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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 15 SEPTEMBER 2022

(Continued from 14/09/2022)

Transcribed by:  
EPIQ

THE CORONER: Dr Dwyer. Sergeant Jolley, thank you, for coming back to continue your evidence today?

THE WITNESS: Thank you.

Yes, Dr Dwyer? Sorry, no.

Mr Boulten.

MR BOULTEN SC: No, it's still me, your Honour.

THE CORONER: Sorry, Mr Boulten.

ANNE JOLLEY, under former affirmation:

XXN BY MR BOULTEN:

MR BOULTEN: That's all right.

I'd like to ask you a couple of questions about your interactions with members of the Aboriginal community in Yuendumu. It's quite clear that you value the input of the Elders in varying ways, including getting cooperation to deal with what would otherwise be simply police matters, right?---As – as far as arresting people and helping us in the community as well.

Yes, but even- -?---Identifying, yeah. In general, yes.

“Let's have a talk as a community about the number of break-ins”?---Yes.

Or, “Let's have a talk about the property damage”?---Yep, agreed, yes.

So as I understand it, there's no formal community organisation that you liaise with, it's really your connections that help in this way, is that right?---We do have meetings and everything like that but my team all do connect with the community. My team all do go out and engage. So it's not just myself, it's my whole team.

No, I understand. Would it not be some advantage for the community to be provided with resources to structure a semi-formal process of assisting the police to police the community, like a law and justice group, for want of a better term?---No, I'm not quite sure where you're going with that. I mean, I think we need to all work together.

Yes?---And I think it's important that the community - all of us work together and we do have meetings and we do talk about our concerns, so we do have community safety meetings where Elders go or important people of the community go, so it's not - and that includes everybody, like all stakeholders and I think that engagement and the way that police and the team engage is just all part of a process that we should do, just a daily, every day anyway. It's not something that I think needs to be a procedure or.

So are you aware of the Northern Territory Aboriginal Justice Agreement that's been adopted by the government?---I'm not sure.

Have you heard of Leanne Little?---Yes, I've heard of Leanne Little.

And her work about the Aboriginal Justice agreement? Are you familiar with that?  
---No, I'm not, sorry.

Fine. So the government is actually considering structuring law and justice groups in remote Aboriginal communities including Yuendumu. Are you aware of that?---No.

Do you see any real advantage in providing community members with ongoing support in the way that they deal with issues like the ones that you've described in your community concerning policing?---I'd have to read it because I'm not really sure - I'm not really all over it. I'd have to read it but anything that helps the community is a good thing. Anything that provides safety and harmony in the community is a good thing.

The Southern Kurdiji group or Southern Tanami Kurdiji group?---Yep.

Has changed its functions at different times over the years it seems?---Yes, it does - it has.

And would you agree that at times it's very difficult to maintain stability in these informal groups?

DR DWYER: I'm so sorry for interrupting Mr Boulten, the live stream is not working your Honour. We might just take a moment. I apologise to Sergeant Jolley.

THE CORONER: Has it been not working this entire time?

DR DWYER: That's right, your Honour.

THE CORONER: Ms Walz is being in touch with Xavier in Darwin and he advises that Alice Springs needs to call into the conference room in Darwin. It has been reset because they had a power outage there and the internet was down for a few minutes.

DR DWYER: Sorry, Mr Boulten.

THE CORONER: Does that mean we think we're up again? Perhaps if I just go test it. An we should get probably the image off me and down to Sergeant - sorry Sergeant.

DR DWYER: I apologise, your Honour. That's not working, so I think our choice is to continue with Sergeant Jolley and not livestream or to break for a short period to see if we can get it working.

THE CORONER: I am reluctant to lost time because we don't know how long this is going to take. I am also reluctant to have aspects of the evidence not available to those people who wish to access it. It will be available via transcript.

DR DWYER: Yes, that is true, your Honour.

THE CORONER: Does anyone have an objection to continuing while the live stream is down?

A PERSON UNKNOWN: Your Honour, regrettably I would say that my understanding of the significance of the live stream and the ability for people to follow is pretty important.

THE CORONER: Sure.

A PERSON UNKNOWN: I would just have to urge your Honour, we will find ways of making up the time if we are short.

THE CORONER: Okay. Should we adjourn briefly or do we think it is corrected?

DR DWYER: The latest is that the IT person is on the phone now. He says it will take a minute or two to check everything and test to public. We are definitely trying to fix it. That's the news from Darwin.

THE CORONER: Look, I will just briefly adjourn so everyone can relax and hope we will be able to start again very shortly.

WITNESS WITHDREW

ADJOURNED

RESUMED

DR DWYER: It's back up and running, your Honour.

THE CORONER: Great.

Yes, Mr Boulten, please feel free to start again.

MR BOULTEN: I don't think I will, your Honour.

THE CORONER: Okay.

ANNE JOLLEY:

MR BOULTEN: There will be a transcript of what we've said and I don't want to waste anybody's time, least of all the sergeant's.

So, you asked – you said in an answer, I don't know where you were going with this - - -?---Yeah.

I'll tell you where I'm going with it?---Yep.

Is that we at NAAJA - - -?---Yep.

- - - would like to convince the Coroner to make some recommendations to provide some financial support to local Aboriginal decision-making bodies like the Southern Kurdiji Group?---Yep.

If there's not adequate funding already. So, that's where we're going?---No, there's not adequate funding. I know that.

Sorry?---There's not adequate funding there, so.

Yes. Do you know who actually provides support to the Southern Kurdiji Group or is it just the Elders doing it by themselves?---It's an Aboriginal corporation, so I'm not actually sure. But I know they're lacking in funds, I do know that.

Yes, okay. And it's clear from your evidence that you put a lot of store in the opinions of the members of the Aboriginal community in Yuendumu?---Yeah, of course, yep.

Do you agree that having local people take responsibility for important decisions in their community, it is likely to succeed?---Yes.

I want to ask you about the evidence that you gave concerning your deployment or request for deployment for the Cordon and Containment Team or the IRT, the Cordon and Containment Team was the name of the IRT sometime ago?---Yeah, back a while ago.

And you said you've only called them – asked for their assistance once - - -?---Yeah.  
- - - at Granites?---Yeah, the Granites Mine.

Can I ask you why you've never called on them in any other circumstance?---I can't really say. I probably haven't felt the need.

You thought it could all be handled locally?---Yeah, well sometimes, we use our neighbouring stations if we need a little bit of an extra hand, so.

So, people who have the same experiences in policing as you and your colleagues in that community?---Yeah.

You also said that there have been a couple of times when police arrive in Yuendumu where you've had to have a quiet word with somebody about something that you've received feedback from the community about. Without going into details and names, what sort of issues did they relate to?---I'll have to think of an incident, but it's more probably, you know, I mean, I'm trying to think. I can't really think of an incident, but it's just – I guess it's just a way we police, you know, and the way we go out there and engage. We don't just sit in the office. We get out there. We roll around. We talk to people. That's that, you know, being out there, you don't have to get out there and stop and - for example, stop every car and try and defect every car and you know, things like that like - - -

Do you see a problem with over-policing?---Well, it's still – you know, you're still doing a lawful thing. It's just, you know, you don't need to go out and – like I said, it's like you're talking about an urban and a country town, you know. You don't need to be that person that just goes out trying to make, you know – upset the people, I guess. You know, if you're going to start pulling over every car and, you know, being that strict law abiding police officer, which is nothing wrong with this, but in the community, it's slightly different. So, for want of trying to think of, you know, an analogy that you want, I can – it's that sort of thing, I guess.

Do you see that sort of thing happening in the other placements that you've had in other parts of the Northern Territory, pulling over every car that's got a defect, et cetera?---Not pulling – no, I haven't. Like when you work in a different unit, you obviously policing different - - -

Yes?--- - - - areas and doing different things.

Sergeant, you are a very experienced police officer. You see things - - -?---No, that's what I'm saying. Like every unit's different, so you know, I – yeah.

You were taken to these text messages yesterday and I'm not going to revisit them?--Yes.

It's hard enough for us all, let alone you, to have to be the person answering about

them, if not for them. But you gave evidence yesterday that you hadn't heard this sort of language. You are somebody with a fine reputation in the Northern Territory Police. I don't wish to embarrass you, but you know that's true, don't you?---I try to do the best I can, yes.

And you are well known as somebody who would not tolerate that sort of nonsense?--No.

All right. You – and I don't wish to embarrass you, but you received an award this year, the Patricia Anne Brennan Award recognising you as the one person employed in the police or a volunteer with the police that contributed to women's issues, right?---Yes.

And you should be rightly proud of that award. But everybody knows that you would not tolerate that sort of nonsense, right?---Yes.

I want to ask something very difficult now, and I'm sorry to have to do this, but since Mr Rolfe was charged and then acquitted of the criminal offences that he faced as a result of the incident the subject of this inquest, you must be aware that there has been a lot of debate and discussion amongst your police colleagues about various aspects of this case; is that correct?---Yeah, probably.

Yes. So there has been a lot of publicity about the Police Association's support for Mr Rolfe, correct?---Yeah.

And in the Police Association magazine in June this year, there was a big story about Mr Rolfe's case, wasn't there?---I don't know. I haven't read it, so. I'll be honest.

That's fine. You're on page 29 winning the award and the story is on page 30 about the- - -?---I didn't read my award, either, if that helps.

I'll just show you a copy so that you're on the same page. Sergeant, the heading of the article, "Yuendumu Constable Zachary Rolfe," subheading, "9 November 2019 is a date which will likely define policing in the Northern Territory for years to come." Has anybody talked to you at all about the way in which the arrest of the deceased was undertaken? And I'm talking about informally amongst your colleagues?---We don't really talk about it.

No one has discussed it with you?---Look, there has been a lot of discussion. There's no debate about that. But- - -

This is discussion you're aware of, with you, in front of you?---In Yuendumu, we don't talk about it.

Fine. But- - -?---Obviously, when the court case went through but, you know, there was no – lots of people were talking about it, but if you're talking about in general- - -

You would be aware, would you not, of the Police Association's active call for the Police Commissioner to resign?

MR EDWARDSON SC: Your Honour, I object to this line of questions. We've let it go for a while. There are controversies within organisations, there are discussions – some of them informed, some of them ill-informed. But this member's experience of those or perceptions on them or ability to commentate upon them, in our respectful submission, will not assist your Honour.

THE CORONER: Yes, Mr Boulten, it doesn't seem- - -

MR BOULTEN: So, your Honour- - -

THE CORONER: - - -like this witness has much direct evidence on this area.

MR BOULTEN: Just can I tell – yes. Can I tell you where it's going?

THE CORONER: Sure.

MR BOULTEN: The questioning yesterday by counsel assisting is likely to lead to a submission that no one else has ever said anything like these things about over-policing, overuse of force, racial discrimination in front of this person. And that would then lead ultimately, perhaps, to a submission that Mr Rolfe and his close colleagues are outliers, that there is no real perception of problems in the Northern Territory Police.

My friend made a submission virtually saying that before my friend, Dr Dwyer, tendered – or brought the witness's attention to the text messages. In fact, we all know that the Police Association have been waging a campaign against the leadership of the Police Force.

THE CORONER: But I'm not sure how that may or maybe relevant in relation to this inquest. But in particular, it may be that this officer – as you said – is well-known for not tolerating that kind of behaviour and therefore, discussions or if there is – are views, they're not shared with this particular police officer.

MR BOULTEN: Your Honour, we would urge your Honour to have regard to the events that surround the death of Kumanjayi in the prism of whether or not there is any letter, in-depth, entrenched view in the police about the use of force and about racist attitudes: deliberate, conscious or not.

And it's unrealistic to simply have one or three or five or six police officers get in the witness box and say, "This is just not what I experience," if, in fact, it's a matter of public controversy that there is widespread support for Mr Rolfe and the means by which he attempted to execute the arrest of Kumanjayi, and the fact that he should never have been charged in the first place. All of that is a matter of public record if you read the newspaper or listen to the radio.



THE CORONER: But it might not be helpful in relation to exploring those issues if Sergeant Jolley, if she has not herself participated in or followed that debate.

MR BOULTEN: I don't wish to limit it to her and I can understand that your Honour would not perceive much insight one way or the other about it, so long as your Honour also is aware that any submission to the – along the lines of, "This is just a bad apple," or, "There's only five bad apples" – is what you can get from the evidence – that would be a completely misleading approach if you were to ignore other evidence that suggests there are a lot of people in the police who have similar views to the Police Association.

THE CORONER: I won't be ignoring any evidence- - -

MR BOULTEN: Okay.

THE CORONER: - - -that is before me, but I'm not sure that Sergeant Jolley is able to provide any additional evidence, given the answers that she has given.

MR BOULTEN: That's true, that's true. Well, I think that deals with the matter for the time being. But- - -

THE CORONER: But I certainly take on board that, given Sergeant Jolley's reputation, it is quite possible that certain views and attitudes that may or may not be held would not be shared with Sergeant Jolley or spoken of in front of Sergeant Jolley.

MR BOULTEN: Especially in Yuendumu, your Honour.

THE CORONER: And the other aspect that I take from that is that when you have leadership which is as clear as that provided by Sergeant Jolley, that is potentially one method of correcting or ensuring that those kinds of attitudes don't develop or are not tolerated.

MR BOULTEN: I think NAAJA will be making the submission very much like that, your Honour. I'll just check with Mr Murphy. I'll proceed with just two more short issues, thank you.

THE CORONER: Certainly.

MR BOULTEN: Sergeant, you talked yesterday about trauma in Yuendumu?---Yes.

And you talked about the history of the community that helps inform sources of trauma, and you mentioned Coniston. Can I just ask you, are there people that still talked about Coniston?---Every now and then.

And are you aware of, generally speaking, how trauma might affect people, triggering issues?---Yes.

Just from lay knowledge, if somebody has been exposed to combat and they hear a helicopter, that triggers- -?---Triggers- - -

- - -a memory of combat, et cetera?---Yes, yes.

So can I ask you, do the police in Yuendumu receive any training about trauma-related issues and how to deal with trauma?---We do a mental health training. But probably not trauma – specifically trauma training, no.

So when police – as they did on this occasion – walk around the community with military-style weapons, do you see how trauma might cause a particular reaction to that type of display?---Could trigger.

Yes. Some organisations have trauma-informed training. Do you know of any in the police?---Not aware, no.

And it would be fair to say that you personally have never seen the need for a police officer to walk around in the communities you've worked in bearing military-style arms?---Not where I've worked.

Sorry?---Not in the communities I've worked, it's not.

Yes. Even in the context of an arrest of a violent offender?---Every situation is different. I haven't been in that situation.

You have arrested people who've been violent, haven't you?---Yes, but I'm talking about in the situation where there has been firearms – long arms in the community, that's what I'm talking about.

Yes. And – but in all of – range of violent offending that you've had to police, you've seen no need at all for the use of military-style weapons?---It depends on the situation. I can't say there's no need. It depends – every incident is different, so- - -

No, but- -?---I can't comment on where I've been.

So I wasn't really asking you to comment on where you haven't been?---Okay.

But your own experience has been that you've seen no need for it, right?---Not at this point.

Yes. That's all I wish to ask.

THE CORONER: Thank you. Can I just ask one question before we move to the next counsel. You talked about community meetings?---Yeah.

I – and they're – I'm just wondering, how is a community meeting called, given that there doesn't seem to be a specific group of Elders or organisation that you can go to to say, "Hey, we need a community meeting." How is a community meeting called

at the moment?---So we do have meetings, like, we have stakeholder meetings every fortnight and a lot of us will bring Elders or someone from wherever they are working. And some of the Elders come to that and I know that we were having community meetings, but once COVID hit, it sort of stopped and we've had unrest at the moment. So we're – we're not back to calling our community meetings, which is held on a basketball court, generally. We bring safety issues up and we talk about it.

So if there was a stakeholders' meeting and there were some people there, it could be discussed that there might be the need for a more inclusive community meeting and the stakeholders would then go back out and let people know?---Yeah.

Is that how it would work?---Yeah. Or – yeah. Or mediation might go round and tell people and- - -

Okay- - ?---organise it. Or the chief – guy that works for the chief men, Karl Hampton(?). He often organises it. He works closely with the community Elders, so.

Yes. Mr McMahon.

XXN BY MR MCMAHON:

MR MCMAHON AC SC: I think the system is I'm going next, your Honour.

THE CORONER: Thank you.

MR MCMAHON: Sergeant, I act for the Parumpurru Committee and I'm going to ask you about two different issues, one to do with guns and one to do with community involvement in police coming to Yuendumu. So starting first with the question of guns. You've been asked a lot of questions – and I'm not going to repeat all of that at all – but to state the obvious, you would agree – and who could disagree – that there are some situations where the police do need to be armed if there's a violent confrontation. That's pretty obvious, isn't it?---Yes.

A certain kind of violent confrontation. For instance, if an offender is on a killing spree. It's very obvious, isn't it?---Yes.

So – just so it's clear in your mind, we're not suggesting that it's a situation where the police should never be armed with guns in the questions that I'm going to ask you; follow?---(No audible response).

You have to say yes?---Yes, sorry. Yes.

But to summarise, a part of what you said yesterday, you've never drawn your weapon in community, correct?---Correct.

And that's even when you've been faced with an offender wielding a weapon, correct?---Correct.

Even a serrated weapon?---Yes.

Correct?---Yes.

Yes. Can I just put to you a number of comments from some of the people from Yuendumu who've made statements. These are statements that you, I would expect, you haven't come across and you haven't been shown to you?---Yes.

So I'm just going to tell you what a number of people from Yuendumu have said in their statements. They're probably people that you know. Do you know Steve Marshall?---Yes.

Who is the Chair of the Parumpurru Committee?---SM.

Yes, SM. And do you know Francis Kelly?---Yes.

You say that very firmly, because he's had decades of experience in leadership in the community?---Yes.

From Central Land Council to Chair of the PAW Committee and so on. You know all that?---Yep.

And do you know Elizabeth Katagaringa(?)?---Yes.

And she's had decades of experience on night patrol?---Yes.

And all of those people, the names I just mentioned, they're all very senior and significant members of the Yuendumu community; you would agree with that?---Yes.

Okay. So as you said, SM – everyone knows Steve Marshall as SM?---Yes.

This is within his statement, all right? "I feel frightened when I see police wearing guns in the community. I've spoken to many people who live in Yuendumu who also feel scared of police with guns. Over my lifetime, I have never seen a police officer in Yuendumu take their gun out of their holster and point it anyone. There is no need for guns in the community. I have also never seen any Yapa or Kartiya pointing guns at anyone." All right? So that's SM. Francis Kelly: "Police in Yuendumu and other remote communities do need to carry guns. We don't want to see them. Guns frighten people and stop our people from importing providence because they get scared. Aboriginal Community Policing is the best way of managing law and order in Yuendumu, because we want a relationship of trust between people in the community and police." And finally, from Elizabeth – this is Elizabeth, who has all the experience on night patrol?---Yep.

Which, although it's obvious to you, we should just state for the record, could regularly involve difficult situations because of what happens in the middle of the night or the possibilities that can occur when people are trying to resolve problems. That's so obvious, isn't it?---Yep.

Elizabeth says: "We never carry guns or weapons in the night patrol because they are not necessary. This also applies to police. There is no need for police to be carrying guns in the community." Now, I'm just reading all those out to you so you have a sense of what witnesses from Yuendumu will be saying about guns in this inquest, later on?---Yep, sure.

And on the other hand, this matter came up briefly with you yesterday at the end of the day about carrying guns?---Yeah.

And you said – well, before I tell you – remind you what you said, that the reality is that with all your decades of experience you would know and anyone involved in criminal law in policing would know that just around the corner, there's an unknown event and you have no idea what that unknown event might be and what it might lead to. And that can be a dangerous event, can't it?---Yes.

And that's what you had in the back of your mind, I suggest, yesterday when you said in answer to the questions you got about asking – carrying guns. You said, "If I get into a situation and I don't have it and I can't protect my community and my colleagues or myself, that would be a major issue." So that's the tension we have, isn't it? It's – on the one hand, we've got police officers such as yourself saying, you know, "Just around the corner I might need it." And on the other hand, as I've read out to you so you know what the community is saying, they're saying they don't want guns and they don't want police carrying guns. I'm just being reminded, I'm using the word "guns", but what the witnesses from Yuendumu are talking about when I'm talking to you about are the Glocks, the pistols?---Yep.

We're not talking about the long arms?---Yep.

If I may say so, it's probably uniformly understood around the room that as a general practice, police have no intention of carrying long arm guns around community in their daily work?---No.

And I'm talking about our daily work?---Yeah.

And you understand that's why at the beginning of my questions to you, I also put the alternative position where sometimes, if there's an offender on the loose killing citizens left, right and centre, of course you need whatever protection you can get for the community?---Yes, correct.

All right. It's a discretion that you exercise when you carry your Glock out into the community. Are you free not to carry your Glock out into the community whilst still complying with your command and instructions and how to perform your duties?---It's part of our everyday accoutrements, so we do carry it every day.

Yes, but is it a discretion? Can you not wear it?---No.

Can you choose not to wear it?---No. We are supposed to wear it.

You are supposed to wear it?---Yeah.

We've heard from at least one APCO who doesn't carry a weapon, Derek Williams. And I think, I might be corrected, but I think overall, it's the impression from various parts of the evidence that there are community police who don't carry weapons. Are you aware of that?---He's not trained in it.

Okay. So, you would say that it's your understanding of the requirements of your job is that you're actually required to carry the weapon?---Yes.

Is that right?---Yes.

Okay. And is that a requirement that you understand to be in writing and that you have learnt throughout your whole career?---It's part of our accoutrement and while we're on duty, we have to wear it.

All right?---Unless of course, we're going to court of something.

Can you say that again?---There's time where you don't, if you're coming into court or you're not doing general duties on policing.

What about if you were going to a school?---I might not wear it, depending on the situation, so.

Okay. So, you have some discretion for instance?---Yeah, well yeah. If I'm going to the school for like a, I don't know, a fun day or something like that.

If you were going to the school?---I wouldn't be wearing my belt.

But insofar as you've carried weapons on your accoutrement. Is it called an accoutrement belt?---Accoutrement belt, yep.

And I suppose you carry weapons on your accoutrement belt. There are already a number of non-lethal weapons on the belt, aren't there?---Yes.

There's a baton, the spray?---Or on your vest.

Pardon?---Or carry on your vest as well, so yeah.

Carry on your vest. Do you wear a vest every day?---No.

So, when – you've spoken quite a few times about going out in the community, it sounds like pretty much on a daily basis and meeting people and talking to people, and I'm sure you know how much the various people in the room appreciate all of the thinking that goes behind that kind of work, including my clients of course. But when you go out and do that, on a typical day, are you saying you do not wear your armoured vest?---No, I don't wear my vest.

Okay. And is that a discretionary matter?---Yeah, I keep - - -

Or is it different from wearing your accoutrement belt? You do wear your accoutrement belt?---Yeah, so it's got everything on it, but you can wear the vest. That's a choice. You can use your discretion on your vest.

