, I will never look at, I don't think it's fair to look at someone else's evidence over their shoulder. If I wanna look at it, I will log on and look at it. And in that way, it shows a record that I looked at it.

So, there should be a record of you viewing in the PROMIS record of 7 November?---It wouldn't be – you'd find it in evidence.com which is the Axon software we use for our body-worn.

In any event, I think at trial you described what you saw as a high-level of violence?---Yeah.

But you thought that things had been handled very poorly by the local members, didn't you?---Did I say that at trial?

I'm asking you?---I had an opinion about it, yes.

Yes. Your opinion was that it had been handled very poorly?---No. My opinion was that I was glad I didn't see a police officer seriously injured or killed.

Okay. But you thought that the community members had effectively put up their hands and done absolutely nothing?---I – I thought they, they left it to chance.

But you were critical of them?---I was critical in a way that you're critical when you first see something but that doesn't mean you don't get a better appreciation about it.

And you expressed that criticism to police officers like Constable Rolfe?---Possibly.

Prior to 9 November?---Possibly.

All right. Can I ask you to have a look at some text messages? I ask you to accept from me that these were extracts from some text messages that were located on Constable Rolfe's telephone. Text messages that you sent to Constable Rolfe on 7 November 2019?---Yep.

Now, at 3:37 pm, you would agree that it appears that you said, "I'm sorry I fuckin' watched that. Fuck me." And he responds - - - ?---This is, yeah, my name for his name, yes.

Yes. He responds, "Yeah, aye"?---Mm mm.

And then you say – and this is a couple of minutes later – "You imagine if that other cop got killed and he stood there and watched it with his fuckin' hands up? What the fuck have we become"?---Mm mm.

And Zach Rolfe says, "I know, aye. Fuck my whole life"?---Mm mm.

What you were saying was, "What the fuck are these police officers doing"?---I don't really, yeah, I don't, I can't really answer that.

Okay. It certainly looks like that, doesn't it?---It does look like that, yeah.

Are you saying you just can't remember what you were thinking at the time you sent the message?---Yeah, I can't remember what I was thinking, yeah.

It stands to reason that that was the sentiment you and Zach Rolfe shared on 9 November?---Are you able to show me the time I actually watched it?

The time that you actually watched the footage?---Watched the footage.

It will take some time. I think we're about to take a break?---If you don't have it, sorry. Okay, I thought you had it there, sorry.

Are you suggesting that it's possible that this text message exchange is about something other than - - - ?---No, I don't mean that. I mean that is it a text message after watching, the heat of the moment text message.

Okay?---That's what I, that's what I mean.

All right. Whether it was sent in the heat of the moment or hours after you watched the footage, it certainly sounds like you were being highly critical of the community police officers who had attempted to arrest Kumanjaya Walker on 6 November, correct?---At that time, yeah, I could probably agree with that.

Okay. It stands to reason that that was the sentiment you and Constable Rolfe on 9 November, doesn't it?---Well, this is two days after, so.

Okay?---I'm known to kind of say heat of the moment things.

All right. You're impulsive?---Well, yeah, I'm Irish.

Sergeant McCormack, is it possible that you knew that Superintendent Nobbs wanted you to provide general duties support to Yuendumu and not arrest Kumanjaya Walker until 5 am the next morning?---I don't know.

Okay. Is it possible that you and Constable Rolfe thought you knew better than the community police and you thought you would get in and out and show these community police how it was done?---No, because I have worked in communities for a long time and it's, it's a tough job working bush.

Okay.

Your Honour, I think that is a convenient time.

THE CORONER: Officer, we will just have the morning adjournment?---Okay, yeah.
15 minutes?---Thank you.

ADJOURNED

RESUMED

MR MULLINS: Your Honour, if I may, just before the witness commences, I may need to leave during the course of the next two hours and I won't be back until Tuesday morning. Mr Boe will appear on behalf of the Brown family, instructed by Ms Naz.

THE CORONER: Thanks, Mr Mullins.

XN BY MR COLERIDGE:

MR COLERIDGE: I want to ask you some questions about what happened after the events of – or the deployment on the 9th, I understand that you contacted Zach Rolfe or had contact with Zach Rolfe on three occasions following the shooting on 9 November?---Yes – sorry.

The first occasion was, you checked in on him to see how he was. On 10 November, you spoke to him outside his house. I think he was on the front porch?---I spoke to him before that. When he came back to Alice Springs, I went and seen him at the hospital.

Okay. You were a part of that?---Yeah, I went up to the hospital, yeah.

Okay. You then saw him on Sunday, 10 November outside his house?---Correct.

That was a welfare check?---Yep.

The third time you had contact with him was when you went around to Zach's place for drinks. Is that right?---Yeah.

Yes. Now your evidence was that it was just police members who were there?---Yep.

I want to ask you some questions about how that came about. Can I ask you to have a look at some text messages sent and received on the 10th and 11th. Do you want to just briefly familiarise yourself with the first and second page?---Yeah, sorry. Just the first and second?

Just the first and second?---Yep, yep.

If you turn back to the first page, you'll see that about 6:58 pm on 10 November, you texted Zach Rolfe and said, "Is anyone free for an IRT debrief tomorrow at around 4:30 pm at IRT office. I'll bring the beers and let Adam and Jimmy know."?---Yep.

Adam is Adam Eberl?---Yes.

Jimmy is Jimmy Kirstenfeldt?---Kirstenfeldt, yep.

Okay. And the IRT office is where?---It's beside the watch-house.

Okay?---Yep.

What did you propose to discuss at the debrief?---It's really just a welfare. It's – I think I was more mindful that Zach lived alone. I didn't – you know, obviously what happened, it would have been very traumatic for everyone. I think it was just really just to make sure – see how he's travelling.

Okay. Is there a reason that you organised that and not someone else?---Yep, probably.

Could that have something to do with the fact that it had been your responsibility to send the members out to Yuendumu on 9 November?---No, I think it was more of a – I don't really know.

Were you acting in a leadership role?---No. I can – if you – so how can I put this. Not many people know this about me, when the incident happened, Zach was 29. When my brother killed himself, he was 29. That was – and nobody knows that, but me. And I'm not saying Zach exhibited anything like that, but I find welfare, especially where young people – it's very important.

Okay. I just want to say, I'm not going to be suggesting to you that you were trying to do anything inappropriate?---Yeah, I know, that's cool.

I'm not going to be suggesting to you that you had anything but Zach's best interests at heart?---Yep.

THE CORONER: At that stage, were you aware what, if any, other welfare support was being provided to Constable Rolfe?---I don't think anyone – anything was being provided. We've had quite a major review, probably in this year, about the welfare support we received. And it was found to be lacking, which the organisation is doing think things about, yeah. I'm currently a peer support officer. So, what I'll do is, I'll go around and make sure everyone's okay. But predominately, my role is when I go round and if someone's – if it's a personal matter or a work matter, I try not to get them to talk about that.

Yes?---I'm not a psychologist. It's not like they can dump on me. I'd much rather to tell, go for a walk, go for a run, go to the gym, yep. But I know, we had a review and it has been found to be lacking.

So, at that time, you were concerned that there were no other welfare supports being offered to Zach from the organisation?---Yep, yep.

And you were providing peer support?---Yeah, and also is that, it's kind of – because it's so important, they leave it – they bank on other people are doing it when I can do it.

You thought the possibility you thought that it could be lacking and you did not want to leave that gap?---Yeah, like he's – at the end of the day, he's gone home to an empty house. I'm not saying there was any suggestion or anything, I'm just - - -

That you were aware of the possibilities and you were concerned?---Well - - -

As in just generally?---Yeah, everything was true to mind and I think from my own personal experience, yeah.

MR COLERIDGE: One of the reasons there's had to be a review, can I suggest to you, is that there is a real tension in situations like this. Obviously, as an investigator, you accept that that it's important that the independence and objectivity of evidence be maintained?---I totally agree, yep.

But on the other hand, as a senior office and as a human being, you have a moral obligation to young men like Zach Rolfe, to ensure that they are okay?---Mm mm.

And it's fair to say that fulfilling those two roles is not easy?---No.

Because obviously there is a relationship between the trauma that all of the IRT members must have experienced on 9 November and their accounts of what happened?---I understand how this looks, your Honour, I do, and I apologise. It was definitely not my intention.

MR BOE: Sorry, I just didn't hear that.

THE CORONER: "I understand how it looks. I apologise, it definitely wasn't my intention."

And had there been a proper structure in place that you were confident was providing support?---I wouldn't have had to do it.

MR COLERIDGE: Okay. In effect, your evidence is you weren't trying to do the wrong thing?---No.

But you accept that there's a risk?---Yes, definitely.

When everyone gets together and drinks alcohol?---Yes.

Okay. I just want to clarify your recollections of what happened at the barbecue? ---Mm mm.

Do you recall what time you turned up?---I know my wife dropped me off. I'm pretty sure it was still daylight, maybe 5:00.

And did you leave in the daylight or leave after it got dark?---Well, it gets dark quite quick in Alice. I think my wife probably came and picked me up - my daughter was at dance so they both came round. It could've been about half 7:00.

Can you recall - - -

THE CORONER: At half 7:00 - 6.30?---Yes.

MR COLERIDGE: Okay. So you were there for maybe an hour?---An hour, yeah, an hour and a bit, yeah.

Can you recall any discussions in your presence at the barbecue about the events of the night?---No. Because being a PS(?) supporter I'm - I'm very - like, you mean, okay I - I don't know what everyone's saying all the time but I say to people, I say, "If you're not getting paid, don't talk about work in general." So I know if I did hear anyone I would've told them to - but I can't recall.

In fairness to you I think that an officer who has given evidence this week, Adam Eberl, started talking about work and you said, "Oh, don't talk about that"? ---Okay.

MR SUTTNER: Your Honour?

THE CORONER: Yes, Mr Suttner?

MR SUTTNER: I'm terribly sorry to interrupt this examination but I am finding increasingly that Mr Coleridge - I don't know if he is standing away from his microphone but I am not hearing him and I imagine that if I am not hearing him then other people listening in are not hearing him. If I could just urge him through you, your Honour to request him to stand closer to the mike so that we can actually hear his questions. Thank you.

THE CORONER: I am sure he is happy to do that on your request, Mr Suttner.

MR SUTTNER: Thank you, your Honour.

MR COLERIDGE: How is this, Mr Suttner?

MR SUTTNER: That is much better than you, Mr Coleridge but can I tie your feet to the floor there please?

MR COLERIDGE: Understood.

MR SUTTNER: Thank you.

MR COLERIDGE: The last thing I wanted to ask you about - and these are not criticisms?---Sure.

They're just questions that are designed to identify things that can be fixed in systems?---Yes.

Would you agree that a command structure that doesn't clearly identify who is responsible for briefing the members of the IRT, needs some work so that things are clearer and the responsibilities of everyone in the chain of command are clearer?
---Definitely. I think there's definitely things we can learn from this, yes.

For example, Superintendent Nobbs - I suspect his evidence is that he thought he was calling you and entrusting you to brief the members of the IRT?---Yes.

Senior Sergeant Shaun Gill thought that his only job was to call you into his office, effectively - - -?---Shaun Furness.

Shaun Furness, and similarly, you thought that you were really a point of contact?
---Yes.

It's fair to say that least in Alice Springs, it's very difficult to identify who was actually in charge?---In charge in relation to the deployment?

In relation to briefing the IRT in Alice Springs?---I could probably - I don't know how to answer that, sorry.

Okay. I think it's a matter for submissions, but are you aware now that in the Standard Operating Procedure there are some paragraphs that deal eligibility for membership of the IRT?---I don't know, but I'll that there is, yes.

I am not going to take you to them, but it makes sense that the standard operating procedure provided that if you were being performance reviewed you might not be eligible for membership?---Yes, if that's what it says I will accept that.

Or if you were being investigated or you were the subject of a disciplinary sanction?
---Yes.

You might not be eligible?---If that's what it says, yes.

Do you think that one of the things that went wrong in this case is that no-one really asked are all of these members of the IRT suitable for deployment?---No, I think it's more - like if there is instances like that you should - there should be a clear notification saying that "This person shouldn't go on deployment until this had been resolved."

I'm not saying that the problem lies with you, I am just asking whether, yes, there should be something in the system, like a clarification or - - -?---Yes, yes, I'll agree there should be some way of notification. But then you also have to be careful who - you know - and identify who is actually making that decision and the boundaries - sorry, the criteria for not being available.

Yes?---I think that would quite be quite important.

Okay?---Because like I can understand like complaints against police but like there there's different levels of complaint against police.

What if a police officer was being investigated for the crime of perjury?---I don't know. It would never come to me so that that decision of what would be and wouldn't be suitable.

Would you agree though that at some level in the chain of command someone should consider whether or not the officer is suitable for deployment?---If that's part of SOP's. Is it part of the SOP?

Certainly?---Yeah. I think that probably - like I get it with the SOP's, I understand what you're saying but there really should be criteria around what it is because you then have to make sure that one person who gets this investigation is treated in the exact same way as this person, so there's no favouritism and nepotism.

So there just needs to be clear criteria for eligibility - - -?---Yeh, yeah. Well, enough eligibility to say that, "This person is on hold or not for call-outs because of this reason."

Just in fairness, you gave some evidence about the circumstances in which you might have sent the text about the axe incident footage?---Yes.

The body-worn video log shows that you accessed the body-work video of Lanyon Smith at 3:28?---Okay.

Which looks like it was nine minutes before you sent the text?---Yeah, yeah.

Thank you.

THE CORONER: Yes, Mr Boe?

XXN BY MR BOE:

MR BOE: Thank you, your Honour. Senior Constable, my surname is Boe and I appear for the Walker, Lane and Robertson families?---Hello, sir.

There's a number of propositions I am going to take you to in a minute, which might shorten my questioning but before that can I just clarify at least my understanding of the way in which you understood the IRT could be deployed in the manner that you were called upon to do so?---Yes.

My understanding was that you viewed membership of the IRT as being a part-time resource that may be available for deployment when there were particular needs in other areas in which those people were scheduled to be on duty, correct?---Yes, I'd agree with that.

Yes, and in that respect the qualification they had was the two week induction course and the monthly training in relation to shooting?---Yes, there also was a review process before it even got to that stage.

Yes, sure. I mean, I am not querying the qualification process, but insofar as what they brought for the equation was one, likely to be more readily available because they had put their name up to be readily available, correct?---Yes, that's - that would be a correct area.

And two, they were known to have particular training behind them and that could be utilised for particular services, correct?---Yes.

And the – they were – if they were going to be using their specialist skills, and I mean the shooting skills, and going to houses skills, it was only meant to be a temporary hold until those far more qualified and trained could attend, like the TRG?---Yes, in some scenarios.

Well with the caveat, if urgent circumstances arose, they could be deployed?---Correct.

Is that correct? All right. So in so far as your role on the ninth, the difficulties that you faced were one, you had never been in that role before, correct?---Correct.

And you had not really understood, whilst you were doing it, that you were being asked to do, or expected to do, more than being a conduit? And can I explain conduit - - - ?---I understand conduit, well - - -

- - - may I just contextualise the question - - - ?---Sorry.

- - - so it's easier for you?---Yep.

That is, you had assumed, that the decisions to deploy had been made by others higher above you, correct?---Correct.

And that they would have had some liaison with the party seeking the assistance, namely Frost?---Yes.

And that between the two of them, they would, at some stage, formulate the – the plan, for any of the duties, that these members would be using – undertaking, upon their deployment, correct?---Yes.

Your task was, even though you were given quite a lot of information, was simply to assemble four people, who were able to attend, at the time you thought they were needed?---Yes, and to identify what equipment - - -

Yes?---They would take, and let, obviously Julie Frost know about that, yeah.

As to that second issue, that would be informed a lot, by what they ultimately be doing, correct?---No.

It may be a staged process. An assumption might be made, and this is where, if I may say, you – you corrected Counsel Assisting by saying, from the IRT, instead of sending an IRT?---Yep.

You were trying to, I thought communicate, that you were looking at who was available, from the IRT pool, to be deployed, correct?---Correct.

And one thing you were wanting to be clear about, was whether it was a green mission, or a blue mission?---Yep.

