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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 28 SEPTEMBER 2022

(Continued from 27/09/2022)

Transcribed by:  
EPIQ

THE CORONER: Dr Freckelton.

MR FRECKELTON AO KC: Thank you, your Honour.

JODY NOBBS, on former oath:

XXN BY MR FRECKELTON:

MR FRECKELTON: Various things that were said yesterday, and issues that arose yesterday, that had been previously unanticipated by us, require us to ask of you that the current witness be stood down for the present, while we take instructions from various of our clients, in relation to the ramifications of what we heard yesterday. We do that with great regret, your Honour, because we are conscious of the time pressures, and the need for efficiency in this inquest.

But as a matter of fundamental fairness, we have no option, but to seek that leave from you. And what our hope is, is that other witnesses can proceed after a certain period of time this morning, for us to do what we need to do.

THE CORONER: Yes.

Dr Dwyer, has there been any discussion about how much discussion about how much time might be required, and whether or not Superintendent Nobbs can make himself available on another occasion, and whether or not we have another witness that we can proceed with?

DR DWYER: So your Honour, we do have another witness we can proceed with today. And that is Officer Furness. And Mr Coleridge is taking Officer Furness' evidence. And everybody's ready for that, save for, I think Dr Freckelton needs a period of time to speak with his client and take instructions. My proposal, your Honour, to allow sufficient time, is for us to return to court at – I'm told that parties do not have a lot of evidence to call from Officer Furness.

We could return at either 1:00, and have lunch from 12:00 until 1:00 or 2:00 but, perhaps, in an abundance of caution, to make sure we finish that witness, we return at 1:00, take an early lunch. I think Superintendent Nobbs would be excused in those circumstances, regrettably. But can I say, your Honour, publically, to him, I'm extremely sorry that he has to come back. He's made himself available at all times. He's indicated a willingness to come back again and assist the court, as and when your Honour requires him.

But it is regrettable, because it's – we know that these proceedings are – it's very stressful.

THE CORONER: It's very difficult to complete the matter in the time that's been allocated, and we have to minimise adjournments. But I am mindful of Dr Freckelton's requirement. And that we must proceed in a way that is fair and appropriate. So I will grant the adjournment until - - -

MR BOULTON SC: (Inaudible) just briefly?

THE CORONER: - - - Doctor – Mr Boulton, sorry.

MR BOULTEN: Rather than stand Superintendent Nobbs down completely, I know that Ms Morreau's halfway through her cross-examination, and I know that others, including me, are ready to cross-examine, but I don't think it would do any damage to the police, or any police officer, if your Honour heard our questions of the Superintendent, and then adjourn. Would you consider that please?

THE CORONER: Dr Freckelton? I mean that would assist the other parties.

MR FRECKELTON: Yes. It's one of the most difficult balances, your Honour. And what we say to you assertively, is that those affected by what was said yesterday, how it was said yesterday, and what foreseeably may be said today, are entitled to assertive representation in respect of taking objections and so on. And that's a matter of fundamental fairness for them. And there is a question as to whether they would be being accorded that entitlement during the current period. There's more than a question. There's a major problem in respect of whether they would be in receipt of that entitlement.

And we would be deeply troubled, if any of the members of the Northern Territory Police Force were not adequately and assertively represented, throughout these proceedings, when matters touch upon various members, in very potent ways, given the language that has been employed.

THE CORONER: Ms - - -

MS MORREAU: Your Honour, if I might just be heard? If Dr Freckelton could advise us of either the areas, or the witnesses that he's speaking of, then I might be able to indicate to him that my questioning is not going to trouble those witnesses. That may be a way of moving forward, but I would prefer to be able to finalise the cross-examination that I've commenced.

MR EDWARDSON KC: Your Honour, whilst I'm not privy to precisely what Dr Freckelton is conveying to the court, reading between the lines, it's pretty obvious, I would be loathe for any further examination to occur until that issue's resolved. So, insofar as he'd made that application for this witness to be stood down now, I support that.

MS OZOLINS: Your Honour, can I also say that the association would support deferring any further questioning, if there is an issue which affects other members who may or may not need independent representation.

DR DWYER: Your Honour, I think there's an interesting issue about what procedural fairness requires and whether it in fact only requires that anybody who is to be separately represented puts it to this witness.

But I am in agreement, with great respect, with Mr Edwardson and Dr Freckelton and Ms Ozolins. I think that the safest thing to do is to adjourn at this time, because we want to make sure that the perception of fairness and actual fairness is realised.

MS MORREAU: Your Honour, my understanding of the issues, I very much doubt that my questioning would touch on any of those areas, but I understand the concerns that have been raised. It's unfortunate, because we're ready to proceed and we would prefer to proceed.

THE CORONER: I think everyone's in that position, Ms Morreau, other than the difficulties that have arisen. But in light of the submissions, I'm going to grant the time - - -

MS MORREAU: As your Honour pleases.

THE CORONER: - - - that is required. And the next witness that we will proceed with is Officer Furniss at 1 pm.

MR FRECKELTON: Your Honour, could we suggest 1 o'clock, rather than 2:00?

THE CORONER: I said 1 pm.

MR FRECKELTON: Thank you.

THE CORONER: I just don't want there to be any risk.

MR FRECKELTON: No.