Okay. Can you use your discretion on any part of your accoutrement belt?---No, you're supposed to wear – have all your tools on your belt.

All right. Obviously, if you were in a terrible situation and rounds – guns were being fired, a vest would be quite possibly a lifesaving piece of equipment. Would you agree with that?---Yes.

But you haven't needed that in all of your time?---No.

All right. Are you aware that police vehicles can be fitted with gun safes so that guns can be stored inside police vehicles?---Yeah.

Yes. I'm not going to ask you about the details of what happens in Yuendumu, but certainly something that you're aware of and it can happen in the Northern Territory?---Yep.

Correct?---Yep.

Yes. And again, at a police station like Yuendumu, it would be quite possible to have gun safes for holding any kind of necessary weaponry that the police force thought might be necessary to hold in a community or remote community?---Yep.

Correct? I'm not asking about Yuendumu specifically?---Yep.

Because I imagine there may be sensitivities about all that, but – so you would be aware that that kind of – for instance, in New Zealand, are you aware that the typical New Zealand police officer moves around the community unarmed. It's non-lethal – not carrying a lethal weapon. Are you aware of that?---Yes.

Yes. And are you aware that the typical police vehicle in New Zealand also has weapons locked inside the vehicle?---No, I don't know that.

Okay. I'm not going to pursue this, but are you just generally aware that there are many countries in the world, New Zealand, Great Britain, Ireland, Norway and probably at least a dozen others where the police, on a daily basis, don't carry lethal weapons?---No.

Are you aware of that?---No.

Okay. So, just to summarise, it seems clear from what you are saying that the question of whether you wear a Glock or not when you go around the community is

not a matter of discretion for you, but it's a matter of what you have been commanded to do by your superiors. Is that correct?---It's part of my accoutrement, yeah.

All right. So, of course, if police command recommended to avoid carrying lethal weapons in your community policing on your accoutrement belt, that's something that of course you could adapt to?---Sorry, can you rephrase that?

If police command changed that policy and recommended that people in your position should avoid carrying a lethal weapon on your accoutrement belt, that's a command that you could comply with and work with?---Whatever my command tells me to do, yes, I'd comply.

All right. I'm not going to ask you about what we should ask command to do, but just so you're clear in case you want to add to your answers, we're going to be recommending to her Honour at the end, on behalf of the Parumpurru Committee, that police officers such as yourself do not carry lethal weapons in the community. Do you understand?---Yep.

All right. Is there anything else you want to say about that?---No.

Okay. Yesterday, it was very late in the day and I was very tired and I imagine having answered questions all day, you were - - -?---Yes.

- - - extremely tired. But there were a couple of questions about screening police, and if I may just explore that for a moment with you. One of the recommendations that we will be putting to her Honour at the end is that there more significant local community involvement in working out who are the police who work at Yuendumu, in the community of Yuendumu?---Yep.

And in fact, Mr Boulten spoke to you about a recent formal document, and I'm not going to ask you about that, because you hadn't learnt about it, but it's an idea that we want to work with in making recommendations to her Honour. I'm going to ask you about that now, all right? So, for instance, you pointed out right at the end of the day that this was actually a hard question for you to answer and you made the example, well look, it doesn't happen in education; like you know, community doesn't have a say in that or health. And as I understood it, you were saying, well while they're happy to work with police, they don't have to do it, community doesn't do it with education and health. Did I understand that correctly from what you said yesterday?---About choosing who comes out?

Yes?---Yeah.

But you do understand that, for instance, the school has a board. Do you know that?---Yes.

And the board has – half the members on the board, my understanding is that there are six members on the board, but whether that's right or wrong, it doesn't matter.



Half the members on the board are local community members?---Yes, correct.

And they have a role in making recommendations about employment decisions. Do you understand that?---Yes.

Yes. And I appreciate that the questions I'm now asking you might not be novel to you, might be new to you. But what we will be saying to her Honour is that the community leaders and community Elders, via an appropriate committee, could and should have a role to play in working out who are the police who come to Yuendumu. Now, you know Derek Williams has already given evidence in this inquest, do you know that?---Yes.

And he has given some evidence that with regard to new police coming, there's a fear in the community generally, about police at the moment, an you understand that?---Yes.

And that in particular the community doesn't want police coming to Yuendumu who have a military background. Okay, he said that. Do you understand that?---I didn't know he said that but fair enough.

And in particular, police who have a military attitude. So that's the gist of what he said about this issue in terms of community involvement and who are the police who come to Yuendumu, do you follow?---Yep.

And he said that - he's agreed that involvement in screening would be good for relationships between the police and the community, that it would help build relationships and that it would also make new police feel welcome because they would know that they had been involved in a process with the community before they arrived and took the job. Do you understand all that?---Yep.

And this level of - this idea of community engagement and community consultation, it's very clear from your evidence already that those are things that you value very much?---Yes.

Now, I am just going to briefly, again quote you from SM, Steve Marshall. He says;

"The community should be allowed to help decide which police officers work at Yuendumu. This is because the way the police work in remote communities is very different from a town like Alice."

And if I can quote you from Francis Kelly on the question of police recruitment;

"To make sure the right people are chosen to be police in Yuendumu, the community should be involved in choosing them. It's important that the community has a say in who comes in to look after us. This would make sure community members feel comfortable in talking to the police about issues, meaning Yuendumu would be safer for everyone".

Okay, so that's representative of the community view, you understand that?---Yep.

So my questions to you now are - well, you can see that that's the aspiration of the community, can't you?---Yeah.

From what I have put to you?---Yep.

So if there was a committee - and of course, it's not up to you personally, I am not asking you to make decisions about governmental structures or community structures, but if there was a committee, whether it was part of a sub-committee of an elective local council or some justice committee, but if there was such a committee, would you be willing to sit with them and discuss the story of any proposed new police officer who was coming to Yuendumu, if the right structures were in place and the right privacy protections were in place and so on. Would you be willing to engage in that process?---Sure. Yep.

And as Mr Boulten asked you and you agreed, you've already agreed that having local people make decisions is a successful way of doing things in a community such as Yuendumu. And would you be willing to sit with the new police officers in this kind of committee, helping making introductions and discussing proposed appointments with senior members of the local community?---Sure. I mean, we do that when we have new police come anyway.

Can you - I couldn't hear you sorry?---I said we do that when we have a new police officer come, we do that.

I appreciate you said that yesterday so I am taking you back one step prior to that? ---Yep, sure.

And screening is perhaps not the best word but "consultation" is probably a better word to discuss the process. So finally, on the assumption that a new police officer who was coming to Yuendumu had been through the sort of training, for instance that her Honour mentioned yesterday, the possibility of online training and education about important issues to do with community living. On that assumption and on the assumption too, that police command took a new and perhaps innovative role in not appointing - making it clear that they would not be keen to appoint people with a military background into a remote community such as Yuendumu. On those two assumptions it would be likely that consultative and screening process with you and Elders and a proposed new police officer would be a pretty successful enterprise, isn't it?---I think we just want - to be honest, we just want the right police out there, I don't know whether their background or anything should be taken into consideration.

I appreciate that's - - - ?---We just want the right police out there, that the community do engage and like and are comfortable with.

Yes, well we are not disagreeing with each other. Both you and the community want the right police?---Correct.

And as I made clear from - about those comments from the community members, from the point of view of the community, one of the characteristics of being the right person for the job is not to come with a military attitude to life in this policing, do you understand that?---Well, that's kind of saying that everyone that's from the military has got a certain attitude.

Can you say that again, sorry?---You're saying that everyone from the military has got the same attitude, but that's not necessarily true.

Of course it's not true because that's - I don't need to explain it - of course it's not true?---Yeah.

But the community's point of view is they have a real fear of people from the military because of what's happened. Do you understand that?---I understand that but - - -

And you don't dispute that?---I don't dispute that but they wouldn't necessarily know they came from the military.

Well that's part of what we're talking about is that they want to know whether or not the next new police member does in fact from the military. Do you understand that? ---Yeah, but - - -

And if that person does come from the military they would see it as very valuable to be engaged in discussions about screening and suitability and whether that person is the right person to come to live and work and police in Yuendumu. Do you understand that?---I do but it would be a bit biased to do that, to say, "No-one from the military is suitable."

All right, thanks very much Sergeant.

THE CORONER: Yes?

DR FRECKELTON: If your Honour - I am not rising to start my questions at the moment but I am rising to raise an issue with you. I wanted to avoid intruding upon my learned friend's questions and it is an issue of efficiency and what is best going to help you.

We hear from our learned friend that there is an issue which they would like to agitate about whether the community should have - I am going to call it a "right of veto" or alternatively some formal role in determining which police officers are assigned to Yuendumu - and presumably other remoter communities and we hear from him too that they are likely to make submissions to the court about the appropriateness of assignment of members who have served in the Australian Defence Forces or presumably others, to be assigned to remote communities. We accept that those are issues. The question is how most efficiently those issues can be addressed by your Honour.

There are going to be many police officers who will give evidence to you. In our submission there are going to be very senior officers including the Deputy Commissioner of the Northern Territory Police Force who will be in a position to address those from a broader overarching policy perspective and it is our submission that rather than ask sergeants and others of slightly higher rank and slightly lower rank what their views are of whether they co-operate with the process, they will do what they are told, but doesn't such as the Deputy Commissioner, it may be most helpful to your Honour to focus on asking a whole range of those policy issues - policy questions, to the Deputy Commissioner when he comes to give evidence - at such a time as you deem appropriate.

THE CORONER: Sure.

MR MCMAHON: I agree with Mr Freckelton, your Honour. The issues came up with the witness already and as I've said before, it doesn't look like it so far but in fact will be the case, from most of the many witnesses in the next period of time, we won't be asking questions, because of this witness' position and experience and knowing these individuals personally whose statements I have put to her and because the issues had already been live with this witness, I felt that it was necessary to extract this witness' opinion so that your Honour knew what she would say, but - - -

THE CORONER: She is a senior officer - or the senior officer in Yuendumu, has been for many years at different stages. I have no problem with you raising these issues with Sergeant Jolley but I imagine there are a number of police who wouldn't be able to provide the kind of considered responses that Sergeant Jolley can.

MR MCMAHON: Almost all of them, your Honour.

DR FRECKELTON: We are in violent agreement with that.

THE CORONER: Sure. Great. Any other questions of Sergeant Jolley?

MR MCMAHON: No.

DR FRECKELTON: Not (inaudible).

MS OZOLINS: Your Honour, I did have a few questions. I will be very brief.

THE CORONER: Yes. Thanks, Ms Ozolins.

XXN BY MS OZOLINS:

MS OZOLINS: Sergeant Jolley, just first of all I just wondered if you - I'm sorry, I appear for the Northern Territory Police Association. I just wondered if you could clarify, my learned friend was just asking you some questions about the accoutrement belts and then you talked about vests. Can you just clarify if you were

talking about bulletproof vests or if you were talking about the alternative option of putting your accoutrements in a vest?---In the vest, yeah.

Yes. And that's a relatively recent introduction, isn't it, so that now officers can wear accoutrements on a belt around their waist or- - -?---On the vest.

- - -distributed over a vest?---Yep.

And that's for Work Health and Safety reasons, isn't it?---No. Well, there's – you've got a plate you can put in it as well.

Right?---So but, you know, you don't have to wear it every day.

Yes?---It's an option.

Yesterday, you gave some evidence about when you worked in Yuendumu in 2014 and I think your evidence was that at that time, there was a Senior Sergeant, two officers and an Aboriginal Community Police Officer. That's in 2014, when you were there?---No.

No?---2019, when I came back for the six months there was a Senior Sergeant.

Okay, sorry. So what were the staffing levels like in 2014?---There was Robyn Schmidt, Trent Berry, myself and Derek Williams.

So the staffing levels have remained somewhat the same over the – between 2014 and when you returned in 2019?---No, there was far more police when I returned in 2019.

Yes? Were they – when you say there was far more, were they gazetted positions that had increased?---Gazetted positions increased – in 2015, we had a new police station built, during which we had three new houses built. So our police did increase because had housing.

Right. And so currently, are all of the gazetted positions at Yuendumu filled on a permanent basis?---Got one – one position available.

Right. And do – are you able to say why that position is not filled?---It's about to go in the gazette, I believe.

Okay. And is there now housing for- - -?---It's because we got that – a house available at the moment, so yes.

Right. So you're fully staffed at the moment and how many houses are there available there for police members?---There's six houses.

Six houses. And what sort of configuration are they? Like, are they two, three, four bedrooms?---So the new houses are four bedroom and the old houses are three bedrooms.

Right. So in relation to staffing then, you just said you're fully complemented. I think you said yesterday, though, that you had some relieving members at the moment?---We have four relieving members at the moment.

Yes. So they're not permanently attached to the station?---No.

And so why do you have relieving members there?---Just to support – to support myself. I had a lot of – I had a lot of junior members.

Yes?---So they sent two senior members from Darwin for me. And got another couple of members out there. So while we – because we just got a new – someone that has just come that's new, starting today, gazetted position. So our staffing has come and gone.

Just started today, did you say?---Yes.

Yes. So you've got some top-up members?---So yeah.

Yes?---Yeah. Just some support members while we're getting our full crew.

Yes. And you gave some evidence yesterday about how – I think you said at the moment you've got officers that don't want to leave?---Yeah.

But there has been a problem from time to time attracting members to go and live and work permanently at Yuendumu?---Yep.

In your opinion, what's that – why is the difficulty there?---I think that it's probably a number of reasons, you know. Some people have children, so they don't want to disturb their children's schooling. So there's many reasons why people don't want to go bush. Or partners are working somewhere else, so sometimes it is hard just because of their, you know, people – police's circumstances. And some people don't like the remoteness of where they're going.

Yes. In your view and with all of your experience, what do you think would make community postings more attractive to members?---Probably more incentives.

What sort of incentives are you talking about?---Better pay, maybe, than others?

And you're saying that housing is no longer an issue there?---You know, if we had more houses, we'd have more members, so.

Yes. So just moving on from that, I just want to ask you – now you've been – and correct me if I'm wrong, I'm going through my recollection of your evidence

yesterday. You've been – before your current posting as an OIC, you've previously acted as OICs of police stations?---Yes.

Yes. Have you ever undertaken courses in station management or specialist training for people who are going to be OICs at bush stations?---I haven't.

Yes. Are you aware that there used to be a two-week station management course for people who were going to take on the role of OIC at remote stations?---Yes, I am aware of that course.

Yes, but you never were able to undertake it?---No, because I had to let my neighbouring – my neighbouring station go. We couldn't all go.

I see?---So that's why I know about that course.

Yes?---Yep.

That course did include things like community engagement and partnership problem solving, Indigenous culture, courses around the use of interpreter services, things like that? Are you aware that that- - -?---No, no. I didn't know it was on the course because I haven't done it, so.

Right?---Yeah.

And the course was stopped in about 2015, wasn't it?---I don't know.

Don't know?---Yeah.

They're all my questions. Thank you.

THE CORONER: Do you think that a course like that might be of benefit?---Yeah, probably. We could – yeah.

Yes, Mr Edwardson.

XXN BY MR EDWARDSON:

MR EDWARDSON KC: Thank you.

Sergeant, I want to start, if I can, by just taking you to your first statement. Have you got copies of the statement in front of you?---Yes, I have.

The first statement, I think, is 14 April 2020?---Yep.

Thank you. And on that particular statement focuses very much, doesn't it, on your engagement with Kumanjaya Walker over some years?---Yes.

And it starts, really – that is the chronology of those engagements start in

2014?---Yes.

And I think if I can direct your attention to some paragraphs and then I'll ask you some questions about it?---Sure.

Which will go beyond what counsel assisting referred to?---Mm mm.

May I direct your attention to page 9 – par 9, please, first (inaudible) page 2?---Yep.

On that occasion, you're describing the – Kumanjayi Walker coming to your attention in relation to an unlawful entry in the Yuendumu health clinic?---Yep.

Now, at April 2014, he would have been roughly 13 years of age?---Yeah.

Because I think he was born in 2000?---Yeah.

Thank you. And what happens from there on is that you describe other occasions where you come into contact with him?---Yes.

And would it be fair to say, without descending into the minutiae or the – it's too much detail – would it be fair to say that, as time goes on, the older he gets, the more difficult, from a policing perspective, he became?---More concerns we had for his mental health.

His mental health?---Yes.

But the danger that he potentially posed to other members of the community?---Not necessarily other members of the community, but definitely his own mental was – became a major concern.

Well, let me give you an example. If I direct your attention to par 14?---Yes.

You say in relation to PROMIS – and you've got a particular entry there?---Yes.

“On 3 September 2015, I submitted a child abuse report as I watched Kumanjayi Walker deteriorate since his return to the community and no one appeared to be caring for him”?---Correct.

DR DWYER: Your Honour, I object to this line of questioning on this basis: each of the interested parties at the bar table have an opportunity to assist your Honour by making submissions or answering questions that are related to their client's interests. I don't see how it relates to Mr Edwardson's client's interests to try and take Sergeant Jolley back through the history of Kumanjayi Walker. It doesn't appear that that had any particular relevance to the events of 9 November and I object, unless there is any other specific relevance to Constable Rolfe.

MR EDWARDSON: Well, the relevance is really quite straightforward. What is a live issue and has been put in issue by counsel assisting and various other members



of the bar table is the appropriateness of the application of use of force. To put that into context, one needs to have the context of the specifics that relate to Kumanjayi Walker. I had no intention of going through each and every aspect. I want to isolate certain matters which are self-evident and are included in her statement, because that will then inform the ultimate questions that I will put to this officer about her training and about what she understands is the appropriate way in which a deployment, for example, of the IRT might be made, because that is expressly referred to in the sergeant's statement.

THE CORONER: So, are you suggesting that this information that you're now taking her through was considered at the time of the deployment, otherwise, it can't be relevant.

MR EDWARDSON: No, your Honour. The identification of a potential person, in this case relevantly, Kumanjayi Walker, and the extent to which he proposed a risk is relevant to the appropriate response, that is the force that was ultimately deployed.

THE CORONER: But only if it's known and taken into account. If it's not known, it can't – by the persons involved, then it's not something they're considered in relation to determining the level of force that might be necessary.

MR EDWARDSON: Your Honour, both counsel assisting and your Honour have posed the rhetorical question, who was Kumanjayi Walker and who is Zachary Rolfe. Obviously, Kumanjayi Walker's background, as your Honour can see, looks to be extremely import and relevant. It's also equally relevant to who he was at the time of this tragic incident. And in my submission, that background is important.

THE CORONER: Okay. But isn't that background already identified in the material. If you want to take her to something that's not in the material - - -

MR EDWARDSON: Your Honour, every single other counsel have gone to paragraphs which have been identified, but in order to be able to identify it, not just simply repeat it, I need to put it into context. That requires a sequence of questions so that I can appropriately put my client's position ultimately on the question of the force that was deployed on the relevant occasion.

THE CORONER: That comes back to the original point that I made. If all of this was taken into account in that decision-making process, then it might be relevant. But if it was not considered as part of the decision-making process, I don't know how.

MR EDWARDSON: Your Honour, there are two separate issues. The first issue is whether it was taken into account. I'm not suggesting that what happened as set out in par 14 was a factor of the exercise of the minds of Julie Frost or any other member of the IRT at the time that they were deployed and at the time of the shooting.

What I am trying to do is to put into context the evolution of Kumanjayi Walker up

to that particular point in time, because what they did do and the evidence was clearly established at trial, was that they had regard to his criminal history; they had regard to the two incidents that have both been identified in this court, that is what I'll call the axe incident.

And also most importantly, why it was that Julie Frost called upon the deployment of the IRT and as I will demonstrate shortly, because it's in evidence already, it was Julie Frost who in fact ordered the long arm weapons on this particular occasion and she was the sergeant in charge of Yuendumu Police Station.

Now, this officer, Sergeant Jolley, has had extended experience – extensive experience in the community and she has given fabulous evidence, quite frankly, in terms of the time that she spent, but each time she's qualified the evidence and qualifications have not been brought out the counsel.

That is, for example, why are you armed with your Glock? Why you (inaudible) needs to deploy the IRT. Why, in the case of Kumanjayi Walker, it might be quite different from general policing.

THE CORONER: I'm happy for you to ask those questions. We have his history here.

MR EDWARDSON: Yes.

THE CORONER: And we have heard his history and we have it available to us in a number of different sources.

MR EDWARDSON: Yes, we do.

THE CORONER: So, unless there's something in addition to that, it's not going to help me to run through it again with this witness.

MR EDWARDSON: I understand that, your Honour and that's not why I'm here.

THE CORONER: All right, well if we can – if there's anything additional to what is contained in the history that we're already aware of - - -

MR EDWARDSON: What qualification of what's in the conversation.

THE CORONER: Sure. If you would like to ask her if there is anything that she needs to add or qualify in those paragraphs, I'm happy for you to do so. But I don't need to have the paragraphs read onto the record.

DR DWYER: And I just note, sorry, just for the assistance of my learned friend, that of course, we are going to hear from Sergeant Julie Frost next week about why – what she did and why, and what her information was based on; and similarly, Superintendent Nobbs and anybody else involved in the plan.

MR EDWARDSON: I was trying to approach you in a slightly different way, your Honour.

THE CORONER: Sure.

MR EDWARDSON: May I direct your attention to the questions you were asked by counsel assisting at page 278 of the transcript. You were asked yesterday about the training in the academy in 2005. And you said that you were trained in the use of force?---Yes.

And you were also trained insofar as you were trained – sorry, you also trained in what would be reasonably justified in certain types of force, including lethal force?---Yep.

That is, for example, the discharge of a firearm?---Yep.

But what I want to know, Sergeant, is this; your evidence, I think, is – goes along these lines. It's important that we have an open dialogue between police and community?---Yes.

It's important that you, as a police officer, work together and in conjunction with your community?---Yes.

That necessarily requires cooperation on both sides?---Yes.

It requires mutual respect on both sides?---Yes.

That is, police respecting the community and likewise, the community respecting the police?---Yes.

Unfortunately, the truth of the matter is that sometimes, even if they are in the community, there are members of the community that need to be policed?---Of course.

And it's true, is it not, that in the community, one matter that you have to be guarded against is the potential for a violent response?---Sorry, for the potential?

Well, there are people in the community who arm themselves, for example?---That what, sorry?

Who arm themselves. They carry weapons?---Yeah.

And that's something you have to be live to?---You've got to be aware of, yes.

Of course. And you've told us why it's important, if at all possible, that you consult with the Elders to try and, for example, come up with a peaceful solution?---Yes.

And a peaceful solution would, in a perfect world, be that the members of the

community identifying who it is that the police want to speak to and have them surrender themselves?---Yeah, just reduces all our risk.

Of course?---Yeah.

And that's the whole purpose and point of having a proper relationship between police on the one hand and the community on the other?---I agree.

We know also, don't we, that there are families within the communities that also are at war or fighting. There's friction between them from time to time?---Yes.

And that involves uprisings.

DR DWYER: Sorry, I object. How on earth is this relevant to Constable Rolfe? It's just not, it's not.

THE CORONER: Certainly, there's no suggestion that was happening at the time of this event, is there?

