

N.B. Copyright in this transcript is the property of the Crown. If this transcript is copied without the authority of the Attorney-General of the Northern Territory, proceedings for infringement will be taken.

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 19 SEPTEMBER 2022

(Continued from 15/09/2022)

Transcribed by:
EPIQ

THE CORONER: Yes, Mr Coleridge.

MR COLERIDGE: Good morning, your Honour. Continuing this morning with Remote Sergeant Lanyon Smith.

THE CORONER: Yes.

MR COLERIDGE: I concluded my questioning, but have two very brief topics that I'd like to cover this morning, with your Honour's leave, and then I'll hand over to my friends. Before I do that, I just thought I would note that stop watch orders will commence this morning. But I understand that between the parties, there's been some agreement to allocate time, for example, from I think, Mr McMahon to (inaudible).

MR MCMAHON AC SC: Well I was just making a point, your Honour, in this witness, I don't expect to ask any questions. And so I note Mr Boe has quite a bit to ask, so I'd said to him, it might be worth mentioning that, insofar as I'm close to zero, he might be able to pick up some of my time?

THE CORONER: All right, so we are going to try and keep everyone to the stop watch orders. If you don't need the time, it doesn't mean that you can allocate it somebody else.

MR MCMAHON: No, it was a bit – it was a bit presumptuous, we were just chatting about it, your Honour.

THE CORONER: All right, because – because I think the witness list has now been circulated, and I think everybody understands the difficulties – or the – not the difficulties, the challenges that we're going to have. And I'm sure we're going to be able to meet, in relation to completing the evidence in the allocated time. But yes, if we can try and keep to the stop watch orders. Whether you – whether you are using your time or not, but anyone can who is using their time, that would be appreciated.

LANYON SMITH:

XN BY MR COLERIDGE:

MR COLERIDGE: Sergeant Smith, the first thing I wanted to ask you about is something you spoke to detectives about, during your second recorded interview on 14 January 2020. They asked you about a conversation you had had with Leilani Weathers. She in turn, was recounting to you a conversation she'd had with James Kirstenfeldt. Can you recall the conversation I'm talking about?---Only briefly, your Honour.

Can you recall, in effect, what it was that she relayed to you?---She wasn't in a positive light towards myself or Chris Hand, on the way we dealt with Kumanjayi on the initial arrest. Sort of referring to us as cowboys.

In what context did he call – did she call you cowboys?---I took it as being lazy, and we should have handled the situation a lot different to what – how sergeant – oh Christopher Hand and I did handle it on the night.

Did she tell you in what way Mr Kirstenfeldt was suggesting you should have dealt with the situation?---I can't recall the exact words she used, but I took it as being we handled incorrectly, we should've maybe used more force.

Until that time had you ever been aware of a rivalry or criticisms of bush cops by town cops?---No, your Honour.

Either while you've sat in and watched some of the evidence or in the media had you become aware of some text messages sent between Constable Rolfe and other police officers in or around 2019?---The first time I heard was last week when it was brought up in this court.

Have you become aware that in a number of those text messages there are some quite strident criticisms of "bush cops"?---Yes, I'm aware of them now.

For example, on 9 July 2019 Constable Rolfe texted a sergeant in Alice Springs and said, "So it was good we went, the bush cops fucked up as usual but that just meant that we had a run instead of getting cordoned properly so it's all good." Had you ever heard anything of that nature?---No.

The last topic I wanted to ask you about was Yuendumu, I'll ask you a couple of questions about Yuendumu generally. On Friday I asked you some questions about your interactions with Aboriginal people in Alice Springs when you commenced as a police officer. Did policing in community and specifically policing in a community like Yuendumu change your perspective on Indigenous people and the way people - Indigenous people lived their lives?---Yes, there is a distinct difference between Alice Springs Indigenous to community Indigenous. I think I gave evidence saying that 90 - 95 percent is - I forget the word - negative reactions or engage meets and that is in relation to attending jobs. I mean, we are police and we're attending situations where police need to sort out a situation either domestic violence arguments to domestic violence assaults, family fighting. However, you form relationships in community because you live in community, so you see these people, it may not be on a daily basis but you see them either at the community store, when you go over to the clinic, when you have to go to community events, sporting carnivals, so you form that relationship, you get to know the family names, their children and they are in a different light. They're less affected by alcohol as opposed to the people you are dealing with in Alice Springs, some being Indigenous, who are intoxicated, however, there is alcohol still within community, I mean, at the end of the day Yuendumu is - falls under the *Liquor Act* but you can get a permit to purchase alcohol.

One of the things that you did give some evidence about on Friday was attending jobs in Yuendumu, callouts for break-ins, property offending and the like. In your experience are most of the offenders - property offenders - younger men?
---Younger men and younger women.

During your time in Yuendumu from 2017 to 2019 were services available for kids and young men and women - in particular at risk kids?---So if we consider them at risk we would have referred them through a Territory Families report. If it was, for example, a youth that was - for substance abuse, again we would have done a report though to alcohol and other drugs. WYDAC is a primary source of caring for youth after school and that also includes at the time WYDAC had the contract for youth diversion who would either take the youth out to Mount Theo three to four nights a week before returning them back to community for the weekend.

What kind of programs was WYDAC delivering during your time in Yuendumu from 2017 to 2019?---So at that time there was youth programs. I know it was split up for the younger, say 6 to 11 - 12-year-olds and then from that age group up to 25 I believe. That's what their rules were. Youth were still an adult, not necessarily under our definition but they incorporated older women and children - sorry, women and men. They were primarily held at the basketball court and they would go to, I think, up to 11 o'clock at night. I could be wrong, it could be ten. And they were - I didn't find them to be structured events, so it wasn't some sort of pre-training for basketball and then having a basketball match or AFL match, they did some training, running around different skills blocks and then present again. It was just ad lib. We were told that it depends on the children and what they felt like doing at the time. So if it was - if they felt like cooking they did some cooking. If some of them feel like playing basketball and there was a lot of running around - there was no structure. What I am used to or, I guess, my children when they play sports there's pre-training and then there's the game on the weekend.

Did you think that lack of structure was appropriate - inappropriate. Did you have an opinion on it?---The way I see it is we are brought up on structure, as an adult, you know, jobs - there's some sort of structure. Simple things like following the road rules. There's rules and the way we do things so society can continue moving. The way I saw it with the youth, with no structure, then it was just sort of "Do whatever you feel like. It's sort of building up accountability and knowing there is rules and which society has to follow.

What about the timing of these activities, did you have an opinion on that?---I thought some of them were finishing quite late, so at the time it might have been to 2017 or - actually, no, it was definitely after 2017 (inaudible) have internet associated near the shop and the kids would hang around so they would play around and then come out and then hook up onto the internet and do what kids do - social media - and they were out quite late. So you've got youth that are hyped up and then have to head home and go to school the next day and not a lot of them made it to school on time or if at all.

Do you have any thoughts on what the - or a solution might be to youth offending in a community like Yuendumu?---From what I've been told from the Elders when Mount Theo was first set up, the kids would go out there for quite some time. It wasn't just from late Monday afternoon till returning Thursday night - early Friday morning. If we can empower the Elders again who are on the board to have more of

a say than having Kartiya who are primarily the youth engagement officers, I guess, to put it, however there are Indigenous - local Indigenous on working with the youth, by giving them back the power to say, "This is your trouble with community youth member and you deal how appropriately with the assistance of other government organisations. I mean at the end of the day WYDAC gets a large amount of funding so I believe they have the key tools to engage with that youth and get them to change

Your Honour, those were my questions.

THE CORONER: Thank you. Mr Boe?

XXN BY MR BOE:

MR BOE: Thank you, your Honour. Remote Sergeant, there's time issues so I am going to phrase questions assuming that you know I know most of what you said in your earlier statements in your evidence. If you need more context, please ask me and I will provide that context to you. Would you accept as a general proposition that the information given to you by APCO Williams as to cultural factors were limited or designed in relation to assist you to police rather than some sort of anthropological sort of exercise?---Yes, I would say – I would agree with that.

In one of your statements, you stated that you heard Rakeisha speak to Kumanjayi at the time that you were attempted to arrest in Warlpiri. Does that suggest that you actually understand some Warlpiri, have spoken Warlpiri?---Very little, your Honour.

So, were you just hearing her in Warlpiri and then interpreting that that's what she was saying, rather than actually knowing what she was saying?---What I heard Rakeisha saying was, I'll say, "Kumanjayi, out the window, out the window, out the window." There was some Warlpiri spoken. I did not know what that meant.

I take it "out the window" was in English?---Yes.

Thank you. One of the matters you raised, I think twice when you've spoken about these matters, is that one thing you've noticed in terms of Warlpiri people in terms of carrying weapons such as nulla nullas, et cetera, you were at pains to indicate, I think, that you saw that has a display rather than as a threat to you as a police officer?---That is true, however, it's more so for the men carrying the weapons. I've very rarely gone to male on male fights over the last four years. It's been mainly the female Warlpiri women with the nulla nullas trampling poles, tyre levers, and they have used it one each other.

Yes. Now, you've told us of your recognition of the cultural importance of sorry business and funerals and the like, and you knew Kumanjayi was Warlpiri?---Yes.

So, insofar as that knowledge impacting upon policing decisions, are there at least aspects to it; one is that you considered that it would be seen as disrespectful if that sort of activity, such as arresting, took place during that time?---Had I known there

was a funeral?

No, I'm not talking about Kumanjayi's situation, but generally, it is – you recognise that it would be seen as disrespectful to arrest anyone during that sort of time?---Yes, I can recognise that, yes.

And the second aspect of the impact of knowledge of a funeral is that it might mean that there will be issues to be addressed by police during sorry business which would take up resources and time in places like the watch-house?---Sorry, can you repeat the question?

One of the issues to take into account when you know a funeral is coming on is that issues might arise during heightened emotions during that time which might take up resources such as time and place in watch-houses that you might postpone non-urgent things to after the funeral?---Yes.

In one of the questions asked by counsel assisting on Thursday was at transcript 449, you were asked, "Insofar as you can answer this question, is it normal in Warlpiri culture to have people around for dinner parties?" Your answer was, "No, not for a better word, like white people, no." What was the basis – what is the basis for that opinion?---The – I've never seen Indigenous people having dinner parties, formal dinner parties. If you were going by – if you're saying that, a formal dinner party is what I'm referring to.

Okay. You're not talking about people having meals in each other's houses?---No.

And that only comes from your observations rather than anything told to you by anybody from the community?---Observations and I've never been told. The only thing that I can refer you to is, I have seen on numerous occasions the parents having birthday parties for their children and putting balloons around the fence, gate, the house and having birthday cakes and children coming around for that, that is - - -

Have you ever gone hunting in Yuendumu?---Not in Yuendumu, other communities, yes.

Have you ever been asked to go hunting by any member of the Yuendumu community?---When I was first stationed at Haasts Bluff, I was invited with the local men to go hunting towards Mount Liebig.

You would think that there is considerable utility in police officers involved in places like Yuendumu to at least acquire your level of insight and appreciation of Warlpiri culture?---Yes.

It's almost necessary to effectively police, is it not?---Yes.

When you start at a station like Yuendumu, were you given any hard documentation of the sort of intelligence that you've acquired in your time in a station. Like we have heard, with respect, that you are a careful and considered person trying to best

police with the needs of the community. You refer to them as your “clients”. Were you given anything other than the information on the job from Derek that gave you intelligence about important people and issues and questions in the community?---I can’t recall specific names at the time. I’ve done several communities. So, if it wasn’t – not all communities which I’ve worked in have ALOs, so then it would have to have been the sergeant I was replacing at the time. There would have been an induction of some sort. Being actually handed a physical document, no. Are there documents available, yes there are.

In what form and where are they available?---They are either on – so, our computer system has various drives where – and L drive is only accessible to local members who are working at the station. An N drive has anyone from any police, either from Wadeye or Darwin station can view those documents and there are induction documents for central desert which gives a brief layout of the types of people you’re dealing with, like their language, a bit on the cultural history of the community, how it was settled, how far are you from town, the nearest clinic.

Thank you for that. I’m not wanting to cut you off, others can get that from you. I’m just mindful of time. You’ve answered the question I was after. I want to point to, for example, the two important things that you’ve acquired. Firstly, in relation to what I took you through in terms of the brandishing of nulla nullas; and secondly, the importance and the need to take heed of the situation around funerals. Would that sort of information be available in any of those documents?---No, your Honour.

You would think that those two things at least, if not others, are really important matters for a police officer to be aware in servicing their clients in a community such as Yuendumu, would you not?---Yes.

And at the moment, it’s probably just left to happenstance whether or not there’s corporate knowledge of the kind you’ve acquired passing onto people that follow you?---Yes, but I would also say a lot of it is just common-sense.

I think that’s breathtakingly correct. Unfortunately, common-sense doesn’t always prevail, you being assisted to know these matters in some detail to help you police over and above all the training and information provided to you in inductions and documentations on the website?---Yes, as I said before, a lot of it is just, is it the right thing to do at the time and common-sense and courtesy.

Thank you. Do you recall ever having been involved in an arrest of Kumanjayi with Derek Williams?---I believe that was the first time we arrested him.

Was that the occasion that he explained to us where he took up to 40 minutes to talk to Kumanjayi to explain to him what was ahead for him and why he was being arrested?---No, that wasn’t. Our arrests with Kumanjayi have been relatively quick.

So did you happen to hear Derek give evidence about the times he took a long time to talk to Kumanjayi?---Little bits, but I can’t recall everything he said about Kumanjayi.

I suggest – we’ve heard that. You see that that is a very valuable role that he played with someone he knew, and was related to, and could persuade, after providing time for there to be a peaceful arrest?---Yes.

So he was very well equipped to be of assistance in arresting Kumanjaya?---Yes.

Were you aware of the cognitive issues that people had observed in Kumanjaya?---The only – and it wasn’t diagnosed as far I was aware, he may have been FASD.

Yes. I just want to cover some matters sergeant, concerning things you said concerning the role of APCO, and including the role of Senior APCO Williams. Make – can I make it clear from the outset, that these are – I’m wanting your observation. They’re not criticisms. I’m asking – they’re matters which I don’t know the answer to. Do you accept that both you and Derek possessed the same powers, privilege and duties and responsibilities as a member of the police force?---In relation to arresting, yes, but not – there is a difference in powers.

Yes, that’s what I want to get to. My recollection is, we’ve heard otherwise about that. But you answered question and transcript 4.9, question:

“Are they ever a source of information about, I don’t drug offending, or something like that?---If Derek” – the answer, “Derek had mentioned – happened to mention something yes. We tried to get Derek to submit IR’s and that kind of thing, to try to empower him because obviously he’s an APCO, as opposed to myself being a constable, they’re slightly different things he can do and cannot do.”.

Now can you just explain, what are the things you believe he cannot do, that you can do, and vice versa?---He cannot take carriage of serious investigations, I can’t think of the exact word, your Honour, but if it was investigation to an aggravated assault.

And where do you get that from?--- It’s – I can’t quote under the General Orders, but there is – it’s – they’re limited in certain powers.

Okay, I’ll find that. If that’s – I just want to know the source of your belief. And what are things that he can do that you can’t do (inaudible)?---I’m sorry? Sorry, I missed that.

Are there things he can do that you cannot do?---Not in – I don’t believe there is, your Honour.

All right, that’s fine. At transcript 446, you, on a couple of occasions, spoke about the availability of Derek. You said you would involve Derek if he was available, “Because he has that cultural background, and he can talk them – talk to them in language.” Do you recall that?---Yes.

Okay, now by “availability”, did you mean both that he was physically on duty, that’s one issue of availability, that’s one?---Yes.

And another is you said:

“He might not want to be involved because of three things, poison cousin situations, member of his own family being involved in the arrest.”

And then you added this, “Derek didn’t like people coming to ask him all the time about where someone was in the community. He wanted the officer -” excuse me, “ - to do their own investigating first, instead of freeloading off his back.”

Do you remember that answer?---Yes.

Now where did you get – leaving – dealing with that last point, where did you get that information? Did he say that to you, or did you have that told to you by others?---No that was from Derek himself.

So you perceived, from what he had said to you, that he did not want to be involved concerning – which I put it – the knowledge about the second point, that is, a member of his family, was that something he told you, or something you perceived?--No, that was – he has told me that before.

But you knew in fact that he had arrested Kumanjayi several times?---Yes, I’m not specifying that it’s every single member of his family group. It’s certain family members he did not want to get involved with.

On a case by case point?---Yes.

Thank you. And insofar as that third point. To be fair to Derek Williams, this was not put to him, because I certainly didn’t know you would say this. But are you suggesting that he was not willing to fulfil his function as an APCO in circumstances where he wanted you to do things before he got to him? And (inaudible) his very role, that is to assist you, in locating people, talking to people, finding out where he might be, that sort of intelligence about people in the community. You’re essentially, may I suggest, saying, that he was saying, no you go sort it out first before you bother me?---That’s only on some occasions. At the end of the day, we have to – so the gazetted member, or the member out in the community, policing, also has to gain the knowledge, because you can’t always rely on the APCO or ALO being available to work. So I had to invest in the time, knowing the family connections, where people were. However, there are times where, because Yuendumu covers such a large area with the Warlpiri people, going all the way up to Kintore, to Lajamanu, some of those Warlpiri people I do not know, so that’s where Derek, or the ALO’s can come in handy, in assisting police. Because I don’t know every single person.

All right. So insofar as Derek not being available, in relation to family members, that was not something you believed, or knew, in relation to Kumanjaya?---No. Derek has assisting in arresting Kumanjaya before, and I believe twice with me, but that's all I can remember.

The – those questions may go to assisting us finding out how that relationship between constables and APCO's might work. Do you see the need for there to be different gendered APCO's in the one station?---It can be quite hard just to get an APCO in general, to work in your station. When I first started in - - -

No, no, I'm just talking about going forward. Not about the difficulties you have. I'm sorry to cut you off. I – do you think there's a benefit in there being a requirement within the force, that there at least be one of each gender APCO at a station servicing the community?---That – that would be a great benefit.

And do you think there should be some consultation as to whether familiar relationships necessitate more than one of each gender in the community?---Again, that would be great.

I know these are resource questions. I'm looking at how we can best service these clients, I should call them?---Mm mm.

And a critical factor is making sure you have the accumulated knowledge and assistance, at critical times, of engagement with your clients?---Yes.

Now just going to specifically to your knowledge in relation to matters concerning Kumanjaya leading up to your attempt to arrest him on the sixth. Were you aware of the interaction between Constables Weathers and Rakeisha, with APCO Williams on 15 October 2019, which was just shortly before Kumanjaya was released to attend CAAAPU?---I believe he was in custody still at the time.

He was. The interaction was between Weathers, APCO Williams and Rakeisha, and related to issues of domestic violence?---Is this in relation to a domestic violence application?

It is. Were you aware of the information associated with that application?---No, I knew there was an application directed to Constable Weathers, by Sergeant Frost, to put an application in, a DV application, because Kumanjaya was due to be released soon.

Okay, other than that, did you take into account the existence of that application in any part of your decision to – as to when and how to arrest Kumanjaya Walker on 6 November?---No.

An arrest alert was issued on 29 October. When information was given to police, concerning evidence that he had removed his device, ankle device that monitored where he was. Now were you aware of that, as of 29 October?---It was either 29th,

or the 30th, I was made aware that he had absconded from CAAAPU. In relation to an actual arrest alert being placed on PROMIS, no.

Are you on the recipient list of an email directed to police.assistance@pfes.nt.gov.au?---Is that referring to intel document?

One of the documents which notified police of a situation concerning Kumanjayi was an email sent at 2:02 am on 29 October to that email address, and it was "Attention: Alice Springs watch commander". Would you ordinarily get emails addressed to that email address?---If it's two watch commanders, no.

It wasn't two commanders, it was sent to police.assistance at that address?---Police assistance, I believe is, Darwin communications.

And do you end up receiving emails sent to that?---On occasions, we do.

In what circumstances do you get it?---So, for example, Corrections places a job for a person who has it's absconded or breached their community work order. They will call 000 or call 131 444 and place a job for police to assist in apprehending that person and then usually, it goes to where that client is based. So, for Kumanjayi, it may have been placed in Yuendumu.

All right. Let me just backtrack one step, at transcript 466, you spoke about, on 29 October, attending and speaking to Lottie and Eddy?---I didn't know I said specifically the 29th, but I remember going around and speaking with Lottie and Eddy in relation to Kumanjayi absconding from CAAAPU.

Okay. The question was put to you as if it was the 29th and your answer, to be fair, is – doesn't confirm it. You were aware of the job, but you weren't fully aware of how you were informed, I think?---That's probably best put that way.

And as a result, you went and spoke to Eddy and Lottie?---Yes.

And that conversation set up the basis for your feeling being betrayed later when they hadn't told you that he'd come to their house. You spoke about being betrayed on Thursday?---Yes.

That is, you hoped by telling them, you knew they would tell you when he arrived in Yuendumu and they did not?---Yes.

Did you end up ever receiving an email which included "Please find attached documents", which include a request that police arrest Walker, a copy of his NT priors, a photograph and then this entry, "Unfortunately, there is not a copy of Walker's suspended sentence available to me on this file." It can from a fellow called David McLane originally to that email address I've just spoken to?---I can't recall this email, your Honour.

So, did you have any information, other than that he had absconded, as to the

circumstances of what he was facing if he was arrested? Did you ask the context of the suspended sentence or anything like that at all?---Not at that time, no.

