

STATUTORY DECLARATION

I, Derek Japangardi Williams of House [REDACTED] of Yuendumu solemnly and sincerely declare as follows:

Background

1. My name is Derek Williams. I am a Walpiri man, and my skin name is Japangardi. I was born on 10 June 1984 and have lived for most of my life in House [REDACTED] in the Northern Territory community of Yuendumu. I speak English and Warlpiri and 8 other indigenous languages.
2. My mother is Alice Nelson, and my father is Warren Williams. My mother's sister was Kumanjayi's grandmother, making him my nephew. I saw Kumanjayi grow up and knew him for most of his life.
3. Yuendumu is my home. I am related to a lot of people here, and there are a lot of people who I have grown up with. I know all of the Elders and a lot of the young fellas. I have good relationships with people. I understand and live the Walpiri culture, and have a deep understanding of the Yuendumu community.
4. I attended Primary School in Yuendumu. In 1995 when I was 11, I left Yuendumu and moved to Darwin where I attended Kormilda College as a boarder. I lived there on campus and would only come back to Yuendumu during the holidays. I had had enough after 5 years and left midway through year 11 in 2000.
5. After leaving school I worked in a number of jobs including working underground on the mines, and truck driving. When I was 17 or 18 years old I spent some time in Papunya working as a teacher's aide. I met my wife there and after our daughter was born, I moved back to Yuendumu with her. I then worked for the CDEP (Community Development Employment Projects) for a time, doing things like tree planning, truck driving and installing irrigation systems.

Senior Aboriginal Community Police Officer

6. My uncle Roy Curtis Walker was a police officer with the Northern Territory Police. I saw him working while I was growing up, and when I was 18 or 19 he suggested that I join the police force. I was interested, but wanted more experience with my culture first so that the Elders would respect me as a "law man". I felt that if I was too young the Elders would not respect me. When I was 21 or 22 I was ready for something new, so decided to give it a go. By then I felt I was both educated on the Kardiya side, and respected in the community.
7. In 2006 I spent 3 months training to become an Aboriginal Community Police Officer (ACPO) in Alice Springs with other ACPO recruits. The training was done by Senior Sergeants Steve Wall and Christopher Milne. This is a specific program which is separate from the training course to become a police constable. Once I finished, I started working in communities and over the past 16 years I have worked in Alice Springs, Darwin, Papunya, Kintore, Haasts Bluff, Lajamanu, Hermannsburg and Willowra. But for most of the time I have worked in Yuendumu.

8. After becoming an ACPO I initially had limited powers, and for example could not carry out arrests. I continued my training (on the job) and in 2010 I became a First Class ACPO, with all of the powers of a police officer. All my training has been 'on the job' other than the annual 'defensive tactics' 3 day training which I do in Alice Springs. I also do computer training every year in Alice Springs.
9. When I did my ACPO training, we were not taught to handle firearms. That has now changed and all ACPO recruits do firearms training. However, I have decided not to do the training because I believe there is no need to carry a lethal weapon in my community. My words are a much more powerful weapon to get people to do the right thing.
10. In all the years I have been working as a ACPO I have never carried a firearm. I have also never used the taser or capsicum spray. I understand that there are about 30-40 privately owned firearms in the community that are used for hunting but are otherwise stored in gun safes. In all of my time as a police officer, I have never been confronted by anyone with a firearm or edged weapon when I am on duty. I have also never been aware of anyone in Yuendumu seriously physically assaulting a police officer. I just don't think police need guns in communities.
11. In about 2013 I became the Senior Aboriginal Community Police Officer in Yuendumu, and have held this position since. I still refer to myself and am referred to by others as an "ACPO" but I have the same powers as non-ACPO police officers. During this time I have been the only ACPO working in Yuendumu and the surrounding communities of Mt Allan, Willowra, Papunya, Kintore and Nyirripi.
12. A big part of my job as an ACPO is to get the young people in the community to stay in community and stay out of trouble. I do things like running a footy competition and getting the kids into music. I am a musician and can play lots of instruments that I teach the kids. I do a lot of work to keep the young fellas busy instead of going into town.
13. I act as a liaison between the Elders and the police. If I am to arrest someone in the community I speak to the Elders first then the family before conducting the arrest. Also, if there is Mens business, such as initiation and someone needs to attend the ceremony but also has a warrant, I will speak to the Elders and the police about how to handle it, and might make arrangements for him to come in once ceremony is finished. If it is arranged that way, the man will always hand himself. This has happened lots of times.
14. I also do a lot of work in resolving disputes between community members, and if people have issues they want police to get involved in, they will often speak to me first. Sometimes I can deal with the issues myself, and sometimes I need to get the Sergeant or other police involved.
15. In the community we do policing very differently to how they do it in the town – in terms of both practicalities and mindset. We do things slowly and respectfully. Community police are focussed on building relationships with the community by engaging with people in a positive way. In my experience, communication and talking to the right people is the way to get things done.
16. In community, we usually respond to jobs without getting geared up but instead just go and talk to the relevant person or people. In town, police are more likely to tackle a person or knock them down when they are going to investigate rather than simply talking to them. We are normally not hands-on when arresting people. We have great respect for people. We take it day by day and