THE CORONER: So, if we finish a little early, we'll appreciate it, but at least we'll make sure we have enough time to finish - - -

MR FRECKELTON: Certainly, your Honour, thank you.

THE CORONER: - - - Officer Furniss.

Superintendent, thank you for, as I said, making yourself available to come back on another occasion. We will obviously continue to communicate with you to make sure that we can try and fit you in at a time that's convenient for you?---Thank you, your Honour.

And I again apologise for the delay. I know that's not a comfortable situation to be in, but we will see you again as soon as we can?---Thank you, your Honour.

WITNESS WITHDREW

THE CORONER: We'll adjourn.

ADJOURNED

## RESUMED

THE CORONER: Yes, Mr Coleridge.

MR COLERIDGE: Thank you - - -

THE CORONER: I'm sorry, Ms Ozolins is on her feet.

MR COLERIDGE: - - - sorry.

MS OZOLINS: Sorry, sorry. Before we commence, I wonder if I might just raise an issue of concern. Given the matters that my learned friend, Dr Freckelton raised this morning, the Association does have some concerns that there are potentially members who will be, or may be unrepresented in these proceedings, who should be represented, given the way the evidence has been adduced to date. I also note that a member, who has been referenced several times throughout the course of the evidence to date, remains unrepresented in proceedings.

And I understand, from talking to the proposed counsel today, that that is a delay in approvals. And it's becoming more apparent, that that officer should be represented in these proceedings. May I raise concerns about continuing to take evidence, in circumstances where those officers, who it seems are now not going to be represented by Dr Freckelton, and the officer who was flagged very early, as seeking independent counsel, are not able to be present and participate in the – in proceedings on behalf of their clients, or potential clients, while further evidence is being taken.

THE CORONER: Ms Ozolins, tomorrow we've set aside for legal argument. And we're not sitting next week. So I'm hoping that all these matters can be resolved in that timeframe. The only other witness that's proposed to – that we're proposing to have evidence from today is, I think it's senior sergeant, is that correct?

THE WITNESS: Senior Sergeant, yes, your Honour.

THE CORONER: Senior Sergeant Furniss. I do not envisage that his evidence is going to be extensive, or likely controversial. And in my view, given the need to progress these matters, I would be minded to take his evidence today. If other issues arise, and parties wish to object to certain parts of his evidence, that can be dealt with, and we can always, if I rule that certain parts were not admissible, I wouldn't take them into account, and the transcript can be redacted, and ultimately, if necessary, we could recall Senior Sergeant Furniss if anyone wanted to conduct any further cross-examination.

But, given the need to press on, I think if there were any issues, that they can be remedied fairly, to ensure that the matter can proceed. Particularly in light of the fact that there's only one other witness proposed, and then several days for these matters to be sorted out.

MR EDWARDSON: Your Honour, can I just put my two bobs worth in if I may in relation to that matter. It was explained what was proposed before lunch, that Dr Freckelton is in a position of conflict. And in my submission, that necessarily arose, or became obvious in extreme, as a result of the cross-examination, or examination, of Superintendent Nobbs yesterday. That is deploying him in connection with the – in express of opinions and the like, about various things of the IRT.

THE CORONER: Well, I would I have thought that was always on the cards that he would be, as the officer – superintendent involved in deploying those members, his views as to what they were deployed for, and whether or not they – and that – or behaved in a manner consistent with that deployment, was always a matter for - - -

MR EDWARDSON: If I could just continue, your Honour, on the - - -

THE CORONER: - - - investigation.

MR EDWARDSON: - - - the question of conflict. The issue of conflict has now arisen regardless. Secondly, the issues that were ventilated, were – none of us were on notice about. Added to that they don't exist in any of the statements. They don't exist in the transcript. At trial, was only (inaudible), and there was no forewarning of it. And so the consequence of that, is that the conflict has arisen, such that members of the IRT team, are now exposed. They're exposed in a way that is obvious and palpable.

As I understand it, Dr Freckelton also represents the next witness. Now whilst it's true what your Honour says, and it certainly to my knowledge, that his evidence should be completely uncontroversial, and really concise, and I doubt I'll have a question for him. But if it is proposed that counsel assisting, whoever might be leading this witness, is going to go down a similar path, as what went on yesterday, then plainly that can't happen.

THE CORONER: It's not – it's not anything about what went on yesterday. The inquest is being conducted in an appropriate manner, to enquire into the issues that clearly are arising, on the material in the brief.

MR EDWARDSON: Your Honour, I've put my position. I simply say, that there is a conflict which has now been identified. As long as that conflict exists, it should be resolved, in my submission, before we go any further. That is the position I put.

MR COLERIDGE: Can I just raise two points, your Honour. As to the notion that there was no forewarning, we are all adults. We are legal professionals. The brief was served. In my respectful submission, it would be apparent to any competent lawyer reading that brief, that the individual who was instrumental in developing the plan, might have opinions about how the plan was executed. He authorised it, your Honour.

The second point is, I have absolutely no intention to do any more than briefly, and when I say briefly, I mean in about 10 or 15 minutes, cover off Senior Sergeant

Furniss' very limited role in relaying information between two other police officers. I'm not sure whether Mr Edwardson was saying that he presses an objection to continuing if that is the limited scope of the evidence.

MR EDWARDSON: No, I'm not.

MR COLERIDGE: In that case, I think that we're all but ready to continue.

