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NORTHERN TERRITORY OF AUSTRALIA

CORONERS COURT

A 51 of 2019

AN INQUEST INTO THE DEATH

OF KUMANJAYI WALKER

ON 9 NOVEMBER 2019

AT YUENDUMU POLICE STATION

JUDGE ARMITAGE, Coroner

TRANSCRIPT OF PROCEEDINGS

AT ALICE SPRINGS ON 2 NOVEMBER 2022

(Continued from 1/11/2022)

Transcribed by:
EPIQ

DR DWYER: Your Honour, the first witness today is former Superintendent Pauline Vicary. She is online, coming to us from Victoria. I call Superintendent Vicary.

HER HONOUR: Thank you. Ms Vicary, thank you for making yourself available to give evidence in the inquest today.

MS VICARY: You're welcome.

PAULINE VICARY, affirmed:

XN BY DR DWYER:

HER HONOUR: Thank you.

Yes, Dr Dwyer.

DR DWYER: Superintendent, you are based in Victoria currently; is that right?---Yes. Yes, that's correct.

And could you please tell us your full name, for the court?---Yes. I'm Pauline Maree Vicary(?).

And I referred to you as Superintendent, but is it the case that you're now retired?---Yes. You can just call me Pauline, that's fine.

Right. I will take you to some of your career history in the Northern Territory Police, but before I do, I note that you have done two interviews to assist her Honour – or participated in two interviews. One was 30 November 2019 – In our brief, it's 7-132. And an interview on 11 February 2020 – that's 7-133 in our brief. Ms Vicary, do you have a copy of your interview transcripts with you in Victoria?---Yes.

At the time of participating in both interviews, you were a superintendent covering the Alice Springs Division; is that right?---Yes.

The court this week heard again from Superintendent Nobbs, who was then the – sorry. Who was then the Superintendent of the Southern Desert Division, responsible for remote stations. I just want to cover the period or the area that you were responsible for. You explain this in your first statement. As Superintendent of the Alice Springs region, you covered the area where the end of the airport is, about 100 kilometres north, 100 kilometres south and about 50 kilometres west to where Jay Creek is; is that right?---Yeah, pretty much, give or take a few kilometres.

Okay. Your immediate supervisor was Commander Brad Currie, in 2019; is that right?---Yes.

He was Commander of the Southern Command, Alice Springs, Southern Desert, Tennant Creek and Barkly?---Yes.

You explain in your interviews that you were acting in the position of Superintendent of the Alice Springs Division for about six months before you were promoted permanently in January 2018?---Yes.

When did you leave that position?---The Alice Springs Division one?

Yes. As – when did you leave the position as Superintendent of the Alice Springs Division?---It would have been around August 2020.

Okay. And is that the – where did you go to from there?---So I went into a supernumerary position which involved overseeing the training – probationary training and cadet program.

And when did you retire from the force?---I went on leave at the end of July last year and I officially retired on 5 March this year.

Can I just take you briefly to your history in the Northern Territory Police Force. When did you first join?---1984.

And when did you come to Alice Springs as a police officer?---2013, I think it was.

So you joined as a Probationary Constable in 1984; is that right?---No.

Okay?---I joined as a Police Cadet.

And between 1984 and 2013 – I'm obviously not going to take you right through your history – but where did you work?---Predominately in Darwin. I did a stint in Katherine. While in Darwin I did, you know, general duties and on occasion, work at the training college on Smith Street and I worked in the Crime Prevention and in Community Engagement area, which was kind of like my expertise area.

Did you have any period during that time where you were in bush or remote communities?---No.

So when you came to Alice Springs in 2013, can you tell us what your rank was?---I was a senior sergeant and I was the Watch Commander.

Senior Sergeant and the Watch Commander at that time; is that right?---Yeah. Yeah, one of them, yeah.

And between 2013, when you were the Watch Commander to when you became the Acting Superintendent, did you remain in Alice Springs?---Yes. I did do a couple of relief stints in Tennant Creek.

How long were you in the relief stints there in Tennant Creek?---Usually four to six weeks.

And how many times did you do that?---Two. I think it was two.

So her Honour, of course, understands the hierarchy in the Northern Territory Police Force, but just to be – so that we all understand it, below the level – you've told us that above the level of superintendent is commander. Below the level of superintendent is inspector; is that right?---We don't have inspectors in the Northern Territory. So you go from superintendent – when you're sergeant, to superintendent. So there's constable and then there's all the ranks within constable, sergeant, senior sergeant, superintendent.

All right. In terms of your stay in Alice Springs, I take it then that you had not worked at any – for any period of time in Yuendumu?---No.

Or any of the other bush communities other than Tennant Creek; is that right?---Yes. Yes, that's correct. That's correct.

The recruits coming from Darwin have – we've heard so far – have an opportunity to be placed in either Alice Springs, Tennant Creek or Katherine. So many of the police officers that you would have had into Alice Springs are coming to Alice Springs for the first time, correct?---Yes.

Many of them are working with Aboriginal people for the first time; is that right?---Probably.

Well, is that something that you turned your mind to while you were superintendent in Alice Springs?---Well, it's something that the agency puts its mind to. They do cross-cultural training in the – in their training course. And yes, we have them working in Alice Springs and they predominately work with a lot of Aboriginal people.

When the recruits were coming down from Darwin to start work in Alice Springs, at any time you were working in Alice, from 2013 to about 2021, was there any process of orientation, involving cross-cultural competencies? That is, understanding the different cultures that you'd be working with, in and around Alice Springs?---It's a conversation that came up quite a bit. But other than the formal training that they do in their – the college, we didn't have a formalised cross-cultural training in Alice Springs.

So I take it there was no cross-cultural training that you did either, when you were in Alice Springs?---No.

You understand don't you, that cultures in the Top End are very different to – in and amongst each other, in the Top End firstly, correct?---Yes, yes, absolutely.

Culture of the people of Tiwi Islands is different to the culture of people in Wadeye, and Maningrida, and Nauiyu, you'd agreed with that?---Yes, absolutely, yes.

And then central desert communities, different again. Different cultures, that need to be respected and understood, do you agree with that?---Yes.

Did it concern you then, that recruits coming down to Alice Springs, who may have had no engagement with Aboriginal people before that time, had no orientation, or understanding of the individual cultures in Alice and around?---I don't know that I'd say – I think the – based on my recollection of the cross-culturally in Darwin, a lot of that was like a generic cross-cultural training. Which talks about the family, how the families work, and some of those sort of things. And then, you know, the generally – I had to make sure that everybody is treated with respect and they take things into consideration. We had quite a few senior members who had worked in communities. And they would often pass on their knowledge. And we had our Aboriginal Community Police Officers as well, who were able to provide some – some guidance if needed. And of course, now we have the ALO's who are, you know, invaluable to us.

You said you tried to make sure that everyone was treated with respect, and they take that into consideration. How did you do that?---Well we have our – our core values in our organisation. And respect is the top one, both internal and external people. That all along we interact with, we treat with respect and we you know, we just do the right things by people. In Alice, their race or whatever they are, that – that we do the right thing.

So did that mean to you that there was no special measures that were required, to ensure that young recruits understood Aboriginal culture? Because they should just treat everybody the same?---Well obviously, if there is – you know, people who didn't speak English, then you know, we had – had access to translators and on – you know, if – if there was a particular area, you know, there was I suppose of the local knowledge within the station of different – of the different places that people had, but you know, should there have been formalised training? Yes. Was it discussed at different times? Yes. But why it never got put into place, I don't know.