MR EDWARDSON: Your Honour, it goes to the question of force which is precisely what was introduced by my learned friend.

THE CORONER: But it has to be a question of force in the circumstances that we're considering, not in completely different circumstances.

MR EDWARDSON: Exactly, your Honour, which is one of the reasons why we made a number of objections as to whether there is a causal connection to the incident in question. That's precisely about the argument that was advanced in court.

THE CORONER: Well, we all know that there can be fighting between families in communities and that sometimes in communities, during such fighting, weapons are used. But that was not the situation in Yuendumu at this time, as far as I understand it.

MR EDWARDSON: Of course it's not, your Honour, but of course, it's relevant to the question of when and why an IRT unit might be deployed, this officer, for example, has given examples of when it was that she was, herself, been involved with the IRT being present. I'm presuming that's because there's an incident that's (inaudible). I'm trying to understand what those incidents are because they weren't explored. They weren't explored properly by counsel.

THE CORONER: But how is relevant - - -

MR EDWARDSON: Your Honour.

THE CORONER: - - - in relation to what I'm considering that, yes, from time to time in very different and multitude of circumstances - - -

MR EDWARDSON: Precisely.

THE CORONER: - - - that IRT might be involved.

MR EDWARDSON: Your Honour, the issue that has been put fairly and squarely on the table is whether police officers should or should not be armed when they're in community. That's the first point.

The second point is if they are armed, is it appropriate in any circumstance, for example, for them to have long arms. All of those issues are fairly and squarely on the table. I am exploring those issues from my client's perspective and no other counsel has been interrupted at all.

Those issues are live issues for your Honour's consideration. It's this officer who has proffered her opinion about her experience within the community and it's that which I would like to explore with her.

THE CORONER: Mr Edwardson, provided you tell me that this is relevant, I will allow you to continue. But if it does not seem to be assisting me, I'll let you know.

MR EDWARDSON: If your Honour pleases.

Back to families, obviously, in those circumstances, police need to intervene if there's a fight going on for some sort of reason?---Yes.

And there are other countless examples I am sure that you have experienced over many years in the community where you, as a police officer, have had to go into the community and try and resolve an issue and the police would step in?---Yes.

And there are unlimited circumstances, all of which are very plain?---Yes.

And the same applies consistent with your training, I'd suggest?---Yes.

To a situation of whether or not you might need to be armed?---Yes.

Whether or not you might need to draw your weapon?---Yep.

Everything is case specific?---Yes, correct.

And you told us that fortunately, in your case, you've never had to draw a weapon? ---I firearm, yes.

A firearm, sorry. And I take it from that what you are saying is that the situation wasn't such that that ultimate response was appropriate?---No.

And likewise, you said, I think, that you - or put it this way, you felt - and I assume that you've never been stabbed?---No.

And I assume that you've never had, for example, an axed presented to you?---No, I have.

You have?---Yep.

From what distance?---Probably where this man is.

I beg your pardon?---Probably where this man is there.

So some distance between the two of you?---Yes.

THE CORONER: The first man? Or the second one?

MR EDWARDSON: Probably my junior, I think?---Yes.

THE CORONER: Okay (inaudible).

A PERSON UNKNOWN: (Inaudible).

MR EDWARDSON: We will call him the offender?---Okay.

In the place of the offender, who is holding an axe, just explain what happened in those circumstances?---He was yelling - it's a while ago - so he was yelling and coming at me but I did strong verbal command and he dropped it.

You did a strong command and he dropped it?---Yep, correct.

So he didn't continue in your direction with his axe?---No, he didn't, no.

You said before you are familiar with the - what we've called the axe incident involving Kumanjaji Walker two days before the shooting?---Yes.

Have you seen that video footage?---Once, yes.

That is quite different from what you are now describing - from your own experience?---Yes.

And in any event, all I am simply saying is this, part and parcel of the training that you received as a police officer, the training that you were referred to by counsel assisting yesterday, includes when it is appropriate to draw a weapon?---Yep.

And part of that training includes "edged weapon equals gun" is a phrase that is familiar with all police officers right around the country?---It has been, yes.

I beg your pardon?---Yeah - yes.

And that was part and parcel of your training, wasn't it?---Yes.

And that's one of the reasons, can I suggest, why yesterday when you were asked some questions at page 367 you were asked this; "What do you say about the viability of an approach that leaves the Glocks in the station and doesn't carry them around in the community?" You said, "No, I don't agree with that. We wear our Glock, it's part of our accoutrements". The questions went on, "I see, even though you've not needed to draw one in your -" Answer, "It doesn't mean I might not"? ---Mm mm.

Question, "Years in the community that there might be a - if I get into a situation and i don't have it I can't protect my community and my colleagues or myself. That would be a major issue"---Yes.

So in short, can I just summarise your evidence in this way, obviously it's undesirable to draw a weapon unless it's absolutely necessary?---Yes, to protect life, yes.

For as long as you have been a police officer in the community or otherwise, you've always worn a Glock?---Yes.

And certainly, as I understand what you said in your original statement - sorry, your second statement, that bearing firearms is something that the members of the community are familiar with?---Yes.

And you say, "The standard personal accoutrements carried by police is in the most part, not seen as a threat to or by local people"?---Yes.

And you were expressing yourself in that way as an experienced police officer, having had years of experience in the community?---Yes.

So from your perspective, to your knowledge, you haven't had any push - if I can put it that way - or concerns expressed by members of the community about the mere fact that you're wearing a Glock?---No.

Obviously it's become much more contentious - can I suggest, since the tragic events which culminated in the death of Kumanjayi Walker?---Yes.

And there can be little doubt, can there, that this tragic event, a young man lost his life, a young police officer charged, has caused enormous division between the police on one hand and the community on the other?---It has, but not at the moment, no.

No. It has, but not at the moment?---Well, no, there's no division between us at the moment, no.

What I am getting at is that obviously people are hurting?---Of course.

They are expressing their grief and continue to do so, which is perfectly reasonable and understandable?---Yes.

Sorry?---Yes. Yep.

And it's people like you, can I suggest, Sergeant, that are trying to rebuild the trust between police and the community?---Yes.

Now, in that context you also went on to say, "Police do not - except in highly extenuating circumstances - overtly carry additional equipment such as long arm rifles or shotguns because such an act would be an unnecessary and aggressive approach and would frighten the community. Do I - or are we to understand that when you expressed yourself in that paragraph you say, "Generally speaking, long arms shouldn't be held by police in the community?---Yes. No, we don't carry them. And they shouldn't be carried in the community as an everyday thing.

Of course not?---No.

But in highly extenuating circumstances such as the deployment of the IRT, that may be a necessary requirement?---Yes.

The occasion that you mentioned where you were involved when the IRT was deployed was - the TRG I think it was?---No, it was cordon and contain back then.

Cordon and contain?---Yep.

And is that where the IRT cordoned and contained until the TRG arrived?---No, no, that was - are you talking about the cordon and contain one that was at The Granites?

Yes?---Yeah.

Well, what do you actually mean by that? What actually happened with that?---The cordon and contain team flew in - I think they flew into the granites because there was an offender that came past - he came into Yuendumu but we stopped him from getting petrol. He'd beaten up - a violent attack on his partner and he still had - I think their 10 year-old child in the car, the actual victim was not in the car any more but the 10 year-old child was in the car.

And was he armed?---No.

No. But obviously there were police concerns for the welfare of the child in those circumstances?---Correct, yes.

And so the police in that case cordoned and contained?---They came in and because we didn't allow - we turned off all the petrol to Yuendumu so he couldn't get fuel. We knew he was on his way to - he was on his way to WA so we made sure he couldn't get any fuel and we rang The Granites and told them that this is the car, this is coming and we deployed a cordon and contain team and - and asked The Granites not to give him fuel, so we knew that he could only get a certain way and



then I think he got 20 ks down from The Granites when he did leave. He kept him there for as long as he could while the cordon and contain team made it and then - he had already left but he broke down 20 kilometres down the road. Cordon and contain team came along and arrested him.

So in very simplistic terms - - -?---It was, very simple.

The circumstances of that particular case were such that peaceful and logical steps would be taken, such as depriving him of petrol so he would run out and stop and that way you could get hold of him, apprehend him without the necessity for increasing, if you like, the potential for a push back?---Yeah, so yes, lessen the risk of - - -

Lessen the risk?---Yeah.

And I think that a similar example one could say, existed when you were describing what I'll call "applying for frying pan business"?---Yes.

I mean, theoretically, a frying pan could be a legal weapon I suppose?---Yeah.

If you were in close enough proximity. He was obviously sounding off one minute and he's holding the pan up, the next minute he was putting it down, is that how you would describe him?---Yeah, pretty fair way, yeah.

And over perseverance and discussion negotiation - if I can call it that - over an hour and a half you managed to get him to basically surrender and he was apprehended peacefully?---Yes.

Of course, that's another example where police - in this case you - had the opportunity to negotiate and discuss a peaceful resolution?---Yes.

But part and parcel of your training, and something that you would be acutely aware of as such an experienced police officer, is that sometimes police don't have the luxury of being able to negotiate?---Of course, every incident is different.

Of course?---Every day is different.

And that's why you were yesterday that you had to qualify everything you said about response force, whether it be lethal or otherwise, everything is dependent upon the particular circumstances that confront that officer?---Correct.

I want to ask you a little bit now about - just bear with me. I certainly don't intend to repeat the content of the text messages that were put to you yesterday or today by counsel assisting. But I might suggest this, they were patently racist and they are patently abhorrent. And as I understand your evidence, those descriptors have no place in the workplace - I think we're all united in that front. Is that so?---Yeah.

And despite your decades of experience in the police force, as I understand it, you have never heard those abhorrent or patently racist terms being expressed in the course of duty?---No, not those words, no.

No. So the private, appalling messages that were read into the transcript are not, in your experience, a reflection of the way any police officer in your presence has behaved in all the years you've been in Force?---No.

Have you ever had a perception of systemic racism at all in your Police Force?---No.

No. And even when confronted with potentially the most violent of offenders, have you heard police officers respond in racist terms at all?---No. It – like, when they come – in an incident?

Yes?---No, I'm not at every – I'm not at every incident, so- - -

No, of course. I'm talking about in your presence, when you've been- - -?---Yeah. No.

No?---Apart from, you know, dropping the weapon or- - -

Sure- - -?---or it may be a swear word but not, like, those words.

I mean, police officers are human?---Yeah.

I'm sure that they swear from time to time?---Yeah, yeah.

And some might also express, from time to time, uncharitable remarks or opinions about their superiors?---Sorry, about what, sorry?

Their superiors. You might have a view, an opinion, privately?---Yeah, yep.

I mean, police officers do express private opinions between themselves, don't they?--Yeah.

Can I put this to you, in terms of your training. Yesterday, you said that there is no difference between the training and use of force in the metropolitan areas versus bush communities?---There's no difference in our training.

No. And that's because, can I suggest, race or colour plays no part in the decision to use force?---Correct.

THE CORONER: Is that a question in relation to this witness's choices about whether or not she uses force? She's not- - -

MR EDWARDSON: I'll break it up, I'll break- - -

THE CORONER: If you're asking her to speak for the rest of the Police Force, she can't do that.

MR EDWARDSON: I'll deal with it this way: at any stage in your training, had it ever been suggested to you that race or colour should play any part in the decision to use force?---No.

In your experience – all these vast years of experience in the community and elsewhere, as you've told us – have you ever had the sense that race or colour played a part in the decision to use force?---No.

Can you see any reason why, in any circumstance, race or force should play a part in that decision?

A PERSON UNKNOWN: Race or colour.

MR EDWARDSON: Race or colour, thank you.

THE WITNESS: No, it's an incident that you're responding to, so.

MR EDWARDSON: Exactly. It's an incident that you're responding to?---It's not about the colour of the person. It's about what's happening.

Of course not. Unfortunately and tragically in this Territory, and particularly around Alice Springs and the like, would it be fair to say that a larger proportion of potential offenders who might come into your presence or other police officers' presence are more likely to be Indigenous?---They're more likely.

And that's just, unfortunately, a tragic part of- - -?---Yep.

- - -life in Alice Springs and the surrounding areas and communities?---Yeah.

I want to ask you a little bit, if I can, about the attachment to your first statement. You have your first statement there, Sergeant?---The- - -

Have you got that- - -?---youth thing? You're talking about the youth?

Yes, youth issues- - -?---Yep.

- - -in Yuendumu?---Yep.

And it says, "Command of TAC." What does TAC mean?---I actually don't know. Although I read it before, I – I'm not sure.

Right. Well- - -?---I'm only presuming it went up to probably my Senior Sergeant – I probably wrote it for my Senior Sergeant, to tell him what was happening.

Right?---Out – with our youth.

So in other words, it's going up the chain of command?---Yes.

You, as an extremely experienced police officer, have been exposed to Elders and, more importantly in the context of this document, the youth in Yuendumu?---Yes.

And so what you were seeking to do in that document to inform command was to identify youth issues?---Yes.

And I think you list, don't you, a series of different types of offending that falls under that category?---Yes.

And then you looked at the cause – causes?---Yes.

And I want to ask you a little bit about those causes, if I can. You talk about lack of parental boundaries, parents not being able to control the youth and so on?---Yes.

Domestic violence – all those sorts of issues that, tragically, confront the communities from time to time?---Yes.

Which you, as a police officer, are exposed to?---Yes.

As a police officer working in conjunction with the communities do you, through the Elders, seek to try and assist them in understanding that those causes – and trying to deal with them to avoid, if you like, police intervention?---Sorry, work with the Elders? Is that what you're saying?

Yes?---Yes.

Now, you give a series of recommendations. The one I want to ask you about is this one, the second to last dot point is: "Increase police numbers as community size has increased but police numbers haven't"?---Yep.

Now this document, I assume, was back in 2014?---2014, May. Yep.

Of course. Since that time, have there been significant increase – has there been a significant increase in police numbers or not?---Yeah.

There has?---Yes, because we had a new police station built in 2015.

Thank you. And has that made a difference?---Yes, it's helped.

And is police presence, in uniform – with the accoutrements that you've described that every police officer wears from day to day – an important part of trying to minimise incidents of crime and (inaudible)?---We wear our accoutrements every day. It's part of our uniform, so.

Yes. What I'm getting at is police presence is something that's part and parcel of day to day life of a police officer going in and out of the communities?---Yeah, in our community, yep.

You've told us that attempts were made by police officers, such as yourself, to engage with the Elders to try and come up with a peaceful solution, such as the surrender of the individual. You've had experience with Kumanjaya Walker specifically?---Yes.

And if one looks at your statements – and you look at it carefully – would it be fair to say the difficulty in his case, from your experience, was that he was not listening to the Elders?---Yes.

In other words, they couldn't get him to do what Elders would normally do with other youths, for example?---At times. Not all the time, but at times.

But at times. That was certainly something that you documented, isn't it?---Yeah, I had concerns.

And you had concerns about the capacity to make sure that he didn't harm himself or anybody else?---My – my first one was concerns about him – his mental health and his wellbeing.

Yes. Because of this?---It was more about his mental health and his wellbeing.

It was becoming increasingly obvious to you that there was more and more concern, in your mind at least, the older he got?---There was concerns – there was more concerns as he got older, yes.

Just excuse me.

Nothing further, thank your Honour.

THE CORONER: Yes, is it an appropriate time to take the morning adjournment?

DR DWYER: Thank your Honour.

THE CORONER: We'll adjourn for 15 minutes and I'll just – before you leave, I'll just check if there are any other questions, but we'll have morning break now?---Okay.

WITNESS WITHDREW

ADJOURNED

## RESUMED

THE CORONER: Mr Freckelton, Sergeant Jolley is just on her way. Mr Freckelton.

ANNE JOLLEY:

XXN BY DR FRECKELTON:

DR FRECKLETON KC: Thank your Honour.

Sergeant, just face her Honour if you would and give your answers toward her. Can you – you were asked some questions yesterday about some text messages?---Yes.

About police officers in the bush, in remote communities?---Yes.

And there were some suggestions made about their being lazy and similar. I'd like you to give her Honour, if you could, a bit of information about life as an officer in a rural community, or in a remote community such as Yuendumu. Tell her about your ordinary day, if you would?---Ordinary day? So normally, when I get over to the station, do a few admin stuff and then go – and I always go around the community in the morning, just in- - -

What does that mean?---Just- - -

What's going around the community?---So I drive the community and wave to everyone, say g'day, good morning type-stuff. So I do that for about an hour and a half. And then I come back and then my- - -

Just a moment, let's just do it slowly?---Yep.

And so when you're waving to people, presumably sometimes they want to talk to you about things?---Yeah.

What sorts of things do they raise with you?---Yeah, they say, "Hey," just, "How you going, what are you doing today?" They might talk about, "Do you know my – if I need to get licence," or, "Can I get my licence," or, "Can I register my car later." Just things like that. Or they might talk about work they're doing, so just chit-chat through – yeah. Through the time I go around.

So why do you go- - -?---Sometimes I give them a lift up to another camp or drop them at work.

Why do you take the time to going out and mixing with people in that way, then?---It's important – just important to me to stay connected to the community and engage with the community.

Okay. So after you've – you've driven around and spoken to people, what do you tend to do after that?---Then I go back and normally, my members have come on duty. They start a bit later than me, normally. So then we talk about our day, any follow-ups they've got or any statements they might need or any jobs outstanding. So we make a plan for the day, yeah.

Right. And after that, what are the things that you and your colleagues are doing?---So it depends on the day. So it depends what we have happening, if – because we've got Nyirripi to look after, Yuelamu to look after and Willowra to look after. So yeah. Depends on the day, what our – whether we're going to another community or my guys are going to another community, or we've got other follow-ups, you know, that have come in overnight that we need to attend to.

How often does – do you or one of your colleagues need to go to one of those other communities?---So we try and get there – depends. If there's a job on, we'll go over there. Unfortunately, because we've had a bit of unrest in Yuendumu, we haven't got over as often as we like to. So fortnightly, sometimes – sometimes we don't get there for four weeks. But – so- - -

THE CORONER: Are there police stationed in those other communities?---No, because they – they were – so Yuelamu is only 50 K's away, so that's a close community. Willowra, that takes us probably two and a half hours and then Nyirripi's a couple of hours away from us. In the intervention, we had – Nyirripi had two police officers and so did Willowra, so. At the moment they're not manned.

So now there are no police officers at those two?---No.

So if there's any incidents, say some kind of domestic violence issue or any unrest- -?---Yes.

- - -it would be – the task falls to your station to respond?---Yes, yep.

All right?---Yes.

So is it quite common for members to need to go out to one of those communities to deal with one thing or another during the week?---Yeah, yes.

And what about into the afternoon, what sorts of things do you do during the day, aside from emergencies of the kind we've just been discussing?---We just drive around the community, normally chat to the kids, especially if they've finished school, put the sirens on, the lights on, so yeah. Much around. Sometimes they'll get out and play basketball with them, you know, throw a ball.

THE CORONER: Are you any good at basketball?---No, not really. I think it's my height. The kids are all taller than me.

DR DWYER: I'm sorry, your Honour, the live stream is not working. I apologise to Dr Freckelton and to the witness.

DR FRECKELTON: It probably should be working. Has it not been working at all after the break?

DR DWYER: Yes. I don't know I'm sorry, (inaudible). Thank you.

DR FRECKELTON: I am in your Honour's hands.

THE CORONER: We will just see how they respond to indicate what might be happening. Do we have any information about what might be happening?

DR DWYER: Mr LaCanna is looking into it in Darwin. I think that's as far as I can assist the court. I was just saying that I can't be of any assistance.

DR FRECKELTON: In respect of this?

DR DWYER: Thank you. Thank you, Dr Freckelton.

DR FRECKELTON: I was just trying to help.

THE CORONER: Dr Freckelton, what would you like to do? Would you - I am happy to give them a little bit of time to see if we can resolve the issue, if that's what you would prefer?

DR FRECKELTON: Could we give it five minutes, your Honour? I am conscious of court time. We would like to press on. We have got witnesses planned for flying in here.

THE CORONER: Sure. We have made a lot of efforts in relation to organising the witnesses and trying to keep to a timetable. And indeed, we might need to have a little bit more of a timetable in relation to each witness. Is that something that we could talk about now, without the live stream?

DR DWYER: Yes, I think that is probably a useful use of time if that is okay, your Honour.

THE CORONER: If you don't mind just waiting for a moment, Sergeant Jolley? ---No, it's all good.

I know you are keen to get back to our community but we will try and resolve this issue and have you finish as soon as we can, before lunch?---Thank you.

DR DWYER: Your Honour, as you know, the logistical exercise of dealing with all the witnesses is extremely difficult because of peoples work and family commitments and the court commitments and we are trying to take into account all of that in addition to what has been communicated by my learned friends as to the time that they will need for examination.



There a few proposals to try and claw back some time that we have lost and that includes that on the Friday afternoons that the court was not going to sit, that we will sit, so that's Friday afternoon and I think there are two Fridays in October where we were not going to sit, to give people more time to prepare but we will claw those back - unless there is any serious objection from my learned friends. So Friday 14 October and Friday 28 October we would now propose to sit. We were always, I think, going to sit.

THE CORONER: And the other Fridays where we had planned to sit half a day, the proposal is to sit a full day on those Fridays?

DR DWYER: Yes. I think Dr Freckelton is - - -

DR FRECKELTON: Yes, that certainly does cause me a problem, I have booked flights and have commitments on the basis of what we had arranged in respect of the 14th - only that one.

THE CORONER: On the 14th. So are both of those dates - - -

DR FRECKELTON: Just the 14th, okay.

DR DWYER: And given I'll try and nut some of this out at lunch time, does anybody else have anything else to say about either of those Fridays?

MR BOE: We are ready to go any time your Honour is ready to go.

THE CORONER: I think that given that we are all gathered together for - and have set aside most of these three months, it is in everyone's interest and also in the interests of, you know, the efficient running of all of the Coronial matters in the Northern Territory, that we complete the evidence in the time that has been set aside. So we will issue a new schedule, given that there hasn't been any objection to sit on the Friday afternoons that were otherwise set aside as half days and to sit on the 28 October.

DR DWYER: And, your Honour, the other proposal is this, and it is effectively what are sometimes called the "stopwatch orders" they are not very palatable with lawyers often. I have been the subject of them myself on many occasions, but it does really help to focus the mind, of parties at the bar table, and so the proposal is then that certain witnesses would have to be finished on a day - for example we can't continue to take a day for each police witness or we are just going finish, but it inevitably happens in an inquest that you speed up as you go along.

THE CORONER: Sure. And the first witnesses are providing a lot of information that we are hearing for the first time and have obviously been chose because they have a specific role that is very important to the inquest whereas as we move forward there will be a number of witnesses who are able to assist in relation to their particular area of involvement but not necessarily be able to assist on the broader issue that we are considering.

DR DWYER: Yes, your Honour. And given that so much evidence is in your Honour's brief by way of documentary evidence there won't be any shortage I think of evidence by the time you finish your proceedings. The proposal then would be something like 20 minutes for each party, unless there is a specific application otherwise and of course that will allow for some flexibility if your Honour considers during the course of an examination that it is particularly helpful.