MR EDWARDSON: I've had that assurance, I accept it.

THE CORONER: So I've proposed a mechanism to address if people become represented and there are any issues that arise that we don't anticipate at the moment, but if they do arise, for addressing that, either by re-call, or objection. Does anyone wish to say anything about that proposed mechanism to address any concerns, if, in the unlikely event, they might arise?

A PERSON UNKNOWN: No, your Honour.

THE CORONER: Then Ms Ozolins, and Mr Edwardson, I am proposing to proceed with this witness. And if any issues arise, to deal with it in a way that I've indicated.

MS OZOLINS: Thank you, your Honour. Can I just indicate, I'm not instructed by any of those officers. I simply raise the concern to ensure that convenience doesn't overtake fairness being afforded to those who are not represented here.

THE CORONER: A – sorry.

MR COLERIDGE: Your Honour, just one final point, and it's this. If the point that Ms Ozolins' raised, in open court, with the witness sitting in the box, had been conveyed to the counsel assisting team, we might have had a mature conversation about it, and could have allayed any of the concerns that have been relayed in open court, with something like 24 legal representatives standing around the table. So we would just ask that if concerns like this arise, we have conversation without that, rather than duking it out in court.

THE CORONER: Sure. We're – we'll progress, as efficiently as we can, taking into account obviously, the need to be fair and to accord procedural fairness. And I believe that the way that I had suggested that we proceed with this witness, meets both those requirements. And we'll proceed.

MR COLERIDGE: Thank you, your Honour, I call Senior Sergeant Shaun Furniss, your Honour.

SHAUN RODNEY FURNISS, affirmed:

THE CORONER: And I think maybe you were brought forward, so I appreciate you coming at short notice?---Thank you, your Honour, no that's fine.



XN BY MR COLERIDGE:

MR COLERIDGE: Senior Sergeant, could I ask you to repeat your name, rank and station?---Yeah Shaun Rodney Furniss is the middle name. I'm a senior sergeant of police in the Northern Territory. And I'm currently based at the Alice Springs Police Station, in charge as a Senior Sergeant charged with the Southern Desert Division.

And on 30 November 2019, you gave a recorded statutory declaration?---That is correct, yes.

Your Honour, that's at item 7-41.

I want to just quickly ask you about your career as a police officer. I won't do it in great detail, but you became a police officer in around about 1988?---That's correct, your Honour.

And where were you stationed at that time?---From the training college obviously in Darwin, I was deployed straight down to Alice Springs. That was December of 1988.

Okay. And I think you were there until about 1991?---That's correct, your Honour.

And between 1991 and roughly 1999, you served in remote police stations?---That is correct, yes, your Honour.

And they included Hermannsburg?---Correct.

Harts Range?---Harts Range, yes, correct.

And just for the purpose of clarity, Harts Range is a community towards the Queensland border, it's not Haasts Bluff?---That's correct. No, no, Haasts Bluff is on the western side of the Stuart Highway, and on the eastern side of the Stuart Highway was where Harts Range is.

THE CORONER: And is it a different spelling?---It's got a couple of spellings. It's – Harts spelt with a Z on the end of it or an S - H-A-R-T-S R-A-N-G-E, of course.

Thanks?---And Haasts Bluff is different.

THE CORONER: Yes, okay.

MR COLERIDGE: You were then in Ti Tree?---That's correct, sir.

And from 1999, you ended up in Darwin?---Correct.

Where you remained until 2017?---That is correct, yes.

And in 2017, you returned to Alice Springs?---That is correct also.

In November of 2019, you were still a senior sergeant of police. Is that correct?---That is correct, yes.

Where were you stationed at that time?---At that stage, I was – in 2017, I had taken up a position as a watch commander in Alice Springs.

We've heard the expression "watch commander" on a couple of occasions in these proceedings. Can you give her Honour a pretty general idea of the role that a watch commander plays - - -?---Yes, your Honour.

- - - in a police station like Alice?---Yeah, sorry.

THE CORONER: Are they all senior sergeants?---They are. That's the rank level. It's the highest ranking – or non-commission officer on duty 24 hours a day, 7 days a week and there are two watch commanders. One for the northern region, which I previously had undertaken since, I think it was 2013. Then there's one for the southern region which I moved back down to in 2017 and took up that role. So, it's – the highest ranking non-commission officer on duty 24/7 (inaudible).

MR COLERIDGE: And within a police station like Alice Springs, what's the next level of command directly underneath you?---Well, there's sergeants under myself. There's several sergeant positions, as such, to - directly Alice Springs there's the shift supervisor sergeant, and then there's a custody sergeant and then you've also got a sergeant in Tennant Creek, which we also, after hours, also look after Tennant Creek.

The shift supervisor is also known as a patrol sergeant?---That would be correct, yes.

And they effectively supervise, at the most day to day level, a patrol group of constables, senior constables and the like?---The patrol supervisor, that's correct, yes.

Yes. What's the – what level of involvement, if any, does a watch commander have on a day to day basis in the supervision of individual members of a patrol group?---So, it's sort of an overall supervision. You've sort of got the bigger picture, because you're also looking after – you're also directed around the custody area, also the other stations around the place. So, day to day basis, certainly not as high level of supervision of individual officers as what the shift supervisor would be doing.