Well, when you say, it was discussed at different times, who did – did you raise it at all, with any of your superiors?---Well I think, you know, when, you know, often there is – there was some issues that came up, that you know, that was – it was the cross-cultural recommendations often came up, where - - -

Where – where did they come up?---At different meetings. Sometimes at planning meetings, or debriefs. But I couldn't tell you exact time – like exactly when and where. But it – they – there were discussions around it.

Did you have discussions with Commander Currie, about the need for cross-cultural training, particular to central desert areas and Alice Springs?---So central desert area and Alice are different. So if – for the Alice Springs people, yes we did, and there was some talk about trying to see if we could get something happening with some of the other agencies. But I just – it just didn't seem to go anywhere.

Is that because it wasn't your top – wasn't one of your priorities?---Yeah, well I don't know, I don't know if it was – wasn't that it wasn't a priority, but I – you know, whether we can find an appropriate group of people to do it, or – and, because as you say, we could have done some of that training in Alice Springs, and had the –

the Mparntwe people do it. But then within Alice Springs, there's people from a whole lot of things. So just to cover everyone, was a bit of problematic. So I think it was (inaudible) issues that we had. And how did we cover every single thing. But when I was doing the acting in the southern desert, we had a few serious incidents that were resulting from a lack of knowledge of the different cultures. And so when we have an induction package for people who go into the communities, in relief or to start a – if they're being transferred in there, and the – and that cross-cultural knowledge is written in to those, where they actually have to go to one of the Elders, and the Elders explain how their culture works, and the things that they need to think about.

Okay. I just want to come back to some of the things you said there. You said, when you were acting in – as Superintendent in the Southern Desert Region. What period was that for?---So I did that a few different times. And I can't give you the exact months that I've done it – did it. But I relieved in there quite a few times. And sometimes for a, you know, up to three months.

And what issues were you talking about, when you said we had a few different issues, as a result of a misunderstanding of Aboriginal culture? What were you referring - - - ?---Well there – there were two that really springs to mind. There was an incident that happened at Santa Teresa, where they were doing like men's ceremony. And there was a – some young people who were doing the wrong thing in a vehicle. And the police officers went to apprehend them, and they took off. And the members followed them, and a car drove in through into the ceremony area. But what had happened, is initially the ceremony area was supposed to be in one area, but they changed it, and hadn't informed the members. So they drove into it, following the car. And there was a female police officer in that car. So obviously, that is a very big breach in Aboriginal culture. And there was quite a lot of upset about that.

So what was – what was done, after that, to try and ensure that that incident will not be repeated? That - - - ?---Yeah.

- - - that lack of respect would not be repeated?---Yeah, so we – I'll just quickly jump up. So there was two incidents that happened within a couple of weeks of each other. And the other one was in Yuendumu, with – it was also around – it was men's ceremony going on. And the members had been called to go somewhere, and they hadn't been informed that that particular place was where that – there was going to be part of the ceremony done. And they went in, and there was a female (inaudible). So we had a couple within a short space of time. So I spoke with all of the officer in charges of the remote stations, and asked them to review their induction SOP's. And to make sure that there was some information in relation to the cross-cultural requirements. And that – they have an organised time where they knew people go, and meet with the Elders about the cultural (inaudible) in that community.

What year was that?---Maybe about 2017, or early 2018, I can't remember exactly.

Did you ever see a copy of the induction manual then, that incorporated or the instructions you'd given?---So all of the – all of the stations have an individual induction manual for their area. And I – I think I viewed most of them to make sure that they had had that component in it, but I don't know if I saw every one of them. But it's – when we did station inspections, that would be one of the things that we would check to make sure that was still going on.

And so were you assuming then, that from that point on, when new officers came into the community, there would be some sort of formal process, where they were introduced to the Elders, and understood - - - ?---Yes.

- - - about culture?---Yes.

Would it surprise you then if the evidence in this inquest is that there was no such formal arrangement to follow?---Yes. I would be really disappointed in that because I had made it very clear and it would get – it was written into the things that they do that.

Ms Vicary, did you give any thought to the need then to remunerate any of the Elders or people in the community who you were asking to help orient new police officers? ---It never got raised that that was required, but if that was the case then if I was in the chair we would have taken that into account and sought approval for that.

I take it from your answer that you never raised it - you never turned your mind to that?---No, because I know from my understanding and a lot of the Elders were happy to do that because it would benefit the community.

How did you get that understanding?---I guess from the members themselves who'd worked in Yuendumu.

So you assumed that the Elders were happy to do that as a result of what the police officers were telling you?---Yes, well - and I would, you know, I don't know, maybe I think differently, but if I was an Elder in a community I would want to, you know, be able to contribute to new people coming in and knowing what is required in my community, but maybe I think differently to people and they - no, I don't do things based on money but obviously some people do though.

Well, Ms Vicary do you appreciate though that it might be quite a burden to request of the community that every time a new officer comes in they participate in some sort of orientation process for that police officer?---Yes. And if remuneration is required then that can be what happens, but it didn't get raised with me.

Ms Vicary, you talk about then the need - the importance of that orientation process when you're in remote communities. In Alice Springs it's the case isn't it, that many Aboriginal people need to come in to Alice Springs for different periods of time, for example, to see family, or to go on dialysis or for whatever reason they are travelling through Alice Springs, correct?---Yes, that's true.

So policing in Alice Springs often requires interaction with people from different bush communities around?---Yes.

So it would be worthwhile, wouldn't it, for recruits in Alice Springs to have an understanding of the cultural considerations when dealing with people from different communities?---Yes, and I believe - well when I - before I left - because one of the components of our cadet program is that they do not only Aboriginal cross-culture training which they have a whole session on but they also do other cross-culture. Well, we worked with the ALO's there and one of the ALO's there, like working within the structure of our thing came up with a really great PowerPoint for naming the cultures that would be required, and it covered Alice Springs gap(?) also in the cross-cultural kinships and across the board and how they work and my recommendation to the college and to the Alice Springs people was that when we bring the new Alice Springs people in, for various action that they get from that - I don't know if - - -

Well thus far we haven't met anybody who has participated in any induction in Alice Springs and I think your answer earlier was that to the best of your knowledge that never happened, is that right?---We're always - there's always an induction but whether - whether or not that includes the cross-cultural training or not I don't know. I am - from memory when we've had the members going - come in with - as a squad, we have had either some of our ACPO's or ALO's come in and talk to them about things but I don't know - it's not - I don't know that that was formal or that was just something that they did. But certainly - - -

Well, just for - - -?---everyone had courses there.

Ms Vicary, this is by way of example, Constable Mitch Hansen has given evidence and his evidence is that there was no such orientation program or no such education in relation to the cultural considerations for Aboriginal people in Alice Springs and surrounds when he started. I am going to suggest to you that that is likely to be typical, given your answer that there was no formalised process in Alice Springs. Do you accept that?---Yes. Yes, like quite possibly and when Mitch started he was a few years back but there is the contention for them to do it with that PowerPoint that the ALO's created and if they're not doing that now then that's really disappointing.