THE CORONER: Yes. I think it is going to be helpful for everybody to have an order like that because it will be fair and it will assist everybody to ensure that they focus their questions on areas relevant to the people that they represent and of course I will always consider some flexibility if it is obvious that that particular witness is of very great significance to any particular party.

DR DWYER: May it please the court. We will do our best to nut that out over lunch time or after court and get that to parties by tonight.

THE CORONER: How are we going with the live stream? They can view it now apparently in Darwin, so we can continue.

Dr Freckelton?

DR FRECKELTON: Thank you, your Honour.

Sergeant, I was asking you about your day. You've referred to crises and driving around, doing administrative tasks and responding to matters as they arise. What about when it hits 4:30, are you at leisure and off duty, to relax?---Personally, no.

Tell her Honour about that?---Normally I'm trying to catch up on my paperwork and normally I don't leave the station until about 6 most days. So I start around 7, I normally walk out about 6:00, 6 o'clock.

What about after 6:00, do you have any - is it complete down time from then onwards?---I'll be honest. I normally go home and open my computer again and then do a few more things and take my dogs for a walk.

Do you have contact from members of the community after 6:00 in the evening?---They ring me often and sometimes, it just depends.

All right. Tell her Honour about the challenges of being a remote police officer. We've heard about some of the positive aspects. You've described your enthusiasm to keep returning to remote communities?---Yep.

What are some of the things which are challenging for members?---I think, because we all live in a compound. So, we work together and then we live right beside each other. It can be challenging if you're out there by yourself, it can be quite lonely. Also, you know, it takes three hours to get to Alice, so if you've got to get home to a family member that might be sick, or you know - yeah, by the time you get home and

trying to coordinate that. So, that can be challenging. I guess just, you know, we can't just go out. There's just not a restaurant down the street to go out to or go grab a coffee or – yeah. So, it can be challenging.

We've heard about issues already in this inquest about fatigue?---Yes.

And that applies, apparently, at the time of the IRT being called out. Is fatigue an issue?---It is. If you don't have enough members, because obviously you're on call overnight if no one's working and often members are rec leave, so there might only be a few of you. And if you get called out through the night and on several occasions, then you start to get really tired and fatigue can be an issue.

What about burn out of officers?---Yeah, definitely. Fatigue, you know, if you're continually called out and fatigue hits and you know, you feel like you don't stop, you know, you can burn out.

What measures do you utilise to try to maintain the longevity of members at your station?---So, we have an on call roster and if they've been called out – if they're on call consecutive days, then I might move them to another day, if they've been called out and they've been up all night. So, we have foils. I try and ensure that they get in regularly to Alice for a break, if I can. So, that kind of tries to stop any risk of them getting tired or burnt out.

And you've referred to having a number of members at the moment - - -?---Yes.

- - - who are short-term persons who were brought in for relief?---Yep.

Is that a common situation at Yuendumu and similar stations?---Yeah, look there is relief, but sometimes, there isn't. So, if you've in a – like a three man station, fatigue can be quite hard to manage. And again, it's – not that it probably – there's probably members that want to come out, but there's no housing. So, housing is still our issue.

And you've referred to many very positive issues for the Yuendumu community, but from that appendix to your statement, it's apparent that there are challenges in providing policing services as well?---Yes.

Is it a community where, for more than a decade, tensions between families have erupted unpredictably?---Yes.

There were particular issues back in 2010, were there not, which resulted in large disturbances?---Yes.

And were those wholly resolved between the family units or are there still lingering issues?---Every now and then, they linger up. But those rights over all those years, that was when South Camp went to Adelaide and they came back and that's where -

- -

Yes?--- - - - the peace park was created for a place for them both to be safe, because it's supposed to be like neutral. So, for most of the time, every now and then, it will just bubble up a bit, but no, most of the time, that's laid to rest.

In terms of bubbling up, without going into details, there have been issues lately, have there not?---Sorry?

Just in the last few weeks, there have been issues?---Yeah, but not - - -

Without going into details?--- - - - in relation to that.

No. But were the issues involving family members such that the TRG needed to be called out within the last fortnight?---Three weeks ago, I think.

About three weeks?---Three weeks, yeah, four weeks ago, maybe, yeah; yes.

Yes. And again, just family issues, but such as to require the TRG to be brought in from Darwin?---Yeah, yes.

All right. And are there – when you referred to there being weapons in community, what were you referring to? What kinds of weapons are there which can be availed of if there are problems?---So, their weapons out there were machetes, boomerangs, axes, knives.

Right?---Nulla nullas.

Okay. And when there are tensions involving family units or between families - - -?---Yes.

Is it a phenomenon that is well understood by police that those weapons can be utilised?---Yes.

And what do you say, if anything, about the need for you to be in a position to respond, if you find yourself in that sort of a situation where those weapons are being utilised?---We go out and respond, yes.

And what do you need in order to enable you to respond safely for the members of the community and yourselves?---Well, we have all our kit on, like we would wear our vest.

Right?---And have all our accoutrements, make sure we're prepared before we go out, knowing that they're fighting with weapons.

Yes. How unpredictable is the eruption of tension?---Look, it's been a little bit constant over the last couple of months. So, we're not surprised when we hear that there's fighting.

Yes, all right. I'd just like to show you the Operational Safety and Use of Force

instructions. It's to be found at 17-3.

I wonder if that could be put up on the screen, please. We'll go first to pars 7 and 8 which are on page 6.

THE CORONER: We'll just need a second.

MR FRECKELTON: Just while that's being found, tell her Honour what the Operational Safety and Use of Force instruction is, if you would, in broad terms?--- So, the use of force is like our safety principles and – is that what you're referring to?

Operational Safety and Use of Force instructions?---That's a general order, yeah.

Yes, one for general orders apply to all police?---Sorry?

It applies to all police members?---Yes, yes.

Okay. And those kinds of orders apply to offices serving in remote communities as much as to those in Darwin and Alice and Katherine, do they not?---Yes.

Thank you. So, that's the document I'm referring you to?---Yep.

THE CORONER: And the paragraph was?

MR FRECKELTON: Page 6, pars 7 and 8. There we are.

Do you see this relates to operational and safety equipment, Sergeant?---Yep.

All right. Paragraph 5 then, "Operational members are issued with operational equipment." Do you see that?---Yes.

Can I direct your attention to the next heading, "Minimum Accoutrement Carriage Requirements"?---Yes.

Do you see that?---Yes.

The first one, "When performing operational duties, all members are to carry all items of approved equipment relevant to their operational circumstances." Do you see that?---Yes.

Is that binding on you?---Sorry? Yes.

Just yes. And so, does that require you, for instance, to carry your Glock?---Yes.

And what other things are you required to carry pursuant to that?---So, we carry our spray, taser, handcuffs.

Right. And that's referred to in par 8, is that right, the next one down? Do you see

that?---Yep.

All right?---Sorry, my eyes aren't that great.

No, no. That's all right, beg your pardon. And in short, is that – is that the requirement from – from those in charge of the Force in relation to what you have on you in terms of accoutrements?---Yes.

All right. I wonder if we could go next – same document, please, to page 24 and par 178. That's it, perfect. Thank you very much. And you can see that this is headed, "Public Events, Demonstrations, Sporting Events and Other"?---Yep.

Can you see that again, requires you to carry equipment relevant to the circumstances, but there's a stipulation at minimum, you're to carry a bunch of things when attending even things like school lectures; do you see that? When you're doing it officially in uniform?---Yes.

All right. So in short, this is a pretty across the board obligation to make sure that you've got your Glock and other things so that you're in a position to respond to any crises that might arise unpredictably, pretty much anywhere?---Yes.

All right, thank you. That can go down now, thank you. You were asked some questions a moment ago about par 14 of your statement, and that was the subject of the section from my learned friend. I'm not going to walk into that difficulty. But in that paragraph, you refer to having made a report in relation to Kumanjayi, and also his girlfriend. Do you recall that?---Yes.

That was back in 2015. What I would like to ask you about is where that report went to and what you know about what became of that report?---The report to Family and Children's?

Yes, so went to Family and Children?---Yes.

And that's – do you make such a report when you're worried about the circumstances and the safety of minors?---Yes.

And that places the issues squarely in the hands of those who deal with children with, what I'd call, protective issues?---Yes.

Now, in those days and then now, what happens after that? The Department does what it does. Is there a feedback loop whereby you're told what has happened in response to your report?---Sometimes.

Right?---I can't remember on this instance because it's so long ago.

It was, yes?---But, like, when we do our reports now, they ask you if you want feedback, so it's a question on when you actually do the report, would you like feedback?

Yes? And what do you generally say when you're - -?---Yes.

You say yes?---Yes.

Yes?---Yep.

Do you get it?---Yeah, well, it kind of – it's – there's a little bit of feedback but it either will say the case has been closed or it's being investigated and – but give you a little bit of feedback, but not enough for – that I believe to it be – to probably that helpful, do you know what I mean?

I do, but let's tease it out a little bit. You've – if you've taken the trouble to draw to the attention of the Department- - -?---Yep.

- - -that there is a child, for instance, who doesn't seem to be sleeping at home or is getting into bother with his or her boyfriend/girlfriend?---Yep.

Or they don't seem to be getting the food that they need, is that something that – I'll say that again. The reason why you make such a report is that something needs to be done and followed up, right?---Yes.

And do you not need some feedback about whether the situation has resolved or whether action has been taken or whether it's an ongoing issue that you need to give a bit of a watch over?---Yes.

Because you might well need to speak to family members or persons on the local council or Elders or others?---Yes.

Is that right?---Yep.

Okay?---Yep.

So do you say that it's important that that feedback is not always as fulsome as you would like it to be and it would be constructive if it were more fulsome?---Yes.

Thank you. Now, I'd like to ask you about early morning arrests. Not the one in question?---Yep.

But you've told her Honour that going to arrest people early in the morning- - -?---Yes.

- - -has advantages because they're pretty sleepy?---Yes.

And so for any issues in relation to their posing a risk- - -?---Yes.

- - -going in at that time plays a role in reducing the risk of taking them into custody?---Yes.

Is that right?---I wonder if you could just walk her Honour through, from your experience, what is done when somebody is taken into custody at that early hour of the morning? From the time the officers – however many there are – get to the door of the house where it is believed that the person is. What happens?---So we knock on the door. Generally they- - -

So you don't just go through the door, even if you've got a warrant or whatever?---No, no, no.

You knock on the door?---Knock on the door.

Why do you knock on the door?---Because we're – unless they don't answer – well, let me go back. Our training is to avoid, you know, forced entries unless it's required.

Right, yes?---So and for us, if we knock on the door and they answer it well, you know.

Yes?---I mean, it's good and so we'll – we'll normally have four of us, two at the front door, two at the back door. We'll knock on the front door. They'll answer it, generally. Most times they'll answer it and we'll just ask – say, whoever we're looking for. And they'll generally point to the room they're in.

So you say, "Is Fred there"?---Yep.

And generally you'll be directed to- - -?---And they'll either – yep, they'll go- - -

- - -to the room where Fred is?---Yep, "Down there."

Okay?---And we'll normally go in – into the room and locate them.

Let me stop you?---Yep.

It's 5:30 in the morning. The reason you're going there early- - -?---Yep.

- - -is to try to take Fred a bit unawares?---Yep.

But there you are, knocking on the door- - -?---Yep.

And other people are coming to the front door and a bit taken aback, there are police. And you say, "Can we come in?" And- - -?---Yep.

- - -and they generally say yes, you say?---Yep.

So in you come. Doesn't that mean your element of surprise in relation to Fred has been reduced?---I can tell you, we knock for awhile. It takes them awhile to wake up.



That's important- - -?---It takes awhile for someone to wake up and – yeah.

Okay, all right. Now, I interrupted you. You're in the house now?---Yep.

You've been told that Fred's down the passageway somewhere?---Yep.

What happens after that?---So we'll go in there, find Fred.

Do you knock on Fred's door as well?---No.

Okay. You just open up the door to get Fred do you, at that point?---Yep, go in. If it's locked we'll knock and- - -

Okay?---But generally, the – yeah, it depends. So if it's open, we'll go in.

Yes?---And wake them up, handcuff them, take them- - -

Let's go back. Generally, are the doors of – front doors of houses in the Yuendumu community locked?---Yes, yep.

Okay. And what about individual doors within houses. Are they generally locked, or- - -?---Sometimes.

Sometimes?---Yep.

All right?---So generally go in and wake him up and handcuff them and explain to them that they're under arrest and why they're under arrest.

Yes. And so you were saying before I interrupted you that you go in and you get handcuffs on them quite quickly?---Yeah.

What's the reason for that?---So we're doing an early morning one. It normally means that they've got the potential for violence or maybe they're a runner.

By running you mean- - -?---So we want to get them quick- - -

- - -someone who- - -?---Gets up quick and runs, yeah.

(inaudible) tries to take off to avoid custody?---Yep. Yes.

Now, what – so from the sound of it, there's not a lot of talking at that stage, because there – there have been discussions with you already?---Yep.

And we asked questions about negotiations and the need to have – or the advantages of having an ACPO or an ALO present?---Yes.

But in this situation from what – the sound of it, you're trying to get in quickly, get handcuffs on. What about talking after that?---Yep, then we'll talk to the person we've arrested and the family. We'll stay there for a while. And there's four of us normally, so two will go back with whoever we've arrested and the other two will normally stay and just chat to the family. And the family will come up – we'll encourage the family to come up to be with whoever it is we got in our custody.

On this issue of talking, I just wanted to ask you about the facility with English of young persons in the Yuendumu community and more generally, too?---Yep.

We've heard a little bit about Kumanjayi and that he was a bit hard of hearing, from the sound of it?---Yes.

And not a great talker?---Yes.

Of – with the young people – by which I mean, say, people between 14 and 20 – how extensive is their English, in your experience?---Depends on the family.

Right?---Depends on the child.

Yes?---Definitely, if they're hard of hearing, it – if we have someone that talks language, it is easier for them because of their disability.

Yes, and are those hearing deficits quite common?---Yes.

In the community?---Yes, they are.

And so is that one of the reasons why you try to have an ACPO or an ALO present who can talk to them in language?---It's beneficial to have someone that can talk language.

And that's because one, they're more likely to understand what is being said to them?---Yes it just - yeah, it reinforces what we've said, to make sure they understand, so yes.

So you can communicate more effectively with them?---Yes.

And with young people - but does that play a role in reducing their anxieties?---Yes.

And is that an important issue, especially with taking young persons into custody?---Yes, that's why we encourage family to come up with them because it makes them feel more secure and safe, yes.

I'd like to ask you now about risk assessments, when arresting people. Now, you probably write down a formal risk assessment when even planned apprehensions take place, is that right?---Not always, no.

When do you - or what do you do by way of thinking through risks and options when you are going to arrest someone?---So we look at the house, if there's children in the house, you know, obviously we've looked at the alerts on the person, the person's you know, got a potential for high violence, if they have weapons, all those risks we take into consideration before we go.

Now, you say, "We take into consideration"?---My team, the team go.

The team?---Yep.

And you may or may not be leading it?---If I'm on duty I'd be leading it, if I wasn't my most senior officer would be leading it.

And so is there a discussion that takes place about these sorts of issues and the best way of taking the person into custody with the least risk to everyone involved? ---Yes.

Does that happen just sometimes or all the time?---We're all - if we are going to arrest someone we always sit and discuss it before we go.

And when you say "discuss it" does that mean that you - - -?---Formulate our plan, yes.

- - -(inaudible) going to and fro amongst the officers?---Yes.

And do you involve an ACPO if there's ones around or an ALO if they know people who would be involved?---Yes.

And is it open to them to contribute to those discussions?---Of course.

And do they contribute to those discussions?---Our ALOs are pretty new but if they know the person they certainly will and I would say after - we haven't had Derek for a while so - we haven't had Derek for a while, so normally we would include Derek if he's on duty.

So in the Derek days and before this, he would be part of that conversation if he was available?---Yes.

And to be fair, Derek hasn't really been available since the trauma of all of this, for the last three years, has he?---No. No, he hasn't.

And is one of the consequences of that been that there hasn't been a functioning ACPO at your station during that time?---We've had one relieving ACPO but no.

Not from the local community, is that right?---Not from the local community, no.

Is it very advantageous to have an ACPO from at least the general vicinity so that they can speak language and be particularly familiar with the local cultural issues?

---Yes. Generally our other communities that are close by have the same languages and they know multiple languages so they normally know the region, so it doesn't necessarily have to be from Yuendumu but around.

And for instance, that means one of those four communities to which you referred earlier?---Or Papunya.

Papunya?---Kintore, yes.

I'd like to ask you a couple of questions about the ALOs, you've told Her Honour about the advantages of ACPOS. ALOs are a new form of employee that have been brought on board I think over the last two or so years, is that right?---I think it was around 2015 we had our first one - '16 maybe. Just from memory because I know I had two when I was there last time obviously, so.

All right. So tell her Honour a bit about what, to your knowledge, brought about the involvement of ALOs in the Northern Territory Police Force?---I think it was just about language and - like a liaison officer between police and the community and it helps with language, understanding, we also use them to, you know, go out and - and sometimes in the school we might use them to go and talk to the kids or, you know, help with the school. They'll help - they help us serve summonses, find people. They're very good at finding people, if we just want them to come up for, you know, we might have something outstanding or go - "can you go and find so-and-so?" they generally can bring them and, you know, and if they don't - if we think they don't understand something it's good for them to reiterate what we're trying to say to them and make sure they understand, so - and they just to - they can do just general patrols to tell us what's going on in the community, they're good source of information if anything is happening in the community. They do a number of things. They're very helpful.

Do ALOs tend to be from the general vicinity or are they generic persons of indigenous background, so might you get someone from Wadeye coming to Yuendumu?---No. We're so - at the moment we've one from Lajamanu - not Lajamanu - Laramba, but family - has family at Yuendumu as well.

So they can speak the local language?---Yes. One that's got family in Yuelamu, one that's got family in Nyirripi and one that's a Yuendumu person.

So you've got quite a few assisting you at the moment?---Yes.

Yes, thank you. And are they busy at the station, contributing to - - -?---Can be and of course, they're not always there because obviously cultural issues take them away regularly, if there's someone has passed away they'll go off to sorry or LTs and things like that, so we don't always have the four there. Generally we've got one or two.

But if one summarised it as there being a significant bridge between the force and the local community, would that be accurate?---Yes, they're very helpful when they're working, they're very helpful.

I want to ask you about alcohol because you raised that with her Honour yesterday and you've told her Honour, but Yuendumu is a dry community?---Yes.

And has been for a long time?---Yes.

Nonetheless, you - has there been until recent times, on the issue that Dr Dwyer raised with you?---Yes.

Quite an amount of alcohol and ganja accessible to members of the community who wanted it?---Definitely the alcohol has increased. The ganja I think has always been a bit of an issue in community. I don't think that has increased any but definitely the alcohol.

Just latterly?---Yes, just recently, yes.

And just before we get to the recent situation, was - did alcohol make its way into the community anyway, despite it being there (inaudible)?---A little bit but not as much now it's easier to get here in Alice Springs, so there's more flowing in.

And is the outcome of that from a policing point of view, more domestic violence, more child abuse and more assaults generally?---No, I'd just say more - probably DV probably are just more violent.

You made reference - - -

THE CORONER: Can I just check that?

DR FRECKELTON: Thank you, your Honour.

THE CORONER: More DVs in number? More - - -?---I think more severity.

Right, so the numbers are staying the same but if there's (inaudible) involved?---I'd have to - I'd have to have a look - - -

(Inaudible) being more serious?---I'd have to have a look if they've increased but I think it's definitely the violence has increased. Maybe the extent of the assaults.

DR FRECKELTON: You made reference yesterday to the police stationed prior to - or during the period of the intervention and a change in relation to that. Can you tell Her Honour what you were referring there. Earlier today you made reference to their being at Nyirripi and somewhere else I think?---Willora, yep.

Willora, so the police being stationed at those other communities during the intervention?---Yes.

That that stopped. When did it stop, can you tell Her Honour? I don't need a specific date, was it just recently or a little while (inaudible) - - -?---No, the actual stations have not been manned. I don't know what year it was. But it's before I left last time, so it had to be between 2014 and 2017. So they were manned when I first went there.

Yes?---And during my period there in Yuendumu, those police stations were unmanned. I don't know about Willowra. We never had Willowra, so definitely Nyirripi wasn't. I can't talk for Willowra, actually.

And is that a problem in terms of police being able to have relationships with members of the community and really stay on top of issues that may be emerging?---Yes, we don't – well I feel like we don't give the best that we can, because we're not there. Like, I know the community loved it when we had police at Nyirripi. And I think to form good relationships, you need to be in the community to form them. We do have a lot of Nyirripi people living at Yuendumu at the moment, due to the unrest though.

Yes?---But it is an issue, not being able to be there. And sometimes, we might not – like if we're really busy in Yuendumu, sometimes we might not get there for like four weeks, six weeks.

If that's the case, a lot can have happened in that intervening period without you really having the usual intelligence as to what's taking place and where issues may be emerging, I would have thought?---Yeah, we have – we'd have one person we do talk to regularly.

I see, yes?---So, that's helpful. But if we get a job, then we've got to drive all the way over there to sort that job out.

Yes. And that's four or five hours?---Two hours.

Two hours. And Yuendumu varies somewhere between 800 and 900 people. Is that right?---Yeah, around that.

What about Nyirripi?---Probably about 200, 300 at most.

And Yuelamu?---Yuelamu's about the same; about the same size as Nyirripi.

Yes?---And then Willowra's about the same size too.

That's very helpful.

Thank you very much, your Honour.

THE CORONER: Thank you. Mr Hutton.

MR HUTTON: I'll be brief, your Honour.

THE CORONER: Thank you.

XXN BY MR HUTTON,

MR HUTTON: Sergeant Jolley, my name is Tom Hutton, I appear for the Department of Health in this matter?---Yep.

And Sergeant Jolley, you gave evidence yesterday in response to a question from Mr Boulten that Yuendumu is like a small country town where everyone knows each other?---Yep.

Is it a small enough community, Sergeant Jolley, that people living in Yuendumu also typically know where other community members live within the community?---Yeah.

And is it known within the community, do you think, which houses are occupied by health staff?---Yes.

And unlike with the police accommodation, which I think you described as being within a compound?---Yep.

Am I right to say that health accommodations is dotted around the Yuendumu community?---Yeah, it is spread around a bit.

Thank you. And just one other matter, I understand from your answer to Dr Freckelton a moment ago that there is no police station in Yuelamu. Is that - - ?---Yuelamu, yep.

Yuelamu, thank you. So, requests for assistance from that community are responded to by your station?---Yes.

And that's the situation currently. Is that also the situation when you commenced at Yuendumu in 2014?---Yes.

Thank you.

Anything arising, Doctor?

DR DWYER: Just briefly, although I know that Sergeant Jolley is looking at me suspiciously when I say that, but genuinely briefly.