provide people with the opportunity to come into the station voluntarily. The police I have worked with in remote communities have been good for the most part. They speak to Yapa in a calm and patient manner.

17. I have mentored police officers who are new to Yuendumu by teaching them cultural awareness and taking them to meet members of the community. This has included both higher-ranking officers and junior officers. I have taught the new officers how to deal with members of the community in a peaceful way. Felix Alefaio is one of the officers I mentored. He came with me on duty for 3-4 months to learn community policing. He was a fast learner and took on board my suggestions. Felix has since gained great respect in the community for his ability to manage situations without using force.
18. When the police need help to find someone, bring someone in or arrest someone in the community, I am often asked to help. Depending on the situation, I might be able to go and find the person, or sometimes I speak to family and Elders in order to get them to come in by themselves or with family. In Yuendumu, I am well-known. I can just walk up to a house without a gun, and sometimes (if off duty) not in my uniform and speak to people. The community is not frightened of me because they know that I will only use my voice.
19. There have been lots of times when local or other Indigenous people needed to be arrested in Yuendumu, and I have arranged for them to voluntarily come down to the police station – by either walking them to the station without force or getting them to sit in my police vehicle with me and I take them to the station. I do it this way to show the person respect and make them feel comfortable. Often people feel confined in the cage of the police car which causes distress. This is especially the case for young fellas. Just because someone has done the wrong thing, does not mean they don't deserve respect.
20. I think the fact that I have never been assaulted on duty in the community shows that my way of doing things works very well. The children at school look up to community police who treat their families with respect which also creates a better environment. They say in the playground, "I want to be a policeman like my uncle or father." It makes me feel good knowing that the community does not see me and other community police as outsiders.
21. It is difficult to predict whether police from outside our community will be hands-on or heavy handed or will treat us with respect. This uncertainty can create problems between police and the community, because as a result of this uncertainty, people feel wary and don't trust the police.

Kumanjayi Walker

22. I estimate that over the years I arrested Kumanjayi 4 or 5 times. There was never a time when he caused me any problems. I would just pull up and tell him to get in the car. I never felt the need to put him inside the cage. He would jump in the front seat and I would take him down to the station. I would then put him in the watch house and deal with all the paper work regarding his arrest before handing him over to the Alice Springs police. He had his problems, but I never had any concerns that he would be difficult with me when I was required to arrest him.
23. At the time of Kumanjayi's death, the police working in the Yuendumu station were Sergeant Julie Frost, and Constables Felix Alefaio, Lanyon Smith and Chris Hand. Given I was the only ACPO,

when I was not at work, there would be no ACPO on duty. However, even when not on duty, I would be kept updated about some important matters by text message and could come back on duty if it was necessary. This meant that in practice I often ended up working days or part days on my rostered days off.