Who was the ALO that you are referring to?---I think when we were doing it - and I can't remember his last name, there was Shane and - and I think and Albi - Albi - he's not an ALO he's a Senior Constable Albi Tilmouth(?), so there as a group of then that worked on it.

I anticipate that we are going to hear some evidence that the Northern Territory Police Force has the highest percentage of Aboriginal people working in any force in Australia. Who was the - what was the highest rank for an Aboriginal person working in the Alice Springs Division when you were superintendent?---We definitely had - it was - that was senior constables and I'm just - I'm trying to remember if we had an Aboriginal person who was - maybe some sergeants, there was certainly one that

was acting sergeant but yes, I'd could be missing some people but I'd say Senior Constable (inaudible) level.

Well who was the Aboriginal sergeant who you worked with?

THE CORONER: Acting.

DR DWYER: Or acting sergeant?---I think Albi had done some acting sergeant work. I've got to actually go through my statement. I don't remember all of the members that we Aboriginal now. Can I think about it and get back to you? I - - -

Certainly, certainly. Ms Vicary, given your answer and you are struggling to remember, did it concern you that there were so few Aboriginal people being promoted through the ranks within the police force?---Well, I guess I don't - it - I don't know how many applied.

That wasn't my question. My question was did it concern you that there were so few Aboriginal people in positions of seniority?---Well, I don't know that it concerns me. I think it's people's preference whether they're actually wanting to get promoted.

Well, did you ask anybody? Did you ask any of the Aboriginal people you worked with?---So I - so my previous role in the college I was - and the promotions was my other thing - the promotion process was one of the ones I was not involved in, so when I went to Alice Springs - when I went to Alice Springs there was - sorry - I worked very closely with all o the members and anybody who wanted to sit there and do the exams and I would run tutorial sessions with them and so I actively encouraged all members Aboriginal and non-Aboriginal, to sit exams and do that, so - and provided them with assistance on how to study and the legislation to focus on and that sort of thing. So I wouldn't say that they didn't - the people that I had - that didn't know - they didn't have a support to do it, they didn't have the encouragement that I didn't help mentor them through that process. But I guess, like it would've been great to have a lot more people in those roles.

Did you - your commander was Commander Currie. Did you ever raise any issue with him ort any of our superiors about concerns you had for the need to promote more Aboriginal people within the force?---Well, I think, you know, our organisation - - -

Ms Vicary, could you please focus on my question, which is did you ever raise those concerns- - -?---Okay, well I - no, no I didn't.

Do we take it that that's because it was not a particular concern for you, given your answers?---No, it's because I don't treat people on the base of their race. I treat people the same, you know, across the board. And I give people the, like, as much support as I can, regardless of what their race is.

All right. So do I take it from that answer then, that your perspective was that everybody should be treated equally and there was no - nothing particular that you

needed to do to encourage or support Aboriginal people to advance through the ranks?---No, that's not – that's you – you're twisting my words, there. I – I would support anyone and if there was an Aboriginal person who needed some extra help, then I would absolutely give them that help.

All right. But there was no one- - -?---And do it – and to support them in that process.

Can you recall raising then, any particular issues about the fact that you did not have enough Aboriginal people who were in senior roles? Was that ever raised by you?---No.

We've heard evidence in this inquest about the importance of the roles for sergeants and senior sergeants. We've heard evidence about the importance of that role in leadership and mentoring and setting standards within the command; do you agree with that?---Yes.

Because sergeants and senior sergeants have direct contact with their members, correct?---Yes.

And sergeants are often going out on patrol with their members, correct?---Yes.

So they've got a direct opportunity to observe the behaviour of young officers, correct?---Yes.

And also to model behaviour for young officers, you would agree with that?---Yes.

Are you able to assist us to say – taking year 2019, approximately how many sergeants are there in Alice Springs station?---So there are five – five patrol group supervisors and there are five custody sergeants. There are – in the Crime Prevention area, there was one sergeant. In the traffic area, there was a sergeant. Later on, in the POSI, we had two sergeants that – as they rotated on shift. In our planning area, we had a sergeant. We had a sergeant in the event management area – I'm just trying to remember back to all the different areas that we had. I think that's about it. So – and then, you know, usually a couple, sort of – there was always people on leave, so I can't give you an exact figure because I don't have it in front of me.

I just want to ask you about the five patrol group supervisors. That was a sergeant level; is that right?---Yes, that's the patrol supervisors, yeah.

Okay. Does that include Sergeant Bauwens?---Yeah. So Sergeant Bauwens was a supervisor and, at times, he was also Commander.

And it includes- - -?---As- - -

- - -Evan Kelly?---Yes.

And Sergeant Kirkby, for example, in your – over your period of time?---Yes, he – he did Acting Sergeant as well and then got promoted. And I think when he was promoted, he did a lot of the POSI work.

Okay. Were any of those five patrol group supervisors women, during the period of time when you were superintendent?---Yeah, Paula Dooley-McDonald(?) has been a member of the Alice Springs Police Station since she came, like, graduated from over 20 years ago. So she has been in Alice Springs for quite a long time and she was a sergeant.

Was she a patrol group supervisor?---Yes. She – so her whole career as a sergeant has been as a patrol group supervisor.

Now, during the period of time that you were superintendent in Alice Springs from January 2018 through to 2021 or thereabouts – 2020 – were any of the patrol group supervisors Aboriginal people?---As I said, I don't think – I can't recall off the top of my head.

Is the answer likely to be no?---No, because I can – there's someone in my head, I just can't remember their name.

Did you have confidence in your sergeants in terms of their ability to demonstrate the leadership and mentoring and setting standards?---Yes.

Did you envisage that during the period of time you were at Alice Springs, your sergeants would be treating Aboriginal people with respect?---Yes.

Did you think that they would be modelling behaviour where you needed to – where young officers were shown that they needed to, in your words, interact with everybody and treat everyone they deal with respect?---Yes.

And are you still confident that that was the case during your three years you were in the job?---I don't – do – I think that every – every interaction, people treated people with respect, no. I think there are times when members didn't do that and then – then they had to get spoken to. And when we get complaints, it's often as a result of members, you know, not speaking with respect or with having to be reminded of those obligations and what the responsibilities are.

Do you – I will take you to some particular incidents shortly, but do you believe that you created a culture of respect for the community when you were superintendent?---I did everything I possibly could to do that. I think, you know, sometimes I – I – that – I was successful and there are times when, you know, things would happen and I would not be – not be very satisfied with things. And then I would remind people about our values. And every training session we had, we talked about values. So it was very much at the forefront of what I, like, what I think is important in policing.

When you say every training session, what training sessions are you referring

to?---So once a month, all – each patrol group member, they have one day where we had to do some training and sometimes, we weren't able to do – do the training for everybody, because the operational requirements required us to – have to, like, get people out to do things. But generally, we tried to make sure that we would run those sessions and then we would, you know, if things that were coming up in, you know, from complaints or through things that we were seeing in the jobs or something that was being raised through the supervisors, we would address those at the training session and remind the members of what they were supposed to be doing or how they could do things better.

Were there minutes kept of those training sessions?---I don't – there wasn't minutes, but there was usually a timetable of what we would cover.

And so- -?---On the things.

Ms Vicary, is it your understanding then that Sergeant Bauwens and Sergeant Kirkby would have been at those training sessions once a month, for the most part?---Yeah. Sometimes they may not have been if they were doing IRT training.