REXN BY DR DWYER:

DR DWYER: Sergeant Jolley, are ALOs ever involved in the arrest process?---No, they don't have police powers.

And then, my – just a couple of follow up questions in relation to your contact with

other service providers who might be able to assist a child in need, like Kumanjayi was, do you recall Antionette Carroll at all who was there - who was with a service there known as CAALAS, which became – which was merged into NAAJA?---I don't remember that person, no.

Then my last topic relates to the issue of trauma and any counselling services that might be available. You've given evidence that there is no trauma counsellor based in Yuendumu and you would like to see one or more - - -?---Yeah.

- - - trauma specialists there. And you talked about Ganna trauma counselling. Just for the transcript, I think that is G-A-N-N-A, and you just refer to them as Ganna, I think - - -?---Yep.

- - - came out after Kumanjayi passed away. Did you get any briefing as to where they were from or what they were going to try and do?---Yes. It was that – they were – I was told they were a healing organisation that worked with trauma and they were coming out to assist with the community to get through and try and get some healing.

And did they stay for about six weeks?---Yeah, they did stay for quite a while, yep.

And did you understand that to be an Aboriginal healing model that could be used to assist a particular community?---Yeah.

And is it your evidence that they appeared to be of some assistance?---Yeah.]

Did they engage with police at all when they were there?---Well, we went to a couple of meetings like with the Elders where some of them were there.

Okay?---Yeah, so they did engage, yes.

So, were you effectively invited to those meetings by the Elders or by the - - -?---We've arranged them, yeah, the superintendent and myself.

I see, so you arrange meetings with the community and then Ganna came along to those?---And they were there – yeah, one of the workers was there when we went there, because we do the men and then the women. So, the women were there, the Ganna women of that one and then the other bloke was at the – I can't think of his name, but he was at the men's meeting that we had.

I see. So, in terms of calling the community together for a meeting, did you initiate meetings with women separate to men?---Yeah, this was the main Elders around the trial stuff and then we would speak to the women and just talk to them of any concerns or yeah.

And you just referred there to a superintendent, you and the superintendent?---Yes.

Who was that?---Superintendent Prowse, Brett Prowse.



Brett Prowse?---Yeah.

P-R-O-U-S-T, for the transcript?---P-R-O-W-S-E.

Thank you, Brett Prowse, P-R-O-W-S-E., thank you. And then in terms of the availability of any trauma counselling, this is based in the community and ongoing, are you aware currently of any communities around Yuendumu who have that service?---No.

Are you aware of the only other police shooting of an Aboriginal person in the last 40 or 50 years that occurred at Ti Tree in the 1980s?---Yeah.

Do you know whether or not there's any ongoing trauma that you're aware of as a police officer in Ti Tree?---Yeah, apparently. I was talking to the officer in charge there. She says there definitely is.

And are there trauma counselling specialists available for that community?---No.

Do you think there should be, drawing on your experience?---I think there should be, yep.

And then finally Officer, in terms of your role, as much as you enjoy it and you've told us the positives - - -?---Yep.

- - - is there some trauma that you or other officers experience on occasion?---On occasions. We see a lot of, you know, bad stuff sometimes and of course, it affects us. We're only human, so.

And if there was a counselling service in the community available to police officers, would that be something that - - -?---That would be helpful.

In terms of what helps currently, can you just tell us what is important to a police officer in terms of being able to deal with that?---It's important to be able to talk to each other and debrief and support each other. It's really important for us all. In Yuendumu, we have what we call the firepit place and that's where we all go and sit and debrief, if we feel the need.

And from your superiors, is there any helpful support?---Yeah, definitely. I've never felt so supported. Senior Sergeant Furniss and Superintendent Brett Prowse have been very supportive since I've been back in Yuendumu, which has been really appreciated, yep.

Thank you, your Honour, nothing further.

THE CORONER: Well, I think you will be pleased to know that you've survived. I know that, at times, it was difficult for you to listen to some of the evidence and be asked to respond to it. For the record, I am going to put it on the record, because I think it's important, and it would not necessarily be obvious to others through the

livestream, but particularly, I did notice that when you were being asked those difficult questions about the text messages - - -?---Yep.

- - - that you were clearly affected by the content of those messages?---Yep.

And I thank you for, you know, being prepared to listen and to honour, reflect on and provide your reflections on those messages. My takeaway though from your evidence which your answer about being a strong cop. And you told us that a strong cop is fair, honest, transparent. They do the best they can. They treat everyone like they would want their own family treated?---Yep.

And I very much appreciated your reflections on your opinion as to what is meant by a strong cop?---Thank you.

And I'm sure that Yuendumu and the community appreciate those reflections as well?---Thank you, your Honour.

I think we can let you go and we will take the lunchbreak.

WITNESS WITHDREW

LUNCHEON ADJOURNMENT

RESUMED

THE CORONER: Yes, Mr Coleridge.

MR COLERIDGE: Thank you, your Honour. Next witness is Remote Sergeant Lanyon Smith. Before I call him, I might just tender your two documents that your Honour was provided with by Mr Boulten.

THE CORONER: Yes.

MR COLERIDGE: I think I can tender them as a bundle. They're consecutive pages of the June 2022 addition of Police News. And I think we're up to exhibit 6.

THE CORONER: Thank you.

MR COLERIDGE: I call Remote Sergeant Lanyon Smith.

THE CORONER: Officer, if you wouldn't mind coming into the witness box.

LANYON SMITH, affirmed:

XN BY MR COLERIDGE:

MR COLERIDGE: Sergeant Smith, can you please state your full name?---Lanyon Mark Smith.

And your current rank?---Remote Sergeant.

And where are you serving as a Remote Sergeant?---Santa Teresa.

All right. I'm not going to take you to these documents – or I hope I won't have to take you to the documents, but you've a number of recorded statutory declarations?---Yes.

The first of those was on 11 November 2019?---Yes.

And your Honour, for the record, that's document 7-121.

And annexed to that statutory declaration was an unsigned statutory – written statutory declaration?---Yes.

That was undated?---That is correct.

Can you recall when you drafted that statutory declaration?---That was on Wednesday the 6th.

Okay. So that was after – I think what we'll colloquially call the axe incident?---Yes.

All right. The second document on the brief is a recorded statutory declaration – the transcript of it from 14 January 2020; is that right?---It's a Monday?

I don't have the date wrong. 14 January 2020. This was a recorded interview with Senior Constable Tania Holliday(?) and Detective Senior Constable Alicia Harvey(?)?---Sorry, what was the date?

14 January 2020?---Yes, that's correct.

Okay. And that's document 7-122. And then finally, you gave evidence at trial in this matter – or in the trial of Zachary Rolfe on the 2nd – sorry, 9 February 2022?---Yes.

Okay. You said that you're currently stationed at Santa Teresa. What's your position there?---Remote Sergeant.

And how many officers stationed at Santa Teresa?---Myself, a constable, a senior ACPO and an ALO.

Okay. And you graduated from the Police College in February 2007?---Yes.

Okay. And you've been stationed in urban and remote settings ever since?---Yes.

Is it fair to say that most of your career, since about 2010, has been remote?---Yes.

Where have you been stationed?---Haasts Bluff, Papunya, Imanpa, Hermannsburg or Ntaria, Kintore, Kulgera and Yuendumu. That's it, that's all I can think of at the moment.

Spending time in Willowra?---Yes I did, sorry. Yes, that's correct.

All right. So you've done a real tour of duty in the Southern Desert?---Yes.

I want to ask you some questions about starting off as a police officer in the Northern Territory. You gave evidence that you graduated in February 2007 and you commenced in June the year prior; is that right?---June 26.

Can you remember how old you were at that time?---Early thirties.

And where were you from originally?---I was born in Queanbeyan and grew up for seven, eight years in Queanbeyan with the public school there, before my family moved up to Grafton – or a place called Tullymorgan, but not many people know where it is so I just say Grafton. People know where that is. Before moving to Brisbane in my adult life and – yeah. Getting my first job up there.

And what were you doing for a living until you were 33?---I was involved in the fashion industry and also as an upholsterer at a manufacturing plant for office furniture.

Did you have much experience with Aboriginal people either in Queanbeyan or in Brisbane?---Not in Queanbeyan. I was quite young, I probably didn't even know what an Aboriginal person was at that time. When I went to school in Maclean, which is our closest town to go to school when I lived in Tullymorgan, there was Indigenous people in my school, in my class. So that's probably the first interaction I had with an Indigenous person.

Was your background affluent?---I don't understand the question, sorry.

Sorry. Would you say you came from a middle class or a wealthy background?---No. Middle class.

When you started your training in June of 2006, what was the overall structure of the course for the seven, eight or nine months that you were in the college?---Yeah, I think it was about six to seven months. There was obviously some stand down during Christmas. We did skill blocks from defensive tactics for two weeks and then you had driving instruction – driving tactics for two weeks and I'm trying to think of the other skill blocks. We did some cultural awareness towards the end of the course. About 12 or so weeks was actually exams. So it was broken up.

What did the cultural competency involve?---We went to – I believe it's called Daly Rivers. And I think – yeah, we met either the Senior ACPO out there. I can't remember his name. We were out there for, I think, two nights and three days, integrated with – I remember playing football with the kids. I can't remember if it was just on the oval or whether it was at the school. You met with community members, cooking. Back then, I think it was, like, magpie, goose. Stuff like that, what they traditionally ate.

Was the college in Darwin?---Yes.

And so you travelled down?---Yes, on the school bus. The college bus, I should say.

Did you say Daly Rivers to Davey Waters?---I think it's Daly Rivers. The one closest to- - -

Darwin?---Yeah, not down the highway.

And obviously, you did a lot of kind of – there was a lot of social interaction during those two or three days. Was there any kind of formal instruction about cultural competency, whether in Daly Rivers or at the college?---Not that I can recall. There may have been an exam. I honestly can't remember.

Do you recall hearing then, or have you ever heard since, the expression "Unconscious bias"?---Yes.

In what context have you heard that?---So we've – I've completed an online conscious – unconscious bias training either earlier this year or last year. Prior to

that, it was – Department had actual hand to hand or face to face unconscious bias training. However, obviously I couldn't – you can't get inside – it became online.

Okay. And the online course, is that mandatory?---Yes.

And do you complete it once or do you have to – is it a reoccurring requirement?---Just once that I'm aware of. It's not a – yearly or bi-annual.

So when you completed the online course last year, I think you said, was that the first time you had done unconscious bias training in the 15 or so years that you had been a police officer?---Yes.

Okay. Did you have any training to the extent that there is a difference between unconscious bias and racism? Is racism something that is identified as a subject matter for training as you go through the college?---I don't believe it's a subject. I certainly can't recall that subject being taught in college.

Can you recall any instruction, whether informally or – formally or informally during your time as a police officer about what racism is, how to identify it and appropriate responses to it?---I can't recall. However – I can't recall.

Perfectly fine. I want to ask you some questions now – just sticking with the subject of your training – about use of force and defensive tactics. As a block, how much of your training did that occupy?---Defensive tactics was two weeks.

Two weeks. I think you might have been in court a little bit earlier when Dr Freckelton was asking Sergeant Jolley some questions about operational safety philosophy. If I were to ask you what the measure of the success of an operation was, according to Northern Territory Police Force policy, what would the answer be?---At minimal or no force at all?

The extent to which force is minimised is the guiding principle of Northern Territory- -?---Or avoid it, yes.

During your training, were you introduced to the tactical options wheel or the tactical options model?---Yes.

And what is that?---So in the centre it's the officer, safety first. And then the outside is communication followed by another ring, baton, spray, Glock, taser, handcuffs, so forth.

Perhaps if we could have document 1 in that folder? Your Honour, this is – I'm sure it's somewhere else on the brief, but it was the only place I could find it quickly. This is the statement of Andrew Barram at 10/4. And if we could have page 109 of the PDF.

Is that what you were describing just then?---Yes.

And so the officer is in the very centre and the green band says, "Communicate."  
What, insofar as your training was concerned, did that communicate to you?---Communication is first.

So it is a tactical tool?---Yes.

It's not distinct from defensive tactics. It is a part of defensive tactics?---Yes, that's correct.

And what is the circular nature of the tactical model meant to convey to police officers?---There's no – not one on the outside to be used first. It's – it could be escalated and de-escalated.

Okay. And, I mean, is it automatic? Do you begin with a certain type of tactical option and then second, use a different type of tactical option and third, a third type?---Depends on the scenario, yes.

Is that – could I suggest to you that that's what the circular nature of the- - -?---Yes.

So it depends on the circumstances?---Yes.

During your training, were – did you receive training about edged weapons?---Yes.

What was the training on edged weapons – sorry, about responses to edged weapons?---First instance, if it was, for example a knife, we were to draw the Glock.

Okay. That was in the instruction, when presented with a knife, you draw the Glock?---Yes.

And was there an abbreviation or a colloquialism for that instruction?---There probably was, I just can't recall, sorry.

Have you ever heard the expression, "Knife equals gun"?---Yes.

Was that used during training?---Yes.

And have you heard it used since?---Yes.

Regularly?---Yes.

What is a reactionary gap?---It is a gap where the officer is away from, say, the person of interest to allow them to - time to get away and also give them options to use that circle.

And can you recall what the reactionary gap is?---It think it's 6.3 metres.

6.3 metres or 21 feet?---Yes.

And the basic theory is that within that reactionary gap an armed offender could traverse the distance between themselves and you before you could draw and discharge your firearm?---Correct.

You gave evidence a moment ago about your training - well, the expression, "Knife equals gun", I want to show you a document now. This is document 6 in that folder. Your Honour it's page 7-120A and it's a circular sent to all police members on 7 June 2022. Can you see that document, Sergeant?---Yes.

Do you recall receiving it on 7 June 2022?---Yes, I did read that.

And what, in effect, did it convey?---Knife. This phrase may have derived from past training and has since been used incorrectly, poor explained or unclearly interpreted.

I suggest to you that the email conveyed to police members that the expression "knife equals gun" had never and was not then a part of Northern Territory Police Force training?

THE CORONER: You might need to scroll down, I don't know, he can't see the whole memo there.

DR DWYER: We've just got an iPad here with that document on it if it's easier for the officer.

THE CORONER: Sure.

THE WITNESS: Sorry, could I have your question again please?

MR COLERIDGE: Can I suggest to you that what the email conveyed to serving police members in the Northern Territory was that the phrase "Knife equals gun" did not accurately reflect Northern Territory operational safety principles?---If it wasn't written then it was certainly verbally taught to us.

I suppose what I am getting at is if there are a little bit of an inconsistency between the evident view of the writer of this circular that "knife equals gun" had never been a part of Northern Territory Police Force training and what you remember of your instruction?---Well, if you put it that way, yes.

Can I ask you some questions about your early career? Now, I am going to have quite a few questions for you about your time as a police officer in remote communities but I actually wanted to start with a few questions about your time in Alice Springs in 2007. When you graduated in February of 2007, where were you stationed?---Alice Springs.

And what kind of duties were you undertaking?---So in the first 18 months while I was on probation we would do a roster on the front counter, a roster in the watchhouse, a roster in the communications, we had communications down here at that time and also a roster on general duties.



When you were called out to a job, let's say you were on the general duties roster and you were called out to a job would you be called out with a partner or were you sent out alone?---With a partner.

And how senior were your partners?---At the time I had senior constables or Constable first class.

I think - it's not a secret - I had conference with you. When we conferenced you said, "I was really lucky to work with some senior constables." Why did you use the word "lucky"?---Well, back then there was more senior members. Times change. There's not so many senior members.

Okay. What kind of guidance would you receive from your senior constables when you were tasked to jobs as a 33 year-old probationary constable who'd just left the fashion industry?---At first - in fact the first week or so was quite nerve-wracking. You're trying to find your feet and you probably don't ask many questions, you would just sit back and - yeah, jobs would just disappear because they knew what to write and then eventually you have to come out of your shell and then you have - because you're going to be more senior, eventually down the track you need to stamp your way of policing identity, so you pick up things from previous senior members, current senior members, current senior partners I should say, and start to implement them in the way you police.

You used the word "identity" what do you mean?---Every police officer has their own way of policing. You need to - we've got power and legislation which we need to implement and then to be able to communicate them to the public we're dealing with.

And the senior constables you worked with, I mean, were they influential in the formation of your identity as a police officer?---Yes.

I think then that it is important for junior - and especially probationary constables to be partnered with strong role models?---Yes.

From time to time when you're partnered with - I withdraw that. In those very early days - the first couple of weeks, I mean were you going out to all sorts of jobs?---Yes.

And did some of those jobs involve the use of force or arrests?---Arrests, yes, use of force, I can't recall. But I certainly didn't - I certainly didn't use force so my partner wouldn't have use force, so I will say no.

In those early days would you have been attending jobs were people were distressed or there had been reports of violence or fighting?---Yes.

What is that like as a probationary constable as you are exposed for the first time to violence at night on the streets?---I guess you take the - I would take - so your senior partner would be setting an example of how to deal with the situation and you would

have their guidance. You always had their back. So if they gave you a direction you'd follow the direction, carry through. I can't recall my first violent - say domestic or assault in Alice Springs. I don't even remember it affecting me like, "Oh, this is scary" or "shouldn't be doing this" or - but when you put the uniform on it gives you strength because the uniform deters a lot of the trouble and people are looking for your guidance and help.

You've talked about being lucky working with senior constables but you mentioned that - and I think you suggested that things may have changed. In what way do you understand them to have changed?---There's more junior members - I mean, when I was going through I said I was with senior members but later on, before my probation ended I was with - partners with people from my own squad so they had served the same amount of time - which can be beneficial because you sound things off each other, what they've learned from their partners and you start to think things out, like "Is there an offence here, what can we do" and if we didn't have the knowledge of what was occurring or what we need to do then the shift supervisor would be contacted.

So just to confirm, within those first 18 months as probationary constable, you would be the senior member, in effect supervising another more junior probationary constable?---Yes.

And you'd be attending jobs together?---Yes.

And affecting arrests?---Yes.

You said a moment ago that when in doubt you'd defer to the shift supervisor. Were they also known as "shift sergeants"?---Yes.

And what role, supervisory role, would they play in your early days in Alice Springs?---So, they would – so back when I was - in 2007 onwards, I think there was only two general duties' vans.

What was the last word you used?---General duties' vans.

Vans, okay?---Well, HiLux, whatever they're calls, cars, police cars. And depending – because they would normally have access to what jobs were coming in and where cars were. And depending on the type of job we were attending, sometimes they would come and assist and just – yeah, clarify what we're doing, make sure everything was correct.

Did they sometimes attend jobs without warning?---Yes.

Just to supervise?---Yes.

And do you have a sense of whether that has remained the same or has changed over time?---I can't really comment on current policing – are you referring to Alice Springs or - - -?---Alice Springs.

I can't really comment on Alice Springs policing, because I haven't been involved with Alice Springs Police Station for a number of years. So, I'm not sure how it is run.

In those early days, I take it that you were obviously engaging with Aboriginal people. Is that right?---Yes.

As a proportion of the people you were engaging with, what would the percentage be?---A rough estimate, we were probably dealing with 90 to 95 percent of our clients were Indigenous.

Okay. I'm kind of searching for a word to describe people you were interacting with, but I know that you have one. What is that word?---I call them clients.

Why do you call them clients?---I just feel we're providing a service. Yeah, they may not be a victim. They might not be an offender. They just might – yeah, so I just refer to them as clients.

As you stated policing, the 90 per cent Indigenous population of clients in Alice Springs, were you thinking consciously about the fact that you were engaging with Aboriginal people?---Probably not consciously, I just – they were who we were speaking to, like I didn't see them other than just a person.

Did you find - - ?---I know they were Indigenous, but yeah, nothing changed.

Did you receive any supervision or instruction from those senior constables about engaging Aboriginal people?---Not that I can recall.

Okay. Sadly, the nature of your work is that when you are called out, often you are called out to very distressing events?---Yes.

Particularly in the urban context. Would that be fair?---Yes.

Alcohol-fuelled violence?---Yes.

Domestic violence?---Yes.

Have you been abused?---Verbally.

Yes?---Yes.

Have you been threatened?---Yes.

Okay. You also, I think, spent a bit of time as – well, in the watchhouse from about December of 2011. Is that correct?---That's correct.

And what percentage of the population you were dealing with were Indigenous

then?---I would say 99 per cent.

Okay. And I mean, are you seeing people at their best when they come through the door of the watchhouse?---No, not all the time, depending on the nature of them coming into the watchhouse. Some – do you want me to explain?

Do you think all of these experiences that you have of violence, abuse, negative experiences with Aboriginal people over time affect the way that you think about Aboriginal people?---Yes, I could see that.

Do you think that over time – have you ever expressed frustration at work, sworn at someone, said something you wished you could take back?---Yes.

Were you having much interaction with Aboriginal people outside the work you were doing in those early days in Alice Springs?---No.

Is it fair to say then that almost 100 per cent of your interactions with Aboriginal people were negative?---Not 100 per cent, but yeah, a large percent was negative.

Did you turn your mind to that fact at the time? Did it cause you concern that you weren't being introduced in a balanced way to Aboriginal culture; that you were only seeing this very, very kind of narrow part of Aboriginal life – well, of life?---I never really thought of it that way. I just – I was doing a job and they happened to be in that state when I was dealing with those clients. I was there to serve and protect and it can be frustrating and I can see the negativity that could come about, but I still just kept on doing my job.

I want to ask you a related question. Those experiences that you were having of exposure to domestic violence and offensive language, did that affect you?---No, but you do become somewhat desensitised to going to those jobs.

When you have a really bad day and you see something really distressing, what supports were available to you then, formal or informal?---I guess on a local level, we would have choir practices after shifts. We would discuss incidents that occurred during the previous working week. If it was really distressing, there were – you did have access to welfare officers. Not as much as today, but it would have been arranged.

What about your patrol group itself? Would you vent with each other?---Yes.

When you would vent, would you occasionally swear?---No, it was more discussion if we were discussing a particular job or something, what had happened and – yeah, it wasn't a negative – it was more just – there might have been something funny that happened.

Okay. I'll ask you some questions now about some text messages. You may have either read about these or heard about them, they are text messages sent and received by Zachary Rolfe in or around 2019. On 25 April 2019, at about 5:30 in the

morning, Zach Rolfe sent to another person a text, "I'm at work, working, dealing with Aboriginal DVs, oh my Lord." Is that a sense of frustration that you've ever experienced or expressed?---Not with specifically identifying as Aboriginal, but frustration with couples, yes.

Equally, on 9 April 2019, a little later in the morning, 8:45 am, Constable Rolfe received from another person, who I assume to be a police officer, a message, "I'm so sick of Aboriginals tonight, fuck." The answer would be the same?---Yeah (inaudible).

On 27 April, another police officer to Zachary Rolfe, "Heard you had a rough arvo yestie (yesterday), grubby fucks." Have you ever heard or expressed a view like that to someone in your patrol group?---No.

Do you think that there is a risk that if expressions of that kind of frustration go unchecked, they normalise expressions of racism?---I could see they could, yes.