And once you were told it was a blue mission, you didn't want to second guess that. You simply communicated that to anybody that ultimately agreed to be involved, correct?---Correct.

Okay. Now just dealing, just briefly with what you saw to be the limits of your responsibilities, was that once you had identified, and had the agreement of those willing to be deployed, and given them the general information of what they should take, you assumed that once they got to Yuendumu, that the officer in charge, and perhaps somebody higher, would then refine the plan for them, correct?---Yes.

Now so would – one issue, looking backwards, that you would like addressed in terms of findings or recommendations would be, that if it was expected that you, in that position that you were, in deploying the IRT was to be an engaged dynamic process of showing leadership and defining the plan, that any other duties you had, at that time, should be pushed away from you, so you could focus on this particular task of deployment, and engaging with the changing needs in the situation?---So are you saying that I should have – when this call come in, and I was taking the role, you're asking should I have just solely had the opportunity to work on that, and not the POSI?

Well, I'm suggesting to you that, in order to do all the things that everybody seems to be expecting you should have done, you should have been given the space and time to do that, with focus?---More resources would have definitely been better.

Yes, that is, whoever doing that task of identifying, for example, team leader, what equipment, making sure everybody was on the same page, should be left to be able to do that, uninterrupted by worrying about somebody had their drinks break at the local pub?---Yeah.

You'd accept that, wouldn't you?---I'd accept, you'd still be limited to what information you had at that time when you called them in. So it's not like, if they wanted four people to go, you could turn around and isolate someone to organise that role, because sometimes that role could be a minor role, or a large role. Yeah, am I making sense there? Because at that stage, we kind of didn't have the information to give them. So it's not like when they were called in, I withheld

information because I was too busy, I just didn't have what they were going to do, and that's why the information was go see Julie Frost.

Well you can see what's happened in this case don't you? I mean, you know we have a lot of information of people's different recollections?---Mm mm.

Of what they said, what they were told - - - ?---Yeah.

- - - what they wrote down, etcetera. In one way to cut through all that, or improve that, is to make sure that the person who was deploying, and being viewed by those above, and below, as being responsible for the deployment, would have the ease of mind, to be able to sit down and write down what they had been told by Nobbs on the phone. Make sure that that accurately reflected what you understood from Frost, and that accurately reflected what you communicated to those you were deploying. Surely that – that's really what's happened here isn't it?---I could think that could be recorded their email.

Yes, well I'll get to that email in a second. Now just dealing briefly before I go to those propositions, the training on a monthly basis, was focused upon, as I understand it, two specific things. Improving weapon use, correct?---You mean improving handling - - -

Well I don't know what language you want to use, but - - - ?---Yeah.

- - - part of it was about using your guns?---Yeah, sure, yeah.

And the other part was entering buildings in particular situations, correct?---Yes.

I think one of the examples, like you go out to some abandoned housing sites and use those places to set up scenarios, etcetera?---Somewhat sorry? I got - - -

Set up scenarios at abandoned buildings?---Yes, yes.

When – in so far as that component, the crafting of what exercises you did, was that by Sergeant Bauwens?---It was, and also Constable Bevan used to assist as well.

And were those – were those exercises recorded by video and the like?---I don't think so.

By body-worn cameras and the like?---No, because it was just training, so.

Training, okay. I just wanted to get a sense of what the training was like?---Yep.

Did it involve, for example, having cut-outs of civilians and targets, et cetera?---For the firearms range, yes, you have a cardboard target. You have to hit something, so, yeah.

Yes. And did that involve making sure that people don't hesitate from shooting if they have to shoot?---Well when you're on the firearm range, your whole goal is to fire the firearms. It's a firearm range. We did do – well - - -

THE CORONER: Is it speed and accuracy?---It is, like sometimes it's – you kind of get caught. Like you'll – you'd be walking along the range, you have to be obviously mindful of your arch fire, but you'd be walking along- - -

MR MULLINS: So sorry – yes, it maybe my listening - - -

THE CORONER: Arch of fire?---Sorry.

MR MULLINS: Arch of fire?---Arch of fire. And you walk a little bit, and you go up, and then you bring it up. It's trying – it's trying to get you away from planting your feet and just shooting. Because, you know, life isn't like that. You're not going to have the time to plant your feet, bring it up, get a good aim on, yeah.

See - - - ?---It's to try and make it more – more reality based.

Did that answer your Honour's query? I just want to go to another point.

THE CORONER: Look I think it is speed and accuracy, but it's also in a dynamic - - - ?---Yeah.

- - - situation, not in a static situation?---That's how I should I have said it.

MR MULLINS: That's what I wanted to get to. Part of it was to simulate a real life scenario?---Yeah of course, yep.

And, look I've never been in a situation of shooting at people?---Yep.

Do you find that some police have difficulty at the concept of shooting at another human?---I think all police would have, yeah.

Yes, so what is done to help you – to be able to shoot at a human, if you need to?---Well - - -

What is done to train you and make you better equipped to do that?---I think – I think you're not – so I can just speak personally, I don't think the idea was that I'm shooting at a human. Obviously, they'd be a human. I think I'm shooting to stop the threat that I see in front of me, that's presented to me. So I think that's your view and you're kind of – we use the word "incapacitation", and you're just trying to stop them doing what they're doing, for you to use it in the first place.

Yes. I mean I want to just go to that. When you say you used the word incapacitation?---Yep.

That's to sort of – may I suggest to you, desensitise what in fact is happening, when you do shoot another person. That is, you are shooting to kill another person?---No, we're not shooting to kill. We're not shooting - - -

Shooting to hit another person?---Well you're shooting to stop them doing what they're doing.

Yes. I mean even this language, as we're using it in this conversation - - - ?---Yep.

- - - is to – to make it easier to desensitise with some of the consequences of what you must do?---Yeah, but remember, you can incapacitate someone without a firearm.

Yes?---Like pepper spray, and similar, or Tasing someone, I'd say they're incapacitating.

Yes. I'm just thinking about the shooting?---Okay, sorry, yep.

The shooting has a potential lethal effect. Correct?---Of course it does, yep.

And the language that you just used is partly, if I may say, to desensitise what in fact you're doing. You're shooting at another human. Do you understand?---I wouldn't say the language is used to desensitise, but I do understand the deeper- the depth of what you're saying. You are shooting another human being, yes, I would agree with that.

You're being upskilled to be able to shoot, if necessary; something most of us may not have an experience or desire to do?---To be honest with you, I think where more training probably comes that you make a better decision that you don't have to shoot.

All right, I'll leave that for now. Insofar as, given the role that you were taking, that meant that taking into account any local issues, events, conditions was not a matter of your concern at all. Correct?---I wouldn't say it was – like it would be rude to say I wasn't concerned about it, but it wasn't a priority for me because, obviously, I wasn't in Yuendumu. Julie Frost was aware of the community, so I imagine that would have been left up to her.

I'm not criticising you?---Yep.

I'm just saying, it wasn't part of your decision-making?---Yep, yep. Yeah, yeah.

Because you assumed - - -?---I didn't mean to be disrespectful for what was going on.

No, no, of course. You were assuming that whatever resources the officer in charge had at Yuendumu, she would likely utilise make the action of your team appropriate?---Totally agree.

Now, for that reason, when information was being given to you, which is recorded in the note and I'm not going to have a memory test or anything about those matters. When you became aware that there was a funeral scheduled at that time - - -?---Yep.

- - - you assumed that the ultimate deployment from Yuendumu Station would take into account all relevant factors to that aspect of the information?---Did I assume, I can't say if I assumed.

You may not have even thought at it?---Yeah.

Is that more the case?---Yeah, I didn't think, yeah.

All right. You're familiar with the notion that in some communities where an arrest is not urgent, it's okay or permissible to defer the arrest until after sorry business, or example?---Sorry, someone coughed, did you say now urgent or non-urgent?

Non-urgent?---Okay. Sorry, you're going to have to repeat – sorry.

That's okay. Deferring an arrest - - -?---Yep.

- - - when it's not urgent until after, say, sorry business is over in the community. You're familiar with that concept?---Yeah, yeah, yeah.

But you would have hoped that that would have been put into the decision-making that others were doing as to what they did once your team got to Yuendumu?---I can't say I really thought about it.

So, it wasn't even a thought that entered your mind?---No.

Was the idea of a funeral, just a bit of intelligence perhaps, that might suggest that Kumanjayi would have been in the community to attend the funeral?---No, I think the idea of a funeral was probably being that you would have more people in community.

I see. That might explain why there was a need for additional resources in the community?---I'm not too sure.

Police resources in the event that there's more people there that may need policing?---Funerals don't mean you get extra work out of it, so I don't really know an answer to that.

All right. Now, just to – I want to give you five things that I have gleaned from the material that you have said you believed you had conveyed to the four IRT members before they left Alice Springs. The first was, you made it clear that Sergeant Frost was in charge of them once they arrived in Yuendumu?---Yes, she was the OIC at the station, yeah.

Yes, and that is both because of just command structure and rank, but also the

purpose of the team going there is to do what the local officer in charge needed. Correct?---Well, the fact is it's her community.

Yes?---And I don't mean any disrespect to the people who live in the community - - -

Yes?--- - - - but I know when I was a remote sergeant, if I had someone – if I had people, and I have had people come in and assist, they're only there to assist me. Do you get me?

Yes. So, the focus of – the only task that you thought your team was to assist was in relation to the arrest of Kumanjaya Walker?---Yep, that's what I told them, what they were to go out for.

Was there before, or even on this day, any conversation within IRT, either in training or in deployment, that sometimes what they are asked to do once they get there may be not something that they think is the best way to do it. Is that the subject of any conversation at any time?---No, and it hasn't been. No, never has been.

But if, from your mind – if, for example, there was any disagreement by any of the four, you would have expected them to at least raise them with Frost or at least come back to you, or did you see your function as being finalised once you had sent them off?---Yeah, look I'm not trying to minimise my role, but I just probably see my function as logistics; get people, let Sergeant Frost know what equipment we had.

I understand, all right?---Yep.

Thank you for your candour. So, you would have expected that if they had any disagreement with Frost, they should go up to somebody like Nobbs?---Did they have a disagreement?

If they did?---I don't know. I imagine, if they had a disagreement, it's possible it could come back to me or they could have just maybe dealt with it there.

All right?---They were all – like – I mean, the four guys are quite easy-going.

Now, you've been taken through this before, so I'm only going to ask the question, you now understand that the email that Julie Frost circulated that afternoon, you received that after the team had left Alice Springs. Correct?---Yeah, so I didn't originally receive it, and then she sent me an email saying she apologised, she forgot to send it to me, but yeah I was – sorry.

Yes. But you did get it sometime in the afternoon - - -?---Yep.

- - - of 9 November before the IRT arrived in Yuendumu?---Correct.

You would be familiar - - -?---I don't know when they arrived, but they had definitely left.

Yes. But you know it's about a three and a half hour drive?---Yep.

And you also know that there's no internet connection for part of that journey?---For most of it, I'd say.

Yes, for most – and they usually – there's usually some pings on your email once you get to Tilmouth Well. You're aware of that? You've done that drive?---I've done the drive. Are you on about the pings on my work phone?

No?---Mine's always muted or flash so.

All right. Let's not worry too much about that. The point being is you arrived – you received that email shortly after Frost sent it to you?---Yep.

And you read it, I take it?---I have since read it. I can't say I read it at the time. I probably didn't read it at the time.

Okay. Did you know when it came that it was an email from Frost?---Yeah, sure. I mean, it had her name on it, yeah.

So, you saw it?---Yep.

And you just didn't read it?---I replied to it, but like – like as I said, I was, you know, POSI sergeant, so I was – yeah. I replied to it.

Sorry, my listening to your answer - - -?---I'm sorry, I'm sorry. I'll speak up, yep. I replied to it, but I can't say I read it.

Yes. You certainly hadn't absorbed it?---No.

So, you might have skimmed through it. You saw what it was. You could see it had been sent to others?---Yeah, you could obviously see the signature thing.

And you may have made an assumption that it had gone to everybody that needed to know the contents of it?---I don't think I made any assumptions about it.

Is it more that you now recognise that you should have absorbed it, but you didn't at the time? I'm not being critical of you - - -?---Yeah, I know. I agree, in hindsight, I – yeah.

And the fact is, now that you know what the contents are, you now know that the contents in fact set out a fairly detailed plan for what the team was being deployed to do?---Yes, that's – yep, I did read that.

And you would accept that in discharging your duties of deploying the IRT team, you should have made sure positively that the four people you were sending had read and understood that document?---So, after they arrive in Yuendumu?

No, once you got it?---Right.

All right. I know you've acknowledged that you didn't read it. You acknowledge you should have. Correct?---Yep. I did eventually read it, but – yeah okay.

Well, look, you've just sent four people out?---Yep.

And you may not like the language, but they are militarised in the sense that they are using weapons ordinary police don't usually use in communities. Correct? It's a serious deployment of fire power; AR-15s?---Okay.

Shotguns, long-arms?---Yeah, a lot of stations have those.

But it's a serious deployment, isn't it?---Sorry, I'm kind of confused.

All right. You don't doubt for a moment, do you, that – that given that – deploying an IRT can only be done by approval of an Assistant Commissioner, correct?---Correct.

That would suggest the seriousness of the deployment, correct? That you need somebody as high up as Assistant Commissioner - - - ?---Yep, yep, I'll agree with that.

- - - to approve – okay. So you, having been the conduit for this particular IRT team, and now having received an email, which set out the detailed plan, surely you recognised that you had a responsibility, to make sure the men you sent out knew what that document said?---No, I disagree.

Well you think they should have been kept in the dark about what the Operational Orders were?---No, I don't think they should be kept in the dark. Well, as I said to them, go out and see Sergeant Frost.

So why do you think Sergeant Frost sent you the email?---Well she originally didn't send it to me, and then she did.

She sent it to you, did she not, because, she'd been told by Nobbs, to use you as the point of assembling the IRT team that were coming to see her?---I don't know.

I guess it's a little bit hypothetical, but in the sense, now that you've read the details of that email - - - ?---Mm mm.

- - - surely you accept that that was important, necessary information, that those members needed to have, before they did anything in Yuendumu?---So I accept if it was important? Yeah, it was important.

There was no point that information stopping at you, was there?---I don't know what you mean.

Well, it was important, not just for you to know of it, but for the people doing the job knowing about it, surely?---I – I'd imagine, there's a presumption that that would have been delivered in a briefing, by Sergeant Frost, at Yuendumu.

So you made that assumption?---I made that assumption, yeah. It's what – it's what I would have done if I was a remote sergeant.

But looking forward, Senior Constable, I know you're serious about your interest in policing. These sorts of break downs, as you can see here, have had some catastrophic effects?---Mm mm.

Surely you regret not making sure that those four people you sent out got that email?---I wouldn't – I don't really think whether I regret it or not, it's – I - - -

All right?---I agree that what happened was unfortunate.

And that the fact it didn't happen was a failing?---No.

All right.

Thank you (inaudible).

THE CORONER: Mr Mullins.

MR MULLINS: Thank you, your Honour.

XXN BY MR MULLINS:

MR MULLINS: Senior Constable, my name is Mullins. I act on behalf of the Brown family?---Hello.

Just a few questions. Firstly, I couldn't quite pick up what your other role was on Saturday the ninth?---I was – so point of – I've forgotten that one.

THE CORONER: POSI?---POSI, yeah. Point of sale inspector. So the auxiliary's, police auxiliary's, who obviously do names checks and address checks at bottle shops. So we have 12 bottle shops in Alice Springs. So we generally have – we make sure we have 14 people, because the drive-throughs are too – are busy, so we'll have them two up. So my duties are to obviously look after all of them. Make sure their welfare is taken of. Make sure we have the support cage. They'll obviously – checks come over the radio, because obviously, you're limited in what checks you can do in your iPad, well I'm – yeah.

And so what's the support cage?---The support cage is two constables that will go around and replace batteries, supply water bottles. So it's quite common for the party members to actually are quite – deal with quite abusive people. So a support cage will generally go around, and may move people on, may arrest people, that's what it is.

And does a constable have to undergo training to take that role?---No, it's still – it's still policing.