When did you discover that? Was that after his death?---After his death, a community member mentions to me, he only had, I think eight or nine days left to go at CAAAPU.

All right. So, at the time of going to arrest him on the 6th, you had no knowledge of the detail of the legal situation that he was in?---All I knew was that he had a warrant issued on the 5th and I had been informed of that and we were to apprehend him.

Yes. Now, in terms of addressing the situation, do you think it would have been useful to know the possible outcome once you have apprehended him in dealing with him to get him back into the system?---Once a warrant has been issued by the court, it's not my decision. The court is giving as an instrument to arrest that person.

I totally accept that, totally. But you spoke at times about, once you have made the decision to be involved in an arrest or being tasked with an arrest, you utilise information to best look at the way of peacefully arresting that person?---Yes.

And one of the things, may I suggest, would be if you would be able to communicate to him, either through an intermediary like his grandparents, or even directly, to say listen, I know the situation you're in. I know that you've breached a condition of your suspended sentence. I know that you want to go back in there and you've tried. I can help you do that and we can look at the issue of bail or even telephone court bail or telephone court revision of the order. That would have helped you a lot if you had known all of that information before you went to speak to him, would it not?---I knew if we had arrested him on that afternoon, we would have been doing telephone court bail.

Thank you. You haven't mentioned that before. I'm applauding you in saying that. Was that actually in your mind; that I'm going to go and get him. If I get him, I'm going to organise telephone court bail for him?---I knew at the time the courts had finished and that's the process we do out bush. And particularly, although at the time, Kumanjaya was an adult, it would have been phone bail to the on-call judge.

Okay. Do you think it might have been useful for you to have explained that to Eddy and Lottie or anybody at the house, that Kumanjaya doesn't need to be worried. We know he's in there. I can organise - - -

MR FRECKELTON AO KC: In fairness, I think the officer's evidence was that he would organise a phone bail application.

THE CORONER: Yes.

MR FRECKELTON: I don't think it was being suggested that he was going to see that bail would be granted.

MR BOE: All right. I'll take it back a step.

THE CORONER: It's for the judge to determine whether or not bail is granted.

MR BOE: Yes, I understand, okay.

Generally, you're aware of the statutory framework for getting telephone access to a court for bail or for whatever reason?---Yes.

And that involves you making an application - - -?---Yes.

- - - in writing or by telephone?---By telephone.

And how long does that take, that exercise?---Generally, it's pretty quick. Depending on the time, like if it's dinner time like that - - -

It may vary from judicial officer to judicial officer, but is it within the realms of possibility that if you arrest somebody at 3 o'clock, by 4 o'clock, you could get a magistrate on the phone?---Yes.

So, with that understanding, do you think that's information that would have been useful to have been conveyed to get a more peaceful response from Kumanjayi?---In speaking with Lottie and Eddy?

Well, letting them know one way or the other, either in advance by having told Lottie and Eddy when you heard about him having absconded, or in on the day in question, making it clear that he knew before any attempt was made to physically arrest him that you had this in mind for him?---Your Honour - - -

I'm not criticising the fact that you did not, I'm asking you to acknowledge that that would have been useful information to impart?---I thought I didn't have to explain that at the time to that particular family, as they had been through the court system with Kumanjayi.

Had you organised telephone bail for him before?---Yes, I have.

And how long before this incident?---I think it was the 4th, well the last arrest where he was picked up at the house at South Camp. I spoke to the judge.

I want to keep moving on. Is that the most you wish to say in answer to my question?

THE CORONER: I'll just ask one question.

MR BOE: Yes.

THE CORONER: When you do telephone bail, is Kumanjayi or anyone that you arrest with you when you ring the judge?---Yes.

And if there were family members at the station, would they be present or be able to hear that conversation as well?---Yes.

Whether it's an adult or a child, or is it only when they're a child that you have family present?---So, if it's a youth, we need a responsible adult. However, if it's an adult and their family is there, they are more than welcome to sit in and listen and they have before.

Okay.

MR BOE: Thank you, your Honour.

I'll just move to another subject. At transcript 443, you told the court of an occasion where you deferred an arrest in relation to a domestic violence situation after you learnt that a funeral was due to take place that day at Haasts Bluff?---Yes.

And you did that after consulting the family, et cetera?---Yes.

Now, I think in one of the answers you gave on Thursday, you made clear that the reason why you went to Kumanjayi on the 6th, was that you did not know that there was a funeral in the community?---That is true.

Do you get emails that are intended for you, on a portable device, such as a mobile phone or iPad?---Not work related, no.

So in order to get emails addressed to you, you need to sit down at a computer?---Yes.

Do you have one at home, in your – or just in the station?---Just at the station.

So you're not aware of emails accumulating until you go on duty?---That is correct.

There's – I've got to put some things to you which contradict the notion that you were not aware of the funeral. It's in the material, I just want to give you an opportunity to comment on that. Do you remember having conversations with Kate Sexton on 5 November?---Yes.

And that was certainly before you went to arrest Kumanjayi Walker?---The day before.

The – Ms Sexton alleges that you said to her, there was a family members funeral coming up in the Yuendumu Community on Friday, and they are expecting Walker to be present for the funeral. Now firstly, do you understand that that's her saying something?---Yes.

Albeit in a sworn statement?---Yes.

What do you say about that suggestion that it was you that told her?---I can't recall having that conversation with her. If I – if she says that, then I must have. But I certainly can't recall it now. I couldn't recall it in the trial. I can't recall it.

Do you accept that she was very specific, in the sense that there was location of the funeral, connected to Kumanjayi, and that family were expecting Walker to – Kumanjayi to be present?---Yes I – as I said before, I can't recall that conversation, in that detail.

No part of that conversation includes her recalling you suggesting that with that knowledge, that the arrest might be postponed until after sorry business?---No I can't recall that, your Honour.

Would you accept that in the terms of properly servicing the community, in undertaking the task of arresting Kumanjayi Walker, that that was a significant disconnect? That is, you did not know that there was a funeral that Friday?---Sorry I don't – I – as far as I'm aware, I did not know there was a funeral on Friday. Had – if I've had that conversation with Kate Sexton, I certainly don't remember that upon going to arrest Kumanjayi. And I certainly don't remember it – that conversation afterwards, but I remember having conversation with Kate, in relation to a warrant being issued on 5 November. And yes, that's like I remember.

Again, I said at the outset, mine is not criticism?---No, that's fine.

But what I'm trying to get to, is that how do we improve the – the system, that when there is a funeral taking place in the community, there's no gap – information gap. And may I suggest, for example, a system where family are encouraged to come and tell the officer in charge, that there's a funeral coming up. And that be put out as a – as an alert for anybody thinking to police in Yuendumu, or for that matter, anybody seeking to apprehend Yuendumu members, in the broader community. Do you see a value in that knowledge being known, given the cultural importance of a funeral?---Yes I do.

So, you've spoken about your relationship with APCO Williams. Did you know that he had a grandfather's funeral that week?---No, your Honour.

As I remember, you had been under a fair level of work fatigue, and you had planned to go on the Friday, was it, for four days to Alice?---I think – I believe - - -

You ended up going on Thursday, but your scheduled days off?---Thursday was my last day of work, last shift, so Friday, yes. First day off.

I'll get back to that. Just – you told counsel assisting on Thursday that the situation that you – the information you had was not a reason for there to be an urgent arrest of Kumanjayi on the sixth. That there was no urgent need to arrest him on the sixth, was there?---No I - - -

On the information you had?---So what I said was, had there not been the unlawful entry - - -

That's what I was going to get to?---We wouldn't have – I wouldn't have agreed to going to arrest him that afternoon.

I'm sorry to cut you off. I'm trying to be quick – quick about it. I know that you gave qualifications of the point?---Okay.

But I will be fair to you, and others will correct me if I'm wrong. But what I'm getting to is this. There was no – from the information you had, there was no urgent need to arrest Kumanjayi that day?---No.

And in fact, if information had fully been at hand, there was good reason to postpone him until the following week, after the funeral. Is that fair?---So had – you're saying - - -

Had nothing happened - - - ?---Are you referring to the funeral notification or - - -

Yes?---So if I'd seen Kumanjayi in the street, before the funeral, I still would have arrested him. However, the judge would have been made aware, at the bail application, of the importance of the funeral.

THE CORONER: So you might have indicated a willingness, or a suggestion that police would not necessarily oppose bail at that time, because of the funeral?---That is correct.

Right.

MR BOE: It's my poor questioning. All I wanted to know was that as at the time you knew the information that he was wanted, without other intervening factors for the moment, the subject matter of the arrest alert was not such that there any particular urgency to arrest him. Is that fair?---No.

Did you think he had to be arrested as soon as possible, after you got the arrest alert?---Generally, as soon as we become aware of someone who has to be dealt with by police, we try and do it as soon as possible. But it also has to take in consideration our timing and resources, at that time. Because arrests can take considerable time.

All right, thank you. I'll just move to another subject.

May I just proceed, your Honour? I just have a few more issues.

THE CORONER: Sure, I think you're up to 40 minutes, you've had two spots. Just to give you that information, Mr Boe, not to put pressure on you, just so you know.

MR BOE: I feel the pressure. This is with respect, an important witness, and - - -

THE CORONER: I appreciate that you've structured this very carefully, and I'm happy for you to continue for just a little bit longer.

MR BOE: And I have circulated to my learned friends, and they know where I'm going, so - - -

THE CORONER: Sure.

MR BOE: - - - they won't be covering.

On 6 November, once you arrived at Lottie and Eddy's, you had a high degree of familiarity with that space in the dynamics there, did you not?---Of the house and the yard, yes.

And of the people?---Yes.

And you'd been there and arrested on at least one prior occasion?---Yes.

So you were familiar with what you might be facing?---Yes I was.

Now did you, and I'm not being critical, seek anyone – the owner's permission to enter the premises?---The actual owner, no.

Did you assume that you had a lawful right of entry?---I knew he was in the house, because Janice Burns, the partner of Ethan Robertson, was outside the house. And as I turned up, I asked was Kumanjayi inside. And she said "Yes."

Did you think from that information, you had a lawful right of entry?---I believe I had the right under s 126 of the *PAA*, person under – with a warrant.

Thank you?---And reasonable grounds.

Thank you. We've all seen the body-worn video. As a general experience in viewing body-worn video after it had recorded an event that you're involved in, do you accept that there are some limitations of it capturing all that occurred?---Yes, there's a time delay in the sound recording, but it back tracks, I believe, 30 seconds.

But also the limits in how a moving image is being captured by a moving camera was essayed in the criminal trial ad nauseum. You understand that notion?---Yes, but that's - I'm not that technical.

Yes, nor am I. But do you accept the proposition that when you viewed videos of events you've recorded on your camera, it doesn't always capture the whole picture? ---I think we have learned that from the trial.

And all the dynamics that are going on in the interaction between the people captured, speaking to the officer with the camera. Is that fair?---The majority

I believe is captured, but there are some elements which may not be.

Sure. Can I just go through some of the things you've said. So in terms of your recollection once, when you are being examined or cross-examined about this issue, so I can guess there are eight points out of view which may assist us in assisting the Coroner. After the interaction outside - we've heard all the evidence about you using the baton et cetera, you gained entry into the middle bedroom which was initially locked, after it was opened by Rakeisha?---Yes. Yes.

Once you gained entry you could see Kumanjaya Walker with a phone in his hand and with ear phones on?---Well - - -

I can take you to the evidence if you need to?---No, that's - if that's what you're saying then yes.

He was shirtless and laying in bed?---Laying on top of the bed, yes.

You could not see him being armed with anything at that stage, correct?---Correct.

The initial resistance to your attempt to arrest was received from Rakeisha who was blocking your entry into the room and yelling at Kumanjaya Walker to hop out the window and run away?---Yes.

Then Constable Hand moved Rakeisha away from the door, correct?---Yes.

And she was still yelling at Kumanjaya Walker to get out through the window? ---Once Hand removed Rakeisha out of the room - doorway - I don't believe she says anything to Kumanjaya, she goes straight to Lottie.

You could hear Rakeisha was screaming out for Lottie?---Yes. I think she refers to her as "Mum".

Yes, and Kumanjaya also said he wanted to speak to Lottie?---Yes, he did.

And your response was, "You can do that after I handcuff you" - something to that effect?---It wasn't my - I thought Christopher Hand had said that after he's been handcuffed he can then talk to Lottie.

Okay. Now the end result of your recapping on what had occurred, you experienced that he was threatening towards you for reasons you've previously explained, you believed that he would not hit you. Is that fair?---That's what I believed at the time, he was trying to get away.

Yes, and I think that's when you explained to investigators your experiencing of seeing the wielding of weapons doesn't necessarily correlate with the intended use of a weapon?---Yes, so what I am referring to there, I know the subject you have that rapport, however, had that been a different person at the same house who had not been dealt with it may have been a different scenario.

Following all your interaction with him in the house, you concluded that you did not need to draw your lethal weapon - correct?---Yes.

Nor did you feel the need to deploy any of the other weapons?---That is correct.

The most powerful weapon you used was to withdraw and give them space to run out?----Yes.

And that came from your accumulated understanding of how to address that situation?---That's part our training and previous scenarios risk assessments. That all takes into consideration of me making that decision on that night but yes, tactical disengagement is one of the - - -

Thank you. Thank you. Now, following it, it was clearly obvious to you that Kumanjayi was not terribly interested in going into custody at that time?---That is correct.

After - and one of the triggers for his behaviour was what you heard him see and hear was happening to Rakeisha?

THE CORONER: You made an assumption?---Yes.

MR BOE: You made the point of explaining to everybody that quizzed you about this and sometimes unfairly, you made that assessment because you knew him and he knew you?---Yes.

Now, following those - that experience, you then discovered, did you not, that there was a funeral scheduled that Kumanjayi may be wishing to attend on that week? ---Yes, I believe I just found that out on the Thursday.

And in all your discussions with Frost - Sergeant Frost - leading up to Sergeant Frost, ACPO Williams, yourself and Hand going back to the Robinsons' that was a critical piece of information that needed to be processed, notwithstanding the axe incident, of a new arrest approach for Kumanjayi, is that fair?---Are you referring to the Thursday?

Yes?---Yes.

And the collective understanding of this discussion - and tell me if there was discussion - was that a further attempt would be made to permit an arrest by appointment?---Yes.

And you were perfectly comfortable with that?---Yes.

Notwithstanding being the victim of the axe incident?---Yes. Ideally - - -

I am not asking you to explain why?---All right.

But do you accept that proposition?---Yes.

Now, included in your debriefing of Sergeant Frost, did that include your very specific belief that you did not fear that Kumanjaya would go on the attack against police or attack any other community members but your main fear was that he would try to run if he was attempted to be arrested by police?---So I will try and break this down.

THE CORONER: Sure, I am going to listen to your explanation?---I knew him as a known runner - had previously run. I did not have concerns that he was going to go around the community chopping people up with the axe. I did not have concerns that he was going to do anything other than run.

You made that clear to Sergeant Frost?---I don't remember having that specific discussion. Sergeant Frost was in charge from then. She wanted us separate, however, working in a bush station it's not always convenient and that was only the conversation on the Thursday, so when we went around Thursday morning, Sergeant Frost made myself and Chris Hand stay away but close to the area where Derek and her spoke with the family members. I do not know who those family members were.

I am wanting to focus attention on the fact that you were person with the action experience of the incident and you had certain views about the potential risk or threat opposed by Kumanjaya from that point. You communicated that as best you can to Frost, correct?---I may have, I can't recall having - but we did have several discussions from the axe incident all the way through to first aid.

What I am trying to get to you - you realise the utter importance of that intelligence, don't you, that you held of how to next peacefully attempt to arrest Kumanjaya - you recognise now how important that is, don't you?---Yes.

Sid you put any of that in your statement of that incident?---No sir, my statement was written on the night of the axe incident and I verbally wrote - read that statement out to the detectives on the following Monday I believe.

I have seen that statement?---Yes.

My question is, none of that really important intelligence that we have just heard was in that statement, was it?

THE CORONER: What was the purpose of your statement?

MR BOE: It was to record the incident.

THE CORONER: Which - is it a statement prepared for court or - - -?---Yes.

MR BOE: Yes.

THE CORONER: Right, so it's not a statement prepared to communicate to other police intelligence about how you might go about a subsequent arrest? It would be very odd to have that in a statement prepared for court. It wouldn't be admitted.

MR BOE: You're assuming, your Honour, I'm making a criticism.

THE CORONER: No, it's just it's not a helpful proposition, because that's not the purpose of that statement. There might be other documents held in the police where you communicate intelligence about how to - - -

MR BOE: I was going to get to that, your Honour, because the very first document this witness started writing was this particular document and I was going to move on.

THE CORONER: Sure.

MR BOE: Okay.

THE CORONER: You wouldn't expect it in that document, though, Mr Boe.

MR BOE: Well, it may or may not, your Honour. It's a characterisation - - -

THE CORONER: Well, I wouldn't expect it.

MR BOE: Okay. And I'm not disagreeing with your expectation, your Honour.

Did you record that information in any other document at all?---No.

Now, I think you said a sergeant was in charge and she was taking over from that point or something like that?---Yes.

Did she specifically say that you were to use words in the material conflicted from being involved in other arrest attempts of Kumanjaya Walker?---Again, on the night, it may have been used. However, it became apparent on the Thursday, the following day, hence why we were instructed to stay away from the conversations.

I just want to ask, were you told you could not be involved in any further arrest attempt of Kumanjaya Walker?---Your Honour, I can't recall if those words were used.

Did you, yourself, feel conflicted from being involved in any further attempt to arrest because of what happened?---On hindsight now, I can see how it, by not being involved - - -

Not hindsight, did you, at the time, believe that you were conflicted?---I must have been conflicted because of the conversation. When I went back to seize the axe, I said to Lottie that I wasn't happy. And that comes across as being somewhat – so, I wasn't happy. So, yes, I would say yes.

Was it more also a matter of practicability? You weren't going to be there anyway in

the next following days?---Prior to the incident on the Saturday, I'm assuming I may have had to have been involved in the arrest plan of Kumanjaya at some stage.

Okay, that's what I wanted to get to. You were in a position to impart a lot of important information of how to assist other police in effecting a peaceful arrest of Kumanjaya?---I wasn't the only one that could provide the information.

No, but you were at least one of the people?---Yes, I was one of the people, yes.

And were you discouraged from being involved in the formulation of an arrest plan?--
-At that time, prior to me leaving Yuendumu on the Thursday afternoon, I did not know there was going to be an arrest plan at all.

All right. But you weren't involved in any of the discussions?---I was – the only extent I was involved with was when Sergeant Frost called me on the Saturday morning to confirm houses in which Kumanjaya could be at.

All right, thank you, I'll just move on.

I want to deal with – did your Honour wish for me to keep going. I apologise, but I will be another 15 or 20 minutes. Would you like – or should we break now, your Honour, or - - -

THE CORONER: Well, my main question is, who else has questions for this witness?

MR FRECKELTON: I have a few, your Honour, subject to what Mr Boe elicits from this witness.

THE CORONER: Anybody else?

A PERSON UNKNOWN: Less than 10 minutes, your Honour.

A PERSON UNKNOWN: Less than five minutes, your Honour.

A PERSON UNKNOWN: Ten or 15 minutes, your Honour.

A PERSON UNKNOWN: Nothing at this stage, your Honour.

A PERSON UNKNOWN: Nothing at this stage.

THE CORONER: We'll go until 11 o'clock, Mr Boe. And that's your deadline. You've got 15 minutes.

MR BOE: Thank you. I'm just going to - - -

THE CORONER: And then we'll take the adjournment.

MR BOE: Thank you, your Honour.

Can I just deal with the answers you gave concerning knife equals gun?---Yes.

We've understood that you received verbal instructions. We've understood that there is some context about whether or not that's part and parcel of the written training. What did you take out of that training insofar as whether it came verbally or in writing as to whether or not you should always draw a gun when faced with an edged weapon?---So, we should draw our gun, our Glock. However, at the same time, we are also supposed to give ourselves distance away from the subject.

But you have faced edged weapons in the past and not drawn guns?---I've faced weapons before.

And not drawn your gun. You've never drawn your gun?---No, your Honour.

You've never drawn your Taser?---No, your Honour.

You've never deployed or capsicum spray?---Drawn it, but not deployed it.

All right. So, in facing these situations with a gun on your accoutrement belt, is the approach that you take is that whilst you're aware of the requirement to draw your gun you, yourself, make an assessment of the surrounding circumstances before you would consider doing so?---Yes.

And that would include who the target is and the circumstances in which they are being confronted?---More so what is – sorry, if I was to draw the Glock and I had to discharge it, I have to following principles to make sure that the subject is contained without any other loss of life or injury, and containment of the and minimal property damage.

Yes, thank you. They are the processes that went through your mind on 6 November as well?---Yes, I was fully aware of that.

Now, other than in a sporting or recreational shooting context, have you ever seen a member of the Yuendumu community wield a gun?---On duty, yes. Not – but that was for destruction of an animal.

For a legitimate - - -?---Yeah, the only time I've ever seen that is for legitimate lawful purposes.

So, it follows that you've never been confronted with a gun by a member of the Yuendumu community?---No.

And is the gun – the only - a significant difference between your Glock and other weapons is the Glock is lethal or potentially lethal where the others, when used correctly, are unlikely to be. Is that fair?---If they've used – if all their accoutrement is used correctly, apart from the Glock, they should be nonlethal, but used incorrectly,

can be lethal.