And expressions of frustration about Aboriginal people and domestic violence over time might lead to expressions of frustration about niggers or coons or bush coons?---Yes.

Had you ever heard language like that within the Police Force?---Not within the Police Force, no.

Is there any attempt by the Police Force at an institutional level to ensure that you are exposed to positive aspects of Aboriginal life? Leave the remote context to one side?---Okay.

I'm talking about the urban context?---Again, I can only talk from before 2010. So no?

There was none then?---I can't – yeah, I can't think of- - -

Do you think that there is a risk if you are dealing with a narrow part of the population who all happen to be, or are predominately Aboriginal, people start generalising about Aboriginal people?---Yes, I can see that.

I want to move away – move very, very far away – in your case, from that subject and to community policing. The first time you went out to community, I think, was to Haasts Bluff; is that right?---That's correct.

And when was that?---February of 2010.

Why did you go?---It was actually my supervisor's – thought it was in the best interests for me to further my career – excuse me. So I was supported to apply for the application for six months' tenure.

What was it like, your first day on the job out in Haasts Bluff?---I was – it's enjoyable. I hadn't been exposed to community policing or, you know, community itself. Getting to meet the families and being able to indulge in some of the culture, which I hadn't really had a good taste of whilst in Alice Springs. Some of the people in Haasts Bluff I already knew from previously arresting them. They remembered me, so that made it a lot easier. We had that positive – even though I'd locked them up – they were still happy to know me.

I want to ask you some questions about relationships and arrests in a moment. But was there any formal induction when you landed in Haasts Bluff?---So normally, you have a handover from the previous OIC who you're taking over from. It was a short one, because you have – yeah. Changeover won't be very long, but you're given instructions on where the cultural areas are – men's and women's. Who's in charge of the shire and the school, which sort of TOs or Elders you need to look at, speak to.

And who led that instruction? Was that a police officer or a community member?---That was the previous OIC.

Okay?---Yes.

Indigenous, non-Indigenous?---He was Indigenous.

He was Indigenous?---Sorry, non-Indigenous, sorry. My mistake.

Were any introductions made during the – as a part of the induction?---So you would – we drove around and they would – we get out of the car and then be introduced to maybe an Elder or the shire manager or the store and say, "This is so-and-so, they're replacing me and this is going to be your new Sergeant."

What skills do you think are necessary for effective community policing?---Having knowledge of the family groups which, if there is, who you need to speak to. Like, to – like us, you go through the Commissioner. If you're a Parliamentarian, if it's police – which is their Commissioner, basically. Who to speak to so then they can pass the information down.

I think when we were speaking, you used the word "The Chief" or, "The boss"?---Yes, Chief, Boss, little – have the Chief and then the little horns underneath, family groups, which gets passed down.

What kind of information are you asking them to pass down?---Generally, if it was for example, fighting within two groups, you were trying to come to a reasonable conclusion to stop the fighting by getting them to meet up and resolve their differences. What I found best is you need to have all parties involved. You can't have one person missing in the – in the mediation. You need to have everyone there and then everyone has to have their say on both sides. You can't not let someone not have their say. Because then they go away and then all that mediation you've done, through the communication, will just mean nothing.

So there are a couple of key words here I want to hit. The first was “Knowledge”, knowledge of the community. The second word you used was “Mediation and the third word you used was “Communication.” Does it follow from what you’ve just said about getting all necessary parties around the table, that participation is also crucial?---Yes.

Have you done any formal mediation or negotiation?---No.

Have you done it informally?---I’ve just learnt everything from previous police officers.

From training, I mean, have you actually mediated in- - -?---No. Mediated?

Yes, in community?---Yes.

And what kind of things would you mediate?---Anything from two wives and one husband fight to large groups of family, like, 20 or so men and women on either side that have just hit each other with tyre irons and nulla nullas to try and come to a reasonable, amicable end to the fighting.

Have you ever negotiated the surrender of someone?---I won’t name his name however, I wouldn’t call it a surrender. There was a particular offender who was – needed to be arrested. And he was in Hermannsburg and his mother came and saw us and we said, “Well” – we had actually gone to his mother, because we knew he had to be arrested. We spoke to her and said, “Well, he’s in Hermannsburg. He can go to Alice Springs and have his trouble sorted out.” But she said, “No, he wants to come to Yuendumu to be arrested by Yuendumu Police.” We found that he was back because his mother had called. She was hiding in the women’s shelter in Yuendumu. And we went over to the house where she said he would be, but we couldn’t find him. He was actually hiding in the roof. At the time, we did not know that. Went and spoke to the mother again and we’ve come back and I’ve identified myself as Lanyon and – from Yuendumu, and he came down. And then he was arrested, incident-free.

So he came down after you identified yourself as Lanyon Smith from Yuendumu?---Yes.

Okay. This was when you stationed at Yuendumu?---Yes.

Did he know who you were?---Yes.

Okay. How valuable are relationships in the arrest context?---Well, in that particular instance it was very valuable, because we didn’t have to use force and we weren’t having to chase him around for days on end.

You had other experiences where a pre-existing relationship has been critical to peaceful or non-forceful arrest?---Yes, the – one of the first time – and it was in

Haasts Bluff. There was a funeral. I knew a couple and their – the husband needed to be arrested for domestic assault. However, there was a funeral and he was hiding. And I spoke with his family to prevent him from just hiding. I spoke with the family and said, “Look, we can wait till after the funeral, but he doesn’t have to keep on hiding from me. I’ll let him do his funeral, but he’s got to present to the station on Monday.” And that happened.

He presented?---Yes.

Did these relationships just happen overnight?---No, you have to work and work hard at it.

And it’s not just a matter of time, you work at it, it’s a part of your job?---Yes.

And it is policing, it’s not something that you do in addition to policing. It is a part of policing in a remote community?---Yes.

I want to ask you a question that Mr Boulten asked Sergeant Jolley yesterday. All of the skills or character traits you’ve identified as being important in community policing, does that mean that they aren’t important in the urban centre?---No.

Can they and should they be applied in urban centres?---They can be however, in an urban centre, policing is different because in Alice Springs you have a 24 hour station and you may not get to see – so that – me or that officer may not get to see that couple again or that person again for months or if not years. So, it’s hard to have engagement on that level.

What about – I mean, that’s relationships and knowledge, it might be harder, but what about communication?---Communication, that covers both rural and urban.

It’s essential to both rural and urban policing?---Yes.

All these skills, do you just have them when you start as a police officer?---Some previous officers’ backgrounds, previous jobs, that may just come naturally to them to communicate; others have to be worked on. The officer might have their own different cultural beliefs and knowledge as well. They mightn’t be that type of person that wants to communicate.

What kind of instruction is there for someone who isn’t a natural communicator or comes from a background that doesn’t predispose them to cross-culture or communication?---So, with me, I probably wasn’t a very – I’m a relatively quiet person, so I – once I put this uniform on, I know I can do what I do and it forces me to communicate with the clients.

Do remote communities differ from community to community?---Yes, they can.

In what ways?---Different languages, cultural backgrounds. Men’s and Women’s areas aren’t always in the same – it’s not always out to the east and the west, it’s –



yeah, just - - -

Every time that you were stationed somewhere else in the southern desert region, would you get an induction on some of those cultural differences?---Generally, the most important thing is knowing where Men's and Women's area is, so you don't cause a disturbance for the whole community. That's very precious to them. You would – the induction is usually pretty quick in the sense, you're driven around and depending on the Elders or the TOs at the time, whether they're in community to meet them. So, the most important thing is meeting the TOs and the Elders, introducing yourself and telling them your name, more so than other stakeholders, such as the council or clinic.

Why is that the most important thing to do?---Because we're living in their backyard, basically.

They're your clients?---Yes.

Do you think it's appropriate for very junior and even probationary constables to be serving in remote communities?---I personally think they should be serving in a regional centre first.

Why is that?---I did. And I feel that I've got the most knowledge from doing that prior to going out bush on a permanent basis. Having some short-term relief, rostered here, a couple of weeks there, that is good. But I still think I needed, and other officers will need, the grounding of how to deal with arrests in Alice Springs first or Katherine or Tennant Creek.

Get confident with that and then you go out bush?---Yes.

Okay. When you're policing in remote communities, are there certain people that you interact with more than others? I don't so much mean Elders, I mean the people you're kind of "policing"?---Such domestic violence victims? So, there is more clients we deal with on a regular basis, it could even be weekly as opposed to someone who you may not even have dealt with over the four-year period I was there.

Those people, the people that you interact with more often than others, are many of them young men? When I say, "young men", I mean between about the age of 14 and 25?---Youth, yes.

Is there a discussion – or is there discussion within a remote police station about their personalities, who they are and how best to manage them?---Not specifically for – but I can think of one person who I've dealt with and how the best to deal with that person. It was a female and she could be quite hostile towards police. So, you had to be more tactfully – for example, I may have had to serve a summons for her son to go to court. You just can't turn up and give her the summons, because she's going to be cranky with me. I have to take a longer route around to actually give her the paper and then leave on good terms, because the last thing you want to do is create an issue.

This is someone you had a relationship within Yuendumu?---Yes.

I'm not asking you to name them?---Yes.

Within the police station itself, would you talk to other – was Julie Frost the sergeant at the time?---Yes. So, Julie Frost, I've worked with and Sergeant Roach(?).

Would you have conversations, I'm going around to so and so's house. Would you have a common understanding of how you interact with people who might be vulnerable or "difficult"?---So, if it's a new constable that's come out, they may not be aware of that couple, it might be the first time, or the first time they met that client. You would tell them how to best handle or get around to what you wanted to get done. However, if it's such as at the time when I was with Constable Wethers, it was – we had both basically dealt with – we'd worked together. He already knew. But anyone knew coming into the station, yes, you tried to tell them.

What about young men with disabilities, intellectual disabilities, FASD, would you adjust your behaviour when interacting with them?---It's more difficult with children that – it was hard, because they have to be diagnosed with FASD and sometimes they weren't diagnosed and we did not know, but we had assumptions that they were.

The rates of diagnosis are in fact very, very low, aren't they?---Yes.

But the true picture being that many, many more people have FASD in remote communities like Yuendumu?---Yes.

In what ways do you adjust your behaviour with someone like that, or does it depend on each person?---It depends on each person. If I'm dealing with a smaller person, like a young child, I would get down lower to be at the same level as them, as opposed to standing up and talking down upon them.

I want to ask you a question now about arrests. This may sound silly, but is there such a thing as a good and a bad arrest?---A good arrest would be one where the client goes into the watchhouse and isn't causing a disturbance and is quite peaceful.

How do you maximise the chances of a good arrest?---Normally, depending on the circumstances, sometimes it isn't always available, but we go to a house to arrest someone, your family, parents, brothers, sisters are there. You would discuss what was about to happen, but that didn't always occur. But at least the family knew, because part of the arrest, you caution them and part of it is, they have the right to communicate with a friend or relative. So, in that case, we're actually solving a problem by, instead of taking him back to the station and saying, "You have the right to communicate with a friend or relative" and that person was already at the house where we arrested them, and it's like, well you've already explained to your mother or your father that you're under arrest. And then generally, the mother and father or

family would come down to the station to see and that would keep them quiet as well.

Would you ever talk to family or Elders in advance about the fact that you were going to arrest someone?---For example, someone has escaped from or committed an offence in Alice Springs and they're normally a client of Yuendumu, we would go and tell family that he was in trouble and police need to deal with him.

Would you ever ask Elders or family members to come with you to arrest someone? Would you involve them in the arrest?---No, not in that sense, no.

I don't mean physically involve them, I just mean ask them to attend?---No. So, if the Elders were involved, it was because they were at the location, at the arrest location.

In Yuendumu, you are obviously assisted by Derek Williams, the Senior APCO?---Yes.

You have quite a longstanding relationship with him. Is that right?---Yes.

When did you meet?---We first met back in 2007.

Was that in the police college?---Yes. And I – I thought it was in Darwin, but he's saying it was in Alice Springs, because he did his training in Alice Springs but I thought it was in Darwin when I first met Derek.

And you've known each other more or less ever since?---Yes.

Have you been stationed together?---Yes.

I will ask you some kind of more general questions about Derek in a moment but while you were in Yuendumu from about 2017 I think until 2021, is that right?---Yes, November 2021.

If you could would you involve Derek in the arrest?---Yes.

Why?---If he was on duty. Because he has that cultural background and he can talk to them in language.

Did it have a noticeable affect on how arrests would go?---I didn't notice it but probably because they already knew me, so yeah, but generally the arrests with Derek were peaceful and - yeah, minimal force or no force.

I mean was Derek always available?---No.

So I take it that there were times when you couldn't involve Derek in the arrest? ---But it's - yes, we can't use him if it's a poison cousin. Sometimes it's not appropriate for him if it's family, because he didn't want to be involved.

Were there ever times when Derek said, "Well, look, you've got to learn to do this yourself"?---Yes. Derek didn't like people coming to ask him all the time about where someone was in the community. He wanted the officer to do their own investigating first instead of freeloading off his back.

You needed to build your own relationships with the people you were policing?  
---Yes. Part of that was because Derek wasn't always available so you have to do it yourself.

What about the timing of arrests? Is there a particular time of day that is better than others to arrest people?---It depends on the arrest. If it's a planned arrest it's best to do it in the morning. Some arrests are unavoidable and have to be done then and there.

Do I take it then that if you can avoid it you would avoid doing it later in the day?  
---Yes.

And why?---So for an arrest there's a high chance the person is going to be remanded and so you're sitting in the cell and there's only two of you, you've got to produce the file but in the same time do custody checks and then obviously contact a judge before 10 o'clock to have the bail reviewed and if the judge happens to refuse bail then you'd have to contact the TDS and get more paperwork done for approval so he can be - before conveying them into town - Alice Springs - and it wasn't always available that a unit from Alice Springs would do a halfway meet with us, so you were gone for seven hours just conveying someone.

So if you arrest someone at 6 o'clock and bail is refused at 10 pm you could be home in bed in Yuendumu by about 6 am the next morning?---Yes.

And that person in the back of that police car might be a child?---Could be. There wasn't too many juvenile arrests at night but yes, could be.

Was that because you tried to minimise arresting juveniles at night or was that just coincidental?---Coincidental probably.

Have you ever heard of - in the remote context or in the urban context - police officers arresting people at the end of shifts for overtime?---Yes, I've heard that.

Have you ever done it?---No.

In what context did you hear of it?---It was usually - warrants maybe - picking someone up on a warrant.

At the end of a shift so that you could clock on to overtime?---Yes, I've heard that.

I am going to ask you some questions about use of force. Have you ever drawn your firearm?---No, not on duty. Only in training.

Your Taser?---No.

Your OC spray?---I did draw my OC spray once, in Alice Springs, directed by my senior partner at the time because we were dealing with fighting at one of the town camps.

And did you deploy it?---No.

Have you ever been in a situation where you've been confronted by someone armed with a weapon of any kind?---Yes.

And why didn't you draw your firearm?---The violence they were armed with, for example, it was a riot and they were predominantly women, had armed themselves with sticks, nulla nullas, trampoline poles and rocks and they were throwing - they were throwing at each other but not - in this particular instance they weren't hitting each other, it was more for show for a better word. We would just go around and remove the articles from them and just chuck them in the back of the cage.

What community was that in? I missed that?---Yuendumu.

That was Yuendumu?---Yes.

I want to ask you some questions about that in just a second but I want to stick with use of force for a moment. Have you ever been presented with a bladed weapon - by bladed weapon I mean anything sharp - knife - pen - top of the tuna can?---Apart from the axe incident I can't - I'm sure the would've been but I can't recall.

What is, in your opinion, the most effective tool in a situation like the situation you've just described - a large group of women on the street with sticks, a volatile situation of that kind?---Communication. However, generally they're not wanting to listen to you, they've got their won preconceived what they want to, so it's - if they're happy to - I would say - hand you over their weapon they have because they don't want - so they'll give it back to you and you just like "Give it here" and you take it and you have a collection under your arm and you throw it in the back of the cage.

You suggested a moment ago that despite this large group of people on the street armed with weapons, sticks and the sort, you weren't fearful. Why was that? ---Because the - the violence or - it wasn't directed towards us, it was directed towards someone else.

What about within Warlpiri community, is violence of that kind or expressions of violence of that kind have a particular type of significance?---I'm not sure, can you reword the question sorry?

I think I might withdraw it and come at it a different way?---Okay.

I asked you some questions about Derek Williams a moment ago. What do you see as the roles of ACPOs being in community?---ACPOs are very valuable, especially

for new officers as well as - like myself, having an understanding of new issues arising within the community that I may not be aware of.

So, conflict, for example?---Yes.

Are they ever a source of information about - I don't know - drug offending or something like that?---If Derek happened to mention something, yes, we - we tried to get Derek to submit IRs and that kind of - trying to empower him so - because obviously he's an ACPO as opposed to myself being a constable, there's slightly different things he can and cannot do.

And do you think that there's room for more than one ACPO in each community? ---There is. However they have to - someone from the community has to want to do it because of conflict which - between family groups, it can - they get torn between policing and their family group.

Derek for example, didn't work for some years after the death of Kumanjayi?---Yes, that's correct.

Is that what you're talking about? The situation of tension between your identity as a member of the community and your identity as a police officer?---Mm mm. Your particular family group for example - I'll say the Smiths, and they're not a family at Yuendumu, but if the ACPO was related to them and they were having conflicts he - and he could be seen as taking a side in his family group so that can create issues - further issues from the other warring family.

Do you socialise with Derek?---Yes. I have invited him around to my place at Yuendumu. We've had barbecue with himself and Maddie.

Have you ever been to his home?---No, I've never been invited.

Do you get the sense that he's comfortable inviting people into his home?---No, I've been to his place - into his yard - in uniform and outside, like, civil clothes, off-duty. He's never invited me inside. I took it that he wanted to keep that space private.

Insofar as you can answer this question, is it normal in Warlpiri culture to have people around for dinner parties?---Not - for a better word, like white people, no.

I want to ask you some questions now about firearms. You were a sidearm- - -?---Yes.

- - -while policing in the community?---Yes.

And do you ever take it off?---Take it off?

Do you ever take it off and go and do your policing work without your sidearm

on?---Generally no. However, there are occasions when I've – may have gone to a meeting at the council office. I may have not worn my accoutrements or gone into the school.

What kind of thing would you be doing at the school when you weren't wearing this?---I might have been awards night, or something like that.

Okay. Before the death of Kumanjayi, had a community member ever said anything to you about feeling uncomfortable about the sidearm?---No.

After the death of Kumanjayi, has anyone in the community said anything to you about how the firearm makes you – them feel?---There was one particular family, yes.

Okay. I think I know who you're talking about. What did they ask you to do with the gun?---In plain simple words, they asked us to shoot them.

Pardon?---They asked us to shoot them.

They asked you to shoot who?---That person.

I see?---Yeah.

I think I don't know what you're talking about. I don't think I need to investigate that any further, but have you ever been asked to take your gun off by a community member?---Same, same family group.

Okay. Did you take it off?---No.

Okay. Why not?---It's part of our job – our uniform. We have to wear them.

What about long arms? And by long arms, I mean shotguns, rifles, things of that nature. Do you carry them around the community?---No, the only time we do carry them round is usually to – for a distraction of an animal. Community has called up.

Do you think that there is an association in the community between those types of weapons and the execution of animals?---In my opinion, they see them as execution weapons, yes. It's for killing when they see us, local members, using the long arms. It's for the destruction of animals. So it's – it's to kill something.

I want to ask you some questions now about workload and fatigue. Have you ever heard a community member – sorry, a community police officer described as lazy? Was there a view within the Police Force – perhaps urban police officers that community officers are lazy?---I hadn't heard that.

Do you think that community police officers are lazy?---No.

Comparing your workload as a remote community police officer to your workload in an urban setting, what – how does that comparison work out?---There may be a bigger workload in urban setting. However, if we're attending a job, we have to completely write that job up. It can't be finalised in CAD. So an urban officer may be dealing with a general disturbance. They attend and then they see nil offences and that job is closed. They don't have to do any more for that job. However, if that's for us – once it's dispatched to us – we've actually physically got to write it up. And if it is a relatively quiet day, we're doing engagement or other stuff. It's not just quiet time.

Have you ever heard the expression, "Continuity of care"?---No, I can't say I have, sorry.

Do you think you have a more ongoing relationship with the people you're writing up – the people you're working with in community, than you do in the urban environment?---Yes.

And, I mean, in any sense, is that exhausting for you to be so connected to your work?---Yes.

I note the time, your Honour.

THE CORONER: Yes, do you want to take the afternoon break for 15 minutes.

ADJOURNED



## RESUMED

### LANYON SMITH:

MR COLERIDGE: Just before we broke, I was asking you some questions about workload and fatigue and comparisons between work as an urban police officer in a – remote police officer. Was there anything you wanted to add on the subject of that comparison?---So when you work in Alice Springs, you are – Alice Springs is a 24 hour station and you have three rotating shifts in that eight hour period. Some shifts are 10 hours long, some are nine and eight. However, when you're working out at bush community station, you're on call 24/7. You get call-outs during the night. So you might have been called out to a job at 11 o'clock at night. Could take a couple of hours, you go back and then you get a call-out out 3 o'clock in the morning. And then you get a call-out again at 6 o'clock in the morning. So fatigue does step in, especially when you only have a two man or three man station.

In one of those two or three man stations, are there occasions when you might get called out three times during the night and then be called to duty 10 am the next morning?---Yes.

And then you'll work a full day?---Yes.

The Yuendumu policing district services Yuendumu Nyirripi and Yuelamu?---Yes.

And also The Granites gold mine?---All the way up to the border.

Is that a large policing district?---Yes.

And individual communities - I am going to put to you something that another police officer has said but they have different policing requirements, is that right?---Each community - obviously Yuendumu is a larger community compared to the other two or three, the smaller - but the distance travelling is time consuming.

Given the size of Yuendumu would you say that it has a fairly high policing requirement?---Now or ?

Can I ask you about 2017 to 2019?---Back between those years there was only five members.

And those five members included Derek Williams, correct?---Yes, an the sergeant.

I want to ask you some questions about Nyirripi, there was some evidence from Sergeant Jolley a little earlier that it wasn't a manned station. What are the names of those intervention era stations?---They're called "Thema stations."

And can you describe them for the coroner?---So, there is a donga - as a the police station and then behind the police station itself there's like a shipping container which is the watchhouse and then you have two more dongas as accommodation

then another two so there'll be five dongas in total. They were built for three members to be stationed at the station and one common room.

Are they fit to hold people in custody for long periods of time?---The watchhouse - no.

Does that mean that when members from Yuendumu are covering Nyirripi and they arrest someone, other members in Yuendumu have to come and pick up the person in custody?---No. They could if it's a short period of incarceration during the arrest they might be granted bail so they could be charged and bailed quickly. If it's a long period of time then they are going to be remanded and they would have been transported to Yuendumu.

And would police officers from Yuendumu come out to Nyirripi or would you meet in the middle or?---So if there was a member stationed at Nyirripi and Yuendumu, depending on the working hours, they could possibly do a halfway meet.