And is there a Standard Operating Procedure for that role?---For the role of support cage or the liquor inspector?

Both?---There would be for – I'd imagine point of sale intervention would have a Standard Operating Procedure.

And is it the case, that in the Northern Territory Police, there are a raft of Standard Operating Procedures for particular tasks?---Yes.

And what is the interface between the General Orders and the Standard Operating Procedures? As in what takes precedence?---I think Standard Operating Procedures, but don't quote me on that.

And in your role with the POSI and your supervision of the point of sale staff, is it the case that you consult the Standard Operating Procedures to give them instruction?---No. Well when you say, "consult" and I consulting it at the start of each shift or - - -

Well are you familiar with the Standard Operating Procedures?---No, not that I can recall. It's been a couple of years since I did it.

And you don't use the Standard Operating Procedures to guide you in how you manage - - - ?---No.

You've had the opportunity to look at the Standard Operating Procedures in respect of the IRT - - - ?---Yep.

- - - now. And you've got a copy in front of you?---Yes, let me just go back to it, yep, got it.

And if you can turn to page five, at par 1.2.2?---Yep.

We can see it – there's reference to debriefing. And it says, "Debriefs will be completed and documented, at the conclusion of each operation" - - - ?---Yeah.

- - - "With any issues or recommendations being forwarded to the Alice Springs Divisional Superintendent"?---Mm mm.

"And the Superintendent Territory Support and Specialist Services"?---Mm mm.

Now I don't think, I stand to be corrected, I don't think the term "debrief" is defined otherwise in the document?---I – I'm – don't know.

But are you familiar with the debrief, as it's used in the Northern Territory Police Service?---Are you asking me for – am I familiar with the definition of how we use it?

Well, are you – firstly, are you familiar with the term “debrief”, and what does it mean to you?---Well so you'd have a debrief from – like, for example, if we have a pursuit, we have to have a debrief with the supervisor. So that's quite a formal debrief. So you'll come in, and you'll work out what happened, and what didn't happen, and what should have happened, or shouldn't have happened - - -

Sorry, can – you said when you have a what?---A formal debrief, after a pursuit.

After a - - - ?---Yeah, pursuit.

- - - so that's a pursuit in a motor vehicle, pursuing a - - - ?---Yeah, so on – when we record a pursuit, we have to record if a debrief was done, and who it was done by. It's part of the interface. But we also use a debrief for having beers.

Well, so can I then draw a distinction between two types of debrief?---Yeah.

Is there an operational debrief?---Yes, that – yes.

And then what you call a welfare check - - - ?---Yeah, yeah, yeah.

- - - type debrief?---Mm mm.

And so an operational debrief takes a particular form?---Yes.

And let's take the pursuit one for example. That there will be a series of things that need to be ticked off - - - ?---Correct.

- - - to ensure that – when I say ticked off, I mean checked - - - ?---Yep.

- - - to ensure that certain things have been followed?---Yeah.

And you wouldn't expect there to be alcohol consumed at that debrief?---No, no.

That's more of a formal process?---Yeah.

So in terms of the welfare check, and is that commonly used – is the term “debrief” commonly used also in respect of a welfare check?---I think – I think if you used the word – if I message someone and said let's catch up for a welfare check, them being males, they'd probably say no.

Well, when you sent the text, there'll be a debrief at a particular time - - - ?---Mm mm.

- - - and I think in the text, did you say “I'll bring the beers”?---Yeah, yes, yes I did.

Is that code for this is not a formal debrief, this is just a - - - ?---We're having beers, yeah.

- - - having beers, yes?---Yeah.

All right. Now, had you ever been deployed as part of the IRT?---I have.

On how many occasions prior to 9 November 2019?---May be five.

And on how many occasions did you do a debrief that was completed and documented?---Sorry did I take part of one or did I actually do the document?

Did you take part in one?---Well you – you do have a – Sergeant Bauwens would get us back, and we would talk about it, but I can't remember if he documented it or not.

Well, look at par 1.2.2?---Yep.

That is an operational debrief, isn't it?---Yes, that's what it says, yeah.

That's not talking about getting together for a few beers?---No.

And so you think that in your past five IRT deployments, that an – a debrief was conducted by – is it Sergeant Bauwens - - -?---Sergeant Bauwens, yeah.

Will be able to tell us about that?---Possibly.

THE CORONER: Did you have beers when you had those debriefs with Sergeant Bauwens?---No. A lot of times when we come back - when we come back from an IRT job we'd - because you'd be sorting out your kit in the IRT room and Sergeant Bauwens would kind cover off and kind of identify - not issues, but how it went. But then again, a debrief could be done - if you're out remote the debrief could've been done at the end of it. Like a lot of times he'd talk with us, like if we're waiting on the tarmac for air wing to arrive, so it's a pretty relaxed type of form, if you know what I mean.

MR MULLINS: And that's quite different from the pursuits debrief that you do? ---Well, there's - the pursuit debrief is part of our general orders and it's actually - there's a requirement within the PROMIS system that you fill it in, so that's normally done by the work commander when you come back in from the pursuit because you can't close off a pursuit job on our police system until you've turn around and tick "debrief" and who it's done by. So that's like an aide-memoire to make sure you do that.

So obviously that doesn't apply in respect - or it didn't apply in respect of your five IRT deployments?---It wasn't - it wasn't a requirement - like it wasn't created in the module on the system - in the computer system. So it's not like you had to go and tick it.

Have you ever had, in your role with the POSI, do you have debriefs at any particular point if there's a traumatic event?---Traumatic event? I'll do a - I did a debrief at the end of every shift, which used to really annoy them.

Annoy you or annoy - -?---Well, the fact is I used to tell them - they used to come back in at 9 o'clock but I'd say, "Well, you're rostered till half nine, so we'd do a debrief" and then I'd make them sort out their kit.

And then when you did the debrief did you record that?---No.

And what was involved in that debrief?---It was more about - it was more me asking them questions, "How did everything go today?" "Did we have any issues?" Like obviously we'd bring up names of people who were becoming problems, people doing multiple purchasing. It was kind of like - and it was also to make sure that everyone came back because, you know, they're all working all around Alice Springs and it's quite easy to forget if one has come back, so I used to have it up on the white board so when they came back they had to wipe their name off.

Was there any alcohol at those debriefs?---It was in the police station, so no. I'd - I did - no that wasn't it. Sorry, go on. I'm pre-empting your question.

I'm now interested in the answer to that?---I'm pre-empting your question.

Well, when you organised the debrief with the IRT for the day following all those days that followed 9 November, that was going to be in the IRT room, was it?---Yes.

Is that the police station?---No, it's across the road. It's in where the watchhouse is. It would be part of the property, but.

Are you allowed alcohol in that room?---We have had beers in there before.

Now, have you ever had a traumatic event where you've had a psychologist present at a debrief?---No. Actually - no. I don't think so.

Now, I understand that you saw Constable Rolfe on 10 November 2019 at the hospital?---Yes.

Can you recollect who was present at that meeting?---Yes. Jimmy Nolan, who is the - one of the - one of the forensic guys, he is now up in Darwin, and - - -

THE CORONER: "Forensics" did you say?---Forensics, yes, sorry ma'am.

That's okay?---And then Justin Thomas, who is a detective and there was someone else I think.

MR MULLINS: And were you directed to be there?---No.

And why were you there?---To make sure he was okay.

And you understand he was receiving medical treatment at the hospital?---Yes, he was, yes, yes.

Do you know if he was receiving any psychological or psychiatric support at that time?---Not at that time.

Then you saw him again before this barbecue event, is that right?---Yes.

And where was that at?---At his house. I know where you're going with this.

I'm not quite sure myself, so can you tell me? So you saw him - sorry, say that again, you saw him then at his house?---His house.

And who else was present for that meeting?---Rachel Wilkinson, she's a constable.

And what's her role?---She's a constable. We were - I was the POSI sergeant again the next morning and Rachel was working as well so we both went round to Zach's house.

And then this third occasion where you sent the text in respect of the debrief?---Yes.

And the beers. The welfare check was at his house again?---Well, I didn't organise it at his house, I actually - the first time I went to Zach's house was the day before Rachel - I think Rachel knew where he lived, I didn't.

So how did it come to be organised at his house?---For this - well, I'd have to go through the texts I suppose.

So you organised for the beers at the IRT?---Yes.

And then somehow that was transformed or morphed into being beers and a barbecue at Zach's house?---Yeah. Sorry, can I just say it actually wasn't a barbecue.

All right, that's all right?---Sorry, we didn't cook anything.

So I understand your concerns and I commend you on your concerns for your fellow officer but can I say this; there's obviously balancing here a situation between compromising the evidentiary circumstances - you understand that?---Yes.

And giving a welfare check?---Yes.

Did you ever think that it would be better that you try to engage with some medical or other assistance either within the police service or otherwise, to monitor that situation, rather than turning to alcohol?---Well, I wouldn't say it was actually turning to alcohol but did I - as I've said before, it's - I think - I seen it as too serious a matter to kind of leave it up to someone else. I knew that if I went around I could make

sure, for my peace of mind, how he was doing. So yeah, I don't think - in Alice Springs we actually didn't have a police psychologist. I don't know if we do now.

Thank you, your Honour, nothing further?---I think - I think they fly down and visit.

Sorry?---I think they fly down and visit from Darwin, the psychologists.

Thank you.

Thank you, your Honour.

THE CORONER: Mr Derrig?

XXN BY MR DERRIG:

MR DERRIG: Good afternoon, my name is Mr Derrig?---Hello.

I am from NAAJA. I just want to ask a couple of questions about the nature of the IRT?---Mm mm.

At page 68 of your first recorded interview you said that "Initial response of IRT was in cordon and contain capacity?---Yes.

So for example - and this is the quote continuing, "So for example I'll like - I'll say 'hostage situation'. Persons inside, you have a hostage inside, we cordon and contain it with the view that TRG would come down from Darwin?---Yep.

Now, additionally you also note at page 69 of your first recorded interview, you say that "it evolved into IRT from cordon and containment"?---Yes.

Can I take it that the operational role of the IRT expanded beyond just cordon and contain?---I couldn't answer that. I wasn't involved in that.

You weren't involved in that?---No.

Okay. I just - one other set of details then, is at page 70 of your first recorded interview you were asked about the capabilities of IRT?---Mm mm

And you mentioned cordon and contain?---Yep.

And then you mention force entries and immediate action response?
---Mm mm.

Is that something you're aware of that became added to the IRT as things progressed?---I can't remember, sorry.

Fair enough.

THE CORONER: Was it IRT when you joined or did it change after you joined?
---I think - I think when I joined it was maybe "RT" or in the process of changing.
I don't know - I think it was - I was told it was someone really high up that changed
the name, so.

MR DERRIG: Now, at page 44 of your second recorded interview you were asked
about how officer's - a police officer's military background might impact him on
getting into the IRT?---Yes.

And your answer was that it doesn't, that's not a requirement and then you go on to
note that you're looking for people who are fit, motivated, quite easy going"?---Yes.

Now, appreciating that it's not a requirement to ex military to be in IRT?---Mm mm.

Would it otherwise be fair to say that due to the tactical nature of the IRT, having an
infantry or military background would still be something that would still be valued
when considering the application for a recruit?---I don't - because I was never part of
the recruitment process for IRT, I think - well, it's - you could have people who would
have a military background but then are not good to work with, so I think it was mor
the fact that you had people who were good team players, compassionate. And
Sergeant Bauwens was quite – because he was quite particular that we used to be
quite humble when we're around the station, not that we wouldn't be. So, I don't –
you know, it's not like being in the army was a criteria that would get you in, if you
know what I mean.

Okay. But would you accept that if a person was otherwise cooperative and
humbled?---Yes.

That – having that background in the military would assist in recruitment?---I don't if it
assists. I don't think it – I don't think it would be an added bonus of someone else.
I don't think that's how it would be viewed, because we had other people in the
station who had a military background that weren't in IRT, and I think they'd applied
as well, so.

Okay. At page 19 of your first recorded interview, you were talking about the
information that you received that the nurses from Yuendumu had withdrawn on the
day of the 9th?---Yep.

And you made a comment to say that you were not interested in the information that
the nurses from Yuendumu had withdrawn. Now, in your second recorded interview
at page 66, you were asked to clarify what you meant by that?---And your response
was, "Well, and I think probably what I was trying to say was it doesn't change how
we police." And then you go on to say, "And it's not a requirement for us to only
attend communities with nurses. I think that's probably what I was implying
there"?---Yep.

Now, I appreciate that police have to perform their duties, whether or not nurses are
in community?---Yep.

Fair enough. But shouldn't the lack of nurses be something that should ensure that particular care is given to the methods used in performing those duties?---I don't know. Sorry, your Honour, I wasn't aware that Julie Frost used to be a nurse before I answered this. So, I wasn't trying to say that Julie – I didn't know, sorry, when I answered this. I can't say I really thought about it like that.

Okay. So, it wasn't something in your consideration?---No, I don't think so.

All right. Even though, in this particular instance, for the fact that this – well Kumanjaya Walker had been involved in that axe incident, and that there was a greater chance that force might be used. That wasn't something in your contemplation?---Well, I think by having more police arrive in the community, you tend to minimise the force. Like, I'm not going to comment on Julie's plan, but the role – I think, there were already four people – four officers in Yuendumu, maybe five, and having four more – nine. Nine's pretty good for a community. And I think that alone could minimise the risk of force being used.

Okay. But just to be clear, that wasn't something that was in your contemplation at the time?---I don't know, sorry.

Okay. I will talk very briefly on the general order that requires immediate segregation of officers for a death in custody. Now, you may not be aware of it, and my question doesn't require you to have knowledge of this, but in 2015, there was an inquest into the death of a man, I won't say his first name out of respect for the family, but it was the death of a Mr Wurramarrba.

And for everybody's benefit, that's [2015] NTMC 013.

Now, in that case, the former Coroner was considering a death after a pursuit and noted that:

“A failure to ensure immediate segregation of witnesses, particularly any police members directly involved in the matter.”

So, he saw that there was an issue of segregation immediately after the death. He went on to say, “I do not criticise the officers involved in this regard, however, I do remind the Commissioner of Police and all NT Police members the importance of the terms of this general order and the importance of the compliance, wherever possible. It may be a timely reminder to be sent to members about those provisions and their importance.” Now, that decision was handed down on 26 May 2015. And as I understand it from your evidence, you were an NT police officer at that stage?---I was, yes, yep.

Do you recall any steps taken by management around that time to reiterate that particular point from that general order?---No, sorry, I don't recall.

In any case, what practical steps, do you think, would assist members of your rank

and/or lower to be aware of these kinds – or that particular requirement?---What practical – I suppose just that the message reinforced, I think you mean. I'll definitely make sure it doesn't happen again. I mean most people who live up here as well, so I don't know if something like that is conveyed to people who've done their sergeants' course, I've never done the sergeants' course. So, it's a possibility that from a management role that's reinforced.

So, my final area of questioning, from around page 26 of your second recorded interview, you were asked a series of questions about whether or not you had a critique about how the officers involved in the attempted arrest on 6 November, how they responded. Now, you ultimately responded with:

“Personally, from my previous jurisdictions, we would shovel through anything to find them”, and then you go on to say, “And personally, if that was – if I was out there, if it was one of my members, then they would be hunted.”

So, that's what's in the interview?---Yeah, I remember reading that, yeah.

Did you ever express that opinion to other members of the IRT on or before 9 November 2019?---No.

Okay. Can we take it that if you were involved, what you're saying is that if you were involved, you would immediately have tried to attempt to arrest Kumanjayi?---If I was involved in?

So, if you were in Yuendumu on 6 November?---Yep.

Can we take the meaning of what you said to mean that you would have immediately attempted to arrest Kumanjayi Walker?---It is – is this when the guys opened the bedroom door?

Yes?---But they also attempted to arrest him, so.

Okay. Well, I'll put it a different way, would you continue to attempt to arrest him immediately after he ran away?---Well, I suppose – look, I knew I was going to be picked up for using that word, so that's fine. I did say it. I think it's more the fact that what happened was extremely serious. I make no apologies for doing my job, but what happened there, I definitely would have more motivation to go and catch them.