All right. So if Sergeant Bauwens was doing his IRT training, he might have skipped those sessions that you held?---Yeah. They were actually run by the training sergeant.

Who was that?---It was – Chris Wilson(?). Sergeant Wilson.

Sergeant Chris Wilson, was it?---Yeah. So he would put the program together and then, depending on what was being – being, like, different people might come in and do it. We often had external people come in as well.

If, for example, any issues were raised in the CMT, which I'll come to, that concerned you, about younger officers. You could deal with them at a training session with your sergeants?---Yeah.

Correct? And do you – do you recall ever doing that?---Yes. Body-worn is the – is one of the repeat ones that we would raise.

Okay, I'll return to that issue?---I'm sure you will.

Sergeant – I withdraw that. Constable Rolfe started in Alice Springs command on 14 December 2016, and he worked there from 13 November 2019. Just to remind anybody listening, you became the Superintendent, or the Acting Superintendent, in – sorry, in 2017, is that right?---Yeah.

You indicate in your second statement, that the first time you probably had any real contact with Constable Rolfe, was when you were doing the Southern Desert Superintendent role, and he was involved in a rescue of some people at Jay Creek. You provided the debrief, and that sort of thing. Do you remember that?---Yeah, so

I was the incident controller of that incident. And I think – I think from memory, he'd only been in the job for, you know, a week or so.

And you indicate in your interview, that you – your view is that he did a great job of saving some people in that incident?---Yes.

Did you meet with him at that time?---So I met with him – I met with him the day after, because the Today Show wanted to do an interview. And I was tasked to attend that interview with him. Because they wanted to talk to him about the rescue, but I was there from the organisational point of view.

All right. And did the Today Show talk to him about the rescue? All right, you – you just went soft for a minute there, Ms Vicary, you said yes?---Yes, yes.

And so were you interviewed also for the Today Show, or just Constable Rolfe?---No we were both – we both spoke.

And was the other officer who was involved in the rescue, the female officer, also interviewed, or just - - - ?---No.

- - - just yourself and Constable Rolfe?---Yes.

In your – and sorry, when was that? Was that immediately after the incident?---The next day, but we had to be there at 5 o'clock in the morning to – to do it.

Was there any special permission required to allow him to do that media?---That was arranged through our media department.

And your view was, that what he had done in jumping in the water, was courageous?---My view was that the circumstances that they made the (inaudible) to do that. The – in the debrief I raised that they are not trained to do that. And they had put themselves at considerable risk. So a lot of the debriefing was about the risk management of that.

Was it just that they had put themselves at risk, or did you have any other concerns?---No, I – they had also – a civilian also assisted with that, (inaudible) and I was quite critical of them allowing it to happen.

When did the debrief occur? Was that on the day?---No, it was I think a few days, or a week after it.

All right?---Because we had to get everybody back together.

So there was the Today Show interview. Your view at that time, though, I take it, was that it was – it was commendable that he had been courageous, is that right?---Yeah, the – his actions were commendable, but it wasn't – it isn't a recommendation that we would encourage people to do.

Well do you have a recollection that he actually received any sort of direction on the day not to go into the water in those circumstances, and to wait, until other help came?---So one of the biggest issues we had is that we had lost communication with – with them, because of the area that they were in. And they weren't aware that we had the Emergency Services helicopter (inaudible) system.

So there was the immediate aftermath, which was the interview with the Today Show. And then sometime after that, you had a debrief with Constable Rolfe and the other officer, where you in fact expressed some criticism, is that right?---Yes. Well I wouldn't say it was criticism. But I expressed that, you know, the things that we could have done better next time.

You're aware - - - ?---But there were other – there were other people there as well. We had the ambulance officers there. We had the Emergency Services there, and they were all involved as well.

They were all involved in the debrief?---Yeah.

Did – did anybody else express any concerns?---Not – well the Emergency Services people are obviously – they weren't critical, but obviously that's the area that they're trained for. And well you know, police officers aren't trained in that. We don't even have the equipment that we need to do it.

You certainly would have formed the view then, that Constable Rolfe had some positive qualities, in terms of his courage, and his fitness, and his willingness to help?---Yes.

And are you aware that he subsequently received a civilian award, in relation to the incident?---Yes.

And you're aware that he did not in fact receive any sort of police rescue award?---Well not that I'm aware of.

Did you have anything to do with stopping him getting any sort of commendation?---I didn't recommend that he – anyone – should have got a commendation. I think they were doing – they were doing their job.

Are you aware that he might have had any frustration, or negativity towards you, as a result of that?---Probably.

Well are you aware of it? Was it drawn to your attention?---Yeah, I think that they – it was drawn to my – that they were disappointed that I had the views that I had.

How did that come to your attention?---I don't know, somebody had probably told me about it. I don't know who.

What was your relationship with Constable Rolfe like after that time?---I didn't – like my professional relationship with him was, well he was a constable who did his job,

and I was a superintendent who managed a station, and he was always quite respectful to me.

How much contact did you have with a young constable in Zachary Rolfe's position?---I don't have like a lot of -- of interaction with him. I would see him on training days. I often would attend musters and you know, sit in musters, and just you know, talk to them about anything that I thought needed to be raised. If there was a concern that we had, I would go in and talk to them about focussing on a certain area. And just, you know, providing that level of oversight from -- from my level. I didn't always get to do that, because I often didn't have the time to. If there was an issue, I -- we all had -- we had open door policy if people wanted to talk to us they could do that. I would often go through the muster room (inaudible) morning and talk directly with people, and see how their (inaudible) and that were going. But that was, you know, I'm not their friend - - -

Did you have - - - ?---I'm their - - -

- - - did you have any more contact with Constable Rolfe, than you did any other of the constables in his position?---No.

This is what you say in your second interview about that river rescue. You say, at page four, "I" -- that -- after you talk about the debrief. You say, "Because I had some concerns around the rescue. More from his supervisors, and the decision making that was made in relation to what had happened. But certainly not because of his role. He did a great job saving people." Did you have any -- was there any red flag, at that stage, for you, that although Constable Rolfe might be very brave and capable, he might need some particular direction, or you might need to keep an eye on him, to make sure he obeyed directions?---Not at that point. It was only his first week or something.

Okay. Coming now to the systems in relation to the use of force. You deal with this in your second interview, in relation to the use of force, at page five. You're talking about the Acting Superintendent role, and the fact that you don't tend to have a lot of contact every day with everybody. Before that you say, "There were -- before they changed it over for that, that the sergeants could do the use of force thing, so I used to have to do the use of force thing. I'm sure, use of force reviews." What change are you talking about with respect to the use of force reviews?---So the use of force -- they would go -- initially, they would go -- the members would fill them out and they would go with their sergeant, they would fill them out. They would go -- then go up to the senior sergeant for their -- their review. And then they came to the superintendent as for the final sign-off.

And was there a change in that at some stage during your period as superintendent?---Yeah. So it would have been in that, sort of, last year that I -- probably the last six months or so. I can't remember exactly when it came in. But the senior sergeant -- the superintendents were no longer required to sign off on them unless a senior sergeant raised a concern.

So in terms of you – your understanding then, about whether or not any of your officers had a number of complaints that were of concern, where would you find out about that?---So complaints and use of force are different.