Thank you. Now, you've been provided with an armoured vest for policing work?---
Yes.

And am I correct in saying that you've never worn that in Yuendumu? Is that what –
I'm just - - -?---Very rarely. I do carry it around with me, but I don't normally wear it
unless I'm going to an armed specific – particularly for a firearms' incident. I would
be definitely wearing it.

But you haven't had to do that in Yuendumu?---No.

And are there issues of comfort with it with weather? Is it hot and heavy?---No, it
might be hot on occasions in summer, but it does what it's supposed to do, protect
you from - - -

Okay. So, is it fair to say, however – sorry to cut across your answer. It's designed
to prevent a serious injury to the areas it covers?---Yes.

Now, is it fair to observe that you've never been in a situation where an armoured
vest has been required by you, to save yourself from injury, that is?---Yeah, no, I've
never been injured.

Other than the events of 9 November 2019, are you aware of any community police
officer having suffered a serious injury from a member of the Yuendumu
community?---There's two that I can think of.

How long ago?---I believe Sergeant Jolley was injured this year by a community
member. And a previous member, Constable Robyn Smith(?) had been injured by a
community member.

Did either of those situations involve guns?---Not that I believe, I think it was other
weapon, other than gun.

So from all of your experience, do you accept that there's an extremely low chance
of you ever having to draw your Glock, in the Yuendumu Community?---No, because
there are guns within Yuendumu Community.

How do you know that?---Because there are – I know community members which
lawfully own guns.

So why did that add to the chance of you having to draw your Glock, if you've never
had to for 22 years?---So if a community member has a gun, we need to have guns
as well.

Now, in any event, at transcript 384, you told us that you carry a Glock and weapons,
because it's part of your accoutrements?---Part of my duties, yes.

And Dr Freckelton helpful took us to the Operational Safety and Use of Force instruction?---Yes.

Are you aware of the instructions which follow on from 1.4, which deals with exemptions?---I can't recall them now, but if you have a copy I can - - -

I'm not – it's not a memory test - - - ?---Yep.

- - - I'm just wanting to know generally for the time being, hastened along, that the – will you accept from me that a commander, or higher, may provide an exemption from minimum carriage requirements to a member of the force, for a specified purpose?---Yes.

And do you – are you aware that the period is up to 12 months?---If that's correct, then yes.

And the specific examples in the exemptions do not preclude, say somebody like you, applying for an exemption from wearing – carrying a Glock, if you thought it was useful, in your policing activities in Yuendumu. You know you could apply for an exemption?---I did not know that, but.

Not being facetious, you use the term “client” when you – as you're preferred way of referring to the people in a community?---People in general, that's.

In your policing duties?---Yes.

And do you accept that one of the important ways to have client care and management, is to listen to what they have to say about the service you're proposing to provide?---Yes.

Are you aware of views within the Yuendumu Community, and I'll get specific if I need to, that Elders, if not the entire community, don't want police wearing Glocks, in the community, during general policing?---Yes I've heard these views, yes.

Do you – do you accept that they're generally held?---Yes.

So in terms of effectively policing a community with the complexities that we're hearing, culture, language, all those factors, they are saying that they're frightened when they see police carry guns. You understand that, don't you?---Yes, I've heard this.

Yes. And whilst you are always at risk, you'd never experienced guns in an adverse situation in that community, correct?---Correct.

Nor had to use your own gun in relation to any situation in the community?---Yes.

Do you think there is some use in there being a more detailed enquiry into how police specifically in communities, might be permitted to not wear guns, if the – all

those – all the evidence stacks up, balancing the risk, and the desire of the community?---So you're asking for an enquiry?

Well no, no, I'm asking you, do you think there's a benefit, from all that you know, that we don't limit it to an examination in this inquest, but there be a proper examination, balancing needs, risks, and dangers, that there may be a merit in acceding to the request of this community?---So long as it's part of my uniform, my duty, to perform my duties, I shall always be wearing the accouchements, and that includes a Glock.

But sergeant I'm not asking you that. I'm just asking you from your position, and your insight, knowing - - - ?---Then I will say no.

You say there's no merit in examining the question?---You can examine the question, but as far as I – even with what I've said, as far as I'm – happy or – even what I've said, I still will carry my Glock.

All right. One final question. It may be an obvious answer. Your take out was that after the axe incident, and all that you knew, that there was still no need for a specialist IRT or TRG to be involved in the arrest of Kumanjaya Walker, is that fair?---Yes, I hadn't heard of IRT prior to Sergeant Frost mentioning the Saturday, so that is correct.

Thank you, your Honour, I have no further questions.

THE CORONER: We will take a 15-minute adjournment, thank you.

WITNESS WITHDREW

ADJOURNED

RESUMED

LANYON SMITH:

THE CORONER: Mr Mullins, are you next?

XXN BY MR MULLINS:

MR MULLINS: Yes, thank you, your Honour.

Remote Sergeant Smith, my name is Mullins. I appear on behalf of the Brown family. Can you hear me clearly?---Yes.

A couple of questions following on from what Mr Boe said - what Mr Boe questioned you about. One was firstly, your understanding was - or your recollection was, that before the attempted arrest on 6 November 2019 you didn't know there was a funeral for Kumanjayi's grandfather later that week?---Yes, that is correct.

Now, and then you were asked some further questions about that and correct me if I'm wrong, but your evidence as that had you seen Kumanjayi walking down the street, irrespective of whether you knew there was a funeral or not, you would've arrested him anyway?---Yes.

Now, are you limiting that to seeing him in a public place walking down the street or are you saying you would've continued to - or performed the attempted arrest that you did, had you known there was a funeral?---I still would have done. So if I'd seen him in the street I would've arrested him - or attempted to arrest him.

But my question was, had you known - assuming that you had known that he was attending a funeral later in the week would you have gone to Lottie's and Eddy's house in an attempt to arrest him or would you have waited until after the funeral? ---I can answer that - it's two different scenarios for that question.

Yes?---So had I seen him and I wasn't attending a current incident at the time, I would've attempted to arrest him. Had I been doing something prior, having to attend, I may have gone around to Lottie and Eddy because that's where Rakeisha stays and informed them I had seen him and maybe tried to come up with a different solution.

If you had the knowledge that there was a funeral am I correct to say that you would've adopted an approach to somehow build his desire to attend the funeral? ---Yes, so I know what Kate has said. I can't recall the funeral. However, if you're saying if I'd seen him and I'd gone around to say Lottie and Eddy to say how I've seen him, they would've probably mentioned there's a funeral on Friday and then we could've come to a different solution.

And that's building in the knowledge that you have developed over time in working with the communities?---Yes.

Including the assistance and the knowledge that you've learned from ACPO Derek Williams?---Yes.

And it's the case, isn't it, that when you said in your evidence that generally when you receive an arrest order that you try to affect it as soon as possible?---Yes.

That's right? But in the communities you do take into account the particular circumstances of the individual?---The individual, but also the policing resources at the time.

But also community expectations and cultural expectations?---Yes, we do, yes.

Now, between 2010 and 2017, prior to working at Yuendumu, you worked at multiple stations that you've described in your evidence?---Yes.

And that included Hermannsburg, Papunya, Santa Teresa and so on?---Yes.

Can I just ask you, are there significant similarities in the communities?---they have - there's some differences but the majority of it is very similar.

Can I ask you about the differences?---I think I've given evidence saying that the difference is the languages spoken. Also the cultural areas in which the community is based - different men's areas - different women's areas.

And so is your interface with the community and that cultural expectation different in each community?---No, I still engage with the community, whether outside of hours or during working hours.

Did you notice, for example, when you moved from Hermannsburg to - where did you go after Hermannsburg?---I think I went to Papunya.

From Hermannsburg to Papunya. There were idiosyncratic cultural aspects of the Papunya community that you needed to learn?---Apart from the ones I've just mentioned they're still interconnected with family groups, like there's still - each community has some sort of relation in one of the communities in Southern Desert.

Now, you mentioned some documents -induction documents for the Central Desert? ---Yes.

And are they accessible from your station at Yuendumu?---Yes.

And are they specific to the Yuendumu community?---Some of the documents - or a document - induction documents - is specific to Yuendumu and the policing area of Yuendumu, which incorporates Mount Allan and Nyirripi and I believe it may start to cover Willowra now because we cover Willowra. We never used to.

What was the last station you were at prior to Yuendumu?---Culburra.

And do you recollect whether there was documents available to you by way of induction for that specific community?---Culburra is a bit unique in the sense that it doesn't have a community to cover.

And what about the community before that?---Papunya, so I never read that document. However, I had worked in Papunya previously. And going back to the previous role there, I can't recall. However, yeah, sorry.

All right, now just in respect of the IRT. You said that you had – knew nothing about them prior to November 2019?---No I never heard the term used before. So that's not to say – there's a lot of things within police that you may not know of, because you don't get involved with.

Did you know that there was like a tactical response group, in Alice Springs, that was made up of Alice Springs officers, that could come out to communities and do things?---No I believe they were just – grabbed ad hoc, if you would say it. Like just relieving – short term relief to assist if we were under stressed, or resourcing.

THE CORONER: Had you heard of something called the Cordon and Containment Team?---Think I've heard of that name before. I used to be part of a port – I did port training, which is prior training, when I was in Alice Springs. Like cordon and containment is everyone, just a specific team. I've heard of TRG. I think everyone's heard of TRG, but not specifically to IRT.

MR MULLINS: And well that was my question. Did you understand that there was in existence an organisation, or some sort of a special force, that might come to Yuendumu, or other community, to do something, and rather, you didn't understand there were – that just the – the name, IRT?---Sorry, if it was a specific team coming out, I would have thought it may have been TRG. Because I didn't know anything about IRT, from Alice Springs.

Now, in the days following the event of 9 November 2019. Did you return to Yuendumu?---Yes.

And did you observe the TRG members were present?---Yes.

And were they dressed in police uniform, or dressed in - - - ?---They were in their work uniform, which wasn't police uniform, camouflage gear. However at the time, they were based inside the compound.

That is the police compound at Yuendumu?---Yeah, so we continued normal duties, police, the normal general duties members continued patrolling and attending jobs.

And did the TRG members outnumber the local police?---If you – the five gazetted members at the time, yes they did.

And did you see in the community those officers from the TRG brandishing weapons?---In the community, no.

Did you observe them walking around the community or driving around the community?---The only time I can remember them driving around was when there was a meeting being held. I think that might have been when the Chief Minister attended. That's the only time I remember them being out in the community.

Were you aware of any road blocks being established in the Yuendumu area?---No, as far as knew, it was business as usual.

And were you involved in any of the interactions with the families of Kumanjaji Walker, or the community?---Yes, continued engaging with everyone in Yuendumu.

Nothing further, thank you, your Honour.

THE CORONER: Thank you.

Mr Espie.

XXN BY MR ESPIE:

MR ESPIE: Sergeant – Constable, my name's Espie, I am here on behalf of NAAJA. Just taking you back to a few things that has already been said, and I'll try not to repeat questions you've already answered. You've talked about things like induction, information, or manuals in relation to various communities. Is it something that's encouraged, the use of accessing those documents when you are – when you are starting at Yuendumu?---So the OIC of that particular station, should be providing that information to the new – either relieving member, or the new gazetted member. That's a part of their duties.

Right, should be, but they should be doing, there's every indication you've attended working in the community and that's – that's not occurred?---Yeah, of those occurrences, it hasn't always occurred, that is correct.

It's not like a mandatory thing that you must – you start at Papunya or Yuendumu, you have to go through a process of induction?---No, however I'm a little bit unique in that situation, going from community, community, and spending up to six months, and have an understanding of various family groups. As I said, it's – it's more unique for my – myself, than someone else from Alice Springs.

So it's something you value?---Yes.

More – more than others?---Yes.

Do those manuals talk about some of the things that you've learned over your period of time in community, such as importance of building relationships?---That is something we're taught actually in college, about building relationships - - -

Right?---With communities.

Are you taught things like understanding family connections and kinship and that sort of thing?---Yes. Yes.

What about things such as come up with logistics of perhaps, arresting someone at the most appropriate or opportune time in the – in the morning, as opposed to the afternoon, and that sort of thing?---That's – well if you've worked out bush, it's – it – it becomes common sense. But we're also told to arrest people at certain times to get the element of surprise, hence why you try and do your arrests in the morning. You wouldn't arrest someone, unless it was absolutely necessary, and it depends on what the offending was for, to arrest them late at night.

And just briefly touching on that. You've talked about phone bail applications. Of course there's also occasions where you might discuss with someone handing themselves in when you know, court's sitting in a community in that – in a few days' time, or something like that?---If it's not generally the person with the warrant, it's – you speak to the family group. Mother, father, uncles, to say look, he's got, or she's got a warrant. And then, to make it easier, I would, on occasions send an email to prosecutions to have them bring the file out, to assess or speed up the process of the court. Because when they hand themselves in, NAAJA normally sends them to the front counter. And then we have to send an email up and get documents scanned, and sent through to Yuendumu Court. So in short answer yes, and I would have the assistance of having at least the file come out.

And just also going into either your induction or any of your training, I think you've mentioned the Southern Kurdiji - - - ?---STK, yes.

- - - and they do things like Night Patrol, and mediation in the community?---Yes they do.

Is any of your induction or training something that that covers, how you work, or you might liaise with Southern Kurdiji, or anyone similar to that?---So at the time, when I was positioned in Yuendumu, the manager of STK, would – if there was an incident of note that police should be aware of, they would email the OIC at the time, and that information was provided to us. Possible family fighting. Things that might flare up, that we should be aware of.

So they do provide some useful information?---Yes.

Yes. And you mentioned having mediated between, you know, domestics, or – or larger feuding and type situations?---Yes.

Have you ever done that in collaboration with any of the – someone from the Southern Kurdiji group?---We've done a few, and there's been probably more so without STK.

And STK, sorry STK - - - ?---Oh Southern Kurdiji, sorry.

But you, yourself, haven't received any training in mediation?---No, your Honour.

Is it something you think would be valuable for police, particularly remote police, that can be taught or learn those sort of skills?---On a basic level, yes. But police do offer negotiation courses.

Yes, have you observed or experienced the way Southern Kurdiji's mediated and worked?---Yes, in Yuendumu and in Willowra.

Il right. Any sort of assessment you might give about the effectiveness of them being community members or free speakers as opposed to your own challenges in trying to mediate disputes?---Look, Southern Kurdiji could do all the mediation, that would be great. However, sometimes, the two, for a lack of a better – warring parties, it's hard for even the mediators to try and resolve the issue then and there. It does take quite some time. Speaking Warlpiri is much better and having the cultural knowledge of who should be speaking first, how it works from the hierarchy downwards.

And is that something you've ever observed or been aware of Derek Williams or other APCOs having been involved in that sort of mediation and dispute?---So, probably from my observations of those mediators and/or – I know Derek, on at least one occasion, has tried to mediate between families. Generally, some families don't want – because they're connected and they can be seen as not being independent. Even though they're from the community and they speak Warlpiri, they still throw the words around, it's one-sided or unfair and that kind of stuff. So, police did mediation because we were considered neutral and it was on a mutual ground, being the conference room at the police station.

Right. And again, you mentioned or you questioned about the role of APCOs and I suppose for want of a better word, in a perfect world, you would have more APCOs and you know, different genders and different skin names to sort of cover things like conflict and you know avoidance relationships poison cousins and that sort of thing?---Yes.

You also mentioned it's very hard to get APCOs. You're not sort of getting them, you know - - -?---Well, in my time in - - -

- - - applications all the time or anything like that?---Yeah, in my time in Southern Desert, the only two APCOs that are currently working in Southern Desert; there's one at Santa Teresa and one in Yuendumu.

Right. Just looking at - - -

THE CORONER: Do you know why it is that people are not obviously seeing that as a career path or an opportunity for employment?---There are some younger applicants who want to, but as Derek has taught me, you need to have, it's like rising

through the ranks of being a sergeant or a senior sergeant. So, if you have someone like a probationary constable or just a constable in the ranks of the community, to then have to go to domestic or something with a constable and then that APCO is trying to tell them what to do, culturally, he's not of the same – he can't do that.

THE CORONER: Right?---So, that's the way Derek has explained it to me that you need to build up your reputation and cultural significance in the community for then the rest of the community to take your word as, for lack of a better work, the law to tell them, you need to go home or you need to move on.

So, you need to be able to recruit more experienced members of the community to those positions?---Yes.

And why do you think more experienced members of the community aren't coming forward to take up those roles?---Some of it could be because of their crim history. Some of it can be – a lot of it is, they don't want to get involved in the disputes that can occur. It's almost like me having to arrest my mother or father. I mean, ideally, I would take myself and not be part of that.

Yes?---So – because in communities, they're all interconnected somehow and yes, having APCOs is really good and it does work the majority of the times, but there are times when it doesn't work because they don't want to get involved.

MR ESPIE: All right. In your dealings and liaising with the community, but also Derek, he helps understanding, you mentioned things like poison cousins, that wouldn't be appropriate. Are you aware of the sort of strengths or appropriateness of you know, what his relationship be may be, for example, as an uncle speaking to or arresting or liaising with a nephew or, you know, a father speaking to someone that would call him "dad" within the Aboriginal sense?---Yeah, so in Derek's position, he has a lot of power and they do look up to him. And generally, when he says something, the majority of times I've seen, they've actually responded in a positive way whatever Derek was trying to get across.

All right. And just touching on your own support, working remote, you are entitled to a house, I assume, in the community?---Yes.

All right. Annual airfares and that sort of thing?---FOILs - we call them – yeah, it's – you drive into Alice Springs.

Right. And is that something you can access regularly?---The FOILs, I believe it's only three times a year at the Yuendumu Station.

Right?---And Derek is entitled to that as well.

All right.

THE CORONER: Is he entitled to housing?---Yes. However, there's not enough

housing available. You might have to ask Derek that question, why he doesn't, your Honour.

And I guess, just generally, other things that you may have observed in the community are people with jobs have, you know, a lot of pressure of their family obligation for things like lending money, using – you know, being asked to give people rides in their car if they're lucky enough to have a car and a licence and that sort of thing?---So, that almost answered the question I sort of neglected to say, that yeah, when someone, a community member, does have a position, a job, they're earning a lot more money than someone on unemployment benefits and there is a cultural thing where they have to provide, if it's not directly, their family, but other family members and that puts pressure on them; well, why should I have a job when I'm going to have to give all my money away anyway.

So, things like additional FOIL for APCOs could be something worth exploring or other sort of awards that help them relieve that pressure of being in the community and having, you know, constant family pressures and obligations and that sort of thing?---That's probably something you'd need to take up with the awards. But I can see, yes, that could be something, but APCOs are treated the same – they're a member of the police force, so it has to be equal.

Right. You also mentioned the other day, there was a question on your use of your accoutrements and things like your capsicum spray, your Glock, et cetera, the Taser, you also mentioned that the only time you've used a longarm was for the purposes of executing an animal. Is that, I assume, an aggressive dog or an injured cat or something of that nature?---Usually something injured. It's either a cow or a horse or a dog that belongs to a client.

And you say that people's perception of a longarm or a rifle, et cetera, is that of an execution weapon?---Yes, that's my perception.

Knowing that, what would your advice be or what do you think the community's perception of someone carrying a longarm whilst making enquiries about the whereabouts of somebody, do you think that would be intimidating or - - -?---General policing, making enquiries, yes, I would see that as intimidation.

Right. And I think you also mentioned the - you know, your uniform, the blue uniform is something associated with, you're here to help?---Yes, that's correct.

I think they were your words Friday?---Yes.

Other officers carrying longarms, wearing fatigues and vests and that sort of thing, what do you think the perception of that would be generally in the community?---The community are fully aware of what TRG wear. So, as I can't really comment on IRT, but I've been there when TRG's there. They perform a support role for the local members, so they generally are not out in their camouflage gear, for lack of a better word, or their particular uniform, we're still – they're to back us up as support.

All right. But would you agree that it could be something a little bit more intimidating than what you're wearing today?---Yes.

Another - - -

THE CORONER: Probably for anybody, not just in community.

MR ESPIE: Yes.

You mentioned difficulties in Kumanjayi getting assessed for any cognitive issues, such as FASD or anything else of that nature?---Yes.

I am just curious about what sort of training or skills you have learned - or have you, in fact, learned any skills you know, if in fact someone is diagnosed as having FASD or any other cognitive issues, how you might interact differently with them. I think you mentioned the other day with the children you might get down to their level. Do you - is there any skills that you have been taught as to how to approach and then speak to someone with cognitive issues?---I haven't had any formal training in relation to FASD. We are given some training in disabilities, particularly more for hearing impaired so we have cards to show them - I forget the name of the book but - so they can interact with us through the cards so we have an understanding of what they're trying to say.

THE CORONER: Do you use that?---I haven't had to need to use it . I know of two people that are hearing impaired in Alice Springs when I was dealing with them in the watchhouse. You can still pick up what they're trying to say but I was dealing with them mainly as intoxicated persons in the watchhouse.

MR ESPIE: So no sort of formal training that you're aware of that would help you understand the differences in foresight and thinking and how people respond to different instructions if they have any cognitive issues?---No. It really depends if I am aware that they actually have been diagnosed with that.

THE CORONER: But if you are aware of a diagnosis, how does that affect your daily dealings with them?---Yes, so if someone was diagnosed with FASD for example, I haven't had the training on how to deal with them specifically.