Okay. I want to come to some specific evidence about 9 November 2019 in a moment. But before I do that, I just want to pick up on something that you noted in your recorded statutory declaration.

This is at page 22, for the record.

You were asked some questions about staffing levels - - -?---Yes.

- - - in November of 2019 and you said words to the effect of that you were struggling to meet staffing requirements on a lot of occasions at around about that time. What did that mean?---It meant meeting demand, basically. You know, putting it very, very generally, meeting demand. I mean, obviously, there's demands on policing services and to meet that, to provide an effective and overall level of service to the community, we need a certain level of policing. And yeah, on occasions, it was becoming difficult to meet that demand. I mean, that's not a general – I suppose it is a generalisation, but just meeting the demand on a day to day basis of what was required of their officers.

And when you talk about “demand”, you're talking about demand - - -?---Well, yeah, from clients. Basically from calls to dispatch to matters, priority levels and getting there in a timely fashion, getting to the right place at the right time.

In your view at that time, was the difficulty recruiting the junior level constables, but was the difficulty elsewhere?---We were a very junior workforce, I suppose, in Alice Springs comparably to where I've worked previously. It's – we were having – I suppose we were getting our fair share of recruits coming out of training, but as for the next levels up where your more experienced constables were sort of probably say not at a level what I'd call ideal in that aspect.

And when you're talking about “next level up”, you're talking about constable first class and up?---Yeah, well look, there were people that had been around in the policing environment for a number of years, so you're first class constables and your senior constables in that aspect, in that area.

Now, you said – you were talking about, I think, a comparison between places you'd worked previously, how did the seniority of the Alice Springs Station in November 2019 – sorry, from about 2017, how did it compare to Darwin when you'd left it?---Certainly, there were a lot more senior people up there. I mean, I've worked around different areas in the Darwin area. Obviously, the last workplace was the watch commander as well. We were sort of separated from a lot of the other stations, but certainly, there were a greater percentage of senior constables and first class constables in the general duties' area than what there were down here, which I found – yeah, when I arrived here, it was very obvious that it was very junior, yes.

And what about compared to your early days in 1988, the three years or so you spent in Alice Springs?---Yeah, if I can go back to that, my memory's very vague. But I certainly know, for at least the first six months, my senior partner was a senior constable, certainly nothing less than a constable first class.

And in November of 2019, would that have been less common for a junior partner in a patrol group to almost always be partnered with a senior constable?---Yes, that was – yeah, that was not a regular thing.

Is it fair to say that in November of 2019, Alice Springs had more or less lost that senior constable level?---I mean there's still certainly senior constables in Alice

Springs, a lot of those were acting in high positions as well.

Yes?---But certainly, it hadn't – it certainly – I mean policing evolved over 30-odd or 25 to 30 years, I suppose, certainly if policing had evolved over there. So, I mean it was noticeable to me when you come back to a place where you've been before and it was the levels yeah, junior-down here compared to what it used to be.

As the junior partner, let's say you're called out to a general duties' issue with a partner, as to the junior member of that partnership, how significant is the senior constable or the senior partner?---Look, certainly with – I mean people that have been policing for a long time have a range of experiences in similar but different situations. Every situation they go to has got its own dynamics, I suppose. So, you can't beat the actual on the job experience. That's the part where you can't really . compare it to learning in a classroom environment to actually being out there. So, people that are involved in the situation before would know – have a better idea of how that situation may evolve; if you do something then that will occur and if you do this, that will occur on probabilities. So, you do get a range of – as a junior partner, you'd get a range of sort of experiences of other situations from your senior partner.

I want to skip forward to 9 November. Before I ask you about specifics, can I just ask you for a very general understanding of what role you understood you to have played in the decision-making surrounding the deployment of the IRT?---On that particular day very - very limited around the decision-making - the decision-making area, I - I- if you want me to - I had a call from the superintendent to ask what an IRT deployment would look like in an administrative sense as opposed to an operational sort of area, it was more the "How would we go getting people in?" And that was - that was the - the basically the question that I answered or assisted with.

And you were managing the roster not just for the purpose of the deployment of the IRT, you were managing it across the Alice Springs police station?---Yes, that's - that's - that's correct. Well, it was on - it was on the weekend so you don't have your normal officer-in-charge of the police station there or your administration staff as well, so my - my - obviously if that was going to happen I would - from my - I wouldn't say selfish, but from - from my aspect is that I wouldn't like to choose - choose people that were due to come on on the next - on the next shift, that - that would obviously mean further replacement of those people on that shift. So that was sort of the parameters of what I - what I saw - saw and that was why sort of boundary as such, I would rather not choose people that were coming on because it would be more - it would be difficult to - to replace them to provide the ongoing operational policing services that were required during that shift.

I am going to ask you some questions about communication. What was said to you, what you said to others, but in terms of actual decision-making, is it your evidence that it was your input was really limited to managing the roster in Alice Springs? ---Well that that was - that was what was posed to me. I wasn't asked to - asked to do anything further than that, it was just- it as just that.

Who told that to you?---Superintendent Nobbs when he - when he had called me originally, yes.

Yes, now did you take any notice of the conversations you had with Superintendent Nobbs and others from about 1:30 pm on 9 November?---No, unfortunately I - I didn't take - take notes as such although I - yes, so as - as it was ongoing, my involvement I thought was - was quite limited and it was just putting people in contact with - well, basically getting - getting a response and getting members in.