24. In the lead up to the shooting, I knew that Kumanjaya had been in jail, and that he was spending time in CAAAPU. Sometime in late October / early November 2019, I found out from other police that he had run away from CAAAPU. I remember seeing social media posts that looked like he was in Alice Springs at the time.
25. On Wednesday, 6 November 2019 [date of "axe incident"], I did not know that Kumanjaya was in Yuendumu. I was on a rostered day off when that incident happened, and the first I heard about it was the next morning when I was on duty and Lanyon Smith showed me the body worn video that was recorded by S/C Hand or S/C Smith of the incident. I was surprised when I saw the video as in all the time I had known Kumanjaya, I have never seen or heard of him doing anything like this.
26. I cannot recall what Lanyon Smith said to me about the incident, but I know that he had been working in Yuendumu for a number of years (I think about 2-3 years) by the time of the incident and during that time had dealt with Kumanjaya a number of times without any issues and so do not think he would have been expecting any trouble when he and Constable Hand went to arrest Kumanjaya. I can't say why Kumanjaya acted in the way he did, but I do know now that he had come to Yuendumu to attend his grandfather's funeral, and that it was really important for him to be there. This is the only reason I can think of that could have caused him to act more aggressively, than usual - to evade arrest.
27. I started back at work on the morning of Thursday 7 November 2019. I do not specifically recall my conversation with Sergeant Julie Frost but I remember her being really upset about the axe incident. I told her about the funeral and then Sergeant Frost and I went to see Eddie and Lottie Robertson and Rickisha Robertson (Kumanjaya's partner) to talk about Kumanjaya handing himself in. I don't know exactly what was said because I received a call from my wife while Julie Frost was speaking, but I understand that it was agreed with Lottie and Eddie that police would wait until after the funeral, and then Kumanjaya would hand himself in. This was an important funeral for Kumanjaya as it was to bury his grandfather. At this stage the funeral was going to be happening on Friday 8 November 2019. Sergeant Frost said that Kumanjaya could have that time but that he had to come in after the funeral. I did not believe that there was any urgency to arrest Kumanjaya because I did not think he was a danger to the Community. I also thought that he would be more cooperative once he had been able to bury his grandfather.
28. I worked on Friday 8 November 2022, and at some point during the day I went to the basketball court and met with Margaret and Jean Brown. The point of this was to tell them that Kumanjaya would be left alone until after the funeral, but that after the funeral he had to turn himself in. Jean and Margaret are elders of the Brown family, and I believed they would pass this on to Kumanjaya, so I did not think it necessary to find him myself to tell him about the arrangement. I think Constable Alefaio was with me when I spoke to Margaret and Jean Brown, but it's been so long that I am not sure.