Okay. And so, when you're saying you'd “shovel through anything”?---Yes, figure of speech.

Yes. Would you accept that it appears that you're saying that you'd stop at nothing to apprehend him?---Not really. It's just a figure of speech, I suppose.

Okay. And I put it to you, it sounds at least that what you're saying is you would attempt to arrest him, even if you – you would continue to attempt to arrest him, even if you found out more information about the local police about his

circumstances?---No, that doesn't suggest that.

No. Now I note you specifically used the word "hunted"?---Yep.

And you haven't used words like "arrest" or "apprehended"?---Yeah.

Okay. And the majority – would it be fair to say that the majority of the people you would arrest in the IRT capacity are Aboriginal people?---Yes.

Okay. And you would accept, using the word "hunted" in this context connotes that the subject is somewhat dehumanised?---No.

Okay?---I think – you have to remember when I made that second statement, it was after Zach had been arrested, so I can't say I was in a happy place at that stage.

I appreciate that. But the flipside of that also, wouldn't you agree, is that you made that statement on 29 January 2020, after you knew that Kumanjayi Walker had passed away?---Yep. Yeah, I apologise. If I'd do it again, I wouldn't use that word.

Okay. And would you otherwise accept or otherwise agree that the use of the phrase "hunted" might otherwise convey that a level of force would be used in the apprehension that might necessarily have been violent?---No.

Okay. That's all my questions?---Thank you.

MR O'BRIEN: Your Honour, I have no questions for this witness.

THE CORONER: Thanks, Mr O'Brien.

Any other questions?

MR COLERIDGE: Not from me, your Honour.

MR DERRIG: None from me, your Honour.

MR FRECKELTON AO KC: Not from me, your Honour.

THE CORONER: Mr Edwardson?

MR EDWARDSON KC: Yes, I do, thank you.

XXN BY MR EDWARDSON:

MR EDWARDSON: Certainly, you've answered many questions about your role on the day as a POSI sergeant. You referred to how busy you were. Just summarise again what you were doing on the morning of the 9th that kept you so busy?---As I said, we got – so I can cover off the reason I had the beers, that I – for, for, so to try and – so it's a 12 hour shift for the party members, and they're only rostered for

I think nine hours. So I – previous in the week, I organised where Commander Currie, if I – we could have beers at the station, because there was someone's birthday coming up. So that's why I had the beers. I bought two boxes of beers. And that was a more, kind of like, entice them to stay until half 9:00, because we were so short staffed. If they – if they choose to finish at half 7:00, there was nobody covering them, so then the bottle shops would have been open. And when the bottle shops are open, you do realise it's more busier for general duties. So if we kind of manage the bottle shops better, it works better. So also had only 14 members at the 12 bottle shops, 14 members. And because we had one support cage, it means we had nobody to cover. Normally if you had excess support cages, and people left, you could just put them in that position, until bottle shops close. So it was Saturday – Saturday is crazy when you have enough people. But I didn't have enough people.

So that meant juggling and allocating - - - ?---Yeah.

- - - on the run, so that members were two up, to discharge their duties, is that right?---Yeah, you get – you get no break that day.

So that – addressing that issue was your principle responsibility on the day?---Yeah, that's – that's where the phone call keeps ringing – phone keeps ringing there. The radio keeps, you know, and you're just getting calls all the time.

There were other things happening in and around Alice Springs on that day (inaudible) - - - ?---I think we had a bus crash yeah. We had the bus crash so I think a lot of resources went out there.

Did you have any role in relation to allocation of resources to respond to that, or did it impact upon the members?---Yeah it impacted - - -

(Inaudible)?---Yeah it – I – it definitely did impact. And I'm pretty sure it impacted after the shooting as well, for what staff were available.

All right. So how did that – did those other responsibilities affect the extent of conversations which you were having with people, in relation to the allocation of members from the IRT, to go out to Yuendumu?---Put it this way, the conversations were probably a lot shorter than what I would have liked, because I was just so busy.

Yes. So when – you've described being in I think Mr Nobb's office - - - ?---Yeah.

- - - and speaking at that time, with Mr Furness, is that right?---Yeah.

How long did those conversations take?---Minutes.

And you've – I think you said to her Honour that you didn't write formal note of those conversations?---No.

And was there a reason for you not doing so?---I – I – no there wasn't – it was – apart from really busy, but I think it was just the fact that he asked for four members, and I thought well I can – I can sort that out.

Yes. Let's go then to the role that you were fulfilling in relation to what you've described as logistics?---Yep.

Because you've been asked by my learned friend, Mr Boe, in particular, about the extent of your responsibilities, in terms of briefing those men, and similar. So what was the first aspect of your logistical responsibility in terms of locating men who could go to Yuendumu?---To go through phone list.

Yes?---And ring out to see who – call to see who was available.

Right?---As I said, the first few weren't. And then when I managed to get four, I just kind of wait until they came in. I think I tried to sort out vehicles in the meantime.

So you had to – you had to – the necessary vehicles - - - ?---Yeah.

- - - for the men to be able to transport themselves to Yuendumu?---Yeah, I was able to get one vehicle, which we're kind of using that as a semi drone vehicle. And then we had to have a police cage vehicle, because the view was they were going to bring someone back.

To bring him back?---Yeah.

So those – those logistical matters had – were attended to by you?---Yeah, I don't know if – they didn't – I didn't fuel up the vehicles, I was just too busy to fuel them up, but yeah, I sorted them out.

All right. But those are – those again, were administrative matters that did needed to be attended to by somebody?---Yeah, definitely.

If not by you, then someone on your behalf?---Yeah, well there was no one else in the station to ask.

All right. So you – you've located four people who were available, and who were prepared to undertake the task - - - ?---Yeah.

- - - of going to Yuendumu to supplement resources, and apprehend Kumanjayi?---Yep.

And you spoke briefly to each of the men, to orientate them as to what in the broad sense would be the – the task that they were expected to perform?---Yeah.

And then they – each of them came in to the station, amongst other things, to – to gather what they needed to go?---Yep.

Right?---Yep.

And you spoke to them at that stage, briefly?---I spoke to them briefly when they all came in. That's when I just told them - - -

Yes?---What they had to do, and where they were going.

Now you just described it as speaking briefly to them?---Yep.

For how long did you speak to them in order to communicate that information to them before they left (inaudible)?---Less than a couple of minutes.

Right?---Yeah.

Now why is it that that briefing – we're using that word, was so short?---Well, I've done – I've done the road to Yuendumu, your Honour, and when they came in I think it was half two, or three o'clock. Yeah, 300 K's out there. If you – if you drive out there at dusk, or night time, it's full of horses. Like it's not a road you want to do when it's dark, and I think, just you kind (inaudible) – because I knew they'd have to go get food. Because when they get out there, there's possibilities the shop would have been closed, it being a Saturday.

Yes?---And so really just to hurry them up, so they can kind of get there before it gets dark.

And, but is it difficult to see the horses as dusk is coming on?---Yeah, like you can't see them. If they – unless – if they don't look at you, you can't see them.

Right?---Because then you don't see the reflection of their eyes. And you are honestly down to doing 60- 70 kilometres an hour, and then it's going to take you all night to get there.

And from your point of view, it was important to get them out there, one, safety?---Yeah.

And two, reasonably quickly, so that they could perform their duties - - - ?---Yeah.

- - - and be briefed by the sergeant of the station?---Yeah.

And before going, they needed to get themselves organised with any food that needed to be taken?---Yeah.

And also they needed to get any accoutrements or weapons that they needed to take?---Yeah, and also the logistics of where the IRT team room is and the muster room is, you're constantly going across the road, so it's – yeah. So it is a pain, sometimes, getting your kit.

And let's just talk about the – the kit requirements. In your head, from what you've told her Honour, you were hoping at least, perhaps expecting, that they were only going to be at Yuendumu for a short time?---Yeah.

But that was no sure thing, in terms of the fact that you couldn't say for sure - - - ?---No.

- - - how long it was going to take them to apprehend Kumanjayi?---No.

Correct?---No – yeah, yeah.

They could come upon him straight away?---Yep.

As far as you were concerned?---Yep.

Or it might take really quite some considerable time - - - ?---Yeah.

- - - requiring them to stay out there until they had found him - - - ?---Yeah.

- - - and could bring him back?---Or he could – they could go down and he might not even be in community.

And you knew from the start of it, that there was a funeral there?---Yeah.

With people coming in from Nyirripi and other locations?---Yep.

And – and that could mean that there were some extra difficulties that were encountered in terms of supplementing your resources - - - ?---Yeah.

- - - in Yuendumu?---Yeah.

All right. So did those matters bear upon the instructions that you gave to them, in terms of what they should take to Yuendumu? In terms of accoutrements, weapons, etcetera?---Yeah I think as well as that, because they were wearing blue uniforms as well, I think - - -

Right?---I probably changed what they took out as well.

Could you explain that to her Honour please?---Because our general – our IRT kit, your Honour, is – covers everything like you take – you'd be wearing your camo's. Everyone would take an AR-15. Everyone would take a helmet. Everyone would take body armour. Obviously what equipment you'd take, forced entry equipment. Well because of the general duties style deployment, the decision was left up to them what they wanted to take.

Did you – did you give them any guidance as to what they should take, so that they could manage any eventualities which presented?---I think one of them asked me if he would take the AR-15.

And – and what was your response?---I said I would.

And why did you say you would?---Well it's more the fact that, I mean, they're 300 KS away.

Yes?---And like if we do get another IRT call-out out there, at least they'd have some of their equipment.

Yes?---But also – it's kind of – you're better off – we have a saying back home, you'd rather look at, than look forward. So at least they'd have it out there, if they needed it.

So is this a situation, it's better to be prepared - - - ?---Yeah, that's - - -

- - - for all eventualities - - - ?---Yeah.

- - - given the unpredictability of the task - - - ?---Yeah.

- - - which they could be called upon to perform?---And they're 300 K's away as well.

300 K's away, and also, things can be unexpected volatile in communities?---Yeah, it can – it can flip on a coin.

So it's better that they be ready for eventualities, rather than that they not have the resources that they might need?---Yeah.

And is there a distinction between having equipment available, and actually utilising equipment?---Of course

And is there a distinction between having equipment available and actually utilising equipment?---Of course.

And is part of that, for instance, that they might have AR15's with them but they may well not decide to take them out into community but at least they are there?---Yes.

You were clear in your head that this was a general duties deployment?---Yes.

Now, I want to ask you about this issue of high-risk. I wonder if the witness - if it could be put up on the screen please? Exhibit 5, which was tendered on 8 September and that is - it was the - excuse me just a moment, your Honour? I wonder if you could first be down your first statement, which is at 7-95 of the inquest brief? And when that becomes available I wonder if we could go to page 92 of that please? So this is going to be put up on the screen in front of you?---Thank you.

So it might be easiest if it's just shown to the witness in hard form.

THE CORONER: Sure. I think we've found it though. But we'll keep going this way but we'll have both.

MR FRECKELTON. So, Senior, what I am asking you to look at - but it might be helpful for my colleagues if that can be put up on the screen?

THE CORONER: Yes, we are.

MR FRECKELTON: Thank you. We are going to have two versions of it now but they will be the same I hope.

THE CORONER: Yes.

MR FRECKELTON: So, thank you.

(Inaudible) of that page if you would please? Yes, starting there, thank you. Now, I am asking you about this issue that was raised with you by counsel assisting about the level or risk. We'll ask you what you said in your interview and I wanted to let you see what you said in context. So you can see there that you were asked about whether the level of risk was discussed during the briefing and you said, "No, no." I will stop there and now I am going to ask you some more questions about that. Why did you not discuss level of risk at that two minute briefing that was - that you told her Honour about a minute ago?---I - probably because I wasn't really aware of the full duties when they went out. I know Sergeant Frost had definitely more information.

Yes?---So for me to give them a level of risk it really would've probably put them - put them off.

So I am going to come back to this, but what was your responsibility in terms of explaining the situation and the purpose of the mission as against Sergeant Frost's? ---Sergeant Frost would - well, she was the OIC of the station, she would've had more information than me and also as well that three hours is as long time and things can change, so.

Now, you can see that you were asked here about the level of risk in your mind, for the four members and you were asked about that by Mr Carter and you say:

"Level of risk - we probably deal with it every day."

We will just scroll down if you wouldn't mind? Thank you. Stop there thank you. And Carter says:

"Okay" and you say, "So the type we deal with, like any - any GDs or any officer deal with someone who is violent?---Yes."

"And it's no different than attending any other job where the person is on alert, so I suppose with this one, yeah, probably double those before he's taken an axe to two members, but it's no different than what we do - we're policing."

What were you communicating there?---About basically any job has - basically any job that we go to can become really violent really quickly.

Can become violent, all right?---Yes.

So that's part of that dynamic (inaudible) - - -?---Yeah, yeah, dynamic yeah, wasn't the word I was thinking of but yeah.

But that because the statistic factor was that something had happened on the 6th about which you didn't ask any questions?---Yes.

How unusual is it for a weapon to be presented and then for there to be a subsequent need to arrest the individual?---There's not - it's not usual, it's - - -

Not unusual?---No. People - - -

You're looking at the - almost side view of the same - - -?---Sorry, yeah, sorry.

But it's important to actually go into this?---Yeah.

People need to be arrested all the time in communities?---Yes.

And in Alice and elsewhere, right?---Yes.

And there can be some level of violence or could be in the background, or in the presentation of the person who needs to be arrested?---Correct.

Is that right?---Yes.

Is that exceptional?---That people have weapons - no.

And general duties members or those who are assisting them have to deal with that situation routinely, is that right?---Yes, I'd probably say general duties is probably the most dangerous job.

Why do you say that?---Because general duties you don't know what you're going to. And that's what it is, it's like - you mean like taking the axe incident, like they were doing a doorknock and I opened the door and that went pretty crazy pretty quick.

Yes?---But yeah, I've went to jobs where when it said "noise complaint before where it's just been noise complaint and you are called to back up because it's just got so volatile so quick.

And you'd seen the body-worn camera footage of this incident?---Mm mm.

And predictably Kumanjaya produced an axe?---Yes.

Brandished it and then ran off and evaded arrest, is that right?---Yes. Yep.

Is that kind of scenario something extraordinary or remarkable - unparalleled from your experience?---I wouldn't say it's extraordinary. I think it's just a timely reminder that these things happen to us.

Yes, yes, but it had happened three days before?---Yes.

And it needed to be factored into the police response I suppose?---Yes, yes.

When these four members were being sent out to Yuendumu to take him into custody?---Yes.

It needed to be in their minds that there could be a repetition or in some way some response similar to that by Kumanjaya when these men attempted to take him into custody, correct?---Of course, yes.

So by - so did that alone make him a high-risk offender or make it into a high-risk situation in our head?---I think what he did at that time became high-risk.

On the 6th, in the context?---Yes.

Right there and then?---Yes.

It elevated into being high-risk?---It did.

Let's put that to one side. Here are four men being sent out to do various things in Yuendumu and amongst those was to take him into custody?---Yes.

Does the fact that he had responded on the 6th render the scenario on the 9th necessarily high-risk?---Not necessarily.

Okay, but it could be come so because of what he did this time?---It could be, yeah, could be.

Okay. If you could put that back up please. That's good. So let's just go through what you said to Mr Carter. You said:

"(Inaudible) like any GD's who are in the office to deal with someone who is violent?---Yep."

"It's no different from attending any other job where the person has got an alert" - you explain that, okay."

"So was it low, medium, high-risk in your mind?" and you said, "Probably like most of the jobs we go to are probably high-risk."

Yep, okay. But you said to her Honour something a little bit different here and you have been asked by our learned friend about that. So how do you reconcile these issues of whether it was high-risk or not high-risk. What would you like to say to her Honour about it?---Whether it was high-risk or not high-risk - it's kind of hard, I think because part of any job can be low risk and high-risk then becomes low risk. So.

Can it be put this way, there was some elevated risk about taking this man into custody, based upon how he behaved three days before?---Yes, you'd go off - well, a person's actions, yes.

But he wasn't an armed offender?---No.

An active armed offender?---No.