But in theory that could mean if Yuendumu is farther, so you've got four police officers and Derek Williams. Two of those police officers are at Nyirripi and they arrest someone?---Yes.

The only two police officers on duty in Yuendumu might be called out to pick that person up?---Possibly, yes.

And it's two hours away, is that right?---It's 160 kilometres so roughly, an hour and-a-half to two hours.

Is it fair to say that there are quiet periods and busy periods in a community like Yuendumu?---Yes.

What do you do during the quiet periods?---We're doing follow ups for Alice Springs sometimes to arrests that need to be done or just persons to be spoken to, like participants, MVR stuff because we do motor vehicle registries.

What about busy periods? What does that look like?---Busy periods can be busy. You are just on the go as soon as you start work. 8 o'clock in the morning and you're going till 4 and then you may have continuation of overtime because of jobs from the weekend, break-ins, assaults, domestic violence, trying to chase people up, transient may have already left to a different community, having to go to a different community, like having to drive too Nyirripi to jobs that happened over the weekend.

And does it make sense to talk about levels of fatigue across the station? Other than at an individual level, would it make sense to say that the station was particularly fatigued at a particular point in time?---Yes.

How does that fatigue affect decision-making - I will ask you first at the personal level. How - if at all - does that fatigue affect decision-making?---If I've been up for close to

24 hours it can affect your decision-making, not making - possibly not making the right choice. Also having to drive, so I've been up for 24 hours and I have to drive to Nyirripi, which is 160 kilometres away, for a job, I've got to make sure I don't crash the car.

So it's potentially unsafe?---Potentially, yes.

What about the effect of fatigue on decisions around arrest and the use of force? Would you accept that they can affect decision-making?--they could, yes.

To what consequence - with what consequence?---Because you're tired you may not actually use force when you could've used force, slow to react or you could have gone the other way where you used excess force. However, in saying that, there is a duty upon me as the officer, if I am fatigued I need to let my supervisor, or in this particular case, if I was the supervisor and it was at night, I would let the TDS know that and then they would make the decision whether to stand me down, or not. So it's - the onus was on me to - - -

Reach out, as it were?---Reach out and let management know - which would be the TDS, know that we are physically tired and generally we would be stood down.

So that was going to be my next question, the options for an officer when an individual or a station is really fatigued, you'd contact the TDS?---If it was at night time, yes.

What is the TDS?---Territory Duty Superintendent.

What about when a station is really fatigued. What re the options for a remote sergeant who is worried that across the station there is a dangerous level of fatigue? ---So, if it was during day time they would make contact with the senior Sergeant - central desert, through the chain of command through to the superintendent.

And perhaps if we could have - I forget the document number but it's 19-56, it's in that folder. This is an extract, your Honour, from exhibit 1 at the trial and it's a diagram of the command structure of the Southern region. Are we able to - (inaudible). So, do you recognise that document - documents of that kind? ---That's the first time I've seen this particular document.

But do you recognise that to be the command structure of the southern region in 2019 or thereabouts?---Yes.

And so on the left hand bottom corner you can see the Yuendumu station?---Yes.

And directly above it you have the senior sergeant, Michael Cox?---Yes.

And above him you've got Jodi Nobbs, who was then the superintendent of the Southern Desert Division?---Yes.

So if a remote sergeant was particularly worried about fatigue across the station they would contact Michael Potts in the first instance?---Yes.

And would he determine whether or not that was - I don't know what you call it - "actioned" or "sent on" to Jodie Nobbs?---Yes.

Could there be circumstances in which a remote sergeant might really feel like they needed relief, ask for relief from Michael Potts or the Senior Sergeant but he effectively vetoed the request?---Veto? You mean - - -

Decide that there would be no support?---One would think not, so if Senior Sergeant Potts hasn't given - made some action for the relief, then you would probably go ahead and go to Jodi Nobs.

In practical terms what are the options if the command structures decides okay, we've had a request for relief, this station is really fatigued. We need to send members out - where are they drawn from - or where were they drawn from in 2019?---They were drawn from Alice Springs, I believe, and/or neighbouring stations.

And they tend to the other police officers who were stationed to their own stations who agreed, out of the goodness of their hearts, to do some relieving or was there a relief pool?---I'm not sure how it works in Alice Springs, but usually there's a - if there's something critical that's happened and members are stood down for a period of time due to fatigue, our closest sister station would be Papunya. They may send two members over, or Alice Springs would send two or three members out.

Was there ever a resistance from command when, in your experience, you felt like the police station was dangerously fatigued?---There was one time where, in that period, it was just myself and another constable and I asked for - there was excess jobs. So, there was four break ins, at the store and a couple of nurses' houses and then we still had domestics to deal with from the previous night. We don't always get called out, because it's up to the TDS. So, then straight away, you're dealing with four break ins and then domestics as well as other jobs coming in. So, there was only two of us at the time. I sent an email requesting - I think it was at the time SRU unit who was supposed to be going to Nyirripi to come to Yuendumu and that was not going ahead because they had to go to Papunya for a funeral.

And what ended up happening?---I believe a ministerial occurred two days later from the store which went to the superintendent at the time and then I was contacted and said - and I explained, well I did ask for additional resources, because we couldn't cope with what was occurring at the time.

I might just break that down. The ministerial went from the store. You spoke with the manager at the shop. Is that correct?---Yes.

And who did he speak to?---He would have spoken to his manager. So, he was made aware of it at the time. He runs the outback - sorry, runs the big shop and then he's spoken to his manager, because they were getting broken into every night

and then he's put a ministerial in.

And a ministerial is a ministerial briefing?---Yes.

So, it was being elevated?---Yes.

And taken seriously?---Yes.

Despite your initial attempts?---Yes.

And what was the ultimate response from command?---Superintendent Nobbs was able to – or it might have been Senior Sergeant Potts at the time was able to get some members from crime, property crime, to come out and assist.

Assuming circumstances are sufficiently high-risk, do you think it is easier to persuade command to deploy a tactical unit like the IRT or the TRG in response to a high-risk incident, but it might be to persuade them to deploy ordinary general duties' members to relieve a fatigued station?---I can't really answer that question because I've never had to deal with – prior to the incident, I had never even heard of IRT.

Do you think remote stations are adequately resourced?---At times, no.

I want to ask you some questions now about your prior dealings with Kumanjaya. Those dealings, I think some of them were in Yuendumu. Correct?---Yes.

But not just in Yuendumu. You had some dealings with him in Papunya?---Correct.

You were pulled into Papunya from a Thema station. Is that right?---That is correct.

Around about when?---I think it was early 2017, but it could have been late 2016.

I'm going to ask you about some dealings with Kumanjaya and I will leave the details to you, but if you struggle with dates, I've got them and I can give them to you. Can you remember around about when it was that you first met Kumanjaya?---Sometime early in February of 2017. There was a break in at the community store in Papunya and also at the clinic.

And the allegation in effect was that Kumanjaya had broken into the clinic and stolen a car?---Yes.

Now, did you have dealings with Kumanjaya personally in that time?---Not until – of the days around, yes, I had a brief dealing, because I knew his father – sorry, grandfather at the time, but they were very brief.

Who were you dealing with predominately?---Joseph Lane.

Okay. And about what?---Trying to recover some of the stolen items which were from the shop.

Okay. Now, he ultimately ended up in Yuendumu on 12 February 2017. Does that sound about right?---It sounds about right, yes.

Where he was arrested. And we heard some evidence, I think, from Sergeant Annie Jolley yesterday about the quite disturbing, distressing episode in the police cells. Now, are you aware that he was granted police bail back to Papunya to reside with Joseph Lane?---I knew he was granted bail. I didn't know it was police bail – well, court bail.

Sorry, not police bail, telephone bail. It was court bail?---So, court bail, yes.

Now, what was your understanding of Mr Lane's willingness to have then?---So, I believe Joseph approached me because he had the community, so the stakeholders on the Papunya store, had wanted him – Kumanjayi removed from the community because they'd been broken into. And they gave Joseph an ultimatum of either Kumanjayi leaves or Joseph has to leave. So, I took a handwritten statement from Joseph because he'd been remanded again over that day, I think, to send to the court to say he wasn't to be bailed back to Papunya, and in particular, with Joseph.

Okay. But it happened?---Yes.

Why?---Joseph didn't – the family didn't want to - - -

Sorry, no. Why was he bailed back, despite the family's wishes?---Look, I don't know why he was bailed back to Joseph, but Joseph was the one that approached me and said he doesn't want him back because he's causing trouble. Like, he can't deal with him.

Now, on the 13th, WYDAC drove Kumanjayi back to Papunya, 13 February 2017. Do you recall that?---Yes, I think – my recollection is, because he was given bail coming back – so, my statement was after that incident, the one I took from Joseph. So, he was brought over by WYDAC. He refused to get out the car. And that – so, he wasn't going to comply with bail staying in Papunya, I think it was Lot 252. He got taken back and I believe the following day, he was arrested by the Yuendumu police, probably, I think it was Sergeant Jolley and Constable Rose. Then, that's when I did that statement from Joseph.

Okay. Can I show you a document. This is document 2-41. It's an NT Police PROMIS report. I apologise, I said it was the 13th. It was the 17th when he was driven to WYDAC.

Could we have page 10, please?

Now, I'm going to put it to you that Helen Holdcroft(?) was one of the police constables who located and arrested Kumanjayi on 18 February back in Yuendumu?---Mm mm.

Could we have par 8, please?

There, Constable Holdcroft deposes that she spoke with Walker upon finding him and stated to him, "Kumanjayi, you made a promise to the judge on Tuesday that you would live in Papunya with your grandfather. You were given that choice, either Papunya or gaol. Do you remember?" But as far as you knew, Papunya was not an option?---Yes.

I want to move to Yuendumu.

We can have that document down, please.

I want to move to Yuendumu. There is a document in some of the Territory Families' records that suggest that on 30 August 2017, you had a conversation with two child protection workers, Agnes Kenew(?) and Joy Yosa(?) in Yuendumu about Kumanjayi. Do you have any recollection of that?---I did speak with numerous – Territory Families would always come and introduce themselves at the station.

Okay. August 2017 was around about when you moved to Yuendumu; is that right?---Yeah, August – July/August? But it's the 24th. I know the day.

And at that point you were, in fact, the Sergeant. Is that correct?---No, I wasn't.

Did you become the Sergeant for a little while?---Yes.

Okay. Who was the Sergeant when you arrived?---I came over, Annie – Sergeant Jolley, at the time, was on some leave. I come over to relieve, but I think Cam Ballos – Remote Sergeant Cam Ballos, was.

He left a couple of weeks after you turned up?---Yes.

Okay. And so you were Sergeant or Acting Remote Sergeant from about July – sorry, August 2017 until February 2018?---Until Sergeant Frost arrived.

Okay. From about August 2017, did you start having more regular dealings with Kumanjayi Walker?---I can't say if there was any more or any less. I can't honestly recall.

Okay. Do you have a memory of your dealings with Kumanjayi? I'm not talking about arrests, but just dealings with Kumanjayi between 2017 and 2019?---I can't think of anything off the top of my head, apart from maybe seeing him at the local store in passing.

Okay. Would you ever talk to him?---You would say, "G'day, Kumanjayi," or something along those lines. But you wouldn't necessarily get a response, because dealings with police were – when we dealt with him, he was in an offending sort of situation. It wasn't an engagement situation, best way to put it.

Did you see him around the community much, compared to other kids?---Not him in particular. He was fairly quiet and he'd either be inside and most of his offending was at night, so he was up during the night and not necessarily during the day.

I want to ask you some questions now about prior occasions on which you had arrested Kumanjayi. In your written statutory declaration, you discussed entering House 577 on 6 November. And note that on two prior occasions, you had arrested Kumanjayi in the very room you attempted to arrest him in on the 6th; is that right?---Yes.

On one other occasion you had, in fact, arrested but – I'm going to use – I don't know if this is a legal term, unarrested him, in the same room?---Not in that particular house. It was 511.

I see. And then on a final occasion, you arrested him at 564- - -?---Yes.

I won't name the occupant of that house?---Yep.

So you've had – sorry?---Yes, I was agreeing.

Before 6 November, you had had four interactions with him that we might loosely describe as arrests?---Yes.

Okay. I'm going to ask you about that first arrest, this was at House 577 on 2 May 2018. Can you remember that?---Is – is that the first of 577?

That's the first?---Or the unarrest?

That's the first. No, not the unarrest?---Okay.

So if I put it to you that he – I'm sorry, I misspoke. That is the unarrest. So there had been some property offending and you attended to affect an arrest on 2 May?---Yes.

With Felix Alefaio; do you remember that?---Yes.

What was Felix – sorry, what was Kumanjayi's relationship with Felix like?---Over time, he didn't like him. He referred to him as a Kiwi.

Okay. Is Felix Alefaio Maori?---He's Tuvaluan.

Okay. So he didn't have a close relationship?---It was – wasn't not positive or negative. It was just - he just referred to him as, "The Kiwi."

Okay. Can you remember what time of the day it was?---It was in the afternoon, late in the afternoon. Might have been after 3 o'clock.



Okay. And as you approached the house, can you remember encountering any family?---There would have been Margaret Brown.

Okay. And do you think he was inside, outside the house? Can you remember?---I think they were sitting outside. I have a feeling there was two females, because it's predominately a female house. Yeah, I think definitely Margaret.

And can you remember the conversation you had with them? I don't want to – if you can't remember, that's fine. But- - -?---It was just to – we let her know that we were coming here to arrest Kumanjayi for property offending. She end up coming into the house with us and pointed to the room which he was in.

Okay. Why did she come into the house with you?---I'm not really sure. It was also – it was a good thing that she did come in with us, because she could identify which room, because there's a couple of rooms off the back – in particular, which room. And also, we would need her later on, possibly, as a responsible adult.

Would you occasionally try to involve family in arrests in that way?---If – it's practicable and they're there, but it also has a – as I said before, a twofold effect where we're letting the responsible adult know that someone's taking them into custody.

Okay?---And it's also nice that we are arresting youth, you as the parent or responsible adult, know that police have someone – their child or the person they're caring for – in police custody.

Can you tell me what you did next? I think you can assume a degree of- - -?---So he – Arnold – I'm sorry.

- - -familiarity with the layout of that room?---So he – Arnold – sorry, Kumanjayi was arrested. He came out the room. I believe – I'm not 100 percent certain whether he was handcuffed at the time or not – but he was standing with us and I remember that there was a meeting taking place later on in the afternoon, just close to 4 o'clock at the Peace Park, between two family groups. And I knew at the time that was – we could be tied up with that for quite some time. So I called Sergeant Julie Frost and let her know that we had Kumanjayi in custody however, the meeting was taking place, maybe it would be in the best interest to unarrest Kumanjayi, let him go and deal with the meeting first.

And why was that?---Potentially, we would have been tied up with – there was only three members on duty at the time: myself, Felix – I think it might have been four, I can't – but there was definitely myself, Felix and Julie, Sergeant Frost. And this meeting had the potential to turn violent.

Can I just take you back a moment. You've walked into the room. Where is Margaret Brown standing?---So in – in that house, there's, like, a common – like, you walk in past a room and then there's a common area. I guess there might be the

kitchen. I can't remember. There was a sink but it's more of a common area. And then you walk from alley – a doorway where – sorry, hallway, I should say. And there's a couple of rooms on either side.

And the room you went to, is that the same room that we see on the body-worn footage of 6 November?---No, that's a different house.

I'm sorry?---So this is Lot 511.

Okay, yes. You did – can – when you approached the door, what did you do with the door?---We just – I believe Felix would have just knocked on the door.

Okay?---And I have a feeling, at the time, Margaret was very close and she might have said something in language, because he came out, like, willingly.

So she said something to Kumanjayi?---Possibly, yes.

And the impression you got was that that encouraged him out of the room?---Yes.

Okay. Did Felix teach you anything about knocking on doors and opening them when you had the potentially unwilling client who might try to escape or close the door?---Yes. So what Felix taught me was to have my baton ready to place – when the door is open, to place inside the door so they can't close the door.

Now, we're going to come to 6 November, but is that what you did on that day?---Not on that particular day.

No? Okay?---Not at that particular house, 577.

No, no, sorry. I'm – we'll get- - ?---Sorry.

- - -to 6 November when we get to it. All right. What was Kumanjayi like? As in, on that day?---He didn't say much at all. He just stood there and we tried to explain to him as best we could and Margaret was explaining that the trouble for breaking into the store, we need to deal with it.

Okay. The second arrest was on 10 May 2018. Does that sound about right?---Yes.

And am I right that you were in effect completing the arrest that you had commenced but abandoned on the prior occasion?---Yes.

Okay. Why did you take eight days?---Because of the incident that took place on the 2nd, fighting between two family groups. We had a significant arrest out of that which took quite some time, and then there was ongoing issues between those two family groups over the next several days.

Is it fairly normal in remote communities to defer arrests to more appropriate times?---Yes.

So, there isn't a sense of urgency? Someone's committed a criminal offence and you don't go to sleep until they're in custody?---No. You – because you're a 24-hour station being on call, you've got to have fatigue management. So, we might have been called out to another job at a different community later on, so it's not practical to arrest someone just before the end of shift or in that time, arrest Kumanjayi at that time.

And can you remember who you attended with on 10 May?---I was definitely with Constable Alefaio and Derek Williams, I believe.

Okay. Why all three at one location?---If we have the staff available, we try and utilise as many as we can.

Okay. And can you remember if – sorry, can you remember what time of day it was?---I believe it was in the morning.

Do you remember how early? Was it an early morning, "raid" or - - -?---I think we had an early day start, so 7 o'clock start.

Okay. Why do you go early?---Because generally people are asleep. In community, they do sleep a little bit longer, in the sense they don't – a lot of employment, so they're not tied to having to go to work at a certain time.

And perhaps if you could just describe in your own words how you effected the arrest?---So, we walk into the house. I – the part I do remember is Felix standing at the door in the yellow doorway. Felix knocking on the door. I stood on the opposite side of the door. Felix takes his baton out. The door opens, he puts it in and then he – Kumanjayi is present in the room. He has a few verbal words with him, explaining to him to turn around. He then handcuffs him and that was it.

And that door was the same door that you approached on 6 November?---Yes.

Okay. Is it fair to say that Felix was effectively standing where you were standing on the 6th?---Yes.

And you were standing where Chris Hand was standing?---Yes.

Okay. How was Kumanjayi?---I don't remember him saying very much at all, however, when he came back to – so he was placed – he walked out. He was placed in the rear of the police cage and conveyed to the watchhouse. One of us, if not Derek, may have explained about having to get a responsible adult, trying to organise that to come down. But whilst in the watchhouse, he'd become emotionally upset. He would cry.

I want to ask you some questions about that, Before I do, two more questions about the arrest itself?---Yes.

Can you remember interacting with any family members as you entered?---I'm having a – it probably would have been Lottie or Eddy.

And can you remember whether Derek stayed outside or came in with you?---I have a feeling he was outside, but he may have been inside.

Okay. You just can't say?---I can't say.

All right. Tell me about the distress, Kumanjayi's distress, once back at the cells – sorry, before I ask you that, how did you convey him back to the police station?---So, he was placed in the rear of the police cage.

Okay. Sorry, go on, the distress back at the station?---Yeah, he – on two occasions, through that arrest and another arrest, he would cry in the cells.

Was it anger or sadness he was expressing?---Sadness.

Okay. And what would you do?---So, there would be times where – so family would come down. So, whether it be Margaret or Jean, some family member would come and we never stopped that. So, family could come and console him and talk to him.

Were there times where family wouldn't come down?---Yes, towards the end. So, maybe the third arrest, they got to the point where they were – you have to get a responsible adult, they would refer to Jackson Fitzpatrick from WYDAC. So, he was essentially the responsible adult.

When you say, "towards the end", do you mean the end of his life?---No, towards the end of the last arrest.

Sorry, okay. And okay – now, the third arrest occurred at House 577 as well?---Yes.

On 31 May?---Yes.

And that was you and Felix Alefaio again?---Yes. I'm trying to – there may have been other additional members, but - - -

Okay, yes. And that was the same room?---Yes, same room.

Okay. Do you have anything to add? Was it an eventful arrest in any way?---Same as before, there was no – he came compliantly and there was no issue with the arrest, and yeah, conveyed down to the watchhouse.

And when you entered that common area that we've all seen on the body-worn footage, the door was closed to that bedroom?---Yes.

And you knocked?---Yes.

And what happened?---It was opened. I can't remember if it was just Kumanjayi in

the room by himself or it might have been his partner as well.

Okay. And was there any aggression or show of force on that occasion?---No, same thing. Felix, Constable Felix Alefaio speaks to him, tells him to turn around near the doorway. He's handcuffed and escorted to the rear of the cage.

Can you remember if a family member escorted you in?---No, I can't recall, sorry.

Now, the fourth arrest occurred on 19 March 2019. Does that sound about right?---Mm mm.

That was the year that Kumanjayi died, and it was at House 564?---Yes.

Now, who did you effect that arrest with?---It was Senior Constable Hand and Constable Lailani Wethers.

And what time of day was it?---It was afternoon. We start a 12 o'clock start, the three of us. So, I'm thinking about just after 1 o'clock.

Okay. And where did you encounter Kumanjayi in that house?---So, in that particular house, the doors open onto a lounge room and the back of a kitchen and he was in the lounge room. As soon as you opened the door, he was laying on a mattress with a couple of the young kids, I believe, playing a video game.

I want to ask you that now. What did he do when he saw you?---He didn't have much time to react, because as soon as we entered, he was basically arrested.

Okay. Do I take it that speed is of the essence during an arrest like that?---Yes, surprise.

Okay. Would you have knocked at the door or just entered?---The back door which we entered was actually opened.

Okay. The front door which Constable Hand went through, I'm not sure.

And was there any violence or aggression on that occasion?---No.

Okay. And this was some six months before?---Yes.

Yes, okay. I want to ask you some questions now about the lead up to 6 November 2019. Between 30 October and 6 November, who was Yuendumu Police Station manned by?---Myself, Senior Constable Hand, Julie – Sergeant Frost, Senior APCO Williams and Constable Wethers.

What about Felix Alefaio?---No, I believe he was on the SRU roster.

Sorry, yes. Now, Wethers was gazetted to the Yuendumu Police Station, correct?---Yes.

But at some point during that week from 30 October to 6 November, she travelled into Alice Springs, correct?---After the axe incident, I believe she travelled in?

Okay?---But I can't remember – she might have gone in on days off before – closer to October.

Okay. Your memory's not too good on that?---No, I know that Wethers left after the axe incident, yes.

Okay?---But before – if you're talking late October – in early November, that I can't remember.

Okay. Now, Chris Hand was stationed at Yuendumu throughout that week leading up to the 6th, correct?---Yes.

But he was, in fact, a part of the Territory relief pool; is that right?---That's correct.

And he arrived in Yuendumu on 1 November?---Yes.

Now, he is married – or was married to Julie Frost?---De facto relationship, I - - -

Sorry, I apologise. They were in a relationship together – a romantic relationship?---Yes.

But he wasn't permanently stationed at Yuendumu?---No.