Had you been making operational or tactical decisions, would you have taken notes?---Yeah, that's - that's correct. What - what my notetaking was within the watch commander's position I just sort of - I suppose I'll elaborate - elaborate on that a little bit?

Yes?---As - as another incident which took place shortly thereafter, my - a lot of my notetaking in regard to an operational incident as recorded on our ICAD system which is attached to an incident as such, I suppose. This was not being reported through for me to organise it was being - the phone call was for me to - to make contact and - and have people called in, and that's sort of where I took my involvement on that particular - particular thing at that stage, yeah.

I want to ask you some questions about the quality of your memory today but before I ask that question, it might be relevant to it?---Yes sir.

Did anything happen later in the day that affected the extent to which you were involved in the deployment of the IRT?---Yes, yes, there - there was, there was a - well, what you'd call a major - a major incident where a - a tourist bus had collided with another car and rolled over on a remote road, possibly somewhere - I think it was about 120 to 140 kilometres sort of from Alice Springs and communication - we were advised - well police were advised by a 000 call that came from a location due to there's no mobile phone coverage there at all, so that was - that was where my attention was and priorities were - were then drawn, whilst this was still - whilst - yeah, obviously the situation was still going ahead in regard to the callout.

If I put it to you that you received a telephone call from Superintendent Nobbs and then a text message from Pauline Vicery at approximately 2:40 pm in the afternoon, about the bus rollover, would that sound about right?---That would sound about right. I know my conversations with Superintendent Nobbs, I advised him of the - of the bus incident and he had - he said, "Well, look you run with that, you do whatever you need to do with that. At that stage I wasn't - I wasn't 100 per cent aware whose district that actually occurred in as my next sort of thing would be to speak to the divisional superintendent. The way it turned out it was sort of on the border of Alice Springs and the Southern Desert - or Central Desert I think it was called then anyway, so that's it and I've just basically facilitated that to make sure that communication got through so people needed to know, yeah.

When you say "that communication" are you talking about communication regarding the IRT deployment or the bus roll over?---The - the bus, at that stage as well. I mean obviously this was in amongst the couple of phone calls with Superintendent Nobbs in regard to the IRT thing when I've spoken to Sergeant McCormack, so I'm not sure if (inaudible).

Now, I want to ask you these questions now about your memory. In your recorded statement you provide information about a series of telephone calls you had?---Yes.

Over a period of about two hours and one or more conversations that you had with Acting Sergeant Shane McCormack. Would you agree?---Correct, yes, I do - do agree, yes.

What is your ability now to recall specifically what was said during those telephone calls? So those telephone calls and conversations in person?---Yes, my ability to recall that is very limited.

And in terms of being able to distinguish what was said, for example, in the first conversation you had with Nobbs versus what was said while you were present in a room with McCormack and had Nobbs on the speaker phone, would you be able to accurately say what was said when?---No, and I think I even said when I - when I provided my statement I was - I was unsure of certain things even - even at that stage that hadn't - I hadn't retained in my mind.

Okay. Bearing that in mind, I do want to ask you some more specific questions if I can, Senior Sergeant?---Mm mm.

If I put it to you that the first conversation that you had with Superintendent Nobbs occurred at somewhere around 1:30 pm in the afternoon, would that sound about right?---That would be about right, yes.

And do you recall where you were?---At that stage I was sitting in what was the watch commander's office in the Alice Springs Police Station. I remember that because that's where I'd answered the phone from.

And as best you can recall, what did superintendent Nobbs say to you?---He wanted to ask me what the - what it would look like for an IRT recall or callout to go to - to go to Yuendumu.

When you say, "What it would look like"?---As in administratively that's - I think that's what was raised before in regard to what would - what would it look like for rostering purposes (inaudible) there, so.

Did Superintendent Nobbs tell you anything about what - why he was asking?---He did. He did mention why - why he was asking, yes.

And what did he say?---He said that there's been issues at - at Yuendumu, there's the - it looks - there's a possibility - I mean again the sequence of - the actual

chronology of what - what was said was, "Yeah, there looks like a - you know - the health staff may be pulling out of there" and I'm not sure - again, I couldn't remember at the time whether he said that that had occurred or whether it was going to occur and there's been issues - issues in the community and they suspect that there was a person that - that may be - may be involved.

What do you mean by "issues in the community"?---Issues with crime - property crime in the community. That's what it was - it's believed that's - - -

Did you understand there to be a relationship between those issues - property crime and the health decision-making or were they separate?---That's - that's sort of what was - what was raised to me, that's sort of what I - what I took from that conversation.

And you also said, "An individual who might or might not be involved in those issues, who was that?---I seem to think that would be Kumanjayi.

Now, what did you understand the IRT - sorry. Did Superintendent Nobbs tell you anything about what the IRT were to do once they were in Yuendumu?---It was assisting the - assisting the members out there.

Okay . And what were they to assist them to do?---From - to - to assist them with - with policing out there and to assist in the arrest of Kumanjayi

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Okay. In your recorded statement at page 3 you say that, "During the conversation Nobbs told me the story in regard to the apprehension of Walker. Can you recall what that story was?---No, no, I can't - I suppose sir do you want - do you want - - -

And - - -?---But would that - would the story - story on dogs stand off - - -

Please don't guess?---No, I'm not - - -

- - - if you're not sure - - - ?---I'm not - I'm not going - I'm not going to - to guess the story. Maybe you might be able to enlighten me a little bit further in regard to that.