He wasn't known to have a rifle or anything else?---No.

He didn't have a known history of antagonism toward the police?---No, I don't think so.

But if he'd behaved in a threatening, problematic way three days before?---Yes.

And so he needed to be taken into custody, and people needed to be alert to that elevated level of risk?---Sure.

But classifying him, technically, as a high risk person, potentially, for instance, requiring the TRG, was – so would have been an overreaction?---Yeah, I don't think we could have justified.

Right. Thank you. Now, sir, you've been asked questions broadly about your role in, first, briefing the members to go out there, but also your interactions with Sergeant Frost, the officer in charge at Yuendumu? Now, what I would like showed, if I could please, is exhibit 5, which is attachment 1 to 795. And that is, your Honour, the 1624 email from Sergeant McCormack?---Thanks very much.

Thank you very much – to Sergeant Frost?---Yes.

Right.

THE CORONER: I think that's now exhibit 12. I'm not sure - - -

MR FRECKELTON: I beg your pardon.

THE CORONER: I've got – I think it's this one.

MR FRECKELTON: That looks like it's – yes, your Honour. Thank you. If it can be brought up easily, so much the better but it's not essential.

Now, do you recognise this 1624 email?---I do, yes.

Was this a communication that you sent to Sergeant Frost at 1624 on that afternoon (inaudible)?---It was.

Now, and why did you send that to her?---it was really just letting her know what she was getting, because it was – because she had to do an ops order, so she needed the information.

Right. Now, was this in any sense a draft of an ops order that she was going to need to generate herself?---Well, you could call it a draft. It's like – like, she would have needed this information for her ops order, so.

Was she – let's scrutinise that a bit. She needed information?---Yep.

Well, first of all, to know who was turning up at the station, right?---Yep, yep.

And what they had?---Correct.

And then she was going to have to generate a separate exercise herself?---Yep.

To do what you've just described as an ops order?---Of course.

Or if – put it another way, an arrest plan?---Yep.

Now, you don't, in that document that you send, that 1624, go into any detail about how the arrest should be carried out, do you?---No, I didn't – no, I had no involvement in how it was going to be done.

Okay. Let's just look at that, please. You had no involvement in how that was going to be done, because your role – and I don't – I'm not meaning to downgrade in any way, was essentially logistics, as you've described it. Is that right?---Yep, four people. Obviously they're going to need vehicles, so it was really just sorting out equipment, and I suppose we could treat the people as equipment.

Well, let's not do that, but four people?---Four people.

Two vehicles?---Two vehicles, and obviously - - -

And the weaponry and other things - - -?---Yeah, yeah.

- - - that they would need to stay out there for as long as they needed to stay out there?---Yeah, of course, and people needed a record of what was actually going out there.

And it was also important for these men's senior officers to know what they were doing and to explain why they weren't going to be in Alice Springs and available, potentially, for their other duties?---Yeah, I – if you see, your Honour, I CC'd the guy's supervisors in, so it's just – like, it's just so when they come in, they can go, "Well, where's such and such", and they can see in the email that actually they've gone out to Yuendumu, and also for the vehicles as well, people go looking for cars and they're not there, when no one knows who took them.

Two of them have left?---Yeah.

Right, and it might not be back for a little while?---Yeah.

Until these men had finished what they needed to do?---Yeah.

So you copied in all the relevant personnel who were otherwise the immediate superiors of the men so that they knew exactly how things were?---Correct, correct.

And as of your having located the men, sent them away with what they needed, and sent that email to Sergeant Frost, copying in the men's superiors, were your responsibilities in respect of this operation pretty much discharged?---Yeah, I didn't really do anything else with this.

All right. And at that point, is it fair to say that the responsibility for undertaking the plan, utilising the information that you had sent, that of Sergeant Frost, the officer in charge at Yuendumu?---I believe so.

Okay. And was it your expectation that she would generate that ops order or arrest plan and then would undertake an oral briefing of the men as necessary?---Yes.

Because, again, she knew her circumstances at Yuendumu?---Yep.

Things might have changed in the three hours while they were on their way to Yuendumu?---Yep.

And she was the person best positioned to plan, utilising local resources, including those present at the station and available to her, to organise how best they – she could draw upon the skills of the four IRT men?---Yeah, I would agree with that.

And what about the dog squad member? Did you – when did you learn about his involvement in the exercise?---I think that might have been told by – Julie might have told me that, or – I can't remember. I didn't – I didn't know the dog handler was sent out, or going out.

But you - - ?---Until after.

Until after it had all happened?---Yeah, until – no, until after the four guys left to Yuendumu.

I see?---So I never told them that Donaldson was going to be here.

But between the time of the four leaving - - -?---Yeah.

And the four arriving, you learnt that the - - -?---Yes.

- - - resource would be supplemented by a dog squad member?---Yeah, yep.

All right. So then – so there was – to your knowledge then, at some point shortly after the four left, five men and a dog with appropriate resourcing to undertake the tasks that Julie was going to assign specifically to those extra resources?---I believe so, yeah.

All right.

THE CORONER: And I note that you sent this to Jody Nobbs, who you had spoken to, and Shaun Furniss, who you had spoken to, and neither of them responded in any way to the information that you had placed in this email?---I don't believe so, your Honour.

And there must have been some other records, like, personnel records for payment and things like that that people had been sent out. But is this the only kind of written account of the details of the incident that you made?---It is, yes.

MR FRECKELTON: Now, these five men and the dog were being sent to a remote community, about three hours away. You've said to her Honour that you had some understanding and particular experience in fact of remote communities yourself?---Yes, I was remote sergeant at Ramingining for two and a half years. Ramingining – sorry, Ramingining is up in Arnhem Land.

Yes?---We also look after Milingimbi Island as well.

Right. So a different kind of remote community, but one which had its own challenges?---Of course, yes, definitely, yep.

And did you – did you find you developed skills and awareness of the needs of remote communities by your time at Ramingining?---Loved it. Yeah, loved it. Myself and there was another Officer Adam Goldsmith, Yolgnu(?) was pretty decent, so when we would have the locals come in to the front counter, we would get them speaking language for us so we could try and figure out what they were saying, so
- - -

Yes?---Majority of the times, we didn't, because obviously they speak really fast, and pronunciation is different, but - - -

Yes?---Yeah, I was out there with my wife and kids. My young daughter went to the school as well, and we got really involved in the community.

And so you did what you could to acquire some language. Why was that? Why did you make that effort?---Because you live there, why – why not. They – they found that – I found it easier, and they obviously used to laugh at how I would say stuff, but even when I was going around to arrest someone, I used to say, in language, and their name, and they would laugh and they would go, “He’s over at the shop,” or “we will go get him for you”.

Yes?---So yeah, it’s like, you live there, why not try and learn, learn language.

What do you think it communicated to people in a local community, that you were trying to speak in their language?---I think it probably showed that I put the effort in. I was also invited to go out and assist with setting up a men’s business, but I would have had to be away for a few days, so I couldn’t have done that. Yeah, I think it just shows that you’re trying to – you’re making an effort. You gain more from it than what you lose by not doing it. So – and also when we left community, the community gave us this beautiful painting, so yeah, it was good.

And what did they do about the prospect of your leaving the community and coming to Alice Springs?---So, we had one of the ladies, she said she was going to write a letter down to the Arrernte people to say I wasn’t welcome, so then I’d have to stay in Ramingining. So, it was good. And like – you mean – we still policed them. Like it’s not like – you know, no one got a free pass. I think – like Adam’s from New Zealand, so I think the policing was just kind of different. Like there was a few teething problems, like when we arrest someone, everyone will come to the station, and they’d be going, you’re arrested but as long as you like wait until the Elders come in and go, it’s fine. They’re like actually – and then that just stopped. They just trusted us, so yeah.

I want to just ask you a couple of questions.

I’m just finishing off, your Honour.

About the support that you endeavoured to facilitate for Mr Rolfe and others who had been involved in this tragic incident. You’ve told her Honour that, by reason of your family circumstances, you were particularly alert to the fact that people can have special needs after being in a traumatic experience. Is that right?---Yep.

THE CORONER: I don’t even think they’re special needs. I just think they’re ordinary needs.

MR FRECKELTON: Ordinary needs from an exceptional experience, I suppose, yes.

THE CORONER: Yes.

MR FRECKELTON: Yes, quite.

THE CORONER: That’s all right.

MR FRECKELTON: So, you – from the sound of it, you played a real role in just trying to check in and to make sure that the members involved, but especially Mr Rolfe, who was living on his own - - -?---Yep.

- - - had some support and first of all, from the sound of it, your plan was that that be at the IRT offices?---Yeah.

Did you actually to organise that some beers could be available for people there?---Yeah, well I already had the beers that I bought earlier.

But you can't normally have beers at the station, can you?---No, you can't, no.

So, did you have to ask permission for that?---You did have to ask permission, yeah.

You did that?---Yeah.

And was it after that, that it evolved into being at Mr Rolfe's house?---I would never have suggested we go to Zach's house, yeah.

Yes. And if that was going to take place, in fact, is it more appropriate that it be at somebody's house than rather at the station?---Yeah, yeah.

All right. And then, it wasn't a barbecue, but some pizzas were provided for people to eat while they were there. Is that it?---No one gave me any money for the pizzas.

That's something you can sort out outside?---I think it's too late now.

Too late now. But more seriously, that was a gathering that you have reflected about with the passage of time, is it not?---Yeah, yeah, it is.

Now, it was not long since Kumanjayi had passed away when people were getting together for this purpose?---Yep.

Did you have any intention to be insensitive or disrespectful of that deceased man or his family by people getting together in these circumstances?---No, no. Like, I'll probably elaborate in that a bit more.

Yes?---When – after this incident happened, I spoke to my mum back home. So, she went and lit a candle for Kumanjayi's family. She did Novena, so she's a Catholic. She did Novena, which is where they go to church twice a day for seven days, or it could be nine days. And every year, she's lit a candle for him and she will light one next month. So, it's not as if – it's not as if we didn't – like, I know people see us as just a blue uniform, people and I don't think anyone really wished this happened but – yeah, so my mum does that.

If any members of the community formed the view that this gathering on the Monday amongst police officers was insensitive toward Kumanjayi's family, what would you

say to them?---Well, it's kind of hard, I think. I mean, I think the – I think it's kind of sat people down in different parts in a way.

Yes?---I think like – you mean, like at the end of the day, he was someone's child.

Yes?---And so, that isn't lost on any of us police officers. It's not – but I think, like getting back to being round at Zach's place, it would be – it was purely a welfare thing.

All right. And a number of you then did gather on that evening - - -?---Yep.

- - - at Zach's place. There's evidence that has been given to her Honour from Mr Eberl that, at some point during the evening, you intervened and told people not to talk about what had happened a couple of days before?---Yeah.

Do you accept that that's something you did?---Yeah, and I – it wouldn't just be not talking about that. It would be just don't talk about work.

All right?---We're not at work.

Well, that's so, but do you recognise that it's – it was particularly important in those circumstances not to talk about what had happened a couple of days ago?---I do.

Because there was an investigation continuing?---Yep.

And thinking about that and now being more reflective about that uncomfortable situation, do you recognise that it was perhaps not the best idea to have a gathering of people while the investigation was taking place so shortly after this?---Yeah, 100 percent, yep.

Thank you, your Honour.

THE CORONER: How should peer support – well not necessarily peer support, how should support be provided in those circumstances?---Well, that's kind of a hard one. I think it's kind of like you – it's like you want someone who Zach not so confides in, but trusts. But then, it's kind of hard because when I spoke to him and like – you mean, and the comfort you try and give, it's like – I'm also not qualified. So, and I get it. Like – you mean, for us to go see someone who's qualified, we don't know them. So, it's kind of a hard one. I think – like our organisation has got a lot better just recently.

Okay. So, what is being down better now?---Now, we have mental health workshops. I think – I believe the peer support has been expanded. There is – yeah and the mental health workshops, like every – probably every couple of days on our internet, we now have something about mental health and we had this flyer come out about trying to teach you to go home from work, to switch off, hug your kids, put your uniform away. You're at home now, try and focus on something else. Because I know personally, when you police here for six years, and it can be quite – you're

exposed to quite a lot of violent incidents working in Alice Springs. I used to have times when I'd go home and it'd be say 1:00 or 2:00 in the morning. The house is quiet, but my head is just still ringing, so yeah, it's not – it's not easy sometimes.

So, a combination of professional support?---Yep.

Plus peer support?---Yep.

And the peer support needs to be identifiable at the station?---Yeah, it is, it is, your Honour, yeah.

And it needs to be someone removed – a peer - - -?---Yep.

- - - but someone removed from the incident that - - -?---I agree yep.

- - - has generated - - -?---But it's known to the officers.

Sure. But - - -?---Yep.

So, there could have been someone else better placed - - -?---Yep.

- - - than you to provide police support, because you're part of the incident. So, someone who's still a peer, but not part of the incident?---Yep, yep.

And someone should be managing that so that everybody - - -?---Yep.

- - - knows and can be assured that the members that they're worried about are in fact receiving the support that - - -?---Yeah and looked after.

- - - they deserve?---And I was also mindful about – like, I hadn't met Zach's parents until obviously after that, and they are lovely people. And you could just think, I don't know how – you mean, how they must have felt, like to know that their son would have went through this tragic incident, and that that if he hadn't been getting support, I don't know how they would have felt at the time, because they live all the way in Canberra, so but yeah, I think – I think we could definitely do better on it.

MR FRECKELTON: And is it the situation that, in this scenario, there were five people very directly involved?---Yeah.

And of course, others - - -?---Yeah.

- - - less directly involved, all of whom inevitably would have had their own experience of the trauma and their own vulnerabilities?---Yeah.

And you were conscious that there was a need to look after them as best could be done, given the resources and the practices of the job?---Definitely, yeah.

Thank you, your Honour.

THE CORONER: Anything else, Mr Coleridge?

MR COLERIDGE: I don't, your Honour, but I have been told that Mr Suttner does.

THE CORONER: Mr Suttner, sorry. Are you - - -

MR SUTTNER: Thank you for remembering me, your Honour. Is it appropriate that I question now or after lunch?

THE CORONER: - - - I think the officer would prefer any final questions now, so that he can have lunch without thinking that he has to return.

MR SUTTNER: Thank you, your Honour.

XXN BY MR SUTTNER:

MR SUTTNER: Senior Constable, my name is John Suttner, and I represent Sergeant Bauwens. Over the last four days, I've heard the evidence, before yours, of Constables Eberl, Hawkings, Kirstenfeldt and Donaldson, and I asked them a series of similar questions. And received them a series of answers. I'm going to put mostly similar questions to you. First, I want to ask you about a proposition that has been advanced, that there is a culture of racism in the Northern Territory Police Force, and more particularly, the IRT. Is that a correct picture of the IRT?---No it's not, your Honour.

And are you aware of the series of text messages that were extracted from Constable Rolfe's telephone?---I am aware of them, yes.

Yes, because you are also aware, that those text messages form a substantial basis for the advancing of that proposition of racism. You're aware that that is the content?---I'm aware of the text messages, yeah.

Yes. Now you are also aware, that those text messages were extracted from Constable Rolfe's phone, for purposes of his criminal trial?---Yes.

And are you aware, that Sergeant Bauwens, Constable Rolfe, and several of your other colleagues, fought tooth and nail, to avoid those text messages being produced at this inquest?---Sorry, I didn't - - -

THE CORONER: He's asking whether you were aware that there was an objection to those text messages being received during the course of the inquest?---Yes, I think I was of them, yeah.

MR SUTTNER: Yes?---Yes.

And did – did you agree with Sergeant Bauwens and the others, that the text messages should be kept out or was it your position - - -

MR COLERIDGE: Your Honour, I'm not sure - - -

A PERSON UNKNOWN: (Inaudible).

THE CORONER: I'm just – there's a – there's a - - -

MR SUTTNER: Or was it - - -

THE CORONER: - - - sorry, Mr Suttner, there's – might be an objection.