Okay. Another member who was, at least within the Yuendumu Police District, was Mark Parbs. Do you know him?---Yes, I know of him.

Okay. And he's a part of the Southern Relief Unit, correct?---Yes. I don't think he was the Territory relief pool, but the Southern Relief, yes.

And he was sporadically serve in Yuendumu, Willowra, Nyirripi- - -?---Yes.

Okay. And he was stationed in Nyirripi from 5 November to 9 November; does that sound about right?---I knew they were at Haasts Bluff on the night of the axe incident. So after that, I don't know where they were positioned.

Okay. You were aware during the week leading up to the axe incident that two of the police officers from the Yuendumu Police Station were out at Nyirripi; is that correct? Or at least outside the community of Yuendumu?---Yes? For other jobs, I believe. I'm trying – I know we travelled. If it wasn't me personally, it would have been other members that would have gone to Nyirripi.

Can you remember anything that was happening in Nyirripi at the time?---I think there was some fighting, I believe.

Okay. What was happening at Yuendumu for the weeks – couple of weeks leading up to the axe incident. You talked about times that were quieter and busier?---Yeah, it was – there was unlawful entries occurring, mainly clinic housing and, if I remember correctly, I'm thinking also some break-ins to the stores.

Okay. When you say clinic housing, the nurses' quarters?---Nurses' quarters, yes.

Okay. What did that mean for the level of exhaustion in the station?---Attending unlawful entries, getting called out, is exhausting. There's a – there's a large process of trying to gather enough evidence to find – locate – identify the offender or offenders, taking statements and then coming back and then maybe getting called out again or attending a different job. It's – it's not something you just sit on, this one particular break-in and you just deal with it, run from start to finish every single day. You have to get as far as you can and you're given another fresh job to deal with. So you've got to prioritise your time.

Can you remember what the level of fatigue was in the station on or around 6 November 2019?---I know I was exhausted because I had planned to have four rostered days off in town, to get physically out of community due to fatigue.

And those rostered days were to commence on 8 November; is that right?---Yes.

Were you having conversations with people like Julie Frost and Chris Hand about the level of fatigue?---We – within the station itself? Possibly. We were just – we all knew we were tired.

Okay. Were you having conversations with Julie Frost about support from town?---Not at that time, no.

Okay. Now, you are aware now that Kumanjayi absconded from CAAAPU in the very early hours, I think, of 29 October 2019?---Yes.

When did you become aware of that?---I believe it was from – if I didn't get a call, it was a PROMIS job for the – where he absconded. I remember – sorry.

No?---I remember going around to Lottie and Eddy's house and letting them know that he absconded and they were to let us know if he does come out to Yuendumu. So that would have been late November – sorry, late October or maybe early – early November.

Do you know who Kate Sexton(?) is?---Yes.

Who is she?---She works for Community Corrections.

Okay. Did you speak with her in early November?---I believe I spoke with her on 5 November.

Okay. Can you remember whether that was before or after your conversation with Lottie and Eddy?---That was after.

Okay. And what did she tell you?---So on the Tuesday the 5th, she had told me that a warrant had been issued on that day for Kumanjayi's arrest.

All right. Your conversation with Eddy and Lottie, you think it was around about 1 November – around about. Can you remember where that was?---That would have been at Lot 577.

Okay. Who are they for Kumanjayi?---They're – so they're Rakeisha's – his partner – Rakeisha's grandparents.

Why did you go speak to them?---Because Kumanjayi's in a relationship with their granddaughter, Rakeisha. And he had predominately been living there when he's not incarcerated.

What did you talk about?---I mentioned to them that he had absconded from CAAAPU and – yeah. "When he comes out, you need to let us know so we can deal with it."

Had they seen him at that time?---No.

Okay. What did they say they'd do?---I think they were in agreeance. Like, we have – I feel that I have a good relationship with Lottie and Eddy. So they would have, hopefully, let me know or let the station know that Kumanjayi had come back.

Okay. I want to ask you some questions now about 6 November. Did you know on 6 November that a funeral was planned for the end of the week?---No.

Okay. What time were you called to duty?---On the 6th? I started at 10 o'clock.

And what time would you have finished?---6 o'clock.

Okay. And can you remember what time Chris Hand was called to duty?---I think he started at 12:00 until 8:00.

Okay. Now, that night you were also the on-duty officers, weren't you?---Yes.

So at the end of your shifts- - -?---We were still on-call.

Okay. I don't want you to tell me the identity of this person, but at 5 pm or thereabouts, you received a telephone call from a community source?---It was in person.

I apologise?---I was actually – so during that afternoon session, I had gone down to take a statement from a community member. And at the conclusion of the statement, I happened to have the intel sheet and Kumanjayi was on it. And I said,



“Have you seen Kumanjayi?” And they informed me that they had seen him that morning over at West Camp, Eddy and Lottie’s house.

And did you think that information was credible?---Yes.

Now, at that point of time, you had reasonable grounds to arrest Kumanjayi, correct?---Yes.

Why didn’t you go then and there to House 577?---So just prior to taking the community member back home, we received a call saying there had been an unlawful entry at the clinic manager’s house.

Okay. And how – sorry. Luana Symonds?---Yes.

S-Y-M-O-N-D-S, for the record, your Honour.

Now, you got that call-out at around about 5:45 pm in the afternoon; is that correct?---Yes.

And you went to the clinic manager’s house?---Yes.

Who was there when you arrived?---At the time, Luana was there and there’s another lady. I can’t pronounce her name. I’ve forgotten it. Her partner as well. She was, obviously, somewhat distressed at what had happened.

Luana was quite distressed?---Yes.

Did they talk to you about their distress?---They were upset that – because they weren’t the only clinic house that had been broken into over the preceding – or sorry, previous weeks, given the fact that they said, “We’re here to support community, patients, and this was what happens when we’re at work.

Did you get a sense of what morale was like with regard to the nurses?---It was low.

And did Duana Simmons and her partner tell you what their plans were for the next couple of days?---No.

What did you need to do forensically at the scene?---So Senior Constable hand had located what he thought were fingerprints inside the point of entry near the window so I went back to the station to get the fingerprint kit and at the same time I made contact with the Alice Springs watch commander and asked for continuation of overtime because it was about 6 o'clock I arrive back at the station.

Now, did you think that there was a link - I'm not saying did you think you had reasonable grounds to suspect, but did you think that there might be a link between that break in and the information you had received about Kumanjayi being back in the community?---I thought it was - there was a definite link given the fact that where the source had told me they had seen Kumanjayi earlier on in the day and the

proximity is to where the Duana's house was so I - yes, reasonable grounds that it could have been Kumanjayi.

I think you had an authority to arrest him under the warrant for breaching his suspended sentence?---Yes. So I wasn't going to arrest Kumanjayi for the break in. I had no evidence to link him to that.

I suppose what I am asking you is did that coincidence have anything to do with the timing of your arrest?---Yes.

What was that relationship? Why did you choose to go then?---Because of the proximity of where the house was, I was already been approved for continuation of duty and I had only just an hour - less than an hour beforehand found out that Kumanjayi was at the house.

Do you think if you hadn't gotten the call out to go to Duana Simmons' house you might have waited to the next day to arrest Kumanjayi?---Yes, I wouldn't have arrested him that day.

What time did you arrive at House 577?---I think 6:25 or something like that.

And was anyone outside the house?---Janice Burns(?) was the first person I met.

Who is she?---She is partner for Ethan Robertson.

And what is Ethan's relationship with Kumanjayi?---So Ethan is the son of Eddy and Lottie so I guess uncle.

Rakeisha's family?---Yes.

And had you dealt with Janice before?---Janice, yes.

And did you tell her what you were there to do?---I asked her where Kumanjayi was.

What did she say?---She said "inside".

Okay, and what did you see when you entered the house?---So then the door was already open, it enters into the kitchen and that's when I saw Ethan Robertson.

And did you say anything to him?---I said something about either which room he's in or like "Is Kumanjayi" and we both - I was pointing and Ethan pointed me to the direction of the yellow door.

And the yellow door is the door you'd arrested him at previously?---Yes. Yes.

As you approached that door did you have any reason to think that the arrest would be any different to the four arrests you'd previously affected?---No.

What happened when you reached the door?---So reached the door, Felix was standing - sorry - not Felix - I'm standing where Felix would normally stand. I tap on the door. Senior Constable Hand is standing where normally I would stand. I take my baton out ready to place it into the door if he happens to close it. The door opens by Rakeisha, there's a bit of words - Rakeisha sort of walks back in then comes to the door and she grabs - puts her hands between the two - the doorway, preventing us from going in. I was trying to turn the light on to the room so had some light. Senior Constable Hand had his torch. There was words being said by Rakeisha telling Kumanjayi "Out the window - out the window - out the window" trying to get him to escape through the window. I think he Kumanjayi mentioned something about maybe assaulting his partner or "Stop hurting my partner". She walks out of the room eventually, I think - - -

If I might pause you there. He said something about assaulting his partner. Who was that directed to?---Both of us.

And what were you doing?---We were trying - I - if it wasn't me in particular it was Senior Constable hand trying to remove Rakeisha out of the doorway because she'd locked herself on.

Do you want to continue?---Then Rakeisha leaves and I think she calls out, "Oh Mum" and then goes and gets Lottie. They come back in and they're standing to the right of me. We sort of - we've gone in and then he was at the time - I wasn't too sure what he was doing but he - now I find out he was searching for the axe and then I distinctly remember hearing when he grabbed the axe the metal ting sound on the concrete of the floor.

I will take you back a moment. Rakeisha called out for Lottie?---Yes.

Did Kumanjayi say anything about Lottie?---At some point he wants to talk to Lottie and we said, "Not until you've been handcuffed".

Okay. You heard the ting as the axe was picked up. What happened next?---So he's holding it in his hand. . I back out before Chris does - Constable Hand - I'm in one left hand corner - Chris is on the right and I gave him a little gentle nudge to make sure he doesn't hit the wall and that puts him into the lounge room space. From there I've got my hands like that to say "I've got nothing - like I'm not a threat" he comes out holding the axe. He passes me really quickly - like he moves on from me and then he engages with Chris Hand at the doorway to the kitchen. They are holding each other sort of wrestling for a second - second and-a-half, something like that. Chris lets go and then Kumanjayi runs out through the kitchen and then drops the axe outside the kitchen on the porch. We both give chase.

Can we take a step back. You're a wonderful historian. As he is coming out of the room I think we've all seen the footage but what was your back against?---So I'm stuck into a corner, like there's no way for me to go any further than where I was.

What did you think he would do with the axe?---I did - did process that he might use it on me. However that didn't occur. I - part of me was thinking that "It's a threat, is he really going to hurt me?" But I knew him, he knew me, I was hoping that that didn't happen and nothing happened. He was - I think as I explained in the trial, it's more of a show because he - he had to have been aware that Rakeisha was in the same room at that point with us and Lottie - yeah.

I mean you didn't know - sorry - you didn't just know Kumanjayi then, you knew that he was a Warlpiri man?---Yes.

Was that significant to assessing the level of threat he posed?---So generally when - I deal with more Warlpiri women arming themselves with weapons than men - the men don't usually get involved like that. However, when they are it can be quite violent or threatening. Boomerangs, nulla nullas, whatever, so - but it's men generally don't fight each other in Warlpiri, it's the women I find - in my experience with dealing with them it's the women - Warlpiri women that actually do the physical harm.

You said when you said, "I wondered - part of me thought that it was a threat"?  
---Yes.

What was the other part of you thinking?---That was - it was a threat he could have hurt me and he was maybe going to hurt me but the other part was thinking, "This isn't really happening and he's not going to do anything". So - yeah.

How long did it take you - sorry, how long did it take him to pick up the axe until he'd gotten past you and he was heading towards Chris Hand?---It - it - I'm thinking maybe three seconds.

Okay?---He was quick.

Why didn't you draw your firearm?---So at that particular - so prior to him picking the axe up, I was fully aware - I passed two adults. There was also a child in the room that I could see, we're trying to open the door. So there was at least three people that I was aware of, but not sure exactly where from after that. So they could have been behind me or they could have been closer. There was a wall, Besser brick wall, and the way I was situated I - if I had have drawn when he's coming at me - Kumanjayi's coming at me with the axe - I didn't know if there was anyone else in that room behind Kumanjayi. And also, if I had have drawn and discharged my weapon, it could have gone through him or I could have completely missed and hit the wall and ricocheted on to the people to my right, because that's the angle I would have been at.

You were worried about their safety?---It was part of the - I already knew prior to the axe, there was other people in that room. So I was fully aware of that.

Did anything else concern or worry you about discharging a firearm in a house like that, in a community like that?---There was the potential that if I had tried to

immediately incapacitate Kumanjayi that the neighbours across the road may have – everyone would have heard the gunshot or shots. That – they could have turned on us. So there was a potential. Ethan Robertson is a big, solid adult. So – and given the conversation later on down the track with Eddy, I – that sounds like what have possibly happened.

What would it have meant for your relationship with Kumanjayi, his family and the community if you had drawn your weapon?---And discharged it or just- - -

Just drawn it?---By me drawing my weapon, that may have also got him to stop what he was doing. But it also may have escalated the situation, where he then carries out harming myself or Chris.

And the significance of that in the long-term for your relationship, would there have been one?---There would be no relationship.

If you discharged the firearm?---Yes. I doubt I could even work again.

These are all commendable reasons for not drawing your firearm. Were these things that you actually thought about in those three seconds? Was this a conscious decision?---I never consciously thought to – sorry, to draw my firearm. I was more trying to de-escalate Arnold's behaviour. Sorry, Kumanjayi.

Is it right to talk about you making a choice not to draw your firearm?---So when – so we are provided training – firearms training, defensive tactics training. We're also paid and trained to make decisions. So yes, that is one of our tools. But we're also told and taught, in circumstances, you make the decision- - -

I suppose that- - -?---that feels appropriate and can justify – justify why you made that decision.

I suppose that's exactly what I'm getting at. These reasons – is this thinking that you've done after the fact or would each of those things flashed through your head at the time you were making the decision?---So that – that incident had everything – I must have been processing everything. There's different things being processed. Like, you're in shock, adrenaline went really quick. And you might think that what I'm saying I've thought about later on however, the fact that after Kumanjayi drops the axe, the first thing was then we continued on and tried to apprehend him. Like, we just didn't stand there and dwell about it. We reset and continued on.

Your Honour, I think I could finish today- - -

THE CORONER: Yes.

MR COLERIDGE: - - -in the next 10, 15 minutes?

THE CORONER: If you can finish 15, we can sit until half past, but no more.

MR COLERIDGE: So you then pursued him out of the house, correct?---Yes.

Towards the men's business area?---Yes.

Now, Chris Hand was chasing on foot?---Yes.

And what did you do?---I took the car.

Okay?---Sorry.

Now, after you – you didn't catch him?---No.

With respect, there was no chance?---No, there was – yeah. We wouldn't have got him.

As you were walking back from the men's business area, you received a call from Julie Frost?---I was – Constable Hand had called- - -

Sorry- - -?---Sergeant Frost.

And can you remember what they spoke about?---The – about the incident. Letting – Chris had explained to her what had just happened.

What did he say, specifically?---Yeah, that I'm not fully aware, because here I'm coughing up scale and crap from my lungs and kidneys and heart. But it was – the gist was that what had happened, Kumanjayi had come at us with an axe and – yeah. We were going to go back and continue our duties of seizing the axe.

And you did go back to 577?---Yes.

And who did you speak with?---Lottie.

Okay?---I told her I wasn't happy. I picked up the axe, which was seized and exhibited.

Can I just pause you there. It was suggested at one point during the trial that it wasn't seized and exhibited; is that right?---Yeah, that's always been police custody.

So that was false?---Yes.

And what else did you say to Lottie?---I think I mentioned – I asked her, like, "How has he – Kumanjayi been here?" And she – because I, the previous conversation I had, asking where that – Kumanjayi had escaped, to report it to us when he was in community. And she said, "A couple of days. He just turned up." Rakeisha was sitting- - -

Can I just pause you there. Sorry, go on. Go on?---No, that's it. Yeah, just Rakeisha was sitting there as well.

Did you say anything to Rakeisha?---No, I think – I can't recall without watching the footage. I remember Lottie speaking with Rakeisha, saying something. I'm trying to think what Rakeisha might have said, if I had asked her something.

How did you feel knowing that you'd had a conversation with Lottie and Eddy, on around about 1 November about notifying you when Kumanjayi arrived in the community, when Lottie told you that he'd been around for a couple of days?---I didn't – I felt – I wasn't happy. I sort of felt betrayed. I tried to do the right thing in the first place by saying, "Look, this trouble wasn't going away for Kumanjayi." And then this happens with the axe.

Yes?---So I wasn't happy.

Nonetheless, you did agree – or implore them to bring him into the station?---Yes.

All right. Constable Frost – sorry, Sergeant Frost then called herself to duty; is that correct?---Yes.

And you met back at the police station?---Yes.

What was her reaction?---She wasn't happy either that two of her officers had been attacked in that way.

Did you watch the footage with her?---Not at that time. It was later on.

All right. But you returned to House 577; is that correct?---Yes.

And what was the nature of that conversation? I'll just pause you there. That was with Julie?---Yes.

Okay, and Chris Hand?---Yes.

Okay. And who was there when you arrived?---Buddy(?) was, possibly Rakeisha and I think Eddy come – sorry, Eddy Robertson comes along a little bit later. Or he may have already been there. And the discussion was trying to get family to bring Kumanjayi down to the station within a couple of hours, I believe.

During that conversation, what was Julie like emotionally?---She was – I think she was professional, but was trying to emphasise the point of how serious the incident was with Kumanjayi coming at two police officers with an axe.

At any point in that conversation, did she mention the possibility that Alice Springs police might be called in if you were unable to arrest Kumanjayi?---She might have explained that. I can't remember that, but she could have easily said that.

Do you have any memory of her saying, if he doesn't hand himself in, we'll call in the IRT and they'll hunt him down and shoot him like a dog?---Not – like I said before,

I had never heard of IRT up until the Saturday.

Is that something that Julie Frost would have said?---Those words "hunt him like a dog", that doesn't make – I have never heard those words come out of her voice.

Okay. When did you discover that there was to be a funeral on the Friday?---I think it was on the Saturday.

Sorry, the funeral ended up being on the Saturday. Then next day, did you hear anything about the funeral?---Maybe – it was my last shift, so I'm – things were a little bit hectic. We'd already gone around to revisit Lottie and Eddy. And when I mean "we", I mean we were in the background and Julie and – Sergeant Frost and Senior APCO Williams had gone to speak to with Lottie and Eddy that morning. And then, we – Chris and I had to continue normal duties, like dealing with whatever incidents there were.

Okay?---But we weren't involved in that.

Okay. Did you have any discussions with Julie Frost about calling in reinforcements, the IRT, general duty support, anything of that nature, between 6 November and leaving Yuendumu on 8 November?---No.

Okay. You did leave on 8 November?---Yeah, I think I might have actually left late on the 7th.

Okay. Did you speak to anyone in Yuendumu on 9 November 2019? That's the day Kumanjaji died?---The only person I spoke to was Sergeant Frost.

And when did she all you?---It was sometime in the morning.

And what did she call you about?---She just wanted some clarification on houses that Kumanjaji could be residing at.

And did she say why?---That's when she mentioned she had - IRT were coming out.

Okay. Did she discuss what the purpose of the IRT call out was?---I think it was just to arrest Kumanjaji.

Okay. Was there any discussion at that time about any other reason?---No, it was a very brief conversation. She mainly wanted to know the houses linked to Kumanjaji.

Okay. And did you tell her?---Yes, I gave her three – two or three houses.

Were all of those houses correct?---577 was. I think I said 514 as opposed to 511 and the third house, I didn't know the house number, but I described it to her because she could have looked it up on the map and it was where Jean Brown used to reside.



What was the next contact you had from the Yuendumu Police Station?---That afternoon – well, that night sometime after the incident, Constable Alefaio had called me and said Kumanjayi had been shot and I – because I was in Alice Springs, I said, okay, I'll be about – I'll come back out. I was on days off, but I was coming back out to assist. It maybe took me 20 minutes to pack and jump in the car and got to the turn off of Tanami and Stuart Highway. I think I called Constable Alefaio again and said where I was, and so how long it should take me. He said that they were leaving, not to come out. I said, well I'll just clarify that with Sergeant Frost. So, I immediately called her and she said, "No, don't come out. Stay in town."

Did she tell you anything else?---Not that I can remember. Sorry, she did say that – yeah, we were evacuating.

When did you next see Julie?---So, the Sunday morning when I started to head back out. I'm not sure of the time, maybe lunchtime, maybe just after lunch, about 100 Ks from Alice Springs on the Tanami Road.

You passed each other on the road?---Yep, so we both – we pulled up and had a conversation. Maybe we were there for 10 minutes. She was upset. She explained that she'd been run out of the community, basically because of a meeting that morning with the community.

She'd gone to the meeting?---Yes.

Okay. Did she tell you anything about what had happened the day before?---About the shooting, or - - -

About the events of the 9th?---Not really. It was more about – because she was upset, trying to support her and just – yeah, what had hurt her, I think, was being run out of the community. Like, ultimately, the sergeant is the top dog in community from stakeholders and she felt hurt, because what had happened.

Did she tell you anything about her interactions with members of the IRT who went out?---I don't know if it was on that particular conversation or a conversation later on.

What did she tell you?---She was of the opinion that – I think his name was Constable Kirstenfeldt was quite arrogant and said something like, "Well you've never been through this before", when she has been through something similar. Constable Rolfe, she said he was quite professional, didn't have anything negative to say about him. And the others, didn't say anything.

I want to finish by taking you back to 5 pm on 6 November?---Yep.

You went and picked up the forensic kit, didn't you?---Yes.

And went back to Luana Symonds' house?---Yes.

And you dusted for fingerprints?---So, Senior Constable Hand dusted for fingerprints

and he obviously sent them off, and a couple of days later, they came back as a hit for someone completely different, but it was a community member.

I don't want you to identify that person, but you are aware of who they are?---Yes.

What was their relationship with Kumanjaya?---So, this youth was a lot younger than Kumanjaya, but when Kumanjaya was in community, he would be his little follower and do everything with him. He idolised him. So, this youth idolised Kumanjaya.

Did he see parallels between his life and Kumanjaya's?---Yes and I have mentioned it to other people, that I'm concerned that he could go down the same way in becoming – if he becomes violent.

Where is he right now?---I'm not 100 percent certain, but I think he might be incarcerated at the moment.

So, despite everything, the death, the committal, the trial, media attention, Kumanjaya Walker's story is quietly being repeated in Yuendumu?---In that particular youth, yes, I believe so.

No further questions, your Honour.

THE CORONER: Well, thank you very much?---Okay.

That's been a compelling account and no doubt, we'll hear some more evidence from you. Unfortunately, it's not completed for you. I will require you to be back here on Monday morning at 9:30?---Okay.

WITNESS WITHDREW

THE CORONER: Anything further?

We can adjourn.

ADJOURNED