29. On Saturday 9 November 2019 I had a day off work to attend the same funeral that Kumanjaya was going to. I cannot recall exactly when, but sometime before the funeral I recall getting a text message from Sergeant Frost. While I don't recall the content now, I have been shown a copy of the text message, which reads *"Hey Derek, getting IRT out here tonight, can u give me a quick buzz at some stage before or after the funeral so I can put a plan in action?"*. At that time, I did not know what the IRT was. I had not heard of them before.
30. Following the text I spoke to Julie Frost on the phone, but do not recall whether I called her or she called me. I recall that during that phone conversation, Julie said that if Kumanjaya didn't hand himself in after the funeral, there would be a raid in the early hours of Sunday morning and that she had arranged for some officers from Alice Springs to come to Yuendumu to assist. I thought she was getting help from other police officers so that if Kumanjaya ran away, they could help grab him. I didn't know she was bringing in people who were going to be all kitted up with heavy stuff. She also said that she had requested police dogs to be brought out from Alice Springs. Using dogs in an arrest of someone who had tried to run before is normal police practice.
31. It seemed to me that there were two plans in place to arrest Kumanjaya. One that Sergeant Frost communicated to Eddie and Lottie where he would hand himself in after the funeral, and another, where he would be arrested by early morning raid if he didn't hand himself in. If I had known who the IRT were, including that they carry heavy weapons, I would have told Sergeant Frost that we should not involve them with the arrest of Kumanjaya.
32. The initial funeral ceremony took place at the basketball court, and I recall seeing Kumanjaya there. This was the first time I had seen him back in the community since leaving CAAAPU. We all then went to the cemetery to bury my uncle but I don't recall seeing Kumanjaya there.
33. At some point I heard someone say that the medical staff had left the community during the day. People in the community were very angry and worried about this as there are a lot of families who rely on the medical clinic and they had left without notifying anyone. In the entire time I have lived in Yuendumu I have never experienced medical staff leaving like this. We cannot be left in a position where we do not have access to medical help when it is needed. There should have been someone there. My family wants answers from the Health Department about this.
34. As it was starting to get dark, most people had left the cemetery and there were just a few of us men left. A young fella called Anthony Haines came racing over to us in his car, and yelled out that Kumanjaya had been shot. I thought he must have meant that he had been tasered.
35. My father, Warren Williams, and I jumped in my car and drove over to Margaret Brown's house near the footy oval. I could see that there were a lot of people standing around, very upset and crying. I remember seeing Eddie and Lottie Robertson, Steven Marshall and Paul Marshall. There were others there but I can't remember who they were.
36. As I walked toward the house, I could see there were marks in the dirt that looked like someone's feet had been dragged along the ground and away from the house. They stopped, which is where I assume that Kumanjaya was placed in the police vehicle.
37. I could see that the front of house was lit up by a light on the veranda. The door was open, but I did not go in. I looked through the door and could see blood on a mattress and two bullet casings.

Thinking about my training, I turned the lock on the inside of the door handle and pulled the door closed so that no one could go inside. I then told people not to go in and got back in the car with my father. Many people at the house said that they were going to the police station.

Police Station – 9 Nov 2019

38. My father and I drove to the police station, where there were already quite a few people standing around outside and upset. I used my key to enter the station. The lights were on, and when I entered the muster room there were people running all over the place. Sergeant Frost said that people were working on Kumanjayi, and I saw three people doing CPR on him. His body was lying on the floor in one of the cells in a pool of blood. The police station is not the place where a critically injured person should have been taken.
39. Sergeant Frost seemed upset and anxious and said that she couldn't talk to me at that time. She asked me if I wanted to come back on duty to which I said 'no', but that I would stick around and deal with the community members who were outside the station. If I had gone on duty I also would have had to go home and get changed, and I wanted to stay around to make sure that the people out the front were safe and things didn't get out of control. I told her to handle the stuff inside the station, and that I would handle the stuff happening outside. She told me that an ambulance was on its way from Mount Allan, which I know to be approximately a 45 minute drive away.
40. I exited the police station and went back out the front and spoke to people. I told them that they needed to wait for answers, and that we wanted everybody to stay calm and not cause trouble because we wanted everyone to be safe. I said they needed to let the police deal with it and in the meantime, it was important not to cause any trouble. While this was happening, Felix Alefaio gave me some updates through the door to the station. But as people started to get angrier outside, including some who were saying that they wanted to go inside and get the officer who shot Kumanjayi, I told Felix to close the door and lock it from the inside. An Elder, ██████ Nelson who has since passed away, was also there and was working with my father Warren Williams and me to keep everyone calm.
41. That night was really difficult for me as an ACPO as it required me to walk in both worlds. I have police law that I must uphold and my own cultural and family beliefs and relationships, so it was really very hard for me but that night I just wanted everybody to be safe.
42. I know how the light system works in the station, and even if you don't manually turn the lights on, they are motion activated. I don't recall at any stage it looking like the lights in the station had been turned off. I also never heard anything that sounded like a gunshot.
43. I sat on a bench out the front of the police station talking to people and working on keeping them calm for a few hours. I did not ask about how Kumanjayi was during this time as I was concentrating on keeping everyone calm - I left my nephew in the hands of the police in the station. In that whole time, no one told me that Kumanjayi had passed away, something I only found out at about 4.00 am the next morning when I was told by some TRG officers.