MR ESPIE: Is there such training available?---I'm unaware of any training but that's not to say that I wouldn't enquire with management - for lack of a better word - to try and get some training.

Right. On the assumption that quite often young people - or people in general in an Aboriginal community may have some sort of cognitive issues such as FASD or you know, PTSD trauma-related issues. Do you think having specific training like that in general would be helpful?---Yes.

And that's not something that has been offered to you?---No. So, in college we were taught about petrol sniffers, these are things you shouldn't be doing, so if you knew

they were a known sniffer or had been sniffing, you're not to chase them because they can really - brain injury on them and pass away, so there's certain things in that sense I was trained in but not specifically for FASD.

And those sorts of things that you've just described, you know, someone may be having FASD are more likely to - or petrol sniffing, are more likely to react in certain ways. Is that something that is recorded for example in PROMIS or elsewhere if there has been previous interactions with an individual?---So if we suspect or - if it's been diagnosed then an alert would go on that person's name. Say, for example I've gone to a mentally disturbed person and they've tried to self-harm, hanging or something like that, I would put an alert on their name both on PROMIS and IJA so if they came into the watchhouse and not through the PROMIS system, that that member would be aware, should then take that into a consideration when dealing with them appropriately additional risk assessments, extra cell checks of they're in custody.

THE CORONER: have you ever seen a FASD diagnosis on any of those alerts?
---No.

MR ESPIE: Have you ever seen - probably for the same answer - suspected FASD or other cognitive issues as put on an alert?---Cognitive yes. I can't specifically name that person. I may have been an adult but it may have been a youth, over my policing career, yes, I have seen another similar to that.

I have maybe five more minutes, your Honour.

THE CORONER: I'll get touchier, Mr Espie, but I'll give you five. I will take it off somebody else. Who is prepared to give away five?

A PERSON UNKNOWN: You've got my five.

MR ESPIE: Thank you.

Are the other issues that you've described Kumanjaya being a runner, previous self-harm in custody, those sort of things, would be useful and reported?---Yes.

And perhaps just a few other quick questions. You mentioned that there is nothing in your training, although there's something dealing with unconscious bias, nothing in relation to specifically racism?---Not that I'm aware of, no.

You've mentioned how racism can be normalised - for what of a quicker way of describing what you said the other day. Have you - or if you've ever experienced or heard racist mainly behaviour et cetera, is there - or are you comfortable that there's appropriate avenues to raise that?---There are appropriate avenues.

And do you think for yourself or perhaps you know, a more junior officer, it would be challenging to raise those sort of things?---So the further you move up the rank and become more seasoned - for want of a better word - there's this expectation that -

from the community and within the force itself, to stamp that out. If it's a junior member saying something or doing something that's inappropriate and doesn't go along with the community guidelines or along with the force, it's general orders, then yes, you as the senior partner, have to address it and it depends on the level of - it might be something minor, you would speak to them about it and note it somewhere, either in your notebook. However, if it's a little bit more serious then you would bring it up to your supervisor and go from there.

You'd agree someone junior hearing from someone more senior that sort of behaviour would be perhaps difficult for them to address?---Sorry?

If a junior or a new constable sort of heard that language from someone more senior - a senior constable or a sergeant, that would be perhaps (inaudible)?---Yes, I could see it can be difficult.

And just a final question or two, I think it was in your January statement or interview you mentioned discussions about Sergeant Frost having some awareness of having been through a shooting incident that led to sort of a riotous behaviour in Wadeye some years ago?---Yes.

And then I think you sort of mentioned she knew what was going to happen and she was in survival mode. Are you able to just expand on what you meant by that?---So this is the first shooting we've had for a number of years. She - I knew from previous conversations with Sergeant Frost she was a nurse at the time in Wadeye and after the incident we had conversations and she said she was in survival mode knowing that what had happened in Wadeye was more likely going to happen, or if not happen, in Yuendumu even though she had only been there - yeah, close to two years, it was how serious this was. He was a community member that had been killed by police and I can see how she - there's only so much information she can provide to the community at the time and knowing that it was going to be a serious investigation, locking down the evidence - whatever - yes, so she was - she had herself to look after, she had the members that were out there at the time, which was who they were and then you've got a large group of people at the front, it can be seen as they were passive and - from what they were saying, to when you're having rocks and that were thrown, from what she said, onto the station and thrown at the ambulance , you can see how she would've been in survival mode to try and keep everything under control.

And Constable, those are my questions, thank you.

Thank you, your Honour.

THE CORONER: Thank you. Mr Officer?

XXN BY MR OFFICER:

MR OFFICER: Sergeant, my name is Luke Officer, I act for Constable Rolfe. I have questions for you. You have been a police officer since 2007?---Yes.

And out in remote settings - (inaudible) your evidence last Thursday?
---Yes.

And it's safe to assume therefore, you've been involved in a number of arrests?
---Yes.

And do you agree (inaudible) arrests can vary, they can be dynamic?
---Yes.

The offender might be compliant, the offender might be resistant?---Yes.

Arrests might planned or unplanned?---Yes.

And arrests could result in some level of violence?---Yes.

And would you agree that the intelligence plays a crucial role in your job when it comes to effecting arrests?---Yes.

A PERSON UNKNOWN: I just ask whether the word "intelligence" is IQ or information?

MR ESPIE: Information.

Intelligence by way of information?---Yes.

For example, where a particular offender might be?---Yes.

The type of offending that you are going to effect the arrest for?---Yes.

Relationship that offender might have, something you could get further information on the – based on that intelligence, would you agree?---Yes.

Familiarity with community?---Yes.

Familiarity with residential locations?---Yes.

Layout, I think it was put to you before by Mr Boe?---Yes.

And certainly, what the offender is like, as a person?---Yes.

How they respond to authority?---Yes.

And certainly the relationships you have in communities with Elders, for example?---Yes.

They are levels, or types of information, or intelligence, that are important to your job?---Yes.

I wonder if I can just turn to – you were taken to the four arrests that you’ve been involved in with Kumanjayi Walker, up to the point of 6 November 2019, by Mr Coleridge on Thursday. And I summarised them from the transcript, given the time constraints. There was one on 2 May 2018, for property offending, which you said at T459, “It might have been around about after three o’clock in the afternoon”?---Yes.

And I think, after a bit of confusion, that arrest was said to have taken place at House 511, not 577?---Yeah, it was at 511.

How did you come to know, when going to effect this arrest, that Kumanjayi was going to be at House 511?---That’s – oh, a long time ago, I can’t – I don’t know why – why I went to that house. Just – 2018 was it?

Yes?---I can’t – I don’t know why I’ve gone to that house. There must have been something. I know his grandmother lives there.

I call it intelligence information?---Yeah.

There was another arrest then on 10 May, which I think was the completion of the original arrest - - - ?---Yes.

- - - on 2 May. And the evidence from Thursday was that you’d started in the morning. And so it would have been somewhere after 7 am?---Yeah, I think it was 7.30 we arrest – or close to that time.

Yes, and that was at House 577 on that particular occasion?---Yes.

And why did you attend House 577 on that particular occasion?---Because that’s the girlfriend – the partner of Kumanjayi resides with the grandparent’s at that house.

Is that Rakeisha?---Yes.

Right, so that’s the level of intelligence and information you had in relation to - - - ?---Yes.

- - - the arrest on that particular occasion. There was then a further arrest on 31 May 2018. And again that was at House 577?---Yes.

Is it the same answer as to why you attended that house?---Yes.

And on 19 March 2019 – sorry, before I get to that. Do you know what time you effected that arrest on 31 May 2018?---No I think – that time, no. The next location, can I say yes I do.

So 19 March 2019, at I think you said on Thursday it was just after 1 pm?---Yes.

And you attended to effect that arrest. And that was at House 564?---Yes.

And that's a completely different house to the houses he was at on the prior arrests. What information did you have as to why he was at – or why he might have been at that house?---So I've received information from a WYDAC worker, that they'd just seen Kumanjaji at that house.

So you had information and intelligence off press so to speak?---Yes.

And you acted on that?---Yes.

And does that go to your answer you gave earlier to Mr Boe, that as soon as we know someone needs to be arrested, we will arrest, dependent on timings, etcetera?---Yes.

So you had information that was fresh, and you acted on that fresh information on that particular occasion?---Yes.

And that's because of intelligence, or information you had, at that particular time?---Yes.

And so what we've got, across those four occasions, is different locations. You agree with that?---Yes.

Different timings of an arrest?---Yes.

Different information?---Yes.

Some information will be within your own knowledge from your experience. Some information was fresh?---Yes.

We've just got from your answer on the latest arrest. And so when it comes to effecting an arrest, you're only as good as the intelligence or the information you hold, aren't you?---For – for the location of the person, yes.

Well you can't arrest someone when you don't know where they are, can you?---No.

THE CORONER: But a lot of other things are bought to an arrest, other than just the information about where they might be.

MR ESPIE: Absolutely, I agree.

THE CORONER: I think that's what the – why the officer was hesitating to answer that.

MR ESPIE: Sure.

And so if we turn to the sixth of – can I ask you this sorry. On those four other occasions I've taken you to, did you at any stage, and I appreciate this might be

testing your memory, inform Kumanjayi Walker with the words that he was under arrest?---On the sixth?

No, no, on the four occasions. I haven't got to 6 November yet?---I can't recall, but by the means of me, or my partner at the time, actually placed their hand on him, that he's implied it as an arrest.

And you gave some answers to Mr Boe, in relation to the entry of the house. And I think that was in relation to 6 November, potentially, could have been earlier occasions. And your answer was that you didn't seek actual owner's permission to enter the house. "I knew he was in there." What information did you have that alerted you to the fact you didn't need to seek the owner's permission because you knew he was in there?---So I had a source inform me that they had seen him that morning, over in West Camp, at that particular house, 577. Sorry, it wasn't in the morning, it was when I was dealing with them at the station. I'd showed them the intel sheet, and said have you seen Kumanjayi. She said yes, seen him that morning over at 577 West Camp. And then we went to the house, I had spoken to Janice Burns, who was outside the house, and said, is Kumanjayi inside. And she said to the words effect, "Yes." And then I entered the house into the kitchen, and spoke to Ethan Robertson. And asked him, in a roundabout way, in that room, and we both end up pointing to the room which Kumanjayi was in.

So you had conversations – well I withdraw that. You had fresh intelligence yet again, and information as to where he might be - - - ?---Yep.

- - - House 577?---Yes.

You approach, and you have conversations with community members?---Yes.

And you entered the house with, on this case, Mr Robertson?---I didn't need his permission to enter the house, so - - -

No, you relied on s 126 - - - ?---Yes.

- - - PAA as well, in a belief that you (inaudible)?---Yeah, reasonable grounds to believe that he was in there, given.

Yes, and on each of those occasions, there was nothing remarkable about the events in which the arrest took place. By nothing remarkable, Kumanjayi Walker demonstrated compliance?---Yes, apart from the two previous times. He'd run prior to us effecting the arrest.

Yes, and that's again the level of information and intelligence you had, as you said in your evidence earlier, you knew him, he knew you?---Yes.

And you knew he was a known runner?---Yes.

And you knew, in your own mind, that he wouldn't do anything, other than run. That's information peculiar to you as intelligence isn't it?---Yes, or anyone else he's dealt with – he's run from.

Which is why on 6 November, you said at transcript 469, that you had no reason to think the approach on 6 November 2019, would be any different?---That's correct.

And so if we could turn to 6 November 2019. Again, I think you say you were – received some information from a community source, about a property entry – unlawful property entry?---Yes.

And you happened to have an intel sheet, and Kumanjaya was on it?---Yes.

And that you'd been informed that he'd been seen at West Camp?---Yes.

And prior to taking that community member back home, you've received a call that there'd been an unlawful entry on Luana Symonds' house?---Yes.

And then you attended Senior Constable Hand, about finger print analysis?---Yes.

You made a call to the Watch Commander Alice Springs for overtime?---Yes.

And you thought there was a link between Kumanjaya and the unlawful entry, but you weren't going to arrest him in relation to that?---No, no, no, it was for the warrant.

And you chose to go to attempt to arrest him at House 577, because of the proximity of where the house was to the location you were?---Yes.

You'd been approved for overtime already?---Yes.

And the information you'd had, you had just received an hour earlier?---Yes.

And so, you depart or you arrive at House 577 at about 6:25 pm to attempt to effect that arrest?---Yes.

So, you're got information fresh in your mind?---Yes.

Sorry, fresh knowledge?---Yes.

You've got overtime approved to effect the arrest?---Yes.

And because of the proximity to where Kumanjaya might be and to whether you were at the time, you thought it was a good opportunity to go and effect that arrest?---Yes.

And so, when you were asked questions about 5 am being an approximal time for an arrest, you would agree with this proposition, wouldn't you, that it depends on circumstances at the time that you are confronted with, including fresh information or intelligence that you've been given?---Yes.

And you act on that?---Yes.

Because that might point you to the person who you are attempting to arrest. You would agree with that?---Yes.

So, there's no hard and fast rule as to when an optimal arrest might take place?---No.

When you entered the house and you approached the door and you knock and Kumanjayi attends with Rakeisha, or Rakeisha first – you didn't tell him at that time that he was under arrest, did you?---No I can't – I don't remember saying those words, no.

No, in fact, you simply told him to turn around on multiple occasions?---Okay, yes, yeah. I do remember that, yes.

You do remember that? And he asked to speak with Lottie?---Yes.

To which I think Senior Constable Hand says, "Not until we put the cuffs on"?---Yes.

At no point in time was he actually informed he was under arrest?---No.

And then the axe incident unfolds and I'm not going to take you through that, there was just a couple of questions I wanted to ask you. You spoke of a decision or a series of decisions you made at the time of this axe incident?---Yes.

And you took into account that there were other people present?---Yes.

Including Rakeisha, children, or a child?---Yes.

That if you drew your firearm, you might miss or it might go through him if you discharged it?---Yes.

It was a Besser block building, so it could ricochet?---Yes.

And you said that in your evidence, it was a combination of adrenaline but also making decisions that you could, at the time, acknowledge you had?---Yes.

And you referred to Mr Boe earlier about tactical disengagement?---Yes.

You weren't wearing your Taser on this particular occasion, were you?---No.

Why was that?---I just wasn't wearing it that day.

Is it a requirement to wear it or is it optional?---I believe it's optional.

And do you think that scenario could have – you could have used your Taser in that

particular scenario?---That could have been an option, yes.

Well, would there be a reason why you wouldn't?---Again, the same as using the – drawing the Glock or something else on my accoutrements might have unheightened him to actually perform an attack on me.

Well, they're also inherently unreliable too, aren't they?---That, I can't answer. That's more for the technical department other than – that's not my expertise, sorry.

THE CORONER: And you've never used it?---No.

Probably not a person to get an opinion from then, Mr Officer.

MR OFFICER: Thank you, your Honour. I'll move off that topic. I hope to be finished in my 20 minutes.

I was just taking you before, a moment ago, to your – the things that were running through your head as to why you didn't draw your firearm and discharge it. Can I just put these to you? He didn't hit you with the axe or strike you at all, did he?---No.

And that would be a relevant factor in your mind, if that had occurred?---Yes.

And might have influenced your decision-making differently?---Maybe the way he was holding the axe. I don't – he wasn't – I don't believe he was swinging it in a – how should I say, in a chopping motion at me.

Yes?---But he was holding it, yeah, so sorry, he was threatening but wasn't taking the next step.

No, my question was, you weren't hit - - -?---No.

- - - with the axe or anything?---No, no, no.

Your partner, Senior Constable Hand, didn't go hands on with Kumanjaya Walker at the time, did he?---Not at that spot, no.

They didn't fall to the ground together certainly, did they?---No.

And so, in many respects, that distance was created eventually between you and Kumanjaya?---Yes.

You had time?---Yes.

And he didn't grab at your weapon?---No.

Or any particular accoutrement?---No.

I just want to ask finally some questions, you say you didn't have any involvement in or discussion with Sergeant Frost about the plan to arrest Kumanjayi Walker?---No, the only part I had involvement was location of the houses.

To locate the houses?---That's correct.

Yes. And you were asked questions by Mr Boe about whether or not Sergeant Frost told you that you couldn't be involved in any future arrest, because of a potential conflict of interest. And if I understood your evidence right, it's not something you actively thought of then, but you can see why that might be in any given future arrests?---Yes.

And the same applied to Senior Constable Hand, would it not?---Yes.

And so when you were in a station such as Yuendumu and I appreciate you're not in Yuendumu anymore, but you're still in a remote community, if there is this issue where two officers are conflicted because they were involved or had become victims in an offence, so they cannot effect an arrest, you have the sergeant, being Sergeant Frost, who is the officer in charge who needs to run the station. And since, the IRT, as I understand it, has been disbanded or in hiatus, what's the alternative or has there been one presented by the Northern Territory Police should such an incident arise again in the future, taking into account, I appreciate, a multitude of different circumstances, but when you have resource in issues, two officers are conflicted, one is the sergeant, how are these issues going to be managed in future?---Well, that would be up to the decision of the OIC of Southern Desert or the superintendent of Southern Desert.

Has there been any policy or instruction or education or advice as to how these matters should be handled in future?---Not that I'm aware of.

And so, resourcing still remains an issue in terms of managing and responding to critical incidents?---Yes.

You mentioned earlier and it might be that it's already canvassed in earlier evidence, but Mr Boe asked you whether there had been any incidents since 9 November 2019 and you mentioned two police officers that you were aware of?---I didn't know it was specifically from after the axe – the shooting incident, I – one yes, Sergeant Jolley, has been injured sometime this year because of the rioting, fighting. The other officer I mentioned was prior to the axe incident.

And what was the circumstance in which Sergeant Jolley was injured?---I don't know the extent or the nature of the injury to her, but I believe she was hit from behind with – it's either a weapon or she was punched, one of the two.

And the other officer in the other incident which was prior to 6 November, who was that and what was that incident?---That was Robyn Smith at the time and I believe she was hit with a weapon of some sort. And I can't remember who the person was, but it was in Yuendumu and she was obviously treated for her injuries.

THE CORONER: Thank you.

MR OFFICER: I put some credits in the bank.

THE CORONER: I think you were pretty much right on 20 minutes. So, you're an example, Mr Officer, that everyone can follow.

Mr Freckelton?

MR FRECKELTON: Thank you, your Honour.

XXN BY MR FRECKELTON:

MR FRECKELTON: You've just been asked about the discretion as to the timing of an arrest, do you recall that, by my learned friend, Mr Officer?---Yes.

What is the situation when the officer in charge of the station gets direct orders as to the timing when an arrest shall be effected?---You follow those orders.

You were asked about the exception that an officer can apply for in relation to wearing a Glock or another accoutrement. Do you remember that?---Yes.

Have you ever heard of a police officer in the Northern Territory applying for a 12 month exemption to their obligation to wear a Glock?---No, your Honour.

You were asked about whether it would be of help to the police – I beg your pardon, whether it would be of help for police not to wear guns in the community of Yuendumu. Do you recall those questions by our friend, Mr Boe?---I can't remember what - - -

It's all right?---Sorry.

And you said that it was your intention to continue to wear your Glock?---Yes.

Why is it that you wish to wear your Glock when you are working in community?---It's my uniform requirements as a general duties police officer, and the fact that communities also have access to firearms.

What is the situation in terms of volatile emergence of difficult situations which might require a police officer to draw their Glock in community?---That particular incident, we actually went to with Kumanjayi, so. That particular incident, we could have used our Glock.

There are situations where conflicts emerge between families at short notice?---Yes.

There are situations where domestic violence can take place, which is very dangerous for one of the parties?---Yes.

And you've just described to her Honour, two situations latterly where police officers at Yuendumu have been assaulted?---Yes.

What is the role of a Glock in terms of protecting the community, and also police officers?---It's to protect life. Protect safety first, my partner, and the – whoever's at risk of being seriously injured, if not killed.

And if you were not wearing your Glock, what would your capacity be to discharge your responsibilities in that regard?---It'd be limited, due to time, distance, cover, all those things. I wouldn't be able to protect someone.

Thank you, your Honour.

THE CORONER: You have talked about incidents, and you're obviously aware of incidents where people have not used a weapon, or a Glock, or a police officer hasn't used a Glock, in circumstances where they've been confronted with a dangerous situation?---Mm mm.

Is wearing the Glock itself, do you think a deterrent, even if you don't have to use it, or does that enhance your risk – sorry. Does that decrease the risk to you, simply having it there, even though you've never had to use it?---Probably what you just – the last part is the more correct answer that I would answer. I would still wear it, but I know it's available. And the training is to use it if required, and when required. But there's no hard and fast, you have to use it in this, because it's the other factors that come in, and we're taught that.

DR FRECKELTON: Perhaps (inaudible) - - -

THE CORONER: Did you have something arising from that?

DR FRECKELTON: - - - your Honour?

THE CORONER: Sorry, yes, sorry I didn't word it very well.

DR FRECKELTON: No, no.

Look, I think her Honour is asking you about whether having a Glock, available to you, you think works as a deterrent, to bad or dangerous behaviour?---Okay, yes it does. It's like wearing the uniform. That deters 90 percent I would say. Just when you turn up in uniform, even though the Glock and everything's there, they don't really – the community doesn't see it, because it's not that visible. It's there. They know it's there. But it's not like a long arm where they notice that. So people will notice that, and if you're wearing camouflage, yes they notice that. But me turning up to jobs, with – yeah, I still have children climbing over me, wanting to play with it, and so – and you can't let them do it, but, if – if there's not this – I've heard community say they don't want guns. Yes, but they still call us, and they know we wear guns. They're – they're happy.