Sorry, let me talk about the use of force, then. If you – was it part of your role to look out for patterns so that you could be alerted if one of your officers had – if there were concerns around his or her use of force?---So I think if I got a use of force that came from a number of officers that – that brought them, I would, sort of, have a look at them. But it would depend on the circumstances around it. If there was, you know, the circumstances where they were – the other people were – had – there was some violence issues or there was a chase, like, they had run away or there was some – they were aggressive, then- - -

I'm going to cut you off, Ms Vicary, because I need to get through a lot of evidence and so I just want to try and get you to focus on the questions. This one in particular – this question in particular is: was it part of your role to make sure that none of your officers were involved in use of force repeatedly? That is, to try and pick up patterns, if they were identifiable?---Well, it's my – I suppose so. But I think my role, like – yeah. That's a hard question to answer.

Well, surely you would – just put it this way – surely, you would want to know if some of your officers were engaged in use of force, repeatedly, in a way that was concerning?---Yeah. Like, if I was concerned, yes.

Sure. Well, that would suggest the need then, wouldn't it, for you to filter down to the senior sergeants and sergeants what had to be done in terms of their leadership?---Yes. And if so, if I did have any, like, concern in particular, then I would probably go down and have that conversation with a sergeant or a senior sergeant.

Were you focused on – at any time while you were superintendent – the fact that many of your officers are doing a very difficult job, day in, day out, in terms of policing people who are traumatised, often?---Absolutely.

And is part of the Northern Territory Police, direction from the legislation is to put people in custody if they are intoxicated and might be a danger to themselves?---You're talking about s 128?

That's right?---Yeah.

The protective custody?---Yes.

And it's very – it's challenging often, isn't it, for patrol groups to have to pick up a lot of people and put them into protective custody?---I don't – it's not challenging, it's our job.

Well, would you have thought a very young constable, that it might be challenging?---For a young constable?

Yes?---Well, I – so I would probably weigh that by when they first come out. It might be a bit confronting, but as – it's how you – how you communicate with people and deal with that.

Superintendent, did you ever – as any part – at any time when you were in the Northern Territory Police Force, participate in any trauma-informed training?---I – can you explain, what you're talking – I don't- - -

So do you know what I mean by trauma-informed training?---Not really.

Were you once a young constable who was out on patrol groups yourself?---Yes.

But you never did that in Alice Springs, did you?---I would do shifts. I have – I have been – I went out on occasion as when I was a senior sergeant.

Did you do that after 2013?---Yeah.

Have you had – been on patrol groups where people have been put into protective custody?---Yeah.

Have you, at any period of time where you are doing those shifts night after night? That is, on night shift?---Yes.

When was the last time you would have done that?---When I – probably when I stopped watch commanding. So 2016 or 17?

Did it occur to you that, for some of the young officers, coming into Alice Springs, having never had any involvement with Aboriginal people, it might be challenging to do that night after night?---Yeah, I – it would be initially. That's why we also have them with the – with senior members when they first come out from school.

So to your mind, the role that it played by sergeants on the patrol group is what is critical in advising them how to behave respectfully, in spite of those challenges; is that right?---The sergeant is very important, but the senior member is probably equally important.

The senior member, being – meaning the senior constable on the patrol group; is that right?---Well, unfortunately in Alice Springs, it's pretty rare that we have everybody with a senior constable.

Okay. I take it then that there's no specific training that you're aware of to help young officers to cope with the – what they're going to experience on night shift, putting people in protective custody, for example?---I don't think it matters what day – time of the day it is. They do do – they do cover it in their – in their initial training in the college.

Okay. I'm just going to move to the CMTs, Ms Vicary. At page 5, you say this: "Obviously, I sit in the CMTs here, so I am aware that when we have complaints against police and that sort of thing, he has had a number" – and you're referring to Constable Rolfe – "He has had a number of incidents where he had been involved in complaints and a large number of those have been CRP-type ones and there are others where he was, you know, involved in the arrest team where the PSC has taken responsibility for." I'm just going to deal with some of those acronyms. You sat on the CMT, the Command Management Team, correct?---Yes.

And you're referring to complaints of Constable Rolfe where there had been a large number of CRP – Complaints Resolution Process-type ones, correct?---Yes.

And there are other ones where he was involved in the arrest team where the PSC has taken responsibility. That's the Professional Standards Command?---Yep.

And then you go on to say at the bottom of the page: "So none of the CAP's"?---Complaints Against Police.

"None of the Complaints Against Police were people that had injuries or anything. I did notice that, you know, he was getting quite a few – had been involved with. It is not often. It was just him and another member. There were groups. We had multiple people and that sort of thing." And then you go on to note that there was a particular lawyer – when NAAJA took over from CAALAS who would get complaints – who would make complaints, and those complaints dropped off after that lawyer left. Do we take it from that evidence that you were not concerned about the – any complaints coming in relation to Constable Rolfe and you thought, in fact, that it was a particular NAAJA lawyer who was being overly sensitive?---So – yes. I think that it – pretty much any time that we were apprehending a (inaudible) person that that we would – we would get a complaint.

And so do your mind, the reason why Constable Rolfe might be receiving a fair few complaints really related to this overly protective or defensive lawyer?---Well – well, in those – in – based on the experience that we were having and – because it wasn't just Constable Rolfe. Maybe I miss – mis-said that in the thing, but it was – we were getting complaints by other people as well.

So I'll just take up some of the things you said. "None of the complaints against police were people who had injuries or something." How did you know that? Or why did you think that?---Usually from the information that came through in the complaint.

Okay. From December 2016 to November 2019, so the three years, there were, in accordance with the records, 46 incidents of use of force, that were reported for Constable Rolfe. Did that seem to you to be a high number?---Over how many years?

Over three years, 46 incidents?---No.

So - - - ?---No, so any time they use – use force, they – they have do (inaudible) and be, you know, you know, pretty much any time that they've had – they have to you know take someone to the ground, or you know, there's a use of force (inaudible).

Sorry, Ms Vicary, you're dropping off there in your words, could you repeat that last sentence?---So – so any time that they used force, in accordance with our use of force guidelines, then they have to complete one of those use of forces.

All right, and then you said any time, so for example, pretty much any time they take someone to the ground, or anything like that?---Yeah, ground stabilising would do that – call that. So - - -

It's not just any arrest though is it? It's any – it includes any arrest that involves the use of force?---Yeah.

All right? So the numbers itself wouldn't trouble you, 46 incidents of use of force?---No.

Okay. You go on to say, "None of the caps – complaints against police involve people with injuries." Have you read the report of Commander Proctor that was prepared for the assistance of her Coroner?---No.

In his report for example, he notes that in 18 months, there were three arrests that involved head injuries. The arrest of Mr Ryder, the arrest of Master Cleveland, and the arrest of Mr Bailey. Did you know about that?---I'm aware of the Malcolm Ryder case, but I'm not aware of the other two. But they may not have been CRP jobs. They may have been ones that have gone through PS.

But they would still come to you in the CMT wouldn't they?---Yeah, I'm so sorry, I thought you were talking about the use of force in relation to – to my comment about the CRP's.

All right, so you're just restricting that to complaints against police are you?---Yeah.