44. This was very distressing for me to hear as I believe the family should have been told as soon as it happened. I should also have been told as the ACPO as I was talking with all of the family and they were trusting me to know what was happening and to tell them the truth. This delay and not knowing that Kumanjaya had passed and passed without his family around caused all of us a lot of distress. When someone dies it is important that family is there so that the person can see them and knows that their family was around them when they passed.
45. At some point late at night, I think close to midnight, an ambulance arrived at the police station. I went to the ambulance's front passenger door and I told them to go around the back of the police station. I thought they were there to treat Kumanjaya and still did not know he had passed. From what I remember people were not being angry with the ambulance at that time. We thought that they were there to help.
46. Sometime after midnight I got a call from Sergeant Frost and she said that the police were going to have to leave Yuendumu because things were getting out of hand. A little while later, I saw a police car racing out of the station, followed by the ambulance and another police car, all going in the direction of the airfield. Before this happened, I had noticed a plane circling around. It was really quiet and looked like it had its lights off.
47. After the cars left, people started to follow them to the airfield. At the airstrip, there was an officer at the gate telling people not to come in. The people got out of their vehicles and just waited on the bitumen for the cars to come back.
48. I followed everyone out to the airstrip and parked the car but probably only stayed for 5 minutes as my daughter was really tired and wanted to go to bed, so we left and went home.
49. At about 4am there was a knock on my door and the TRG were there and told me that Kumanjaya had passed away. They wanted me to come down to the station and identify the body. I said I didn't want to do that. In our culture, we are not allowed to see the body of our son or nephew. This job of identifying the body belongs to cousins, brothers or sisters or grandparents.
50. Everyone in the community is still in mourning following the death of Kumanjaya. It is incredibly difficult for us to process his loss when so many questions remain unanswered.

Thoughts on what went wrong and what could change

51. Since the shooting, I have done a lot of thinking about how things could be done differently, and I set out below some of my thoughts and suggestions.

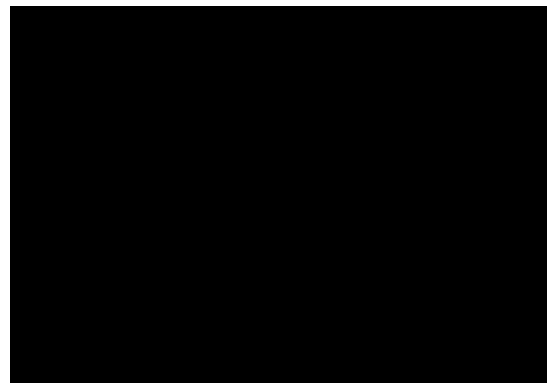
Policing

52. I think that whenever there is an arrest planned for a serious offence, there should be an ACPO on duty and involved. If one is not available a senior Elder should be asked to help liaise. This is important because it means that culturally appropriate communication can be the first tactical response.
53. If there is a plan to arrest someone, and that plan changes, communicating this to the ACPO/Elder should be a priority.