THE CORONER: Anyway, someone else might grapple with that at some stage.

Yes, Mr Hutton?

MR HUTTON: (Inaudible) your Honour. (Inaudible).

THE CORONER: Okay.

MR HUTTON: You gave evidence on Thursday that there were both quiet periods and busy periods in your experience as a police officer stationed (inaudible)?---Yes.

Were busy periods often associated with the influx of large numbers of people into the community, in your experience?---That can – that can be an increase of jobs, yes.

But why do you think that's the case?---Overcrowding in household groups. So, particularly like sports carnivals. Money meetings, royalty meetings, funerals, anything which cause an increase of the normal local community level. And they're staying at houses which are already somewhat overcrowded.

Thank you. Were busy periods for police also associated with the presence of drugs in community?---Drugs are generally throughout the community anyway. It's – it's not – it's like alcohol, it's there, but you don't always get called out to a job involving drugs or alcohol.

So the availability of drugs is not relevant, in your experience, as to whether or not it's a busy period for police or not?---No.

Are you aware of concerns regarding a greater quantity of drugs in the community in the days leading up to 9 November 2019?---Not that I'm aware of.

Thank you. You gave evidence on Thursday, that when you attended Luana Symonds' house on 6 September, following the break-in to her accommodation, is that Luana was upset?---Yes.

Your evidence was, "they", which I think was a reference to Luana and her partner - - - ?---And, I believe another work colleague was with her.

Okay, thank you. Was that Janine?---Yes.

They were upset because they weren't the only clinic house that had been broken into over the preceding or previous weeks?---That is correct.

Do you recall now which other accommodation belonging to clinic staff had been broken into over the preceding weeks?---I think actually Janine, you mentioned. There was I believe a unit closer to the clinic itself, because the clinic is scattered, so I won't be able to recall exact locations. But there was a few houses, yes.

The accommodation is scattered?---Yes.

Near – some nearer to the clinic than others?---Some nearer to the clinic, some next to the police compound, and somewhere – towards the morgue.

Thank you. Were you involved in investigating any of those earlier break-ins?---I would have been. Whether I was the OIC of the matter, unaware.

And there's evidence in the brief of a meeting with community Elders that had been held some weeks prior to this role of the health clinic staff, in relation to break-ins. Were you a participant at that meeting?---I was a participant in a meeting, and a lot of health staff attended. But I don't know when that – I – the one you're referring to, I don't believe I was in that one. But I was involved in another meeting, yes.

What can you tell us about that other meeting?---Clinic staff were visibly upset about – because I think majority of the clinic had turned up to this meeting. And I believe it was taking place at the council office. And it was a discussion about youth offending, and including break-ins to I believe Purple House, which is the dialysis place. And an education on to the clinic staff about ages and offending, and what police can and can't do, and how the court system works.

Okay. Do you recall whether any actions were taken out of that meeting or, would there be any minutes of that meeting taken by NT Police?---If it was the CSAP(?) meeting, which I attended, there would have been possibly minutes taken, yes.

And any – were there any actions assigned to police or to anyone else at that meeting as to next steps, as you recall?---If – if it's the one I attended, we gave them discussions on – because some of the youth are quite – they're under 10, so there's no criminal responsibility, and as they get old, you explain to the clients, like why aren't they getting locked up, or why aren't they getting bought before the court, and the steps and processes such as diversion, which kicks in well before the court process. And even if we were to – if it wasn't an arrest file, but a summons file, then the court has the discretion to send it back from court, back for diversion.

Thank you, and finally you gave evidence in relation to finger prints - - -

THE CORONER: Can – just before you go on.

That meeting, you said it was at the council office. Police were there. The majority of the clinic staff were there. Were there any Elders or - - - ?---Not - - -

- - - community members?---Too many – not to many. So if it was a community safety meeting, there wouldn't have been too many.

Why do you say that?---So my – my dealings with community safety meetings, in Yuendumu, a lot of it is stakeholders attending. Community safety meeting is supposed to be for the community, and we sometimes discuss – there's six topics

I believe. Or five or six topics, which we discuss, unlicensed, anti-hooping, domestic violence, alcohol and drugs and when your boss, so to speak, like the council manager turns up or the clinic manager and you as an Indigenous staff member, you don't want to say - if you want to complain about them you can't because your boss is there, so it's - it doesn't seem very productive because a lot of the stakeholders turn up and stakeholder meetings should be something separate.

Right, but you're saying that Elders don't generally turn up if they do they're small in number?---Limited, yes, smaller number.

And they're not necessarily vocal and you think there might be some reasons for that?---Yes.

Okay. Sorry, Mr Hutton?

MR HUTTON: Not at all.

The final question I have for you Senior Constable, is in relation to the fingerprints that were taken from all other (inaudible) of the accommodation?---Yes.

Do you recall when the results of those fingerprints were returned?---I wasn't the case officer for that particular job, it was Chris Hand and it was a pretty quick turnaround, like I'm thinking a couple of days because I ended up with that particular file and prosecuted that youth.

To be clear, you think they were returned before 9 November then?---No, I can't - I don't - I can't say, your Honour.

That's a question for Officer Hand perhaps?---Yes.

Thank you.

MR COLERIDGE: I will be very brief, your Honour, in reply.

THE CORONER: Yes, Mr Coleridge.

REXN BY MR COLERIDGE:

MR COLERIDGE: You gave some evidence about a meeting that you did attend the stakeholders, can you recall whether that was before or after the 9 November?---I'm thinking before.

You also gave evidence that at the meeting police provided advice in effect, to stakeholders about legal matters?---Yes.

Did you also provide advice about practical matters, what people could do to reduce the chance that they might be broken into?---So I've had discussions with - so when we attend an unlawful entry we're supposed to provide a customer or client -

however you want to put it - advice on what better security they can have for their premises, so that's just part and parcel of any unlawful entry.

In your experience do youth offenders generally target locations that are known to contain things like tobacco, cash or alcohol?---Yes.

And in - well at that time, so 2019, the community of Yuendumu was a dry community?---Yes.

But many stakeholders did apply for permits to possess liquor?---Yes.

And in your experience did youth offenders generally work out which houses people who held permits lived in?---I don't know if they - they wouldn't have known if they had a permit but the fact stakeholders work certain hours, so if the clinic ambulance was parked outside a house, that meant that person was on call - that staff member, and if the ambulance was gone they were at the clinic, so then that house is easily accessible because no-one would be at home.

The last thing I wanted to ask you about was the involvement of Elders in meetings of this kind. Are Elders considered to be stakeholders?---When I refer to stakeholders I'm referring to the council, clinic, school, of an organisation. So yes, they are stakeholders because they are also involved in the community. However a lot of the things they want to say about a particular person of an organisation or - yes, the clinic - they don't want to say because their manager is there or you know, staff members, because word gets back "Oh, so-and-so has made allegations or something to you" so it can hinder.

Were you aware of other meetings potentially between police and just Elders where the issue of youth crime was addressed?---So, myself and other constables have had meetings with the family, grandparents or family groups of those youth involved and generally it was on ones where they weren't going to be prosecuted or there was no criminal responsibility because of their age, to try and get them involved in trying to keep the kids - the youth - out of trouble.

But there was no, I suppose, community-wide meeting where all Elders were brought together?---I've been to a meeting where the community - it was in Yuendumu and there was a break in to both the shops, which were closed and the community had had enough and they - I never attended the meeting but I was in community at the time and the kids were lined up and they were smacked - for a better word - by their parents or responsible adult and in that particular case a complaint came out of it from WYDAC I believe for abuse of children.

When was that?---It was before the November 9 incident.

You gave some evidence that you thought that the solution to property offending of this kind might be to empower Elders - or have you ever heard it expressed that Elders don't feel like they can discipline their own children for fear of intervention by Territory Families?---I've heard this, your Honour and a lot of the conversation

revolves back to the intervention and they said the government took away the power to discipline their children when the government - the intervention didn't actually stop that, you can still discipline your child and it doesn't have to be in a physical way, it can be in taking - as simple as taking - grounds the kids - for lack of a better word.

But just to return to the example you gave of WYDAC's complaint, an attempt by the Elders to discipline the children in a corporeal fashion?---Yes.

Resulted in a complaint?---Yes.

Of child abuse?---Yes.

What was the result of the complaint?---It was - I believe it went through - it might have been a ministerial - if not, a direct complaint to police and the superintendent at the time, which was Jodi Nobbs, dealt with it.

Given that - how did Jodi Nobbs deal with it?---There was no action required from police and without seeing what was written back to the complainant it was treated as just normal parental discipline. So none of the youth attended the clinic for injuries.

No further questions, your Honour.

THE CORONER: Thank you very much for making yourself available and providing such considered and thoughtful responses to the many questions that have been asked of you. I can assure you your evidence has assisted this inquest and I am certain that at the end of this inquest everyone will be continuing to give the answers that you have given considerable thought and we will be address them in any submissions that they make to me. So thank you again?---Thank you, your Honour.

WITNESS WITHDREW

THE CORONER: We will adjourn for lunch.

ADJOURNED

RESUMED

THE CORONER: Yes, Mr Coleridge.

MR COLERIDGE: Good afternoon, your Honour. I call Senior Constable Sergeant Chris Hand, your Honour.

THE CORONER: Thank you.

CHRISTOPHER PHILLIP HAND, affirmed:

THE CORONER: Thank you?---Thank you.

Yes.

XN BY MR COLERIDGE:

MR COLERIDGE: Sergeant, can I ask you to restate your full name?---Christopher Phillip Hand.

And you've said that your current rank is sergeant?---Yes, that's right.

Where are you currently stationed?---Territory Intelligence Division in Darwin.

In Darwin. Now, I'm not going to take you to them, but you've provided a number of sworn or affirmed statements in these proceedings?---Yes, that's right.

On 14 November, you participated in your recorded interview?---Yes.

Your Honour, for the record, that's 7-52.

And attached or annexed to that recorded statement was one exhibit?---Yes.

And that was a running sheet?---Yes, that's right.

That has the same document ID number. You then participated in a further recorded statement, or gave a further recorded statement on 17 December 2019?---Yes, that's right.

And your Honour, that's at 7-53.

You were also called and gave sworn evidence at the criminal trial?---Yes.

Constable Rolfe's criminal trial?---Yes, that's correct.

Your Honour, that's at 7-53A.

And finally, a couple of weeks ago on 1 September 2022, you gave a written

statement?---Yes, that's right.

And that written statement deals with some broader issues with community policing and the like?---That's correct.

And that's at 7-53AA, your Honour.

You graduated from the Northern Territory Police Force's college in July of 1995?---December 1995. I started in July 1995.

And when you graduated in December of 1995, you were stationed in Alice Springs for a time?---Yes, that's correct.

You then went out to Yuendumu in 1997 or thereabouts?---Yes, that's right.

Following that, you spent some time in Darwin?---After – yeah, between mid-97 and late '99, I transferred to Darwin to work general duties.

And in or around September of 2001, you moved down to Mataranka?---Yes, that's correct.

And Mataranka isn't a remote community, but it's getting remote. Is that right?--- Yeah, it classed as a bush police station. We do have – well, back then, there was at least two Indigenous communities that we serviced and then an Indigenous camp that was just outside of Mataranka that we serviced.

And those communities were Minyerri or what used to be Hodgson River Downs Station?---Hodgson Downs, yes.

Jilkminggan?---Yes.

And Mulga Camp?---That's correct.

You, in fact, became the OIC there after a time?---Yes, I did.

You then moved to Katherine?---Yes.

Back up to Darwin?---That's correct, yes.

And eventually, went into relieving in some of the remote communities in the southern region. Is that correct?---Yes. Yes, and I also did a short six-week stint in Port Keats a few years ago as well while I was in Darwin.

I'll come back to your time in the remote communities?---Yes.

But can we go back to December 1995 when you commenced as a police officer. How old were you?---I started a week before my 22nd birthday.

And where were you from?---Adelaide, South Australia.

Okay. And had you done anything beforehand or – for work?---I was working – I was a – before I started in the police, I was working as a manager at a McDonalds' store in Adelaide.

In your work as a manager at McDonalds or otherwise, did you have much interaction with Aboriginal people?---Not really, no.

What was the overall structure of the police college course?---So, there was a – so there were two courses that went through when I went through each – I think there was about 27/28 recruits in each squad as they were called. And so, there was a senior officer, either a sergeant or a senior constable, as the course coordinator and then they would conduct some lectures or they would have other police officers coming in to conduct lectures as part of the course.

Can you recall receiving any training regarding traditions to people or cultural competency?---We did have a block of cultural awareness training and I don't remember when that was during that course. But I do remember that they had a local Indigenous woman from Darwin come and give us a lecture on cultural issues and sensitivities when dealing with Indigenous people.

And would that have been a single lecture?---Yes.

Over the course of an entire day or an hour, can you remember?---I think it was the best part of a whole day.

What about in the years since? Have you had any ongoing training around working with Indigenous people, cultural competency?---Not really. It's more on the job training and just speaking with Indigenous people that you come across and also working with Aboriginal community police officers and learning from them.

I want to come back to your "on your job" training in just a moment, but if I can turn to your "use of force" training, can you remember on a very general level what the instruction was?---Yes, so it was use of force encompassing the firearms' training as well as defensive tactics' training, which was separate to the firearms' training. And there was instruction on – and going through the theory with regards to ss 27 and 28 of the *Criminal Code* and use of force policy which was in place during that time in the police force.

And just for the sake of the record, ss 27 and 28 of the *Criminal Code* deal with defensive conduct?---Yes, yes.

And they're generally applicable? They apply to police officers and civilians alike?---That's right, yes.

At the time, were you introduced to – this is a bit of a buzzword, but the Northern Territory Police Force's operational safety philosophy?---Yes, I can't remember what

it was called back then, but it's had several iterations as during – as my career has progressed. So, I can't remember what it was called back then, but generally speaking, that's what it's referring to, yes.

Can you remember what you were taught the primary objective of your interactions should be, if they were going to involve force. Just to use the least amount of force possible and to ensure that it's proportionate with what you're trying to achieve and also what level of offending or the person you are interacting with.

And what about the role, if any, of communication in use of force scenarios?---Yes, communication is quite vital in such scenarios. And just ongoing verbal communication using, as we call it, "dynamic verbal commands".

Can I ask you quickly about your training about edged weapons and when I say, "edged weapons", I don't mean for use by the police, I mean training regarding situations where persons of interest or offenders are armed with edged weapons. Can you recall what your training was in December 1995 or thereabouts?---It was to do with when an offenders armed with a knife and there was a certain level of distance that you need to create to have a suitable reaction. Because someone can come at you with a knife quite quickly. Not throw it at you, but run at you, and just – it's called a reactionary gap. And to create, if you can't create that reactionary gap, or find suitable cover, like an object or a wall, or something like that, that can be used as cover.

And what if anything else, were you taught to do, other than create a reactionary gap, when presented with an edged weapon?---Again, use the verbal commands. Dynamic verbal commands, to obviously tell the person to drop the weapon and identify yourself as a police officer if – if they don't already know.

Was there a relationship between the presentation of an edged weapon and a firearm, the police firearm?---Sorry, can you say that again?

Were you taught to do anything with your firearm, your Glock, when presented with an edged weapon?---Well there was – back when I was doing the training, there was a phrase that was used of "Knife equals gun." And what that means is you can draw your firearm if you deem it necessary, but it doesn't mean that you have to draw your firearm. But you do have that option, because a knife can obviously be a lethal weapon, if that person is in close proximity to you.

So you understood knife equals gun to mean you have a discretion to draw your gun, but - - - ?---Yes, it doesn't automatically mean you draw your firearm if you see an edged weapon.

Can you remember that phrase "Knife equals gun" actually being used during police training?---It was used by the trainers when I was going through recruit training, yes.

Did you hear other officers use the phrase from time to time, during your early career as a police officer?---During our requalification's it was used, on occasions, yes.

By whom?---Instructors.

Okay. So going back to those early days in Alice Springs, you were just about to turn 22 years old I think?---Yes – or sorry, I was 22 in Alice Springs. So I turned 22 a week into my training.

Okay, so you were 22 by the time you were on the job in Alice Springs?---Yes.

What kind of duties were you performing in Alice Springs in the very, very early days?---So it was a range of duties. So we called it general duties. But we were swapped through front counter, communications. Back then, the Alice Springs Police Station ran their communications. So radios and answering phones out of the police station. And working in the Watch House, as well, as well as front line general duties in a marked police vehicle.

Can you remember what the average age was of the Alice Springs Police Station generally? Would you have been one of the younger members - - - ?---No, there were people younger than me. I seem to recall we had a – maybe an 18 or 19-year-old in recruit training. But there's also some older people as well. But generally speaking, the older people who had families were allowed to stay in Darwin, and the – the younger probationary constables came to Alice Springs.

I think you said that when you went through the college there were two squads of 27 or thereabouts. So a little over 50?---Yes.

Can you recall how many of them ended up stationed to Alice Springs?---So it was about, out of the double squad, there was approximately 33 people. 33 of us came down to Alice Springs all at once.

When you were called out to jobs, front line jobs, did you go alone, with a partner, with a number of people?---No, so you're generally partnered with a senior police officer. Usually a first class or senior constable. And on occasions there was a vehicle of three police officers.

Those senior constables, would they supervise you or - - - ?---Yeah, so they were called your senior partner. The supervisor's generally the patrol group sergeant.

Would they provide advice or instruction or - - - ?---Yeah, so it's – during recruit training, you get taught the theory and legislation and policy. And once you get out on the road, as we call it, that's when you – on the job training, and you're putting all that learnt theory into – into practise, and the policy into practise. And the job of the senior partner was to guide and mentor the probationary constable. And there was usually a book that had to be filled out with core competencies to allow you to come off probation.

And they would fill that book in? They would assess and report back on - - - ?---Yeah, so different – they had different sections. I still believe it's – there's something

similar in existence nowadays, but your basic, you know, file preparation, prosecution file preparation, statement taking, electronic record of interviews, exhibit handling, that type of thing.

Would they provide any guidance to you on general interaction with the people you were policing, say a child or - - - ?---Yeah so they would – one thing you don't – you really can't get taught in recruit training is how to talk to people, and again, I'm going back to when I was in recruit training. So things may have changed in the last 27 years. But the senior – you take cues off your senior partner on how to talk to people. And then you can put that into – into practise yourself.

And back in December of 1995, when we say people, the overwhelming majority of them would have been Aboriginal people, is that right?---Yes, yes, but you also – using your verbal communication skills to – to talk to all sorts of people, of – you know, victims of crime and offenders. But predominantly they are – they are Indigenous people.

Would – would the senior partners provide any guidance regarding communicating with local Aboriginal people?---Yeah, so you took cues off them, and watched how they interacted with them, and how they spoke to the local Indigenous people. And whether they were intoxicated or sober, obviously it's a different way of communicating. And I learnt quite a lot from my senior partners. I had a wide variety of senior partners, over a period of a few months.

What kind of things did they teach you about speaking to Aboriginal people?---Just being – being respectful. And they've got a – sometimes they – it depends where you are in the Northern Territory, it might be a Pidgeon English type dialect, and just a different way of speaking to them. The – and if they're intoxicated, you know, you don't want to talk down to – to people, but get on their level, and get out of a vehicle, rather than – if there's a group of people sitting down, talking story or you know, sitting in a group, and rather than stay in the vehicle, and you know, say oh come over here, you get out your car and go and interact with them and – and talk with them, and find out, just, you know, what they're doing, and how their days going, things like that.

You mentioned a moment ago that one of the roles of the senior partner was to I suppose, audit your performance - - - ?---Yes.

- - - in those early months, and fill out the book. And you mentioned that some of the things that they would assess were file preparation, EROI's, I'm assuming use of force?---Yes, yes, so how you effect an arrest, and you know, obviously make sure it's a lawful arrest.

As best you can recall, was one of the assessment criteria, or did one of the assessment criteria involve respectful communication?---Not that I can remember, no.

As best you can recall, did one of the assessment criteria involve interaction with Indigenous people? Cultural competency?---Not that I can remember, no.

Was it a bit of a culture shock, as a 22 year old from Adelaide, who worked in McDonald's?---Yeah it was – was for me, and for a lot of people. There were some local Territorians from - from Darwin and Tennant Creek but yeah, for me personally, just moving to Darwin was enough of a culture shock with weather and going from a winter's day in Adelaide and arriving in Darwin on a - well, it was a nice dry season day but it was hot for me.

Was there any formal debriefing for young police officers who had just started policing in Alice Springs who might be experiencing some culture shock or struggling to adjust?---Not that I can remember. We all kept to ourselves, like we were all really good friends because we were in police training together so we'd socialise with each other, go to the Police Club.

Did people ever talk about feeling exhausted or even traumatised by the work that they were doing?---No, we were all really - really excited about being police officers so no, we were all, you know, really happy to go to work every day and every day was a new day and new jobs and a lot of us even wanted to go out bush. There was - I think there was a line up of people wanting to experience working in a remote community.

Do you think that's changed over time?---Yes, it has. Remote - working in remote communities as a police officer or even you know, a teacher or a nurse isn't for everybody. They're - it's a lifestyle choice. Obviously the remoteness can be an issue for some people, lack of services or shops can be an issue for some people but also for - speaking about police officers, we've - they've got families with children that need to go to middle school or a high school, remote community policing is probably not the best for them.