MR COLERIDGE: There's been an objection. There are a couple of bases for the objection, your Honour. First, each of the objections were – that were made, including by Sergeant Bauwens, has been dismissed. The law in the Northern Territory, as it stands, is that those objections were misconceived. It is not appropriate for fringe theories about the law to be put to a witness, in circumstances where, the law as it stands is, that the messages could lawfully be received, and that it was appropriate that they lawfully be received. So it is a little disingenuous to say, that objections were taken on legal basis - - -

THE CORONER: When they've actually been ruled on.

MR COLERIDGE: Dismissed.

MR FRECKELTON: Not only that, your Honour, it's treading very close to discussions that may or may not have taken place between this witnesses legal representatives and himself.

THE CORONER: Mm mm.

MR FRECKELTON: And whatever his views are about what your Honour's ruling might have been, before it was made, and whatever his views are about your Honour's ruling since it has been made, are of no assistance whatever to this court, in our respectful submission.

THE CORONER: Mr Suttner, if that's the – where the questions are going, they're disallowed. But you are allowed to ask him the similar kinds of questions that you asked of the other witnesses, about whether he's familiar with that kind of language. Whether it's something he's heard, or witnessed.

MR SUTTNER: Your Honour, your Honour pre-empted me, with respect, when you said, "If that's where the questions are going, they are disallowed." Firstly, this is not where it's going. I'm not seeking to challenge your Honour's ruling. Second, your Honour, where I come from, we are very, very hesitant before we accuse our colleagues of being disingenuous. And third, I had not yet sort to breach privilege. So I am not going to any question of us attempting to upset or – your Honour's ruling. Nor have I asked the witness for his legal view of your ruling.

And nor have I used the word “legal.” I’m asking him factual questions.

MR COLERIDGE: Perhaps, your Honour, given that we’re having an argument about relevance, Mr Suttner could articulate the relevance of the question. Where is it going.

THE CORONER: Are you able to assist us, Mr Suttner?

MR SUTTNER: Your Honour, the best way will be through – I have about four questions. So in the context of the time that this Coronial is taking, I would have been finished those questions by now already. They will be - - -

THE CORONER: What is – just tell me what the next question is, Mr Suttner.

MR SUTTNER: I want to know, whether this witness was in favour of these questions, and I can’t continue with the next question is, until I get his answer. If his answer is - - -

THE CORONER: All right, well I’m not - - -

MR SUTTNER: - - - that he was in favour - - -

THE CORONER: - - - I’m not – I’m not going to allow that question. Because whether he was in favour or not, the ruling has been made. And his opinion is not going to assist me in relation to any findings that I can make. But you can ask him, in the same way that you’re asked the other witnesses, whether or not he’s heard, or shares similar attitudes or uses similar language.

MR SUTTNER: As it pleases you, your Honour.

Senior Constable, are you a member of the Northern Territory Police Association?---I am.

And do you – is it your view, and I’m not asking you a legal question, I just want to you to – want to know of you, is it your position, that members of the Northern Territory Police Force, have an interest in these Coronial proceedings?

MR FRECKELTON: I object, your Honour, on the grounds of relevance. Whatever his views are in respect of such matters, cannot assist you in any way.

THE CORONER: Yes, I’m not going to allow that, Mr Suttner.

MR SUTTNER: As it pleases you, your Honour.

All right. Senior Constable, can I accept then, that other than what we had seen of the text messages, you denied the existence of a culture of racism in the IRT?---Yes I have.

And did it exist in the police force stationed in Alice Springs?---Does a culture of racism exist in the police force, is that what you're asking me? No, it's like United Nations - - -

Yes?---Over there, your Honour. Just – people from all walks of life and countries.

How long have you known Sergeant Bauwens?---Six years.

Had you ever heard a racist remark from him?---No, apart from making Irish jokes, that's probably it.

Yes. And those were made to you?---Yeah, yeah.

Have you – have you ever observed racist behaviour from him?---No, never.

Have you ever seen him behave disrespectfully to Indigenous people, or any other people?---No, quite the opposite. When we used to go on IRT jobs, if anyone had a Landcruiser in the front of the house, he used to get out and talk to the locals for half an hour, so that used to be frustrating, because I'd be always wanting to do something different, but.

And is your position the same as the other policemen, to whom I've referred, and that is that Sergeant Bauwens is a committed, passionate, diligent, and professional member of the police force?---Sergeant Bauwens is probably the best sergeant I've ever had.

Yes.

No further questions.

THE CORONER: Nothing arising from - - -

MR COLERIDGE: Your Honour, just for the record, your Honour, the text messages that I put to the witness concerning the axe messages, have now been marked MFIKK, and the debrief messages have now been marked LL, that's all.

THE CORONER: MFI L - - -

MR COLERIDGE: KK – and MFI LL.

THE CORONER: Thank you.

MFIKK: Text messages concerning axe messages.

MFILL: Debrief messages.

THE CORONER: Thank you - - - ?---Thank you, your Honour.

- - - for coming along to give your evidence, Senior Constable. Every perspective adds to our knowledge, as does yours. So we appreciate the evidence that you've given?---Thank you.

WITNESS WITHDREW

THE CORONER: We can adjourn.

Given the time, we'll come back at quarter past 2:00.

ADJOURNED

RESUMED

THE CORONER: Mr Coleridge?

MR COLERIDGE: Your Honour, I call Sergeant Evan Kelly.

EVAN KELLY, affirmed:

MR COLERIDGE: It's a formality, but can I ask you to repeat your full name for the record?---Evan Kelly.

And your current rank?---I'm an acting senior sergeant watch commander in Alice Springs.

And where are you currently - Alice Springs, I'm sorry?---Yep.

You've provided a couple of documents to the Coroner, is that right?---Yes.

The first of those documents is a recorded interview that you gave on 18 December 2019?---Yes.

That is 7-72, your Honour.

THE CORONER: Thank you.

MR COLERIDGE: There was a recorded interview on 29 January 2020?---Yes, that's correct.

That is 7-73, and you gave evidence at trial, across two days, on 9 and 10 February 2022?---Yes.

Your Honour, they are 18-22 and 23 respectively. Are you currently working as a watch commander when you are on duty?---Yes.

Can you tell her Honour something about the role of the watch commander?---As a watch commander you have oversight of basically all the police assets and members from Elliott, south to the South Australian border on any given shift. You have oversight of all of the custody, so anybody in the watch houses, you need to conduct regular reviews of that, conducting audits of PROMIS jobs, deployment of resources to critical incidents and basically you report anything that's out of your scope up to the Territory duty superintendent.

And in terms of chain of command, directly underneath you you would have a number of shift sergeants or patrol sergeants?---Yes, normally a shirt sergeant but at time we've got different groups working. Sometimes there's a foot patrol with a sergeant and quasi sergeants and that sort of thing.

And underneath the sergeants you have constables and senior constables, members of the individual patrol groups, is that right?---Yes, that's correct.

All right, so in terms of supervising individual constables and senior constables, the first point of contact is the sergeant?---Yes, that's the chain of command, that's correct.

And ordinarily the Senior Sergeant or watch commander wouldn't get involved in supervising a constable unless there was some issue that was elevated to them by a sergeant, is that right?---Normally sometimes because of the way the station is set up, sometimes if a sergeant is out on a job and a constable is in the office and he needs some advice they'll come straight in to the watch commander and I am open to that.

But in other circumstances the person that a constable most often goes to would be their patrol sergeant?---Yes, that's the chain of command.

Now, I want to take you back to November 2019, you were relatively new to the Alice Springs Police Station, is that right?---Yes.

Where had you come from?---Darwin. I was - spent two years in the gangs task force up there.

In your first recorded statement you say that you'd only really known your patrol group for a couple of weeks at that time?---Yes, that's correct, in - I've since reviewed the roster and I think I was transferred to that patrol group prior to the 6th. I'd only served three days on that actual patrol group.

So, all right, is it fair to say that you were still getting to know them and building trust?---Yes.

One police officer has given evidence in the inquest that as a young constable, relationship with older and more senior police officers is really important to you finding your feet. It might be a while since you were that junior, but does that ring true to you?---Certainly. I know as a junior constable when I came out of college I went to Katherine and I had the benefit of the majority of my patrol group in Katherine were senior constables with seven to 10 years service, so they were very experienced and you looked to them for your guidance. Some patrol groups here at the moment we don't have that luxury. We are - for want of a better term - a very junior station. We have a lot of junior members here so it's incumbent upon the senior members here that we provide the junior members with that support and guidance.

I think it was Superintendent Nobbs also said that he thought that possibly the two most important ranks in some way in the NTPF hierarchy were the senior constable and sergeant because they were the - I suppose - more senior roles that were most frequently supervising - directly supervising junior police officers?---Certainly. The sergeants and senior constables spend time on the road with the junior constables.

They will attend jobs with them whereas a watch commander is more office-bound assessing jobs that come across our CAD screen, so a sergeant or a senior constable on the road can not only assess, you know, the administrative side of things when the constables are doing their paperwork but also how they are interacting with people on the road.

Is it also fair to say that - well, I mean, you gave evidence a moment ago that it takes a little bit of time to develop trust between the sergeant and the patrol group. Once developed, is it fair to say that those patrol groups - they are operating effectively, harmoniously, can be quite tight - very close?---Yes, you spend a lot of time together and you know, the circumstances of our job are that, you know, at times incident happen where you're relying people in your patrol group for assistance. You're relying on them to do what they are trained to do, so yes, you do become a pretty tight knit unit.

And a small jurisdiction like Alice Springs, they also end up being your mates?
---Yes, correct.

And so you might look to them for, you know, things like emotional support if you're having a hard time or if you need to talk about your work?---Certainly. Throughout my entire career that's been the way it is. Quite often a lot of people have their best friends in the police force, so that's where you turn to for your support.

I want to ask you some questions about 6 November and 7 November. Before I do that I just want to acknowledge that you have traversed this account on a number of occasions now in writing and at trial, so I will ask you some more focussed questions And we can ignore some of the other details, I'm just trying to move through it swiftly. I want to ask you if at the beginning of your shift on 6 November, I think your evidence was that Kumanjaji Walker's outstanding breach was brought to your attention during the hand-over?---Yes.

It was in the hand-over sheet?

MR SUTTNER: Your Honour?

THE CORONER: Yes?

MR SUTTNER: I'm sorry to do this but would you ask Mr Coleridge if he would renew his earlier undertaking and stand closer to the mike so that we can hear him?

MR COLERIDGE: Your Honour, might I have leave to sit down?

MR SUTTNER: Thank you.

THE CORONER: Yes, yes we'll try and sort that one out for you.

MR SUTTNER: Thank you, Mr Coleridge. Much obliged, your Honour, and Mr Coleridge.

MR COLERIDGE: As long as you don't tell me I have to sit down because I'm too soft again.

So, from the PROMIS audit reports it looks like you accessed the PROMIS record for the breach report itself?---Yes, that's correct.

And then your usual practice probably would have been to hold a hand-over meeting in the muster room?---Yes.

Can you tell her Honour - and sorry - and that would have been at around about 7 am that day, that's when your shift commenced?---That's correct.

Okay. What does a hand-over meeting involve?---Your muster briefing involves a hand-over of any outstanding matters from the night before, so sometimes we'll have, you know, potentially an arrest in custody that is intoxicated that we have to wait for them to sober up to complete the file, offer them the opportunity to interview. We'll have outstanding arrest targets, sometimes there will be a missing person or a concern for welfare and - that we have to look for during the day. It's basically anything that's outstanding that hasn't been cleared up from the day before, any critical incident or hot spots that we need to target, so perhaps there might be a suburb in Alice Springs that's been targeted for property crime overnight that we might have to go and look at, unlawful entries that haven't been attended overnight that need attending.

And a part of that meeting would involve, I take it, allocating jobs to members of your patrol group?---Yes, so generally what happened back then was you would have a printout of the actual PROMIS jobs and you would hand that to a member for follow-up.

As best you can recall, you allocated the task of following up the breach report for Kumanjaya Walker to Constable Rolfe during that muster briefing?---Yes, I believe so.

And you might not have known it then but the PROMIS records reflect that Constable Rolfe then accessed the PROMIS record at 7:07 am?---Yes, that would be expected.

And would 7:07 be around about the time you come out of the muster meeting?---Yes.

Can I ask you - I mean, you might have answered it with your answer that you had only been rostered on for three days but was there a particular reason you chose Constable Rolfe? Was it random?---No, quite often you'll have a pile of follow-ups, potentially five to ten follow-ups for the day and as a general rule unless it is something specific like a follow up that requires a female officer, the follow-ups can be random. It also depends on members' workload.

I want to now jump forward to 3 o'clock the next day. This is 7 November. Now, we know that around about 6 pm the night before Lanyon Smith and Chris Hand were threatened with an axe by Kumanjaya Walker, you're aware of that?---Yes.

Now, you started your shift at about 3 o'clock on the 7th?---That's correct.

And as usual, you had your muster briefing?---Yes.

And either during or very shortly after that meeting, Constable Rolfe brought the axe incident to your attention?---Yes.

And effectively, he was just doing his job, what you'd told him to do; following up the Kumanjaya Walker breach?---Yes, that's correct.

All right. Can you recall what he told you?---I don't believe he told me anything at the time. I was – when I was first made aware of it, I was in the shift supervisor's office and I can't recall who asked me to come and have a look at the footage.

I take it you did have a look at the footage?---Yes.

And I think you were taken to this at trial, but the PROMIS record show that Constable Rolfe accessed the PROMIS record for the body-worn footage at around about 3:16 pm. Would that have been around about the time you came out of the shift supervisor's office?---Yeah, I would assume so.

Okay. Can you recall who was present?---Not exactly. But it would have been, at some stage, I would have requested or Constable Rolfe would have requested everybody in the PG to come and have a look at that footage.

At various points in time, I think you've said that Constable Rolfe was there, Mitch Hanson?---Yes.

Shane King?---Yes.

Bree Bonney?---Yep.

James Kirstenfeldt?---Everybody that was on shift that day would have been there present at some stage.

All right. And you've already given this evidence, but just for your Honour's benefit, there was some discussion about the seriousness of what you had seen?---Yes.

Can you tell her Honour something about that?---We've all seen the video and obviously, it is a – quite a serious incident with the – obviously, the potential for an injury to either the members that were there or Kumanjaya Walker. I don't recall any specific comments because there were so many people there. We - in explanation of that, we've got CCTV footage in the muster room and we watch CCTV footage quite regularly with a lot of people there in relation to incidents that happened

downtown and that sort of thing. So, it's not a common practice to sort of note down who's there with you watching footage and what people say. Obviously, everybody was taken aback a bit with the seriousness of the incident.

Just for clarity, I'm not going to be suggesting that there's anything unusual. It strikes me that this probably happens, you know, a dozen times a day. But can I just ask you about one comment that you did mention and ask you to provide a little bit more detail. I think in your first or second recorded statement, you said that you recall making some comments to your patrol group about a "lack of situational awareness". Can you explain what that meant?---Yeah, situational awareness is basically not allowing yourself to get into a position where you're cornered or can't get out. Obviously, it's very difficult when you're inside a house and you're making enquiries or something of this nature happens, but your situational awareness is knowing what's around you, knowing your escape routes and somewhere where you can find either hard cover, if it's a firearm incident, or a different type of cover if it's an incident involving an edged weapon or just an aggressive person.

Okay. I want to jump forward to about 6 pm, which is the attempted arrest at Warlpiri Camp. Now, I think your evidence has been that one of your patrol group was provided with information that Kumanjayi might be at a house in Warlpiri Camp. Correct?---Yes.

Yep. Now, there was a briefing in the Bunnings carpark not far from the Warlpiri Camp?---That's correct.

Constable Kirstenfeldt referred to this as a "bonnet briefing"?---Yes.

And you know, that says what it means?---Yep.

You were at another job, I think, and I arrived about halfway through the briefing. Is that right?---That's correct.

And Constable Rolfe was conducting the briefing?---That's correct.

And you were satisfied, watching that, that he was doing a good job of briefing the other members of his patrol group?---Yes, it's a – for want of a better term, it's a pretty standard briefing when you're going to do a cordon call, a cordon and contain operation at a house.

I'll just take you briefly to the arrest. It has been the subject of evidence and is objectively recorded in body-worn footage from, I think, at least three of the members who attended. It's fair to say you did cordon the house?---Yes.