I was asking the question because I was genuinely interested, so - - - ?---Yeah.

- - - yes?---(Inaudible).

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

in the community, but the community's generally – generally calm – calmer at that stage. So you've got a better – better possibility of effecting an arrest safely.

Now over the next hours, you had a series of conversations with Acting Shane McCormack, is that correct?---Acting Sergeant Shane McCormack, yes.

I apologise, Acting Sergeant. And where was he located physically?---Look on that – on that particular day, he was in the office next door to me. It was in the ground floor of the police station.

And you had a conversation with him more or less as soon as you got off the phone with Superintendent Nobbs, is that correct?---Yeah, that is correct, yes, yeah.

You – in fact, you walked into Acting Sergeant McCormack's office?---Correct.

Could you remember specifically what was said then?---Specifically, no I can't – I can't.

Okay?---Specifically.

What did you understand Acting Sergeant Shane McCormack's role to be in the deployment of the IRT?---Well generally I'd go to who was in charge of that area, and originally I wasn't sure, but I knew Mr McCormack – so Acting Sergeant McCormack was – was involved with the IRT. So that's – that's my initial thing is to work out. Because I knew the – the regular Sergeant, Lee Bauwens was away. I'm not sure he was on – he was on recreation leave at that particular point in time. So in regard to the recall of any of the IRT members, I generally would go through the sergeant who's in charge of that – of that area. And that's what – the question – first question I posed to – to Acting Sergeant McCormack was – was who's in charge of the IRT presently. And he responded – I remember him responding to me, saying, yeah I am.

So if – to go back to the language you used a little bit earlier, your input was effectively administrative. Was Sergeant McCormack – Acting Sergeant McCormack making the (inaudible) or tactical decisions?---Yeah well that's – so I put it towards – towards him to organise people to – people to come up. I was totally unaware of what their – what their training is, and who'd they put together. That was sort of thing. My only requirement on top of that was just to say that I didn't want to particularly choose people that had – that had actually – were coming on in the next shift. Because I mean obviously the IRT is a – what we term as a – a part-time sort of area, or voluntary sort of situation where – where people were trained in certain areas. And they could deploy it at short notice.

You set out the sequence of these conversations between Superintendent Nobbs and Acting Sergeant McCormack in your recorded statement. I'm not going to ask you much, if anything further, about them?---Okay.



I do want to ask you a question about one of the phone calls you had. Which is a telephone call you said you had with Superintendent Nobbs on speaker phone?---Yep, yeah correct. That was – that was - - -

Who - - - ?---That was with Acting Sergeant McCormack in the office as well.

Okay?---And that was just basically to make sure that everyone was – was on the same page as such I'm not trying to information through that – that could have been misconstrued, or wasn't exactly the intentions of what Superintendent Nobbs wanted.

Can you remember specifically what was said during that conversation while he was on speaker phone?---Specifically no, I - yeah.

Okay?---Can't remember – can't recall, sorry, your Honour.

Are you aware of whether there was any independent direct contact between Acting Shane – sorry, Acting Sergeant Shane McCormack, and Superintendent Nobbs, in those hours, between 1.30 and about 2.40?---I couldn't say that with any certainty at all. I mean my – I was – yeah, I was obviously had a number of things happen, which is generally is in that role of – the Watch commander's role that – that do happen. And obviously later on that – or that afternoon, there was a lot of – there's a lot of things on my mind, and a lot of things that I was doing.

My final question for you, or topic for you, concerns some of the emails that you've annexed to your recorded statement?---Yes.

You know what I'm talking about? Emails from Shane McCormack?---Yes, yep, yep.

At around about 4.30 in the afternoon?---Yes.

What was your understanding of why you were receiving those emails?---Well I was on – on the – with – with Acting Sergeant McCormack I was – I'd spoken to him earlier, so obviously as a Watch commander, he'd send them – send it through to me. He'd also sent them to the oncoming Watch commander, and a number of other people. I forwarded one on. There was – which I haven't really sort of gone into to. There's another – another level above myself in the – in the sort of operational sort of sense. Which was at the time with Territory Duty Officer, and that was at the time, Superintendent Janice Burns, who I had been conversing with in regard to the bus incident. And also – and also this. So I've forwarded any other emails to her as – as well, knowing that she would be in the office.

So for example, you might not recall, but if I put it to you that annexure C of your recorded statement, there's an email forwarded from your email at 6.39 pm – sorry, 4.39 pm - - - ?---Yep, yep.

- - - to Divisional Superintendent, or Divisional – sorry Territory Duty Officer?---Sorry so there – it was termed Territory Duty Officer at this – at that time. It's now called Territory Duties Superintendent, which is similar – similar roles, just.

So that email forwarded at 4.39. The original email being an email at 4.24 pm from Acting Sergeant McCormack. That's – that's the kind of thing you're talking about?---Yeah, that – that would be correct. In that instance, I had forwarded – forwarded it through there - - -

Did you - - - ?---Sorry.

- - - provide, apart from that administrative input, did you provide any input of a tactical or operational nature, on any of these emails that were sent to you?---No, no I'm almost certain that there was no – there was no other information on there. It was a matter of making sure that everyone that needed to, to be aware of things, were aware of things.