I will just go back to the topic of supervision and supervision by senior partners, when we had a conversation the other day preparing for today, you said something I wrote down. It was "We were very lucky in that era"?---Yes, that's - yes, we were. There was a lot of senior - what I would call senior police officers, so first class and Senior Constables that had been in the NT police for, you know, anywhere between four to ten years and they had a lot of - you know, a wealth of experience that they were able to impart on all their - you know, the 33 junior police officers that went down.

Do I take it that the flip side of that is that over time the constabulary in Alice Springs might've become more junior?---Well at that point in time there were 33 probationary constables all at once that came to Alice Springs so it was quite a junior - considered to be - the workforce you know - the police officers didn't have that much experience but we were lucky where we had the ability to look up to those senior patrol - well, senior members as we call them.

While you were policing in Alice Springs, apart from the involvements that you were having with Aboriginal people as a police officer, were you interacting with Aboriginal people in another context - socially or - ?---Yeah, playing sport there was a police rugby team and AFL teams so a lot of guys played AFL or rugby and playing with and against Indigenous people.

Do you think it's important for a police officer who is going to police in a community that's - if not overwhelmingly then substantially populated by Aboriginal people that they have a balanced set of interactions with Aboriginals?---Definitely - definitely and even going - going to a licensed premises and interacting with them there.

Having a beer?---Yeah.

Now, your evidence was that you moved to Yuendumu in July of 1997, I think?---Yes.

Why did you go?---I was one of those probationary constables that was knocking down the door of the OIC wanting to experience something different than Alice Springs and just to see a bit more of the -you know - a kid from South Australia, I just wanted to see a bit more of the countryside and to go to places that other people would not ordinarily visit, off the beaten track, not tourist destination, that sort of thing and that type of police work appealed - appealed greatly to me.

When you say "That type of police work, what do you mean?---Just community policing, getting - getting to know people, finding out a bit about the Indigenous culture.

And now when you moved there you were relieving for the first few months, is that right?---Yes, that's right.

Okay, but you decided to stay on?---Yes, I applied and - for a permanent position and won that later on in '97.

When you started as a police officer in Yuendumu was there any induction - induction to community policing or to the community of Yuendumu?---So back then it was made up - the station was made up of a sergeant, two constables and an Aboriginal Community Police Officer.

I will just pause you there. What was his name?---He's passed away so I'll just call him Jabirula - or Mr Curtis - he's Derek Williams' uncle.

I'm sorry, I interrupted you?---Yep. Sorry, what was the question again?

Induction?---Yes, yes, so the sergeant generally was the one to show you the ropes of the community and introduce you to the stakeholders, so the clinic, shopkeepers, the town clerk, they were - we had them back then and - and the ACPO, Jabirula, he'd take you round to all the - show you the cultural sites where you know, you

can't go and give you a quick run down of what not to do and what to do and those types of things.

Can you recall what some of the dos and don'ts were?---Well there's - in all communities there's a men's area and a women's area. Obviously can't go to the women's area and men's area if there's ceremony on you stay away from that. If there's a men's initiation going on, that type of thing - stay away from that but he also showed us the cultural sites that we could - rock art and that type of thing that once we got to know him, myself and another police officer I was there with, he was able to show us - he wanted to show us his country, he showed us where he was born and things like that.

During that introduction as he was showing you around the community, was he also introducing you to people?---Yes, so the community Elders, both male and female, introduced us to them and to his family. He had two families, he had family in Yuendumu and a family at Nyirripi.

Did he say why he was introducing you to the Elders?---From what I can remember it was more of a - you know, "These are the senior people in the community" so if you have a problem, if he's not here and you see them and you have an issue then you can ask them and they'll try and point you in the right direction.

Do you think community policing is different to policing in an urban centre?---Very much so.

How so?---So on a - an Aboriginal community you get to know the people - the different family groups. You get to know their problems, what issues they're having and problems with their children but you also get to her the good stuff. They tell you about their dreaming. A lot of them do - when I was there, were - were artists. And they loved to tell you their dreaming. And show you where they're from. And you don't get that level of interaction in an urban environment, because you're going from job to job. You're getting despatched to - to jobs constantly. And you don't get that opportunity to stop and smell the roses, I suppose. It's a good way of putting it.

Do you think that once you became a community police officer, you started experiencing different parts of - or parts of Aboriginal life that you hadn't been exposed to in Alice Springs?---Definitely. Again, you know, it's Jabirula took us to - showed us some places, some cultural spots, that we needed to know about, because we - as - to assist them, we had to protect them as well, you know, from prying eyes from tourists and that sort of thing. But he would tell us a story, and share with us his - his - his experiences as an Aboriginal Community Police Officer. Because he'd been - before he was an APCO, he was a - they were called trackers. And that's where they would look for lost people and find - you know, that - he could - he could tell you what animal had been in that path three days ago. So getting that level of interaction with him, was - you wouldn't get that anywhere else.

These conversations that you were having with people, artists who tell you their dreaming, just normal social interactions with members of the community. Did you

see them valuable to your work as a police officer?---Oh I think so. It built up a repour with them. They got to know us. We got to know them. So you know, they could feel that they could come to the police station if they had an issue. Just because they – having said that, just because they've interacted with us. You know, there might be other issues why they can't come and see the police, but we would see them down at the shop when we're out of uniform. Because the – that's how we bought our – all our groceries, from the – there was only one shop then. And my then wife at the time, she – she was working in the community as well. So she was working for Warlukurlangu(?) Artists, and Warlpiri Media Organisation. So then I got to know the people that she worked with, out of – you know, as a – as in seeing me as a police officer when – if I wasn't in uniform, but they'd just see me as – as her husband.

You mentioned a moment ago that when Jabirula introduced you to people, he said something like, you know, these are people you can talk to if you need some information or need some help. What kind of things would you involve Elders in, in that way?---Matters – cultural issues. Again, you know, people using for instance, men's area to escape and hide from police. And you can go, you know, if you put – you know, finding out if you need permission to – to go there and usually they'll say, no that's okay, you can – you know, if they're trying to run from police, you can go there, they shouldn't be using a – a ceremonial area to – to hide from police. But also if Jabirula wasn't there we could – if we were looking for somebody, they might know if a certain person is there. But also what – I mean Jabirula would be the person we'd speak to about men's business and that – that type of thing, when that was happening. Because we needed to be aware when that was going on. But if he wasn't around, then – if he was on holidays or something like that, then we could go to those senior Elders. Usually the men, because the women – because it's a very male dominated society, and men – the women don't really like talking to male police officers, but were a bit more comfortable with female police officers, but in my experience, the – we'd go to the men, rather than the women.

If you're ever having trouble with someone in the community, let's say a young man of 22 was getting into strife. Is that something that you would raise with Elders?---Depends what they're doing, but generally speaking, once they're – once they're an initiated man, it becomes a little bit different with what they can do. They can – they are really good with the – well, again, 20 – talking 25 years ago, they were quite good with the youth. Because back then we had issues with petrol sniffing. And that was when the Mount Theo Program was being developed. So they Elders would – before the court system would bail the youth offenders to Mount Theo, the Elders stepped in, and took them out there, just to get them away from the community and try and break that cycle of – of sniffing.

Andrew Stajinowski(?) was - - - ?---Yes.

- - - running Mount Theo at the time?---Yes, yes.

And you didn't ask a young kid permission to go to Mount Theo? You – the Elders just took them?---Yeah that's right. They – they removed them from the community,

obviously with the – to get the parents on board, the family on board, and generally speaking by that stage, the parent's probably had enough because the kids were out all night sniffing. And obviously they knew the – the parents knew that sniffing petrol was a bad for – you know, it was bad for their health, and just to break that cycle, the – the Elders would take them out to Mount Theo, and do hunting. Hunt – take them hunting. But also I think there was – they were developing a school at that point in time. Getting funding to – to them educate them as well while they were there, rather than just sit around do nothing.

And a relatively large number of community members were involved in setting up Mount Theo, is that right?---Yes, that's right. It was the – I think it was Peggy Brown's land, Mount Theo. It was her and some other family groups. That was their – that was their country, and it was – from memory, it was about 130 kilometres in the Tanami Desert. So up towards the Western Australian border. So it was quite isolated. So they couldn't readily – they couldn't just walk back to Yuendumu. They needed to be – to be driven in and out. So they – bit like a camp. But it was an outstation prior to it being bit more of a developed place for them to dry out.

What other ways of disciplining kids did you observe in Yuendumu, in the 1990's?---There was physical punishment of children. Never witnessed it myself, but Jabirula used to tell us if they were breaking into the shop, and that was, he said – you know, that was – that was one of the things I learnt, that that was how his culture, they dealt with misbehaving children. And also with adults, there was the tribal payback. That was prevalent in the 90's as well, and still is today.

Were police ever involved in that, or you're just aware of it?---We – we tried to keep away from the – especially the tribal payback. Because that can become problematic with us being seen to condone assaults. But it was one of those things where it – it was going to happen regardless. So you need to – and I know the clinic were front and centre with making sure that no one was seriously injured. But from a police perspective, we couldn't be seen to be condoning that, which we don't. But it's – you know, that cultures been – that sort of things been going on for you know, thousands of years. So who are we to – not prevent it from happen – but you know, stop it from happening when we knew it was going to happen, either out there or in Alice Springs.

And just to deal a little further with disciplining the kids, lawful correction of a child is lawful in the Northern Territory within limits?---Yes, that's right.

Did you have a sense of whether or not a kind of corporal discipline was effective in controlling kids in Yuendumu, that you noticed?---It was a mixture of the punishment, but also shame, shame job. They didn't like to be shamed with the other families and it brought shame to their family, because every time there was a break in at the shop, for instance, they would close the shop and the Elders would round up the offenders and parade them in front of the community, get them to clean up the mess they'd make and shame them into, you know, hopefully not committing further offences. Because they were just basically breaking in to steal food and that sort of thing, just stick to food and drink.

And did you have the sense that young kids like that respected the Elders when the Elders said, this is the punishment or - - -?---Some did, but many didn't.

You've also served at least twice in Yuendumu. Is it more than twice?---As a relief?

I know you've served in – you served in 1995 and in 2019?---Yes, yes.

Have you served in Yuendumu at any other point in time?---I may have been there on another relief capacity, so just for a few weeks.

Maybe you didn't serve there long enough on the latter occasions, but do you have any opinion on whether or not the ability of Elders in a community like Yuendumu to discipline or control children has changed over time?---My experience has been that the Elders have – or yes, there is – when an Elder passes away, there's another Elder that comes up, but those Elders from when I was there in the nineties, they seem to be not there anymore. It's a different way of dealing with it. And sometimes, they can't – they feel like they can't discipline the children because then, their families, their parents, will get upset and then community fighting starts, because they feel like their kids are being picked on by the Elders from another family group. So, I think they feel a bit powerless.

Back in the 1990s, would many of the positions of, you know, responsibility in the community like on the council, in the school, would they have been occupied by Aboriginal people?---Yes, so they had a community, the structure of the council then was a town clerk who was a Caucasian person. But then, under that was a community government council, so a group of elected Elders within the community and they would meet, have like a council – a town council in say Alice Springs or any other place. So, the town clerk, I suppose you could – he was the business manager, then they had a council president and I suppose, he'd be what you'd call the mayor and they were all made up of Indigenous people, of local – like the Elders and other people elected.

And that council made decisions about things of actual practicable importance in the community?---Yep, so at every meeting, the sergeant would go to the meeting, the police sergeant at Yuendumu, and they would discuss – he wouldn't be there – he or she wouldn't be there for the entire meeting, but there'd be a slot for the sergeant and then they could discuss law and order issues and other issues that they thought the police could deal with. And that was usually once a month, I guess.

But they also made decisions about things like housing?---Yes, so housing, they were – had housing committees, so they would decide who gets what new house or that type of thing. So, sometimes there were community arguments about that sort of – those issues, but they decided all that sort of municipal undertakings. But also things like if a window got smashed, the council had the infrastructure and skilled workmen, often Aboriginal workmen, who could go out and fix the window?---Yes, yes. So, there was a – when I was there, there was a position called an "ESO", so it's the essential services officer, and he – when I was there, he was a Caucasian

man, but he had Indigenous people working under him and he was training them to fix the power stations, the TV. So, we had – the TV was rebroadcast to the community. So, if during the middle of the football, the TV went off, then one of those workers would go and switch the satellite receiver dish back on and yeah, get the football up and running again. But there was also mechanics there, they had people working there. But it was a reasonably self-sufficient community back then. And I'm led to believe even years before I was there, there was a bakery and market gardens there. But they weren't in existence when I had moved there.

I'm correct, am I not, that the position is very different today?---Yes, yes.

And you would be aware that in 2007, many of the central region local councils were amalgamated into what are now known as "super shires"?---I understand that was the case when I went back, but I don't know what year that was.

Are you aware that many of those super shires now stretch, in the case of Yuendumu, from the Western Australian border all the way to the border with Queensland?---Yes, I'm aware that there's some big areas of land that they cover.

So, whereas local Aboriginal people could make decisions that affected their community in 1995, now they are not responsible for making those same decisions in Yuendumu?---I don't think that's – yeah, I don't think that's the case at the moment.

Do you think that the evidence that you gave about the change in the levels of respect for Elders in community might have something to do with the fact that those Elders are no longer empowered to make meaningful decisions about the community?---I think that's got a lot to do with it with, but also society; mobile phones and social media; YouTube; TikTok, moving towards more what you would call an American-style society in a lot of these communities where there might be some – I'm just trying to think of the word that – I can't think of how to describe it, but it's moving away from culture from that traditional culture and but you're right, the Elders also probably are feeling a little bit disempowered because they don't have that local control as well.

Can I ask you some questions about arrests in community?---Yes.

Is there such a thing as a good and a bad arrest?---You probably need to provide a bit more context to that. A good arrest can be, you know, you arrest someone for a murder at a murder scene. They've just committed a murder perhaps or, you know, shortly after a murder, so it depends what you mean.

I think that's my fault. Are there particular times of day in community that you would try to arrest people or would it make no difference?---It all depends on the person that you're trying to arrest. I've been involved in arrests where in the 90s when I was in Yuendumu, arresting a particularly violent offender and we used the - an early morning arrest at his home and while he was still in his swag and handcuffed him straight away before he even had a chance to realise what was going on.

And what is the theory behind the early morning arrest?---Just the element of surprise and catching them off guard.

Are there other reasons why you try not to arrest people later in the day?---Again, it depends on who we are arresting. It can be that an arrest may take a file - a prosecution file if it's not already done, may take some time to do and then that person ends up in the cells in the watch house for a long period of time and they usually know when they're going to get bail or if there's a presumption against bail or for bail, so you can plan the arrest if necessary but at times there's no such ability to be able to plan for everything and so it all depends on the situation.

What about the people you involve in arrests? Let's forget the urban context for a while?---Mm mm.

And just focus on arrests in community. Would you ordinarily try to involve an ACPO in the arrest of an Aboriginal person in community?---If an ACPO was around, but it's not necessary all the time. We've got to be mindful of that person and their - whether they know the family or have, you know a poison cousin or they just don't feel comfortable being part of the arrest because they don't want to be seen to be taking sides within a community. Yes, they've got a job to do and they know that they have to try and do the job as best they can, as impartially as they can, but with Jabirula, I always used to ask him if he wanted to be part of an arrest and it was up to him whether he would accept or not and I would respect his wishes at all times.

You kind of touched upon what I call "conflicts" or "avoidance relationships". Were there other reasons why you wouldn't always include an ACPO in an arrest?---If they're available. As I said before, managing their own fatigue as well. Jabirula, he lived in the community and I've got no doubt that - well, I know for a fact, you know, he had people coming knocking on his door sometimes at 2:00 and 3:00 in the morning and wanted his assistance, so we may not have been aware of what was going on or he had to go and stop a fight when he wasn't necessarily on duty, so we had to manage his fatigue levels but also he had his other family at Nyirripi so he would sometimes go there so he wasn't in the community.

Would you ever involve family or Elders in an arrest?---More so for youth we would involve the Elders in the arrest of the youth. People have a right to their privacy so an offender who we need to arrest because he is beating up his wife, and committed assaults or what have you, they've got a level of privacy that we need to respect so generally speaking, for adults you wouldn't necessarily speak to the Elders about it - and the other issue is that there's always that risk of the Elders tipping off the family that we're trying to arrest a person.

Can I ask you some questions about your use of force now. Have you ever drawn your firearm?---Once, yes.

What were the circumstances?---If my memory serves me correct it was here in Alice Springs, I was a probationary constable and the senior partner I was working with,

we were - there was a group of perhaps five or six of us including a couple of detectives and we were assisting them in executing a search warrant for a handgun that was inside a house and just before we entered the house my senior partner said, "Take - draw your gun and put it at the guard position" so that's pointing down at the ground - because the offender was known to be armed with a hand gun.

Have you ever been in situations where you've been - leaving 6 November to one side - but have you ever been in a situation where you've been presented with a weapon by someone?---Yes, several times, yes.

Edged weapons?---Yes, edged weapons, spears, a couple of spears, rocks, had someone armed with a camshaft once and star pickets - so star droppers - fencing - fencing posts.

Maybe it's difficult to answer the question collectively but why didn't you draw your firearm?---On those occasions I knew after working there for some time I knew that there was a show of force from their part, trying to show us that they're touch Warlpiri men and generally speaking these offenders were males and brandishing a weapon is their way of saying that to you that - and also showing force, you know, showing a - showing that - showing their family that they're also tough and protecting their family.

So I take it that in order to make an appropriate decision about use of force including the use of a firearm you need to take into account all the relevant circumstances? ---Yes. The - whatever the weapon that's been presented, no-one has ever pointed a gun at me. A gun would be a different response, but the weapons that had been in my career, they were - if utilised, would have been lethal potentially but they were never swung or thrown or - it was just in a threatening manner, just threatening that - "Don't come any closer to me" and as I said, just showing their family that - and the rest of the community - that they're touch.

I suppose one of the circumstances on those occasions that you did take into account was the culture of the people you were dealing with?---Yes, and I knew that they didn't want to hurt - didn't want to hurt me and sometimes there was no other people around, so it was just us talking to them and saying, "You know, you don't wasn't to be silly" you know, "You don't want to go to gaol" but other times it was other family who were there and telling them that "You should put the weapon down, you're being silly" and they disarmed themselves or just ran away.

Do you think that it's essential that police officers who police in community have an awareness of the cultural identity of the people they are policing when making decisions about the use of force?---Yes. It certainly helps, yes.

Have you ever drawn your Taser?---No.

OC spray?---I've drawn it but I haven't - haven't used it.

I want to ask you some questions now about Kumanjaya Walker?---Mm mm.

Now, in your first written statement, this is 14 November 2019, you said that you'd dealt with Kumanjayi on one prior occasion?---Yes, that's correct.

And that was an arrest with Chris – sorry, with Lanyon Smith and Leilani Weathers?---Yes, that's right.

Now, can you remember the date of the arrest?---March – 18 March 2019.

Could it have been 19 March?---19 March, yes.

Pretty good memory. Can you remember the time of day?---No.

Can you remember anything about the arrest?---I remember it's – was really low key, and he complied with – I was – I was outside, and Senior Constable – Constable Weathers and Senior Constable Smith went inside the – the house. They'd had information that he was there, and I was just there to – to assist them, if there was any – any problems.

And can you recall seeing him as they emerged from the house?---I – yeah, can't remember, but I think they had him in handcuffs.

And you certainly can't remember any violence or aggression?---No, no, no, and I said, it was a – yeah, an uneventful, an incident free arrest.

Did you have any other interactions with Kumanjayi Walker?---Not that I can recall, no.

I want to ask you some questions now about the lead up to 9 November. In your first recorded statement, Detective Sergeant Kieran Wells asked you to cast your mind back to 6 November, which is the day of the axe incident?---Yes.

And to provide a narrative from that point. And your response was "Can I start a little bit earlier, because the week earlier was an important part of the context"?---Yes.

In what – on what way was the entirety of that week an important part of the context?---Just the level that the – the work load that we had. There was a football carnival at Nyirripi Community. From memory, there was a couple of police officers stationed there from the Southern Region Support Unit. And I think there was some community fighting over that way before I had arrived. Senior APCO Derek Williams and I, travelled across there one of the days. And the work load then went into you, you know, quite a bit of fatigue for – for some of us that were there.

And just to confirm the two officers who were stationed at the thema station in Nyirripi, were Mark Parbs and Felix Alephaio?---No, I think it was – they were at Haasts – I think they were at Haasts Bluff and then went to Nyirripi. But when I first got to Yuendumu, it was Senior Constable Sharp, and another officer.

Now, on 4 November Sergeant Frost sent yourself and Derek Williams to Nyirripi?---Yes.

Can you recall whether that was an eventful day? Whether there were any arrests or - - - ?---No, it was a quiet uneventful day. We drove around the community and made sure that the football games went off without a hitch, and ensured there was no community disturbances.

The 5 November, however, you described as “long day.” Why was it a long day?---From memory, there was an arrest that the Nyirripi members had – a domestic violence offender. And that he got remanded into custody, and Derek and I had to transport him into Alice Springs.

So I'll just go through that in a little bit more detail. On the fifth, you started at midday, is that right?---I think so, yes.

And would ordinarily have finished at 8 pm that day?---If it was an eight hour shift or – yeah, at 2200, it was a 10 hour shift.

Now, do the thema stations have computers?---Yes, they do, but they're run on a satellite system. So they're not fibre optic, so a slow – a slower system.