54. I think that the formal training police officers get does not equip them for remote community policing. Recruits complete six months of training in Darwin and only about one day of cultural training. Because the police training happens in Darwin, their cultural training happens in Top End communities, which are totally different to Central Australian communities.
55. Community awareness and cultural sensitivity training for new recruits needs to take into account that all communities are different. It is not enough to spend a day in an indigenous community in a completely different part of the Territory and think that is enough.
56. When new police officers come to Yuendumu, they learn about the community on the job. I think that there should be a meaningful cultural awareness induction with the involvement of Warlpiri community groups. New police officers should get a full orientation about the community and culture before they start work. I am happy to be involved in planning what this could look like.
57. Another issue is that town-based police usually spend only 12 months to two years based in remote communities before returning to Alice Springs. This is not long enough for the officers to develop a deep understanding of the community and how best to police it. I call this process where they come and go quickly 'bird-feeding.' Police officers need to be encouraged to come to and stay in remote communities.
58. In my experience, there have been police officers who have wanted to stay in communities, but who have been forced to move back to town to fill vacancies. I think if there are police who want to stay and work in community, this should really be encouraged and supported.
59. Some police officers leave remote communities because they think that if they stay they will have difficulty getting a promotion. Other police officers only come to the community because they think it will set them up for their next position. There needs to be a clearer pathway to promotion for people who stay in communities.
60. In my opinion, Police management should establish a specialised remote policing unit based in Yuendumu that is responsible for the other remote communities in our region. This would result in senior officers in Yuendumu having greater control over remote community decision-making as opposed to decisions being made by senior sergeants in Alice Springs. This is something that we have been asking for, for some years.
61. I think we need more senior indigenous police officers and Senior ACPOs. I think it is really important for indigenous police to work together with the local sergeant to make decisions about policing within the community.
62. When police have come in from out of town in the past, we have had issues with racism. The community wants to be able to screen police before they are stationed in Yuendumu. This is extremely important for community safety and for relationships with the local police. I think that the police should develop education packages and negotiate protocols involving Elders and community leaders regarding arrest procedures in order to minimise arrest violence.
63. There needs to be more focus on the appropriate response to an incident based on how seriousness the risk is. There should have been no rush to arrest Kumanjayi. It was the rush that was one of the main causes of what happened.

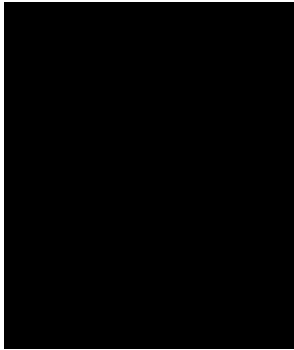
Local Councils

64. In the 1990s, Yuendumu had a local council which was made up of community members from the north, south, east and west sides. The 2007 Intervention changed the structure to a regional council responsible for twelve communities. One of the initiatives of the local council (pre Intervention) was the Community Development Employment Program (CDEP) which provided work in plumbing, welding, gardening and traffic management. CDEP employed 250 Yuendumu residents. These days, Yapa must wait eight weeks to secure a job and there are only a handful of people who have work with the CDEP.
65. Young people are leaving Yuendumu to live in Alice Springs because of the lack of employment. Some run amok in town because they have nothing to occupy their time. There are many young fellas in Yuendumu wanting to work in the school or as retail officers but there is not enough support from the government to employ Yapa in the community which makes it really hard.
66. The 2007 Intervention caused Yapa to lose control of the community as there was no longer an ability for locals to make decisions around employment and community initiatives. Previously the Elders and the rest of the community worked together to resolve any issues that arose in Yuendumu. When children misbehaved, the local council would hold meetings in which the young people would be asked to apologise to the family they hurt and explain their behaviour. In this way, young people were held accountable and learnt to recognise the effects of their actions on others.
67. In the past, we had a permit system meaning people wanting to come and work in our community would need to undergo a screening process to have their suitability determined. The local council decided who would be allowed to work in Yuendumu. The Intervention got rid of the permit system resulting in the community having no control over visitors or people wanting to live and work in Yuendumu. The local council should be reinstated so that we have a choice about who lives and works here.
68. When I was at primary school in Yuendumu, I learnt both the Yapa and Kardiya way which included lessons about culture in our traditional language of Warlpiri. Back then, there were many Yapa teachers. These days, there are far fewer Yapa teachers. This is due to the lack of remote teacher education. In the past, the Batchelor Institute College would drive out to Yuendumu for a week and sit down with the local teachers to deliver training. This arrangement stopped part-way through the Intervention.



This declaration is true and I know it is an offence to make a statutory declaration knowing it is false in a material particular.

Declared at Yuendumu this 9th day of August 2022 by Derek Williams



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Witnessed by:

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Christian Hearn

Solicitor