Well let me just remind you of the – of the facts of those matters. And then I'll take you to some video shortly. On 11 January 2018, Malcolm Ryder was arrested by Constable Rolfe, and three others. He ended up receiving 13 stitches. The laceration above his right eyebrow required 13 sutures to close it, and a laceration above his left side of his forehead required three sutures to close. Body-worn video had not been activated by three of the officers. Do you just hold that case, that's 11 January 2018?---Yep.

On 1 April 2019, Master Cleveland Walker, a 17-year-old Aboriginal boy, was chased onto the Anzac Hill area. During the arrest, he ended up on the rocky ground. He alleged that Constable Rolfe had banged his head into a rock. He sustained a laceration that required medical treatment and – and stitches. Body-worn video was not activated for the arrest?---Yes.

On 12 October 2019, Mr Bailey, ran across the Council lawns. Constable Rolfe pursued him. Pushed him at full speed into the wall of the Council building without warning. He fell heavily into a bench seat attached to the wall of the Council building, striking his head on a seat. His head was split open. He required nine sutures to close the wound. On that occasion, he did activate his body-worn video. Putting those three occasions together, would that concern you in any way, that this officer was involved in those three incidents, over 18 months?---Three incidents over 18 months (inaudible) - - -

Where – sorry, three incidents - - - ?---Where they were injury?

- - - where there were head injuries that were required sutures?---I'd have – it would depend on the circumstances of – of how it happened. Often, if they ground stabilise someone, or if there's some sort of tackle or something, and they hit the ground and that can result in people getting cuts to their head and having to have stitches.

Would you be interested to know, as a superintendent of the station, of the circumstances of those incidents? If a member of the community ended up with sutures in their head, after being detained by one of your officers, and it happened three occasions in 18 months?---Again it would – it would be – you'd look at it individually, and then based on whether or not those ones have been justified, then – then you would look at it.

Would you - - - ?---But if they weren't justified, then you would have to be – start looking at the concerns.

So the answer to my question is yes, you would be interested as superintendent, to make sure - - - ?---(Inaudible).

- - - that use of force was justified, if you thought that members of the community were ending up with stitches in their head, after an arrest?---If – if – it always concerns me, unjustified, yes.

Well it's a fundamental part of your mandate, isn't it? As superintendent, of that area, to make sure that there is not a pattern of excess use of force?---Yes.

One of the incidents that you were involved in a review of, involved the Todd Tavern. Do you recall that incident? If – where Constable Rolfe was involved?---I don't recall it, but I have been provided some information about that.

On 24 September 2019, there was a foot chase through the Alice Springs Mall. Constable Rolfe and Kirstenfeldt located a man outside the Todd Tavern, and began questioning him in relation to escaping custody. He ran from police. Constable Rolfe activated his body-worn video. He covered a distance of 250 metres. Body-worn video shows the man slowing down. Constable Rolfe runs at him with force. Touches him with outstretched hands, and pushes him into the wall. And he – well crashes into a fence. You've watched that video recently, correct?---Yes.

And in fact, you signed off on – or I withdrew that. You reviewed the C.IRR, the custody incident injury report?---Yes.

And you signed off on it at that time?---Yes.

So you must have reviewed the body-worn video footage at that time as well, is that right?---I don't always review the body-worn video. If the senior sergeant has reviewed it, and provided me comprehensive – a comprehensive report, and – and I'm satisfied with that, then I will sign off on it.

Well what's the point of you reviewing it, if you just take the word of a senior sergeant that everything was okay?---So I – I trust the senior sergeants, and their – and their information. If they – if they have viewed it, and they've covered off on the justification in the authorisation provisions, and they're provided me significant information about – about that and then I won't always look at it.

I'm going to play - - - ?---I reviewed the job. I read through the PROMIS job. I read through the case notes, but I don't always look at the video.

But if you read the PROMIS job, and you read the case notes, you're wholly reliant aren't you, on what officers below you put into the PROMIS and the case note?---I'm – I'm wholly reliant on the watch commanders, and as a superintendent, I trust – I have to trust the watch commanders to be doing the right thing.

Well even if you're trusting them to do the right thing, why not look at the objective evidence, so that you can assist them in their review, if you think that there was another opinion available?---I – I just – it's – if they have been satisfied, that – with their looking at it, and – and I have very experienced watch commanders, it – I don't – I didn't believe it was always necessary for me to look at them.

So you - - - ?---I – I would base my opinion, based on the information that I was provided.

All right, it wasn't your job to bring an independent mind to that use of force?---If I had concerns, I'd look at the body-worn.

But you weren't going to have concerns if your watch commander didn't have concerns, is that what you're - - - ?---Exactly.

Al right.

Bec, if we could just play that video now.

DVD PLAYED

DR DWYER: It might be worth taking the morning adjournment, your Honour.

THE CORONER: All right, we'll take a 15-minute break.

WITNESS WITHDREW

ADJOURNED

RESUMED

DR DWYER: Ms Vicary, just before I show you this video involving the Todd Tavern incident, I want to ask you some question just if I can get clear about the role of superintendent. We understand that that is one which has a huge number of responsibilities, correct?---Yes.

It was a very busy job?---Yes.

You were often working in excess of 10 hours a day; is that right?---More than that.

Okay. And so when you're reviewing a CIIR, the Custody Incident Injury Reports, is it fair to say that that's just one of the many jobs that you would have to do on any day?---Yes.

And your time constraint?---Yes.

And so you're, just to be clear, when you're doing that, you said you didn't often review the body-worn video footage. And, in fact, you wouldn't review it unless you were concerned about something in the paperwork you saw; is that fair?---Yes.

And is that simply because of the time constraints you've got on you?---Yeah.

In terms of the injury reports, is that you're viewing the case note for the CIIR?---So there was two. There was the use of force form as well as the Custody Incident Report.

Okay. And anything else?---Sorry, I look at the PROMIS job.

So you look at three documents. The PROMIS job, the case note for the CIIR and the use of force. Was that your practice?---Yes.

And that was your practice in 2019, I take it?---Yeah.

All right. I'm just going to show you that video now of the – of the Todd Mall incident.

DVD PLAYED

DR DWYER: If we can pause that there. Superintendent, that's not a body-worn video footage that you saw before this inquest, is that right?---That's true.

So what you've got is first of all the CIIR and that is written by who?---The CIIR was written by Wade Pahi.

And what is his role?---He would have been the custody sergeant.

So he is a Sergeant - Mr Pahi, right? Is that right?---Yes.

And his description - - ?---He's an acting sergeant.

His description of what we just saw in terms of affecting the arrest, was that "It appeared the gentleman was intoxicated before he was placed under arrest he ran from police. He was chased on foot and after approximately 400 metres was apprehended. He was conveyed to the Alice Springs Watchhouse." Is there anything - sorry, and then you go over the page, page 3. "Halfway down the page there is a reference to a male then producing false ID indicating he is Mr Ed Lee. The police are looking for a Mr Hayes. They believe it to be Mr Hayes. The male then ran from them down Todd Mall for approximately 400 metres where he was arrested after a push from the officer to redirect the male and prevent further escape". Do you think that adequately describes what happened in that body-worn video footage?---All right, so we go up to the top of that because you've gone - started halfway down, so the CIIR side of it is quite a précised version but if you look at what Senior Sergeant Donaldson(?) had written, his is a lot more comprehensive. So he has viewed the PROMIS job - - -

So I'm getting to that - I am getting to that shortly Superintendent Vicary, I am asking you first about the CIIR written by Mr Pahi. Do you think that what he as written in his CIIR adequately describes what happened in that body-worn video footage when that gentleman was apprehended?---Yes. It's a distinct version of it.