Thank you.

No further questions, your Honour.

MS OZOLINS: No questions, your Honour.

THE CORONER: Any questions?

MR BOULTEN: I have just a couple.

THE CORONER: Yes, Mr Boulten.

XXN BY MR BOULTEN:

MR BOULTEN: Well I'm counsel for NAAJA?---Okay.

Just to clarify, when you were involved on this day concerning rostering members who happened to be members of the IRT, did you identify to Mr McCormack the need to get members of the IRT, or did it just so happen that the people who were contacted were members of the IRT?---Okay, interesting, as it was an IRT, from what I understand that wanted the – wanted the IRT thing which was – which falls under Sergeant – Acting Sergeant McCormack I suppose to contact the people. So at that stage, it wasn't anyone. It was – it was targeted as obviously the members of the IRT. And if I had to use, obviously the members that were coming on, I would – there would have been further phone calls to attempt to try and find other – other people to – to fill their spaces, so.

But Mr McCormack was only going to contact IRT people, right?---That's what the – that's what the – at that stage, that's what the call was made. And I'm sure that – I'm not – I mean, again, I can't speculate anything, but I'm sure if they come – come

short there, that there was – there may have been other – other conversations in regard to whether it was going to happen or not.

But certainly, so far as your conversations with Nobbs go, you'd understood that he wanted IRT members?---That – that is correct, that's correct, yeah.

Had you deployed the IRT before?---Myself personally?

You?---No. No, your Honour, I hadn't.

How common was it that – to deploy IRT to communities outside of Alice Springs?---That's a question that I couldn't answer with any certainty. But certainly in my – from my – in my role that I was – I'd been there, I – I hadn't, but I know that deployments have been made. But certainly from – not from myself, from my role, organising the initial – the initial call. Does that assist?

Yes, it does. Was there a designated leader of the IRT as at 9 November when you made your calls?---That was probably raised in regard to – no. There was – I went and spoke to Acting Sergeant McCormack and asked who was in charge of that area.

So, there was no record in the police station of how you go about engaging the IRT?---Well, generally, from my understanding that if an IRT recall was required, then it would be the person that, you know, that was generally in charge of that area, that it would be the OIC of the station, divisional superintendent would have oversight over that. But I mean, generally it was known that Sergeant Bauwens was the sergeant who organised the IRT.

That was a known truth as opposed to - - -?---As opposed to - - -

- - - a policy or a protocol. Is that right?---There was not specific written around the place to say that that was the person to go to.

And certainly, given he was away, it wasn't exactly clear who you should go to?---It wasn't clear to me, no.

No?---No, your Honour.

Lucky Mr McCormack was on duty then?---Well, if that wasn't the case, we would have – I would have looked into it a little bit further to see where I had to go. So, I can't answer that with any more certainty.

Well, we all know that the IRT was deployed, well members of the IRT were deployed, and we know a lot now about what happened in Yuendumu over the next 48 hours, but two your knowledge, was there any debriefing of the IRT after this particular incident?---Not to my knowledge, no, no.

You might not know, given you've never deployed them before, but to your

knowledge, was it normal to have a debriefing of the IRT members after a deployment?---Generally, if you're going into a situation, I mean, you finish your operation and then you do a debriefing in regard to the IRT on a regular basis. I'm – yeah, I wasn't involved in it enough and I'd only sort of seen it from a distance, as such, I suppose, your Honour.

So, as a change of command or line of command, were you in the line of command over the members of the IRT when they were deployed?---I'm just thinking of the situation. I mean obviously, the overall operations of the initial attendance at a major incident and initial things, when it got to the deployment of the IRT, generally at a different – if it was a planned operation, generally the watch commander wouldn't be overly involved in it, apart from the operational oversight, I suppose, of anything.

It sounds like you were involved in the administrative arrangements, but not the oversight. Do you agree with that?---In certain circumstances, because it's – like if they were deployed, they generally have their own – the structure that they operate under. As a watch commander, you've got the – you're doing the overall operations of every – not specifically on one particular incident unless it had occurred and you were working it up and organising things. Generally at that stage, you'd be sort of handing it over to the division.

So, I just want to check, are you talking about incidents that occurred in the Alice Springs trial or are you differentiating between Alice Springs on the one hand, and say Yuendumu or another community in the Southern Desert Region on the other, or was there a difference?---At that particular time, because I mean obviously, over time things, you know, shift and change a little bit in regard to structures. But initial attendance, initial dealing with an incident wherever it would be would generally come, at that particular point in time, would come initially to the watch commander to look at if it was reported via there, if it was reported via our communications, via 000, just the initial attendance. Does that assist at all?

Yes, but I'm talking about who's in control, who takes responsibility. Is it the watch commander's job to be responsible for the IRT in 2019, I'm talking about?---No. So, there wasn't – depending on - again, depending on deployments and aspects of what's occurring, if they've been - - -

What about the patrol sergeant should supervise them. Was it their job to be in control of the IRT?---No, no.

So, who's in control of the IRT?---They come under their own structure, under the officer in charge of the police station.

What about Superintendent Nobbs who calls the deployment in one way or another, was it his job to be in control of the IRT, do you think?---Well, in an overall sense, that falls – the divisional superintendent who requested that would be responsible, yes. The deployment of the IRT was authorised by – obviously by the superintendent and the plans, but the IRT has it – had a sergeant there.