Someone knocked on the door, there was no answer?---That's correct.

You've just got to verbalise so you can record it?---Yep, that's correct.

Now, you then had a discussion about what you would do. Is that correct?---Yes.

And what did you decide you would do?---We didn't actually have reasonable grounds to believe that he was in there. The evidence or the information that we had in relation to Kumanjayi Walker being in that specific premises wasn't – you know, I couldn't satisfy myself that he was in there. So, therefore, legally, we didn't have any grounds to enter the premises. It was all locked up. There was no indication when we arrived there of any noises in the house or anything like that, so we made the decision to leave.

I think the extent of the information that you did have was something like, he'd been seen there earlier that day or possibly seen there earlier that day?---Yeah, and we – sorry, we'd also had an email previously from Sergeant Kent. That was on the 30th, I believe, where they nominated three different houses in Warlpiri Camp. So - - -

I take it that – you know, if you believe that someone might be in one of three houses, you can't search all three until you find them?---No.

No. You need to believe that they're in an actual house?---That's correct.

Okay. And just to clarify, in the Northern Territory, in order to search a house to effect an arrest under warrant, you need to believe, not suspect, that they're in the house?---Yeah, it's reasonable grounds to believe under s 126A.

Which is a higher standard than "suspect"?---Yes.

Yes. Now, obvious question, but you also didn't have permission from anyone to enter?---No.

And you couldn't have just asked any old Aboriginal person in Warlpiri Camp for permission?---No.

You need to satisfy yourself that you're getting permission from the owner of the premises?---That's correct.

Okay. Would you ordinarily ask some questions in an attempt to identify a person, if you're seeking permission?---I believe some of the other constables that were there that day went across the road and asked some people that were sitting in the yard across the road whether they'd seen Mr Walker at the house or anybody else at the house. And they couldn't confirm that they'd seen him there either.

Okay. And I take it all of those discussions occurred in the presence of the patrol group?---In relation to not entering the house, yeah.

Okay. Everyone understood why you weren't going in?---That's correct.

Okay. The 9th November, I'm not going to ask you any questions about what happened during the day, you were tasked to the critical incident involving a bus?---That's correct.

Okay. And I think you didn't even know when you were dispatched to that incident that the IRT had been sent out to Yuendumu?---No, I came into work early and was immediately dispatched to a bus roll over, a tourist bus roll over about 200 kilometres south, and I wasn't aware that anybody on my PG had been dispatched.

You found out a little bit later that evening that a shooting had occurred in Yuendumu?---Yes, we – after the incident with the bus was finished and we were returning, as soon as I got into phone range south of Alice Springs, I rang the watch commander. And at that stage, that's when I was informed that there'd been a shooting.

Okay. And you gathered eventually that the shooter was Zachary Rolfe?---Yes.

Okay. You attended the hospital, the Alice Springs Hospital, at around about 11 pm that night?---That's correct.

Can you recall who you attended with?---Bree Bonney and Afama.

THE CORONER: Bree Bonney and?---Afam Nwaka Asagi(?), I think, is how you pronounce his last name.

MR COLERIDGE: And you say that was a welfare check?---Yes.

And you were pretty clear in your recorded statement that you made a point of not asking anything about what happened?---That's correct.

What was your reasoning there?---Basically, because in relation to the death in custody and obviously where we are now, I didn't want to be called to give evidence in relation to things that Zach had told me, so it was purely a welfare check.

Yes. You also say, and this was in response to a question, you made a point of not asking anything, but you didn't give members in your patrol group a direction not to ask him anything. Can you recall being asked those questions in your recorded interview?---No. But no, I didn't give them any directions not to speak to him, no.

In hindsight, can you see that it might be helpful, for senior officers, to give that kind of a direction to junior officers in their patrol group?---Yes, certainly.

I take it that you knew about the General Order into Deaths in Custody, in 2019?---Yes.

But there's been some evidence that some of the junior members in your patrol group, didn't know, or haven't read the document?---Yes.

Do you think it could be helpful, for there to be a clear stipulation in that document, that when an incident like this occurs, one of the patrol sergeant's responsibilities is

ensuring that everyone in their patrol group, who might be connected to the incident, is given a direction of that kind?---Yes.

I want to ask you some questions about what's been called the – a barbeque, but we understand from Senior Constable McCormack that there was no cooking. This was on 11 November - - - ?---Yes.

- - - at Constable Zachary Rolfe's house. Can you recall any of the conversation that occurred at that barbeque?---No, not really. The – when I first turned up there, there was a number of members already there, and the television was on pretty loud in the lounge room. It wasn't long after I arrived there, we went and sat out the back and there were – we just had general conversation. I don't – don't recall what it was about exactly.

Can you recall what time you left?---No, I don't recall what time I arrived, or what time I left. I – I would say that if I was there for an hour, that would be the extent of it and I – I just – I don't recall. It wasn't something that was crossing my mind at the time. But once again, I specifically didn't talk to anybody, or didn't hear anybody talk about the incident itself.

Can you see, and again I'm asking questions about hindsight, and I'm not suggesting that there aren't really good reasons why it might be important for a patrol group to, you know, check in on each other's welfare. But in hindsight, can you see that when a group of police officers, who've been involved in a critical incident like a police shooting, then get together in an instructed way, and drink alcohol, there is a risk that people would talk about what's happened?---Yeah, certainly. And I – to be honest with you, I didn't give that any thought when I was going there. I assumed, that given the – the timespan between the incident and when we went to Zach's place was a couple of days, that anybody that needed to be spoken to, and this is a wrong assumption obviously on my part, that anybody that would have needed to have been spoken to by the senior investigators, would have been. And they would have been directed or not directed to – to associate. But, to be honest with you, I didn't give it any thought when I was going over there. I was going over to make sure that Zach and the other members of the IRT were all right. In saying that, I'd only sort of been on that patrol group for four days as well, so it would have been hard for me to tell in any case.

I take it from your answer, that you've later learned that Constable Rolfe, for example, hadn't been directed to give an interview at that stage?---Yeah, that's correct.

Again, do you think that it would be useful for there to be some provision in the General Order, so that it's clear that there needs to be some communication between patrol sergeant, and the senior investigators, to ensure that those steps have been taken before people are communicating with each other?---Yes, certainly. It is in the General Orders that the senior investigator in charge should be speaking to the members involved, and advising them of such. But I don't – you know, due to

the nature and complexity and distance of this incident, I don't know if that was possible at the time.

I'll – I want to turn to a topic now, and ask you questions about one of your responsibilities as a patrol sergeant. Which is the responsibility of, I'm going to use the word "auditing", but you tell me if it's the wrong word, auditing use of force case note entries?---That's correct.

Is that terminology right?---Yes.

Can you just tell her Honour – perhaps I'll just lead you through it. When you use force, as a member of the Northern Territory Police Force, save for its rare circumstances like certain types of escorts, you're obliged to make a case note entry. Is that right?---That's correct.

And that is logged onto PROMIS?---Yes.

It's your responsibility to task that to your supervisor?---Yes.

Now if you're a constable, or a senior constable, that'll generally be a sergeant, correct?---Yes.

It's then the sergeant's responsibility to audit the case note entry?---Yes.

You determine, on the basis of the material available to you, whether the force used was reasonable, proportionate, necessary and appropriate?---Yes.

And if you have any concerns, you then task them to your senior sergeant?---Yes, that was the case in 2019. That has since changed now, whereby all use of forces are audited by the senior sergeant.

Okay?---After the sergeant.

After the sergeant, yes. That was what I was coming to. So at least in 2009 (sic) - -
-

A PERSON UNKNOWN: Nineteen.

MR COLERIDGE: - - - sorry 2019, the sergeant audited the use of force and didn't identify any issues, it wouldn't necessarily be tasked for review to the senior sergeant?---No.

I now want to ask you some questions about some specific – or a specific use of force incident. Before I do, I just want to make something abundantly clear. I've had conversations with the Northern Territory Police Force, and Constable Rolfe's legal representatives. I don't want to ask you questions about what you saw Constable Rolfe do, or not do. And I don't want to ask you any questions about your opinion of what he did, or didn't do. I want to ask you questions about two things. The first is,

what you did in the incident. And the second is, the process that you then undertook to review Constable Rolfe's case note entry, okay?---Yep.

So the incident I'm going to ask you about involved a man called Albert Bailey, and the incident occurred on 12 October 2019. Can you recall what I'm talking about?---Yes.

Okay. Now as a result of that use of force incident – sorry. During that use of force incident, Constable Rolfe perceived something, and then used force against an individual?---Yes.

Mr Bailey?---Yes.

And Mr Bailey was injured during that use of force?---Yes.

He received nine stitches. Constable Rolfe entered a use of force incident into the PROMIS system - - - ?---That's correct.

- - - that's your recollection?---Yes.

I might just show it to you if that's okay. Okay, you've got that in front of you do you?---Yes.

On the first page, I suppose two thirds down, there are a couple of paragraphs that describe the incident?---Yes.

It includes the description of the force that Constable Rolfe and another police constable used? It's the second paragraph?---Yes.

And it provides Constable Rolfe's reasons for using that force?---Yes.

He feared, in effect, for the safety of another person?---That's correct.

Can you turn the page to page three. At the top of page three, there's a description of the injuries that were received?---Yes.

That's consistent with the description I gave you a moment ago?---Yes.

And the individual was hospitalised?---Yes.

At the bottom of page three, there are then a number of headings that detail the supervisor, can you see that?---That's correct, yes.

And the name is Evan Kelly?---Yes.

And that effectively records that you were the person who audited that case note entry?---Yes.

And you deemed the use of force appropriate in the circumstances, given pre-attack indicators exhibited, correct?---Yes.

I just want to ask you a couple of questions. It isn't clear from that description what material you reviewed, in order to audit this case – case note entry?---That's correct.

Is it possible that the review involved you relying solely on your perception of the events, rather than reviewing the body-worn footage?---Yes, I believe when I conducted the use of force audit I was relying on what I saw at the time.

Similarly, you have a statement on 20 December 2019 for proceedings associated with a domestic violence order application?---Yes.

And you describe the incident in that statement. At that time do you think you had watched the body-worn footage, or you don't know?---I wouldn't be able to tell you, honestly, I'm not sure.

I want to play you some footage now.

Can I have video 1 please?

DVD PLAYED

MR COLERIDGE: Can you pause it there please Bec.

Is that you, Sergeant, who is just walking into frame?---No, I don't believe so. I don't wear gloves.

I might show you something else then. Certainly you were involved in ground-stabilising Mr Bailey during this use of force interaction?---Yes.

Bec, can we have video number 2 please? I just want to ask you if you can identify yourself in the incident.

MR FRECKELTON: Just before that comes on, your Honour, I am not making an application but I'd just like to raise the issue of whether your Honour is considering a non-publication order in relation to the footage, given it involves a person who has been the subject of an incident in circumstances which are somewhat sensitive. There are some privacy issues involved in all that.

THE CORONER: I will think about that.

DR FRECKELTON: Thank you.

THE CORONER: I mean it's not - at the moment it is being live streamed.

DR FRECKELTON: Yes, it's a little different from the perspective of the individual involved, should this material be entirely publicly available through the media, given

what the experiences in the course of this and I am simply raising the issue for your Honour's consideration.

A PERSON UNKNOWN: Apparently this has been aired by the ABC previously, your Honour. I don't think it has been - - -

THE CORONER: We will check that. But, in any event, it's just being live-streamed at the moment.

MR COLERIDGE: Perhaps if we could press "play"?

DVD PLAYED

MR COLERIDGE: Sergeant, I am talking over the video but that is you assisting to ground-stabilise - - -?---That's correct.

Okay. We can stop that please. My questions for you are this. Ground stabilising an individual like that constitutes a use of force?---Yes.

Indeed, it might have justified a case note entry of itself?---No. It's all one incident. You would place that on the - - -

The same one?---Yes.

Okay. Sergeant, I am not suggesting that you did anything wrong intentionally, but can you see how there might be at least a perception that there is a conflict of interest where a sergeant is actively involved in applying force to an individual and then audits the very use of force incident in which they are involved?---Yes, in - I mean, in hindsight, I wasn't involved in the actual use of force of the - in relation to apprehending Mr Bailey initially, I was assisting afterwards but yes, I can see that potentially if we are using force on somebody the people involved shouldn't be doing a use of force audit.

THE CORONER: You also just said "The whole incident was one incident of use of force" so the initial application and the ground stabilisation?---Yes.

MR COLERIDGE: Who reviewed your use of force?---No-one.

Or you did?---Yes, basically.

Those are the questions, your Honour.

THE CORONER: Yes.

MS PINCUS: Hello?

THE CORONER: Ms Pincus?

MS PINCUS: Yes, it looks like it's me.

XXN BY MS PINCUS:

MS PINCUS: I've just got one quick question, Sergeant Kelly. I am instructed by the Walker, Lane and Robertson families. Just in relation to the - after you viewed the footage of the axe incident and you described it just now as being quite a serious incident with the potential for injury for members there and previously talked about it being quite shocking?---Mm mm.

I am just wondering whether it ever occurred to you that for the purpose of the 7 November arrest, would you have considered calling in the IRT?---I don't - I can't say honestly at the time whether I considered the IRT at the time. I wasn't fully conversant at the time with the functions of IRT or what they did down here. I was aware that there was an IRT but I didn't - like I say, I didn't fully comprehend the nature of their duties.

But it didn't occur to you that you needed any more than a general duties patrol group?---No, we - from day to day we have people that have alerts on them that they are violent and aggressive to police and will assault police and use weapons against police but as a general rule the more numbers that we can have of police attend and incident the less likely it is that we have to use force or that force is used against us and we went to Warlpiri camp that day with six members and conducted a cordon and contain operation and that's pretty simple in normal terms if we think there's somebody in there we'll generally call them out. If they don't come out peacefully then that's an opportunity for us to call the negotiators and see if we can get them while we maintain a cordon.

Sorry, can you explain also about the use of force case not entry. So I just wanted to clarify something. If - do you only have to fill out a case note entry if some sort of accoutrements are being used? So if it's just a use of force by hand, you don't need to - - -?---No, no, it's - if you use any strike, kick, blow, punch - - -

It does?--- - - -anything, you need to fill out a use of force report.

Thank you. No further questions.

THE CORONER: Any other questions?

MR ESPIE: Yes, your Honour.

THE CORONER: Yes, Mr Espie?

XXN BY MR ESPIE:

MR ESPIE: Sergeant, my name is Espie, I appear on behalf of NAAJA. You discussed briefly today and also previously on previous occasions including at the trial, being involved in the search of a house at Warlpiri camp here in Alice Springs,

you described prior to attending that attempted arrest - or that search - yourself and other officers involved, looking at the body-worn footage of the - before the axe incident you described the need to do that as - in evidence you describe that as "due diligence"?---Yes.

Other things that you would do is check a target's criminal history and potential links to families and places and that sort of thing?---Yes.

What – obviously, there's the fact that he wielded an axe, Kumanjayi and he fled from the arrest, but what other things were you looking for? I think you mentioned situational awareness. What were you looking – what other things did you considered due diligence firstly when you see that footage?---In relation to us going to Warlpiri Camp on the 7th in our risk assessment or - - -

Yes?--- - - - what a constable would do when he's doing his due diligence.

What are you looking for when you were looking at video footage? What does it tell you?---Well, it gives an indication of the potential for somebody to use violence. We review footage all the time. Sometimes, footage from members that have been involved in an incident ends up in training packages as an example of what to do or what not to do. So, we quite regularly review footage and it sort of gives you an insight and lets you be better prepared for situations.

Right. And other than looking at that footage, what other things did you consider as due diligence, or what occurred in relation to - - -?---So, as a general rule, if you get given an arrest target, you will go and have a look at their previous involvements on PROMIS, have a look at their links. So, we can link vehicles, places, people to a person of interest. So, it might be that, you know, two nights ago, the person of interest was in a vehicle of a friend and we might be able to go and conduct some enquiries at that friend's place to see where he was.