All right, so the reference there in terms of the "approximately 400 metres where he was arrested after a push from the officer to redirect the male and prevent further escape" do you think that is perfectly adequate?---Well that's - yes, that was obviously how he termed what that was.

All right. But I am asking you now that you've looked at the body-worn video footage do you think that that is a perfectly adequate way of describing what happened during that arrest in terms of use of force?---Yes.

And then there is a Use of Force report that you were referring to and we have that. It hasn't got a document identification name, your Honour, I am going to tender these two documents. The Use of Force report, who is that written by?---So that's written by Senior Sergeant Donaldson.

And what was his role?---He was - would've been a watch commander.

Was he there at the time of the incident?---No. I don't (inaudible).

In terms of these two documents, the Use of Force and the CIIR, are you giving them equal weight in terms of trying to get an understanding of what has occurred?---I would say that the Use of Force document has more detail on it than what the CIIR would.

But in terms of what you are assessing, do you give them equal weight generally?---I would - I would give the Use of Force document more weight than the CIIR.

If we could put that Use of Force document up then Bec? So if you scroll down there on the Use of Force, it refers to it at approximately 1750 that day,

"Pahi saw a suspicious vehicle from earlier in the shift parked at Anzac Oval car park. A short time later officers Rolfe and Kirstenfeldt arrived. The officers searched the Todd Tavern" – I'm going to summarise briefly – "located a male matching the description of Mr Hayes. The male provided an NT driver's licence for Egley(?) and claimed to be him. The photo on the licence didn't match the male being spoken to. Pahi formed a reasonable ground to believe that was Hayes. He was about to arrest him when the male ran along Todd Street. Both Rolfe and Kirstenfeldt gave chase. After approximately 400 metres Rolfe caught up with the offender who was still running from members. Rolfe pushed the offender and cause him to fall to the ground. Rolfe then held the offender's arms behind his back. Kirstenfeldt arrived and placed the offender in handcuffs."

And then the Use of Force incident, the reason force was necessary to prevent a breach of the peace"?---Okay, well - - -

If you turn over the page to the last page if you don't mind there, page 3, you would have read the supervisor details - sorry, at the top of that page there's a reference to the fact of the subject injuries from the use of force - not major but did require hospital admission. "Person of interest complained of a sore shoulder, was taken to hospital and put in a sling but did not require any further treatment, apparent swelling only". And then the supervisor reported;

"Body-worn video of arresting officers viewed, consistent with use of force report. Where the male stopped there were chairs and tables that could have been used against police. Force against - used by Constable Rolfe was proportionate, reasonable and necessary in the circumstance. Male conveyed to Alice Springs and was not admitted. Seen later that evening by police and apologised for his actions."

Ms Vicary, in that particular arrest there was no suggestion at all, was there, that the gentleman who was chased was ever going to use any chairs and tables against police? Do you agree with that?---In the Use of Force or in the video itself?

In the video itself - and in the job. There's nothing to suggest that that gentleman was threatening police with chairs or tables, was there?---Not in - not in the video and stuff, no.

And not anywhere in the job?---Well, I would suggest that the action that they took prevented that occurring.

You understand, don't you, that police were actually chasing the wrong person. They were trying to apprehend someone and it was a mis-identification. You appreciate that now, don't you?---I do but I - like I would like to point out that the video you just showed we actually missed quite a bit at the start where the members

had made - had done quite a bit in relation to try to ascertain his appearance and that the picture that they had could represent the person that they were talking to and he had already - he had already had one false - one false document saying who he was and then had provided false names, so they could - they were really attempting to ascertain his - his identity prior to him running away.

Do you know what they were attempting to arrest the person who they falsely recognised as him - - - ?---They believed - they believed he had escaped custody previously.

And did you see anything in that body-worn video footage that you have looked at for the preparation of this inquest that suggested the male they actually detained was threatening in any way towards police?---Well, not - not - - -

There's nothing – there's nothing is there?---No, no, but you know, from I guess – yeah, well okay, no.

And so when you look at it back, and you reflect on it, because I'm asking you to do so, based on your experience, the line in the report, "Where the male stopped there were chairs and tables that could have been used against the police" is just, I'm going to suggest to you, a gratuitous line, to justify the use of force. What do you think of that?---I would disagree with that. I would say that that, you know, it – they've – they've ran into a situation where there were objects that could be used to assault members, and they have prevented that by the action that they've taken.

There's absolutely nothing that that gentleman did, to suggest that he might assault police. Why would you think that he might do that?---Why would you think that he might not, just because they stopped him before he could?

So it's your view is it, that he might have used force against police, even though, they got the wrong person that they were chasing, because he's an Aboriginal person being chased by police?---I don't think that you need to bring race into it. He – there were actions that were – that had occurred. He had a – he had ran from police.

Just to be clear, the actions that had occurred, were that he'd given a false name and run from police, is that right?---And they – and they had the belief that he had escaped from custody. So, in – I – I don't know what was in Zach's mindset when he – when – when they were like apprehending him. So I can't say what he was thinking. But at that point, they thought that he was somebody who had escaped custody, and they were going to arrest him. And having somebody slow down doesn't mean that they're going to come – not try to assault of police officer. So by doing what they have done, and potentially, in their mind, they are preventing that matter escalating further.

And – and you don't see any difficulty with that, it's plain?---Well I – I believe that that's all – like a – I think that's trying to stop the members – the members themselves from being assaulted. That's a perfectly logical thing.

You think basically, that if you give police a false name and run, then that justifies being pushed in that way, into the furniture around Todd Tavern?---If you give somebody a false name, and the members had believed that you were a person who has escaped from custody, and you are trying (inaudible) being apprehended, and then I don't know, like based on the thing, I don't know what the background of the – the person was, or what he was alleged to have done when he escaped custody. And members may have had that information.

Would it matter?---So it - - -

Would it matter?---It – well it could matter, if he – if it was something – a violent act that he had done. I – then that would be in the members minds.

Okay, would it matter though, if it was someone who had not committed a violent act, if it's somebody who did not have a history of violence, that police had – if the police had no fears that he was an immediate risk to the public, would it suggest that less force was necessary?---Well that – like that would be in the minds of the members themselves, at that time. I don't know what they were thinking at that point.

Ms Vicary, the – in the Proctor Report, Commander Proctor deals with this at page 27. He notes, "That the chase went from outside the Todd Tavern on Wills Terrace, to outside Sports Restaurant, a distance of approximately 250 metres. The man appears to slow down considerably outside of the Sporties Restaurant. Constable Rolfe did not slow down. And ran full force into the man, striking him with outstretched hands. This caused the man to crash with considerable force, into a fence, outside Sporties." I'm going to suggest to you that that characterisation by Commander Proctor is what we can see on the body-worn video, and it will be a matter for her Honour herself. Do you accept that?---That's absolutely a matter for her Honour herself, but different people will have a different view of what they see.

What – what's your view as to whether that is acceptable force for the police, when Constable Rolfe, "The man appears to slow down considerably outside Sporties. Constable Rolfe did not slow down and ran full force, striking him with outstretched hands, causing him to crash with considerable force, into the fence, outside Sporties." Is that acceptable, or not acceptable?---Well I don't – I don't know that I would say that he slowed down considerably. Zach may not have had the – like may (inaudible) events may have been too much for him to slow down that quickly.