Okay. Following the arrest, who ended up doing the paperwork for the prosecution file?---I think I did it.

At the Yuendumu Police Station?---Yes, yes.

And then you did a half way meet with the Nyirripi members to pick up the offender who was then in custody?---Yes that's right.

And can you recall whether you drove them all the way into Alice Springs, or did you do a half way meet?---I think we were supposed to do a half way meet, and if my memory serves me correct, the police officers came from Alice Springs, they went to Papunya for some reason instead of coming and meeting us. And Derek and I ended up, by the time we figured out what was going wrong, we were – we might as well go to town, so. And shouted him KFC when we got there.

Derek, or the man in custody?---No Derek, oh he – he got some food as well.

Can you remember what time you knocked off on 5 November?---Be around midnight, 12:00 – 12.30.

But certainly many hours after you would have finished - - - ?---Yes.

- - - if you just worked your normal roster?---Yes.

Is that normal for a community like Yuendumu, to end up working, three, four, five hours - - - ?---It can be yes, it can be. Yuendumu is a – a quite a busy place, and a

lot of competing priorities. But when people get remanded into custody, we have to take them, you know, into Alice Springs, before the – the next available court.

What was your level of awareness, if any, on 5/6 November, of the level of property offending that was going on in community at that time?---Yeah I heard that – and Yuendumu was always, even in the 90's had a level of – high level of property offending amongst the youth. And I had heard that there was some groups of youth going around, breaking into houses and the shop – the shop always gets – both shops always get broken into.

Now, in your first recorded statement, you say that on the sixth that you were called to duty at about midday. Does that sound right?---Yes.

And you described most of the day as being uneventful?---Yes.

But at around about 5.45, you received a call on the main Yuendumu line, that there'd been an unlawful entry at Luana Symonds house, do you recall that?---Yes. Yes, the clinic manager.

I missed that, Luana Symonds is?---The clinic manager.

Okay. And you attended?---Yes, with Senior Constable Smith.

Where are the nurses quarters, or the health workers quarters located in Yuendumu?---Where Luana is – I can't remember the name of that area, but there's sort of a row of houses, some distance from the clinic. But they're the only ones that I were aware of.

What kind of state was Luana Symonds in when you arrived?---She was pretty distressed. She was – she said it was the first time that her house had been broken into in her time at Yuendumu. And I didn't know her that well, but she said that you know, she was under the impression that it was a no-go zone for clinic houses to get broken into, that they – those houses shouldn't – you know, that it should be off limits from – from being broken into. But unfortunately on this occasion, it had been broken into.

And I think it's uncontroversial, but at around 6.25 pm, you then decided to go to House 577?---Yes.

I don't know if you know, but if you do know the identity of the person who provided the information to – please don't - - - ?---No I don't.

- - - say that person's - - - ?---Yep.

- - - name. But did you have a conversation with Lanyon Smith about going to House 577?---Yes we did.

And where did you have that conversation? Was it before you went to Luana Symonds, or afterwards?---No it was after.

Okay, so outside the house?---Yes.

Why did you decide to go then?---Senior Constable Smith told me he had some information from a community source that Kumanjaya was in the community. And Senior Constable Smith knows him quite well. And knows of him being a prolific property offender. Now we had no evidence that Kumanjaya had broken into the house. But he is known to be a ring leader, if you will, of younger people on community and get them to break into houses and a shop and steal on their behalf.

So, just to clarify, the lawful authority for the rest was the warrant that had been issued the day before?---Sorry, yeah, there was a warrant in existence, a warrant of apprehension. He had breached a court order and we – well I knew of its existence and Senior Constable Smith knew where Kumanjaya may be. And that's when we went to House 577.

Because you thought, although it didn't rise to the level of providing an independent basis for an arrest, you wondered whether there might be a relationship between what had happened at Luana Symonds' house?---That's right. And it's important to, if that was the case, that he was a ringleader, then it's my experience from when I was at Yuendumu in the nineties, to get that ringleader out of the community if we have obviously that – a lawful reason to remove them from the community and hope that that will prevent any further criminal offences. And I did process the scene at Luana Symonds' house and develop a set of fingerprints, which I believe were - - -

Can I just - - -?---Yep.

Just don't say that individual's name, if you wouldn't mind?---I don't actually know that person's name.

Okay?---Yeah.

I think there was some evidence from Senior Constable Smith about who that person was?---Right, okay. Yeah, I don't know that person's name.

Did you know, as you were having that conversation outside Luana Symonds' house with Senior Constable Smith that a funeral was then planned for the Friday?---No.

When did you find out about the funeral?---I think it was the Friday when Derek Williams wanted the day off.

Okay. And when did you find out that Derek Williams wanted the day off?---I think it was the – it was the Thursday or the Friday. I can't be sure, but it wasn't – I didn't know about the funeral on the Wednesday.

Had you known about the funeral on Wednesday, the 6th, would that have been –

would that have affected your decision to go to House 577?---No.

Would it have been relevant to the question of bail?---Most definitely. So, because it's a warrant of apprehension, that person is then entitled – you know, we'd say to them, well we need a bail review and ring up the on duty judge and then ask them the question, do you want bail? And if they say, yes I'd like bail, then we go to the judge. Call up the judge and ask them for bail for that person, depending on when the next Yuendumu court is or if they want them to go into Alice Springs.

And if you knew that a funeral was on, would you relay that information to the on-call judge?---Certainly. And the judge will always ask to speak to the person that's applying for bail and give them also the opportunity to tell them what's going on in their life, because we also do up a bail application sheet with all the details of their prior offending and any – how many warrants that they've had. And that's a ready reckoner to when you're talking to the judge as to help them make their decision as to whether they get bail or not.

Did yourself and Senior Constable Smith discuss what you were actually going to do at House 577? By that, I mean did you discuss how you were going to effect the arrest?---No. Senior Constable Smith knows Kumanjaji quite well at that point and I – he's a senior police officer. So, if there were any issues with violent offending against police, then I'd might expect Senior Constable Smith to advise me of that. But that day, it was – they classed it as a low level arrest.

Can you perhaps just tell me free recall of what happened when you arrived at 577?---Yep, so from memory, I was driving the police vehicle and we arrived out the front of 577 and I let Senior Constable Smith take the lead, because he knows the house quite well and the occupants very well. And the door is open and there's a man inside the door who I know to be Ethan Robertson, and Senior Constable Smith asked him where Kumanjaji is and Ethan points to the back of the house. And Senior Constable Smith that's – he said that's where he's – that's where he sleeps or that's Rakeisha's room and he's located Kumanjaji there before in that room. So, he knew where to go. And then he approached the door. It was locked. Actually, I don't know if it was locked, but he knocked on the door. It was shut, he knocked on the door a couple of times, and a person – I didn't know at the time who Rakeisha was, but I obviously do know now, and she opened the door. And then there was a conversation, you know, which – Senior Constable Smith shone his torch inside and I did as well because the room was in darkness and I didn't know where the light switch was. And he was – Kumanjaji was laying on a bed at the back of the room, had the headphones in his ears and Rakeisha was blocking our path inside the room. So, trying to get her to move out the way and she was in a mixture of language, Warlpiri language and English, telling him to go out the window because I could hear the word, "window", "window", "window". Anyway, Kumanjaji came up from the bed and I can't remember if it was myself or Senior Constable Smith, actually it might have been myself, told – you know, we want to put handcuffs on him and he said he wanted to talk to Lottie Robertson, his grandmother. And I said "No, we'll put handcuffs on you first and then you can go and talk to Lottie." And all the while, Rakeisha was still blocking our path and I said to Rakeisha, "You're going to

have to get out the way”, and she didn’t. And then I moved her out of my way so we could get to the – inside the room. I didn’t want to manhandle her or physically move her because that’s – can be quite disrespectful because I’m male and she’s a female, but also we also needed to get inside the room because Kumanjayi was there. And as I just moved her to the side, she cried out for her mum, I believe. And that got Kumanjayi angry and he said words to the effect of, “You fuckin’ hurt my wife” and I could hear a clinking sound of something hitting the concrete floor, and that’s when, with our torches, we could see and our eyes had also adjusted to the darkness a little bit, but Kumanjayi was holding a hatchet or a small axe above his head. So, it all happened very, very quickly and we retreated out of the room and I lost sight of Senior Constable Smith and I moved out into the – I’d call it a lounge area. I think it was a lounge area and Kumanjayi still had the axe and was holding it above his head in a threatening manner. He didn’t swing it at us. He had plenty of opportunity to hit us with the axe, but as I said before, you know, that’s the period where although initially, I thought to myself, I might be in a bit of trouble, but that was a split-second thought and then I knew that he wasn’t going to use it on us and I moved out the way and he – gave him a path to go to the door. But then he stopped at the door and I do recall grabbing his left arm, but I still knew that he had the axe in his right arm, in his right hand, sorry, and that he could have swung it, but - because I didn’t have the side of his right arm. So, I made the decision to release my grasp and he was struggling anyway, and then he ran out the door and dropped the axe on the veranda and I gave chase.

I might pause you there.

Your Honour, the witness has been in the box for almost an hour and a half.

THE CORONER: Yes.

MR COLERIDGE: Is now a convenient time?

THE CORONER: It is. We’ll take the short afternoon adjournment?---No worries.

WITNESS WITHDREW

ADJOURNED

RESUMED

CHRISTOPHER PHILLIP HAND:

THE CORONER: Yes, Mr Coleridge.

MR COLERIDGE: Sergeant Hand, I want to take you a moment, to the moment when you arrived at House 577. Can you recall seeing anyone outside the house?---No I don't remember there being anyone outside the house.

Can I put it to you that on the body-worn camera footage, one can see a woman outside the house?---Okay. That might be Ethan's partner.

Did you have anything to do with her?---That day, no.

No. Can you remember Senior Constable Smith talking to her?---No I don't remember him having a conversation with her.

Okay, could you rule it out?---No, no. There were lots of kids – there were kids in the yard as well, other – other kids.

I want to ask you a question about what Kumanjayi said when he was in the room. Which was, as I remember your evidence, "I want to talk to Lotti." Why didn't you want to let him talk to Lotti until you had the handcuffs on?---It's my experience that was a – a ploy to escape, to run away.

Did you know anything at that time about Kumanjayi and was he known to you as someone who ran away or - - - ?---I didn't know him that well, but I heard that he – he had run away at least once.

I want to take you back to the moment when you were standing in that common area, facing the doorway, while Kumanjayi was holding the axe. Why didn't you draw your firearm?---Several reasons. So as I said before about you know, just holding it in a threatening manner and try to make him to be in front of his girlfriend and family a powerful man, and a show of force to them, but also the – it was an enclosed area, and if I had drawn my firearm and fired a shot, I could have missed, and the round could have hit the besser block wall and become deformed, and could have rickashayed off and hit one of the children, or other occupants of the house. And at – it was fairly close range, and even a round could penetrate the body or a limb, and again, deform, hit the wall, or deform straight off a bone, or something like that, and hit somebody else inside the house. So I was well aware of the other people in the house, and that was a consideration of mine as well.

Are you given training about using firearms in enclosed spaces?---Yes.

Even at the beginning?---Yes.

Was that during your training at the police college or - - - ?---Yeah, so we're taught to be – be sure of your target. What's in front of it, but also what's behind it. And in this instance, I mean that's also to mean, you know, making sure no – no other people are behind, but around ricocheted off a solid brick wall, could ricochet off and easily struck somebody else.

Let's say you'd drawn the firearm and discharged it, but you hadn't hit another family member, is there anything else that concerned you?---So with the – if I'd – yes, if I'd shot him, and then I – we have to give first aid. And right there and then inside the house. And I was concerned, there's another consideration, that while I'm giving – or while Senior Smith and I are giving him first aid, other family members may have tried to intervene and got angry at us, and become violent toward us, and want to hurt us, because we'd just shot one of their family members.

What would it have meant for your relationship with Kumanjaya and his family, if you had drawn the weapon? Not shot it. Would it have meant anything for the relationship?---It's a – that's an escalation of force, by just even simply drawing a firearm. And the – that would have made the family very angry and upset. And there would have been implications, post – post that. Whether that be violence towards police, or – or other – or something else, you know, down at the police station, or running me out of town. Things like that. Because there is that level of – of trust. And these sorts of things are quite uncommon on communities where police draw firearms.

You gave evidence that Kumanjaya ran of the house and you gave chase. I'm not going to ask you any questions about the chase. You've given evidence about it in various forums. Can I come to the moment you returned to House 577, which was after chasing Kumanjaya away. As you were walking away from the men's area, you gave Julie Frost a call. Is that correct?---Yep, Sergeant Frost, gave her a call, and told her what – what had transpired.

What did you say?---I can't even remember exactly what I said, but just told her that we'd gone to 577 to arrest Kumanjaya, and during the arrest, he had picked up an axe that was inside the – inside the bedroom. And threatened us with it. We weren't hurt, and then he ran away and we chased him.

Was Sergeant Frost noticeably upset?---I couldn't tell over the phone, but she was pretty concerned that two of her officers had been threatened in this manner with – with an axe.

You then walked back to House 577 and then had a conversation with some people outside the house. Who was there?---Lotti Robertson was there. Rakeisha was there, and Eddy Robertson turned up later on, a few minutes later.

Can you remember what you discussed?---I said to – to Lotti that what Kumanjaya had done was really, really serious. And that – I said to her that he was lucky he wasn't – wasn't shot. If that had happened – a similar incident happened in Alice Springs, may have been a different result. And the police there may have shot him.

But impressed on her that we're community policemen, and you know, you know us, we don't use that level of – level of force.

And what if anything did you say about what would or should happen to Kumanjayi?--Impressed on – on her that he needs to come to the police station. He needs to give himself up. And voluntarily come to the police station. And that the family should make efforts to make that happen.

In your first recorded statement, at page 15, you say that – sorry I withdraw that. And what did they say, when you impressed on them that they should bring him into the police station?---Lottie was - she - she was concerned and, you know, she showed quite - because she was in the house at the time - so she was showed a fair bit of concern what had happened. Josie said to Senior Constable Smith that she was worried about him. She didn't know me that well. I do remember she gave him a hug because she was that worried about him.

In your first recorded statutory declaration at page 15 you say, "I thought this is - uh - this is a futile exercise unfortunately because - he's a 19 year old man, he is not going to listen to - his grandfather." First of all, do you recall giving that evidence to the police officers who interviewed you?---Yes, yes.

And does that accurately reflect your state of mind?---Yes.

Why did you, in effect, ask Eddy and Lottie to bring him in to the police station if you thought it was going to be futile?---It's about negotiation and giving them the opportunity to make amends and bring him in to the police station if they were - you know, they were genuinely concerned for - or Lottie was genuinely concerned for our safety during the time, she was a bit shocked by what had happened. But that's the - that's the - what I would say - the bush way - the bush policing way. The community - get the community to do as much as they can, as they are both community Elders, to get Kumanjayi to come to the police station. So we still need to give them that opportunity to hand themselves in.

Have you had any experiences where you've negotiated in that way and someone has handed themselves in?---Only for a very minor - very minor matters. Generally speaking, when people know - when offenders know they're going to go to prison, they're not going to voluntarily hand themselves in.

Given what Kumanjayi had just done, in your opinion would he have known he was going to prison?---He - without a doubt.

Now, I asked you some questions about whether or not you knew that the funeral was on at the time you went to House 577. Was there any discussion of the funeral with Lottie and Eddy outside 577 that evening?---I don't recall, no.

In that first recorded statutory declaration after discussing the kind of nature of the negotiation with Eddy, you say "Eddy could talk some sense into him or he could get another couple of men - couple of men and convince them to come to the police

station". Full stop. "But there was a funeral that weekend and, uh, there was some talk that yes, he was going to - he needed to go to that funeral." Does that suggest to the contrary, that there was some discussion?---Well, yes.

Can you recall anything of that discussion?---No. I know there was a discussion we had on body-worn, if that's the one you're referring to.

But you don't have an actual memory of discussing him that night?---No, no, no

You then went back to the Yuendumu Police Station, correct?---Yes.

And Julie Frost - Sergeant Frost called herself to duty?---Yes.

What did you say to her - or what was the nature of the discussion when she turned up at the police station?---Basically reiterated what I had told her over the phone and gave her a bit more detail of what had happened and then had the discussion - I told her about the discussion with Eddy and Lottie and Senior Constable Smith had seized the axe, so I probably would've shown her the axe.

Was she noticeably distressed - concerned?---Concerned - I wouldn't say distressed. As I said, she - she was concerned that - for our welfare that we'd just been attacked or, you know, been threatened with an axe and had a bit of a foot chase - not the fittest - a little bit older than I was when I was a junior police officer chasing after people.

THE CORONER: It looked very committed on the body-worn video?---Thank you, your Honour. Thank you. So yeah, it was more concern out of our welfare, making sure we were okay but you know, disappointed that her officers would be attacked in that way.

After regrouping at the police station you then returned to House 577, is that correct? ---Yes.

And you were present during another conversation with the residents of House 577? ---Yes.

Can you remember who was there?---Rakeisha, Betty Robertson and Lottie Robertson, they were the only people that I can recall being there.

And from the police station yourself, Julie Frost and Lanyon Smith, is that right? ---Yes.

What was said?---Sergeant Frost was reiterating to Eddy and Lottie basically what we had said, that it was a really serious matter and that Kumanjayi needed to come to the police station and they needed to assist him in doing that - him going to the police station to hand himself in because we didn't want any more - any people - well, we didn't want - no-one was hurt but we didn't want any people to be hurt.

In that recorded statutory declaration at page 17 you say that "Sergeant Frost delivered this news in a reasonably forceful manner"?---Yes.

Was it noticeable, the manner in which she - - -?---She wasn't yelling at them or didn't have a raised voice, but a stern voice and imploring on them that - you know, reiterating to them that it was serious and I think they - well, they knew that it was serious, especially Lottie because she witnessed it and that he needed - Kumanjayi needed to hand himself in at the earliest opportunity.

Can you recall what, if anything, Sergeant Frost said would happen if Kumanjayi didn't hand himself in?---Something about getting extra resources from Alice Springs.

Can you recall what, if anything she said about - sorry, whether she said who those resources would be, what type of police officers?---No, I think she did say the - the police dog and dog handler but nothing about any other - just extra resources.

What did she say about the dog handler?---Just that in our experience Indigenous people at Yuendumu, I had a dog many years ago, a Rottweiler and they didn't like my Rottweiler - it wasn't a camp dog but they call them "Cheeky dogs" so it's like a police dog is a cheeky dog and the word "cheeky" is often used in communities like Yuendumu - it means dangerous - not cheeky. Yes, cheeky - bitey dog.

What, if anything, did she say that the dog might do?---I don't remember her saying anything about what the dog would do.

All right. That evening, on 6 November, did you have a conversation with Julie about the reinforcements, whether at 577 or back at the police station?---It was just in response to - because - so the staffing levels at the time, so Senior Constable Smith was due to have a day off on the following Friday. Constable Weathers was already on days off and so that would've just left - if Kumanjayi hadn't have handed himself in - and that's what we were trying to do - get himself to hand himself in - before that time, then extra resources - and she didn't specify from where or who, would come - would need to come and assist us if he hadn't have handed himself in by that night or the next day.

The next morning, Sergeant Frost and APCO Derek Williams returned to House 577. Is that correct?---Yes, that's right.

And yourself and Lanyon Smith, you attended in a car, but stayed in the car. Is that right?---Yes, out the back of the house.

Okay. And why did you do that?---On the off-chance that, as Derek and Sergeant Frost approached the house, if Kumanjayi got spooked and ran in the same direction as he did on the Wednesday.

Following the attendance on the 7th, well you say this about what happened after the attendance on the 7th, "I wasn't present for the conversation at 577, but evidently, he wasn't there. I think Frost told me - told myself and Smith that - ah, um, from Eddy,

he wasn't there. He hadn't returned. So, Frost was talking about getting – she was going to speak to her boss about getting some other extra resources into effect the arrest.” Do you recall that conversation between yourself and Sergeant Frost and possibly Smith?---Yes.

And can you recall what she said about the resources she was going to call in from town?---She didn't specify how many resources or what resources. She was going to discuss that with her boss, the superintendent, or where they were going to come from.

Did she say anything about the purpose of calling in reinforcements?---The purpose was to assist with the arrest. I made it known to Sergeant Frost that I didn't want to be part of the – any arrest team. So, that was another person that she couldn't utilise because of a conflict that I would have had, as I was technically a victim from the axe incident and that I thought it not appropriate that I be apart of the arrest team in case I had to use force and that could be seen as I had some bias against him because he came at me and Senior Constable Smith with an axe.

Okay. Are those types of conflicts the subject of a police policy or is this something that- - -?---It's something that I have learnt throughout my career. It's sometimes – if you're in a two-man station, a two-person station, you may not have that luxury. Having said that, I would, if I was a member at a two-person station and that similar incident happened, then I would certainly tell my boss that we shouldn't be involved in any type of arrest of the offender, because we're also victims and we're leaving ourselves vulnerable to complaints of excessive use of force.

And that was something that you suggested to Julie?---Yes, that's correct.

Okay. If I put it to you that that conversation occurred on 8 November, so the Friday, could that be correct, or do you think it was the Thursday?---Yeah, it could have been the Friday.