Mr Bauwens?---Well, he was on leave at that time.

Well, Mr McCormack - - -?---Mr McCormack.

- - - was a sergeant?---Correct.

He was never going to be involved in the actual operation, was he?---I can't – I mean I went to him to organise staff and that was sort of where we left it. He was in charge of that – in that team, as far as I would be aware.

Certainly, by the time you asked Mr McCormack to do he could to gather members for the task, you had basically fulfilled your role. Is that right?---At that stage. I mean I'm a finite resource as well and I've had, obviously, something that was a critical incident was happening at the time, certainly maintain my focus for the rest of the – rest of my shift. There was another - the evening shift watch commander that actually commenced duty at 3 pm. So, there was, at that stage, I was dealing with that other incident. Does that sort of assist?

Certainly?---Okay, thanks.

I think we've got your evidence quite clear in that regard. Just one other thing. When Mr Nobbs spoke to you and told you why he was after assistance, you were told that there had been a health staff pull out, there were issues with crime in the community and that a particular individual, who you now identified as Kumanjayi, was considered to be someone who might be involved in that, were you also not told that there was the need to arrest him at some stage?---Yeah, I think that's – is that in what I've – what is there, I think.

In your statement - - -?---Statement, yes.

- - - you did. You said that you took that understanding that the trigger for authorising the response was an attempt to arrest this chap, Kumanjayi. That's - - -?---Yes, I mean it's generally – general policing assistance to the members out there, that's correct.

Yes?---Yes, your Honour.

That's all I wish to ask. Thank you, your Honour.

MS MORREAU: Thank you, your Honour. I just have - - -

THE CORONER: Ms Boe (sic)?

MS MORREAU: - - - a few questions, Senior Sergeant.

XXN BY MORREAU:

MS BOE: I act for the Walker, Lane and Robertson families?---Okay.

I just have some questions in relation to some matters that you raised in your statement. I believe – it's about page 56 where you were asked some questions about the deployment of the IRT. And one of the matters that you raised was that on the Saturday, it was that the funeral was for a member of the Walker family. So, there was information that Superintendent Nobbs maybe provided to you about a funeral?---He said there was a funeral in the community.

Yes?---That was also there. Again, for me to regurgitate all that, unfortunately, sorry, my memory's not that good. My statement is probably the best of knowledge at the moment, because I know over time, your Honour, over time there has been so much information that sometimes, yeah, my memories of certain things aren't as clear as they possibly should be.

Okay, so is – it's more that you remember that there was a funeral, but not necessary the particulars, that it was the Walker family funeral. Is that what your memory was?---I – I do – there was a funeral in the community at the time. Yeah, though I certainly – certainly know that. And obviously – obviously for that, that the Walker obviously – the Walker family were involved with that.

And knowing that, that it was Kumanjaya's family's funeral? Had you made that connection when that information was given to you?---Question's that I – I wouldn't have – I would have said it would have been a family member, but (inaudible) extended family, I'm not – I'm not sure who – I still wouldn't know who the – who the funeral was – was for, as such. But I obviously – a community member that was related to Kumanjaya.

Yes, okay, thanks. Well really the only question I have then is, did Nobbs – did Superintendent Nobbs provide you any details about the plan to arrest Kumanjaya after this funeral?---That was over the telephone are you talking – the – when he spoke to me over the telephone? There was – there was – I do recall, because it sits in my mind as something that I would have – I would have considered was the – was the early morning arrest, I think as I've told your Honour before. Recently that there – the early morning arrest is probably the – over time has proven to be the safest – the safest way to arrest a – a person, is early – early in the morning, when the community is generally – generally quiet.

So is that – did Superintendent Nobbs specifically say to you "It's going to be after the funeral", or did you just make the connections that the funeral was on the Saturday, and the plan was to arrest on the Sunday?---No, no, the – I'm sure the early – early morning was – was raised with me at the time, because I was comfortable in the fact that it was going to occur – anything was going to occur the next – the next day, as opposed to during that evening.

Thank you, those are my questions.

THE CORONER: Any other questions? No.

MR EDWARDSON(?): No questions, thank you, your Honour.

MR COLERIDGE: I've got one question in reply, your Honour.

THE CORONER: Certainly.

REXN BY MR COLERIDGE:

MR COLERIDGE: Your last answer was you were comfortable in the fact that the arrest was going to occur the next morning?---The next morning. Comfortable in the fact that that is in my knowledge that it was planned for early – early the next morning. I'm comfortable in the knowledge that my - - -

You feel relatively certain of your memory?---Of my memory, on that aspect of it, because I feel comfortable that it was going to occur the next morning. It was – it was to get the people out there to get them up to speed to go the next morning, as opposed to they're going to go out there now and going – going to do things. That was – that was sort of where – well I'm comfortable in my recollection of that particular point.

Okay, I think that's clarified it.

Nothing else, your Honour.

THE CORONER: Again, Senior Sergeant, thank you for making yourself available at short notice and coming in and giving your evidence today. That's appreciated?---That's fine, your Honour, thank you very much.

WITNESS WITHDREW

THE CORONER: I think that completes our evidence for today. And we will adjourn until 9.30 tomorrow.

ADJOURNED