Right?---So, there's all the linking of people. You have a look at their criminal history to see what sort of propensity for violence they have or their most recent criminal history. Some people have an extensive criminal history early on and then, you know, at 22 or 24 years of age, stop offending. So, you can tell that somebody has been – hasn't been offending for five years. So, it's just getting a basic understanding of the person you're looking for, where they may be and their propensity for violence or not.

Right. You received this intelligence from essentially through a community or family member from Yuendumu with the intelligence that you may have been at this house without enquiring as to where that came from. Obviously, it may be useful talking to the officers. Did you talk to the officers involved in the attempted arrest?---Yes. I still don't know, to this day, who actually got the information that he could have been at that house. There was information from 30 October, I believe it was, about him being at – or potentially being at one of three houses and - - -

Sorry?---But it's – and it's very difficult unless you get specific information and timely

information to determine where somebody is going to be in these communities.

Just clarifying, other than that information, did you discuss with the officers or any police at Yuendumu, including officers involved in the axe incident, any information they may have as to, not so much whereabouts, but what they knew of Kumanjaji. Obviously, the work in this community and they may have known him a bit more intimately than - - -?---Yes, certainly. No, no, I didn't.

All right. Do you think that, looking or being aware of any instances in some young person like Kumanjaji, instances of trauma or cognitive issues or suspected FASD, anything like that. Would any of that sort of information assist you in preparing to arrest someone that, you know, there's a likelihood that if you may use violence or threats of violence to evade arrest?---Yeah, certainly under normal circumstances, if something like this happened on a community and the community police believed that the person had come into town and they had issues, we'd be informed, at least via email or something like that. That's the normal circumstances. Sometimes the remote community police will contact our intel section and get an intelligence circular put out detailing those sorts of things, so that everybody in the station and the southern desert regions are aware.

All right. But none of those sorts of enquiries - - -?---No, not at that early stage, no.

All right. I mean, you had time to make those sorts of enquiries?---We did, but we were also considering it was getting dark that afternoon, the information that we had was – although it was – although it was loose information, for want of a better term. It was timely information, I'd only received that information that afternoon. So, we prefer, when you go into an intended address to look for somebody, you're not looking for them in the dark. It creates a bit of extra danger for us.

So, the assessment of all – the observation of the video told you that he was obviously someone that may use violence and that was an important aspect of arresting him?---Yes.

That then asked whether or not – well, you say you didn't really know about the objectives of the IRT, but you didn't feel a need to, for example, utilise a police dog?--No, I didn't at the time. I don't recall if they were rostered on duty or not. I didn't actually check, to be honest with you. We had – as I say, we had six members and that's a part of our risk minimisation. The more members that we take to an incident like this, and this is not a rare thing in Alice Springs, quite often we have people who, as I said earlier – we have alerts on them for using weapons, being violent. You might go and arrest them one day and they use force against us and then the next day, you might go and speak to them and they're – you know, they're compliant and happy. So, you have to, you know, temper when you're looking at going there with six members with the fact that there's also the chance that, if we cordon the house and spoke to Mr Walker, if he was there, that he might have come out compliantly, and that's what we were aiming for.

All right. And obviously, you didn't see the need in this situation, given the

information you had including the video footage, to carry long-arms, AR-15s or anything else of that nature?---No.

And as you say, edged weapons are quite common in Alice Springs?---Yeah, very common.

The cordoning off of the house is something that is there to prevent him from fleeing?---Yes.

What factors, knowing that he is someone who may have used a weapon, or had used a weapon, what factors or what things do you take into account to prevent the need to have to, for example, draw your own firearm against a more – to protect him from his own – putting himself at a risk of lethal force being used?---Yeah, well if you have a look at the video, the cordon of that house was quite loose. That allows you potentially, if a person of interest comes out of the house and they're unarmed and they try and run away, we can move in to apprehend them. But it also allows you to tactically disengage if somebody comes out of the house and they're armed. You know, we go to these – we go to these incidents regularly and normally they resolve peacefully. Nobody wants to go, you know, to an incident like that and have to use force against somebody, but the cordoning and containing allows you to tactically disengage, get behind a vehicle and that sort of thing, if you have to.

All right. You attended Warlpiri Camp, so there were six members in total?---I believe – I think it was six, yeah.

All right. You – ultimately, the house was empty but you gave chase to – you said in your statement, you chased some guys or some community members?---Yeah, there were two men that ran off south into the bush.

All right?---So, I think it was Mitch that – Mitch Hanson that chased them and identified them. I don't know why they were running.

They were physically apprehended?---I think he just caught up with them, from what I understand, and they stopped.

You don't know if force was used, or a ground stabiliser or anything of that nature?---No.

Obviously, there are occasions when you have to use force and chase people and that can be confronting for community members and people in general that don't understand why that's happening?---Yes, certainly.

Do you have any knowledge as to why they ran?---No.

Do you accept that people can – particularly Aboriginal people based in Alice Springs that they may have observed that sort of situation of police having to a pursuit or physically apprehend someone, that there can be a general fear amongst people of police?---Yes.

And that may have been why they were frightened?---Yes it could have been. There were – I mean there was – I believe we had three cars and six members, so it could be intimidating.

And that's without weapons, or dogs, just – that's just the presence - - - ?---Yes.

- - - (inaudible) presence?---Yes.

And you've – you know what happened, following that was there – were they apologised to those (inaudible)?---I don't believe so. I think they were just asked their name and that was it.

And you may not be able to answer this question, but you've also spent some time working in remote communities in Central Australia?---Not so much in Central Australia. I've spent time in Ngukurr on the Roper River. And I spent two and a half years on Groote Eylandt.

Perhaps remoteness is a factor, but I suppose your assessment of the arrest plan to go into Warlpiri Camp, what differences would it make to you if that was – arrest planning travelling out to Yuendumu, or any remote community?---Well basically on a remote community, you would have to seek access to further resources. Generally you wouldn't be able to put, on most remote communities, you wouldn't be able to put six members together to – to effect an arrest. In most communities the – the preferred method of arrest is family members bringing somebody to the station, and handing themselves in. I've had extensive experience in that happening in – on Groote Eylandt. In Ngukurr. Good communications with the ACPO's in remote communities saves a lot of time and effort in relation to searching for people and trying to arrest them, when they can just be brought to the station.

Right, so you wouldn't – similar assessment of any arrest planning, you wouldn't see the need to have used AR-15's or police dogs?---At Warlpiri Camp?

If it was a situation of arrest planning for a remote community, such as Yuendumu?--
-Yeah, it would depend – every – every circumstance is different.

And again, to just finally going back to the due diligence and the things that you might – the check list of things you might do in order to be of assistance if personal details, and we've heard, Kumanjayi may have been someone that had FASD, or other cognitive issues, had a history of trauma, those things that may contribute to his fight or flight response. Do you think those sort of details on the PROMIS system, or any sort of alerts, would be useful information for police to be compiling in the future to - - - ?---Yeah, certainly, we've got – there's an extensive system on the PROMIS system for alerts that we can place on a person. So the way that system works is when you open up a person's PROMIS identity, you can't get to look at any of their links until you've gone through and looked at all their alerts. So you have to look at the alert, finalise the alert, and some people have – I've seen upwards of 20 alerts, for health and behaviour issues, or – or you know, there's bail alerts, violence

alerts, and things like that. So once again, we do have that system in place, but as with all computer systems, it's only as good as the user input.

Right, so is there anything else that can be done to ensure those sort of things are – obviously when you have time?---Yeah, I mean, as I say, when we have people that are suffering from FASD, or are violent or – and things like that, or – or do have medical issues, as a general rule, we're pretty good at recording that on PROMIS. Obviously there's going to be occasions where we do fall down, but I mean, from my perspective, I think we're pretty good at what we do.

None of those issues were brought – come to your attention in arrest planning on this occasion?---No, not on this occasion, they weren't brought to my attention.

Thank you, sergeant.

Nothing further, your Honour.

THE CORONER: Yes.

MR MCMAHON AC SC: Just – I have two minutes, your Honour, if that's all right.

THE CORONER: Yes, Mr McMahon.

MR MCMAHON: My - - -

THE CORONER: Sorry, it was always – I've always got to look it up, Mr Zichy-Woinarski was going to ask some - - -

MR ZICHY-WOINARSKI: No, no questions for this witness.

THE CORONER: None, okay.

Mr McMahon.

XXN BY MR MCMAHON:

MR MCMAHON: Thanks.

Is it Senior Sergeant?---At the moment, yes.

And you're Acting Senior Sergeant, yes.

We'll just call you Senior Sergeant. I act for the Purumpurru Committee of Yuendumu, it's a justice committee. I just want to ask you a couple of questions about the social gathering at Zach Rolfe's house. Do you know a police woman called Briana Bonney?---Yes.

Was she at the barbeque – at the social gathering when you were there?---Yes.

She's previously given evidence about some of the things that were spoken of, at the barbeque, or the social function. Some discussion, and she says you were part of this discussion. Discussion about whether Zach had adhered to his training. Discussion about edged weapon equals gun. (Inaudible 3:26:00) and so on. Do you recall that discussion at the social function?---No.

Your recollection is that you didn't hear any talk about the incident of 9 November at the social function?---No, that's correct.

And you didn't give any direction not to talk about it?---That's correct.

Did you hear anyone else give a direction not to talk about it?---No.

And the things that I just put to you that Breanna Bonney remembers talking about, and being spoken about when there were a number of people there, including you. You don't remember any of that?---No. I'm not saying that they weren't talking about it, but I didn't hear anything specific to Yuendumu. And if I did, I wouldn't have engaged in it.

Putting aside the word "Yuendumu", what about the discussion concerning edged weapons, use of force, police training?---I don't recall anything, but I'm not saying – once again, I'm not saying that they weren't talking about it. It's just not something that's stuck with me.

A PERSON UNKNOWN: No questions, thanks, your Honour.

THE CORONER: Thank you.

Yes, Mr Freckelton.

MR FRECKELTON: Thank you, your Honour.

THE CORONER: Before we do you, Mr Freckelton.

Mr Suttner, do you have any questions?

MR SUTTNER: Yes, very briefly, your Honour.

THE CORONER: Thank you.

XXN BY MR SUTTNER:

MR SUTTNER: Senior Sergeant, my name's John Suttner. I represent Sergeant Bauwens. Have you been a member of the IRT?---Have I been – no.

But you do know Sergeant Bauwens?---Yes.

How long have you known him?---Twenty years.

And in that time, have you ever heard him use racist language?---No.

Have you ever observed disrespectful behaviour towards Indigenous people by Sergeant Bauwens?---No.

Could you in three sentences, sum up your view of Sergeant Bauwens, as a police officer?---In all my dealings with him, he's always been professional. He is a mentor to junior members. And I wouldn't be able to say anything adverse about his performance at work.

Thank you.

No further questions.

THE CORONER: Thank you.

Yes, Mr Freckelton.

MR FRECKELTON: Thank you, your Honour. Your Honour I raised with you an issue about Mr Bailey earlier, if they'd had constructive communication from the Counsel Assisting team. I raise the issue, not on – in relation to police matters, but in relation to a civilian.

THE CORONER: Sure.

MR FRECKELTON: My understanding is that in fact there's material which is more in the public domain than I had any idea of already, so the issue is – does not need to be addressed.

THE CORONER: Thank you.

XXN BY MR FRECKELTON:

MR FRECKELTON: Senior Sergeant, you've described the supervisory responsibilities that you discharged in relation to the use of force incident involving Mr Bailey?---Yes.

Since the time that you did what you did, has a new system come in to force, in relation to oversight over the use of force?---Yeah. Sorry I'm not - - -

Describe that to her Honour please?---On 9 June 2020, there was a direction that - yeah on 9 June 2020, there was a direction that came out from Commander Laidler(?) in Alice Springs. I'm not totally sure that it was a Territory wide direction, but all use of force is now, after being audited by the sergeant initially, also have to be tasked to the Watch Commander to audit.

And do you view that as a constructive additional layer of oversight?---Yeah, certainly.

And since the time of what you recorded on the use of force documentation, have you changed your own practice - - -?---Yes.

- - - in terms of what you record?---Yes.

Can you tell her Honour about the changes that you've made to you own practice?---The use of force case note where I've written on this case note in relation to my comments, we now put substantially more in there. We also record whose body-worn we've watched in relation to the incident. So, sometimes there might be only one body-worn of an incident, sometimes there might be five. We've got to satisfy ourselves that we've watched the incident holistically and got the best appraisal of it before we commit ourselves to doing the use of force order now.

THE CORONER: And are you doing that as the watch commander now, the second audit?---Yes.

MR ESPIE: And again, do you see that as a constructive thing for a piece of information which is available for anyone else who needs to (inaudible)?---Yeah, well even now with the – after the sergeant audits it and the watch commander audits it, if there's an unwarranted use or something's not right with the use of force, we're still required to task it to the Territory duty superintendent or our divisional superintendent.

THE CORONER: If there's any concern?---Yeah.

Have you ever disagreed with the original assessment?---At times recently, there was one where I disagreed with and requested that the sergeant sent it further up the chain.

MR ESPIE: I'd just like to pass to the gathering which you attended at Zachary Rolfe's house. To summarise, why did you choose to attend when you didn't know Constable Rolfe very well?---In my opinion and through the entirety of my career, sergeants, when I was a constable and myself as a sergeant, have an obligation and a duty of care basically to look after member welfare. So, even though I don't know – or didn't know at the time that patrol group, being absent from there at that time wasn't going to help me, you know, become a part of the patrol group and a supervisor, for want of a better term. It's important, in my opinion, that we do, as supervisors and senior sergeants, as managers, you know, maintain the welfare of our members.

Can you identify other ways in circumstances as complex as this case where there's been a death in custody and where investigations were ongoing by which there could be appropriate ongoing checking of members' welfare in the aftermath of such an incident, other than what took place in (inaudible)?---It's a difficult scenario because there's different ways that members, can I say approach, working in the police force.

A lot of members have the vast majority of their friends within the police force and some like to knock off work and have friends completely separate from the police force. So, it's obviously going to be dependent on the member and how he associates with other members when we're looking at a critical incident debrief and welfare. So, on a patrol group where the members are very close and they're all involved in a critical incident and they all hang around together after work, it's going to pose some difficulties in being able to debrief them and have that welfare of their friends close. Obviously, most police are friends with other people outside of their own patrol group, but certainly where – I mean, the organisation is undertaking a welfare review at the moment and I've spoken with the superintendent in charge of that. I'm just waiting on some further information to come back to see what they've got to see if I can assist or make any suggestions. At the moment, I think they're planning on putting a permanent welfare officer in Alice Springs. We've had welfare officers come in and out, whereas previously, we had a permanent one. I'm not sure where we're at with that at the moment.

I would understand that family members of the deceased man might experience a level of discomfort on hearing through the proceedings of this court that a number of police got together within 48 hours of the death of their loved one and were talking with one another and drinking alcohol?---Certainly.

Did you have any intention of yourself to cause any offence to the family of Kumanjaya Walker by your attendance in this fashion?---No, not at all. As I said, I went there to basically check on the guys' welfare and make sure that nobody was, you know, suffering for want of a better word, from the incident and if they were or appeared to be, then although things were put in place for them already, you know, that was part of my role.

Thank you, your Honour.

THE CORONER: What things were put in place already?---We have ESS. So, anybody who is involved in a critical incident, we have online reporting and they – basically welfare contact the members to see if they're all right and need any further support. We also had, I believe the police association, Brody Anderson, was down here at the time providing support to members.

ESS?---Something Support Services, my apologies.

So, you believed that someone from ESS would be in contact with each of the members?---And/or the association. That would be a part of the investigation would be to ensure that their welfare was being looked after.

MR ESPIE: I'm told it's Employee Support Services.

THE CORONER: Employment. Yes, anything further.

MR ESPIE: Nothing, so.

THE CORONER: Thank you. Acting Senior Sergeant, thank you for coming this afternoon to give your evidence and the information you provided is appreciated?---Thank you.

Nothing further for this afternoon? Then we can adjourn until 9:30. Sorry, Mr Read?

MR READ SC: Your Honour, may I be excused and have leave to reappear, if I'm required.

THE CORONER: Yes.

Yes, Mr Read, thank you.

We'll adjourn until 9:30 on Monday.

ADJOURNED