Just quickly going back to the conversation you had about the plan on the 7th, you said the purpose of the arrest – sorry, the purpose of the deployment was the arrest. Was that the only purpose Julie was talking about getting the resources in from town for at that point in time?---Also to give us, the Yuendumu members who were remaining, so myself and Sergeant Frost, some respite because of the heavy workload during the week and the call outs. And there was also some disturbances, some family fighting at Nyirripi that were – that I mentioned before during the football carnival. So, it was the purpose was three-fold to have extra resources in Yuendumu.

By that time, you knew that there was a funeral planned for the Friday. Is that right?--Yes.

Did the funeral have anything to do with the resources that you might need during the weekend?---Potentially, yes.

As far as you knew, did any of the community members in Nyirripi intend to come over for the funeral?---I believe once the football had finished, that some people were going to come over. Not everybody, but some people that were – needed to come to the funeral.

What, if any, effect might that have had on the Yuendumu Police Station's policing requirement?---So, Yuendumu can have, at any one time, you know, between 600 and 800 people in the community and if during sports carnivals or funerals or concerts, you know, you can have another 50 to 100 people, possibly more, depending on other places where people are coming from for that particular event.

I want to ask you some questions now about the night of the 8th November into the morning of the 9th of November?---Mm mm.

Is it fair to say that by that point you were already pretty fatigued?---Yes.

Not just from the axe incident, but also from the axe incident?---Yes, so mentally fatigued from the axe incident. So, Senior Constable Smith and I were on call that night after the axe incident, but there was no call outs that evening, which was good.

I think in fact, in your recorded statutory declaration, you said "That was lucky"?---Yeah, yep, no that's – it was pretty fortunate.

The night of the 8th into the morning of the – sorry, the night of the 8th into the morning of the 9th, well it was a different sorry, wasn't it?---Yes.

You were called out on three occasions?---Yes.

Now, the first call out was at around about half past 12:00. Can you recall that?---Yes, I think it was a domestic violence incident in Yuendumu.

Had you actually gotten to sleep by that point?---I can't remember, actually.

How do the call outs work? Do you have a mobile phone next to the bed or - - -?---Yeah, so there's a station mobile phone that we share around. So, either the OIC makes up an on call roster or we just decide whoever is available and is happy to do a call out. So, the person who has the mobile phone would then know to ring that other member. So, if there's an incident that we need to – or gets reported to police, so it goes to the police communications, so either 000 or 131 444, and the call taker will note down the job of what's occurring and depending on what type of job it is, it will go to the COMMS communications supervisor, who is a sergeant, and they will make a determination if it goes to the – they'll have a look at the roster and if – where the members are off duty, then they will give it to the Territory duty superintendent for review and they will have a look at the job, look at the parties involved, if there's enough information, and even potentially ring back the complainant to see if police are still required or the level of urgency for sending police, if we're off duty. If we're on – if we're still on duty, then that doesn't occur. So, any recall to duty is approved by – generally approved by the Territory duty

superintendent or can be the watch commander as well, the senior sergeant. And then, once that's approved, the remote area supervisor will then contact the particular station on their mobile phone, on the station mobile phone, and give them the brief details of the incident and tell them that a call out is approved by the duty superintendent.

And if the duty superintendent has approved the call out and you get the call, there's no discretion, you go?---That's correct. So, he or she is the superintendent and it's a lawful direction.

And what happens then? Do you need to go into the police station? Do you go straight out to the job?---No, so go to the police station. So you contact the other member, and then tell them, we'll meet you over at the police station. So you go to the police station, well before that, you've got to put your uniform on. Go to the police station, and then put your accouchements on. But then also read – get into your PROMIS database and read the incident. Because we only get a brief description over the phone. And usually there's a lot more information in the actual PROMIS job. But then you can also look at the – if there's people mentioned. Then you can look up their – their indices and – and see where you're going, but also who – who you might be dealing with.

So they're all things you do before you go to the actual incident?---Yes.

What about after the incident? Is there more work to do, or once you've finished at the incident, can you go straight back to bed?---Depends what the incident is. It might require a – a write up in PROMIS. So if it's a domestic violence incident, for instance, a s 41 domestic violence order has been issued, then you would need to go back to the police station. Get into PROMIS and create all the alerts, in case those – that couple, or that offender goes into – goes somewhere else and breaches that domestic violence order. So all that paperwork needs to be completed before you cease duty.

At at approximately 1.17 am, the Yuendumu Police Station received a report from a nurse, Vanessa Watts, of either a break-in, or an attempted break-in at House 613 Yuendumu?---Yes.

Do you recall getting that call?---Yes.

And had you managed to go back to bed, or were you still writing up the last job at the police station?---I think we were still at the station writing up the domestic violence incident. So we hadn't gone back to bed then.

Okay, and do you recall going to the job at House 613?---Yes.

And what did you find upon arrival?---So it was Luana Symonds' house from the pre – previous unlawful entry on the couple of nights – yeah, couple of nights before, on the Wednesday. And the – so the unlawful entry on the Wednesday, the offenders had jimmed off some security screens to the house. And they had been re-attached

by someone in the community. And from what I could tell from a quick scan of the outside of the house, was that entry hadn't been gained on this second occasion. That they had tried, but couldn't – couldn't get in.

And what did you see on the street?---There was a – we done a walk around of the – the street, up and down, to see if there was any – any other bits of evidence, I suppose, or any other damage done. And there was a car, a red Jeep, it was parked out in the street, outside one of the houses, that had its rear window smashed. And I took a – a photo of that on – it was either my private phone or the station on-call phone.

Did you also inspect a clinic – a ute?---Yes. There was a clinic car ute, had a – one of those hard torneu covers. And that was in a raised position. So it was open. And there was some medical equipment, like first aid kits, bandages and that sort of stuff, strewn around just near it.

Now it isn't entirely clear to me what time you returned to the police station, but you did return to the police station?---Yes.

You then say in your recorded statement, that you were off duty at approximately 2.15am?---Yeah, so in instances like that one, we record some details. Sergeant Frost spoke to the complainant. But we do patrols of the community to see if we could see any people walking around who probably shouldn't be walking around, that late at night. And – and if they are, we just ask them, have you seen anything or heard anything. And then if there was nothing – nothing further for us to do in that – to respond to that incident, then we'd go back to the – go back to the station.

After you clocked off, and you went home, which was at about 2.15 am, I mean do you fall asleep immediately? Does it take you a little while to get back - - - ?---No it takes me – takes me a long time to – to get to sleep, because you're going from, you know, the brains really active, and trying to switch that off. It's really, really – yeah, quite – quite difficult. So yeah it takes me a long time to get to sleep.

I think you say, and this is at page 20 of the first recorded statement, "You were just about to fall asleep when you got your third call-out of the night"?---Yeah, so that was to a domestic violence incident at Yuelumu Community.

Can I just pause there. Can you remember what time it was?---Around half past three, 25 past three.

And how far is Yuelumu from Yuendumu?---So Yuelumu, or sometimes known as – some people know it as Mount Helen Community, it's about 40 kilometres north of Yuendumu. And there's two ways to get there. There's a short cut, which is 40 kilometres. And that's on a – quite a – it's a dirt track, or dirt – it's a dirt road, but in poor, typical central desert road, in reasonably poor condition. And we're wary of animals, kangaroos, and cattle. So at night-time is quite – it can be quite dangerous driving there, so you don't – you don't travel too fast. And the other way is via the Tanami Road. And then there's another road, a service road that goes into the

community. And I think that's – that adds another 30 kilometres to the trip. So that the short cut is the – in my experience, the best way to go. And that took us some time to get there. Again, once we get the call, get the call-out approved, go over to the station, put your uniform on. Go over to the station and have a look at the job, and so by the time we got there, I think, you know, over an hour had – had elapsed.

Now, I think in your recorded statement you said you got back to the Yuendumu Police Station at about 5.30 in the morning?---Yes.

Did you then have some paperwork to do?---So again, just write – wrote up whatever we had to on that domestic violence incident. And then went home.

Are you aware, or were you aware then, that Julie sent an email at around about 5.46 am, to Superintendent Nobbs, and the Alice Springs Watch Commanders, about your exhaustion?---I don't remember, but that's standard procedure to get approval for – to be stood down if fatigue is an issue.

Do you remember discussing fatigue with Julie that morning?---I don't remember, but I guarantee we would have discussed it.

And I think you got to bed at around about 7 am in the morning?---Yes, sounds about right.

What kind of effect – I mean, by that point, unless you'd gotten a couple of hours before you got up at 12.30 for the first call-out, unless you had gotten a couple of hours, you'd been awake for over 36 hours, working for most of that time?---Mm mm.

What effect does that level of exhaustion have on you, as a police officer, and your ability to effectively and safely police?---Well it can be very detrimental to your decision making. It also has a cumulative effect, where if that does happen on a regular basis, then you, you know, you do struggle to get enough sleep and you've also got to be very careful about driving because sometimes long distances of driving are involved and together with the decision-making you've also, you know, potential for making mistakes in that decision-making process because of fatigue. One of the reasons why I left Yuendumu in 1999 was because I was burnt out. It was a little bit different back then with the procedures for call-outs. The - if there was an incident in one of our communities they would ring the station direct, they wouldn't - there was no ability to ring 000 for it to go to communications the way the phone systems worked out bush that didn't allow that, so they would ring the police station direct and we would answer all their calls so if it's 2 in the morning or 3 in the morning and there was some trouble then we'd make a determination whether we needed to recall ourselves to duty ourselves rather than go through a - there was no duty officer back then.

You've given some evidence about the effect fatigue has on individual decision-making. Does fatigue have an effect on the station as a whole?---Yes, I think so. If - it depends how many people are stationed there. If you've got sufficient people stationed there then you can manage your fatigue and you can say,

"Look, I - don't call me out for the next three nights" or whatever, and as I mentioned, Senior Constable Smith and Constable Weathers were on days off and it - although Constable Weathers was stationed at Yuendumu and Senior Constable Smith wasn't, sometimes it's still good to get out of Yuendumu, go into Alice Springs because you'd need to do some shopping or you need to get your hair cut or something like that but just, you know, go out for a - have dinner out or just do nothing, just to recharge your batteries.

Now, you say that you were called to duty at around about midday on 9 November, does that sound right?---Yes, that sounds about right, yes.

And you also say - although it isn't entirely clear what time this occurred, that you received a briefing from Frost on - and these are your words "the plan". Can you recall that briefing?---Not really but the basic - I'll call it "the plan" was to affect the arrest of Kumanjaya and involving an arrest at 5:30 in the morning and she had arranged for constables Alafiao and Mark Parbs to come to Yuendumu but Constable Parbs had to - he had a family emergency and I think he had to go into - into Alice Springs so it just left Constable Alafiao from that group.

Can you recall where this briefing took place?---No. No, but it would've been the - inside the muster room, so where I sit. My office - sorry, the sergeant's office is just next to my computer, which was in the muster room.

I'll show you some photos of that in a moment?---Yep.

Can you recall who else was present during the briefing? Was it just you and Frost or one or other or both of Mark Parbs and Felix Alafiao present at all?---Both of those, they arrived early, so both of those were present and then shortly after Parbs had to go into Alice Springs but yes, Constable Alafiao was aware of what was the plan.

Was it proposed that Constable Alafiao have a role in the arrest?---Yes, so that was the reason - the primary reason for him to come to Yuendumu because he has worked there previously on a relief basis and he has arrested Kumanjaya before and he - having worked in Yuendumu several times previously, he knows the community very well and knows the community members very very well.

So he knew Kumanjaya very well. What was it proposed that his involvement would be?---He would be - for want of a better term - leading the arrest team insofar as identifying Kumanjaya and also at the same time providing that local knowledge as to other houses, other places that he may be but also he knows the station very very well, as in you know, where everything is and knows how to do watchhouse procedures and that sort of thing, which is important.

And who, if anyone else, by anyone else I mean other than the Yuendumu police officers, was to be involved in the arrest?---so I'd been told by Sergeant Frost that approval had been given for the IRT and they were to be deployed from Alice

Springs and a dog and dog handler, you know, they call it general purpose dog - or "GP dog".

Had you ever heard of the IRT at that point?---I think I had but I'd never met - I'd never seen them being used. I'd heard of them being used previously for a particular job but I've never had any direct involvement with them.

What did you understand them to be used for?---My understanding was as a cordon team or unit, so there's no TRG or Tactical Response Group based in Alice Springs so my understanding was that the IRT were - there was a particular incident where they - say for instance a siege or something like that where the IRT would be used as cordon containment, so set up a cordon, contain the offender or offenders inside the building or the place or an area and wait the arrival of tactical response group if their deployment was approved.

Why did you think that they were being called out? I mean, this wasn't a siege. Why did you think they were being called out on this occasion?---My belief was that they - so their level of training and expertise is - far exceeds an average general duties - cops who have had more training than myself and I don't know who - where that decision lay as to send the IRT but they did so for good reason, I suppose. That was - you know, they obviously had their decision-making that they needed to do so I didn't question their deployment.

You gave evidence a moment ago that the arrest was to occur at around about 5:30 am the next morning. What, if anything, did you understand the IRT Were to do until 5:30 in the morning?---So they were to provide some high profile policing presence on that night, so the night that they arrived, just to give the community so high profile policing is a good way of letting the community know, whether it's an Indigenous community or an urban community that police are around and are available and that might quell any disturbances with that Nyirripi unrest that I had earlier mentioned.

I might show you something now.

I'm afraid I've forgotten the document ID. If you could tell me the document ID of that file; 1957, your Honour. This is, I believe, an extract from exhibit 1 and it's a bundle of approximately 85 photographs, stills from CCTV footage.

This is photograph 5 in the bundle. Sergeant, can you identify that area?---So, that's the part of the muster room at Yuendumu Police Station. So, the area on the right path is the front counter area and on the left side, the monitors up on the wall, they are the watch-house cameras.

And who can you see entering from - - -?---It looks like Constable Alefaio entering through the doorway leading - that leads past the watch-house and that area then leads out to the back of the station, and I'm in front of him.

Can you recall what you were carrying?---No. It looks like some paperwork, but

I don't know what that would have been.

Were you ever handed a copy of – if I used the expression “arrest plan”, would you know what I was talking about?---Yes.

Were you ever given a copy of that?---I was emailed a copy.

Did you ever print it out?---Not that I can remember, no.

Okay. When was it emailed to you?---I don't remember.

Okay. As best you can recall, was it emailed to you before the members of the IRT, including Adam Donaldson, the dog handler, before they arrived in Yuendumu?---Yes.

Okay, all right. Do you have a desk in the muster room?---Yes.

Where is it?---So, at the bottom of that picture; so there's a doorframe, you can just see the doorframe to the bottom of right of that picture, that leads to the – a witness statement taking room, which is – there's a door that fronts on to the front counter area, and then my desk is to the – a little bit to the right of that door, right against – so butts against the wall of the sergeant's office. So, you've got that doorway and then the doorway to the sergeant's office and then my desk butts up to that dividing wall between the muster room and the sergeant's office.

So, if you were sitting at your desk, you would be off camera. Is that correct?---Yes.

Okay. And you would be off camera somewhere below the bottom right quadrant to the screen. Is that right?---Yes.

Okay. And if you wanted to walk to an area to the left of the camera, you could do that off screen. Is that correct?---Yes.

Okay. So, off-screen. Is that correct?---Yes.

Okay. So, it wouldn't necessarily be evident on the CCTV footage if you moved from your desk to a position somewhere below where you're entering from the top?--- That's right, yes.

Okay. The first member of the Alice Springs team to arrive was Adam Donaldson. Is that correct?---Yes, I believe so.

And if I put it to you that the CCTV depicts him arriving at around about 17 minutes past 6:00, would that sound right?---Yeah, that sounds about right, yep.

Can you recall having any conversation or conversations with him after his arrival?--- I greeted him. I had a conversation with him that I can recall much later, which was when other staff, other – the IRT had arrived, which was about – so there was –

I printed out some A4 pages of maps of the community and that was for all the members and I recall telling the IRT, but more so for Donaldson's benefit, of where Kumanjaya ran on the afternoon of the axe incident, because he – I'm aware that he needs to know when it's safe to let a dog go to ensure there's no other potential houses where camp dogs would be living. So, he just needed to make sure that his dog was going to be safe if he did have to let it go.

I'll just take you back. Where were you when the other members of the IRT arrived?--So, when I was talking to Donaldson and the other IRT members, so to the left – bottom left of that screen, there's a couple of desks. So, that desk that you can see a figure leaning up against, that's Constable Weathers' desk and the other desk is Derek Williams' desk and that's where that discussion was held.

Okay. And you were standing on the bottom of those desks?---Yes.

At any point, were you sitting at your own desk?---So, I was trying to do my statement from the axe incident because I hadn't had a chance to do it until then. So, I was sitting at my desk and I had – watching the body-worn and doing my part of the file, my statement. So, I was – had air bud – the Air Apple in-ear headphones and stopping and starting the body-worn video and typing my statement out.

I just want to get the sequence right?---Mm mm.

If Donaldson arrived at around about 6:17 and the first two members of the IRT arrived at around about 6:33?---Mm mm.

Is it between those two times that you sat down at your desk?---I was sitting – I was there for a lot longer than that as well. So, throughout that afternoon doing my statement and other ancillary paperwork to assist them with the file the next day. So, I was aware there were people coming in and I was getting up from my desk, coming back to my desk, but from where the people were coming into the police station and I knew a couple of the officers. I'd met them before, excluding Donaldson, I had never met him before. But the other two, I didn't know, so I introduced myself and then that's when the conversation about the – with the maps and where he ran.

When that conversation started, were you seated at your desk working away on your statement?---Yes.

And you had the earbuds in?---Yes.

And were you listening to the body-worn?---So, I was listening to – watching it, and then pausing it, and then typing and then – so obviously when it's paused, I can hear ambient sounds because they're not over ear headphones and that was when there was - I heard the conversation – a conversation Donaldson had and wanted to know where he ran. And I sort of showed them, well this is where he ran after the axe incident.

And who else was there when you overheard that conversation?---Constable Eberl,

Rolfe and Kirstenfeldt and Hawkings.

Okay, so four members of the IRT were present?---Yes.

And Donaldson was also present?---Yes.

What if anything, did you hear, as you were sitting at your desk? So this is before you get up, and start showing them things on the maps?---Not much – not much else, other than – than that with Donaldson wanting to know where Kumanjayi ran, but not much else.

If there was a briefing, as in by Sergeant Frost, are you confident that you would have heard it?---No, no, because as I said, I was playing the body-worn, and obviously seen the – the footage, and it's quite loud in certain parts, and stopping and starting it, and listening to the conversations that are recorded in that. So there are times when – when I couldn't hear what was being said in the – in the station.

And why did you get up and wander over?---Well at one point, I could hear what they were saying. Because there was a period of where I wasn't playing any footage, so I could hear that in that ambient sound through those – because the – the ear buds didn't block any sound, so I could hear there was some conversation about where he ran. And so that's where I assisted.

And you said that you showed some things to them on maps. Were these the maps that you printed out a little earlier?---Yes.

Where did you put the maps, after you printed them out?---Left them on the desk - - -

Which - - - ?---So where that desk – that – Weathers and – and Derek Williams' desks.

On the CCTV footage, on the left most part of the screen, there's what appears to be a white desk. Can you see that?---Yes.

And there's a black seam - - - ?---Yes.

- - - that appears to separate two halves of the desk?---Yes.

Below the black seam – seam is one desk, is that right?---Yes.

And above it is another desk?---Yes.

Which is Constable Weathers, and which was Derek Williams desk?---So where that – as I said before, where that officer is leaning against, that's Constable Weathers desk, and then Derek's desk is the other one, on the left.

And on which desk did you put those documents?---In the middle.

Of – of whose desk?---Well both, so they butt up against each other, so the scene - - -

So there's no divider?---No, so it's – it's not like this, so it's just a flat desk, and - - -

THE CORONER: Like the Bar table?---Yes, your Honour, yes.

MR COLERIDGE: Now you put the map on the desk?---The maps, yep.

Did you see any other documents on the desk?---Not that I can remember, no.

Okay. Did you put any other documents on the desk?---No.

Do you recall anything else of the conversation you had around that desk with the members of the IRT and Donaldson?---There was – and I think it was Kirstenfeldt, said words to the effect of “We know what we're doing, we've done this sort of thing before.” And there was a comment made that they would go out into the community, because it was almost – before it got too dark, and familiarise themselves, and gather intelligence.

Can you remember what the context for that comment was? Can you remember what anyone else said?---No. Which – which comment?

Kirstenfeldt's comment, “This is how we do things”?---That context, from what I can recall, was if they couldn't find him. And then he said “Oh we'll, adding on to that, he was saying he was going to – we've done this sort of thing before. We'll put pressure on the family if we don't find him, until they give him up, words to that effect.

Okay. You say “If they couldn't find him”?---Mm mm.

If they couldn't find him when?---I don't remember what they were referring to.

Do you recall any discussion of the plan to arrest Kumanjaya at 5.30 am the next morning?---No.

And was Kirstenfeldt's comment, “This is how we do things” so on and so on, one of the last things that was said before they departed, or was there further conversation?---I think that was yeah, quite close to when they departed. And the – we'll go out and collect intelligence.

Your Honour, I've got one more topic, but it's 4.30.

THE CORONER: Sure.

Are you able to come back again tomorrow morning - - - ?---Certainly.

- - - at 9.30?---Yes.

Thank you, I hope you get a good sleep tonight?---So do I.

Thank you.

WITNESS WITHDREW

THE CORONER: We can adjourn to 9.30.

ADJOURNED