Right, so in your – if you were – if you had seen the body-worn video footage, that would not cause you any concern?---I – I doubt that I would have changed any of my opinions on that report.

And you don't change your opinion now? You stand by it?---No. I – I am very comfortable with that.

You - - - ?---I appreciate – I appreciate that you're not, but I – that – that is my truth.

That's helpful. You – are you aware that Constable Rolfe filmed the body-worn footage on his own phone?---No.

Are you aware that there was a practise of some of the officers filming – whether there was a practise of some of the officers filming the use of force incidents on their own phone?---No. I don't know why you'd need to do that, unless it was to – in case the body-worn didn't pick up some things or something - - -

No?---I don't know.

What about if you were doing it because you wanted to boast to your friends and family about your use of force. What would you think about that?---Well that would be a pretty disappointing practise.

Is that how you would actually characterising it? “A pretty disappointing process”, or - - - ?---Well that's not - - -

- - - a disturbing breach of discipline? How would you like to describe it?---Well that – a breach of discipline would be one way, because if they're showing it to people outside of the people involved, then that's not okay.

Well as we now know, on the – the day after this incident, on 25 September, Constable Rolfe sent a text to [REDACTED], that said this. “The main” – after show – he filmed the body-worn footage that was on the computer using his own phone. Do you understand that? So he had a copy of the footage on his own phone?---Okay.

And his text message read:

“The main chase body-worn is mine, dot, dot, dot. Ha ha, treated him to the old illegal shoulder charge. Because I wear body armour, I'm not as rapid as the locals initially, but they still can't outrun me. Turns out the dude wasn't who we were looking for, and is now in a sling for nothing, ha ha, don't run from police.”

What do you think about that, Ms Vicary?---Well that's not something that I would condone at all. That's not - practise at all. And it shouldn't be.

Do you appreciate that it's Constable Rolfe's own assessment, that he treated him to the “Old illegal shoulder charge”?---(Inaudible).

That's not something you picked up when you watched the body-worn video?---Well I didn't notice it as a shoulder charge, I just saw it as a push.

I suggest to you that there's a number of concerning things in that text message. Firstly, laughing at the fact that someone who wasn't the suspect, ends up in a sling for nothing, running from the police. Does that concern you, that an officer in your command would do that?---Yes.

Filming on his own personal phone body-worn video footage, which is evidence. That concern you?---Yes.

Sending it to a member of his family, so he can laugh about it. Does that concern you?---Yes.

And it would concern you if that was – that practise of filming, on your own personal phone, body-worn video footage, and showing it to other people in the station, for a laugh. Would that concern you?---Yes.

I'm going to ask you now about another incident involving Mr Bailey. The incident which occurred on 12 October 2019. Just to remind you, this involved the Alice Springs Town Council building at around 2.30 am. Mr Rolfe saw a male and a female having an argument. He ran across the Council lawns, and pushed the man. We'll watch the video now. I'm not suggesting that you supervised this in any way, but we'll watch the video now?---Okay.

DVD PLAYED

DR DWYER: Ms Vicary, you've seen that video before today; is that right?---Yes, that's correct.

But only in preparation for this inquest; is that correct?---Yes, that's correct.

Was that a matter that was ever raised with you that you recall in any soft of CMT?---I don't recall.

All right. I will come to the CMT shortly. You understand, don't you, that Mr Rolfe chased after Mr Bailey. You saw the push on him that causes him to fall – causes Mr Bailey to fall heavily into a bench seat attached to the wall of the council building, striking his head. He required nine sutures to close the wound – that is, Mr Bailey. Do you have any concerns about that use of force?---It is really unclear. I'm not sure – I'm not sure why they, like, why they went running to him. Like, I don't know the context around it.

What about – regardless of the reason, does the actual use of force in those – in that particular instance where Mr Rolfe- - -?---I think the reasons are very important. Because if he – if that person was doing something that was going to put someone else's safety – and they've run up to him and, like, and they're using dynamic tactics to get him down, then that – and that person has hit his head, which unfortunately does happen sometimes, I – I - -

It does – it's likely to happen, isn't it?

MR EDWARSON KC: I would ask that counsel (inaudible) of the witness.

DR DWYER: I will do that. I appreciate that.

Sorry, Ms Vicary?---I think the context is important.

Okay. Did you – you say you can't recall if anyone brought that incident to your attention?---Look, it may have been at the CMT, but I don't remember.

If an officer pushes – or if anyone pushes someone at full speed into a wall where they fall on to a bench seat, it's likely, isn't it, that there is a risk of serious injury to the person they push?---Yes.

You would have to be certain, wouldn't you, that that option was the only – the one that was required, in terms of the use of minimum force, to stop an immediate incident?---Yeah. And that's why the context is important. I would need to know why they felt they needed to it in that dynamic way.

And you would certainly want to know that, wouldn't you, as the supervisor who was intent on making sure there was no unnecessary use of force?---I – yes.

Are you aware now that Constable Rolfe sent that video on to other people?---No. Is that one of the ones that they sent? I need – let me be clear. I am not aware of any circumstances where members have- - -

Okay. I will withdraw that question, Ms Vicary. I will ask you this question: are you aware of any text messages where Constable Rolfe talked about that incident?---No.

If I suggested to you that on 14 October, Constable Rolfe texted a paramedic and said, "I've had some busy shifts lately. Mashed some dude's face against a wall. And that talkative Georgia paramedic came and quickly go on board that we were treating him extra nice so he didn't make a complainant"?---I was not aware of that and quite concerned that if a paramedic hadn't reported any of that.

Are you concerned about a police officer texting a paramedic that he, "Mashed some dude's face against a wall"?---Yes, I – I've said that. That is very concerning.

And a text later in the day that, "His head should be too sore to head for her, but a little bit, ha ha?" Something about laughing about his head being sore? That would concern you?---Yeah.

He's – the act – I misread it: "His head should be too sore to headbutt her for awhile, ha ha"?---So that would indicate that at the time they were going to arrest him, he – he was assaulting his partner by headbutting her.

That's what Constable Rolfe's suggesting in that text message. Does it concern you that he's texting somebody else, laughing about the fact that a man was injured in that arrest?---Yes.

You say that's not something that you ever suspected he would do?---It's not something that I would suspected any of the members at my station to do. And if I had have known about that, they and I would have taken action from that.

And if you had known- -?---(inaudible).

If you had known that any of your sergeants were sanctioning any excessive use of force, would you have taken any action against that, too?---Yes.

There's a video that I think you may have seen in preparation for this inquest, which involves MG(?), he's a 14-year-old boy who breached bail and fled the courthouse. He absconded from Territory Family protection workers. Police searched and found him hiding in a wheelie bin. Have you watched that footage?---Only in preparation for this.

Did you have any concerns at all, when you watched that footage, about the treatment of that child by Constable Rolfe?---I, like, it probably wouldn't have been how I would have done it however, I have knowledge of that young person and the violence that he can do when he's trying – when he tries to be apprehended. So I – so I, you know, whether or not they felt that that was the most effective way to get him out of that bin, I probably don't – I don't think it should have been knocked down quite so hard, but that it may have been the safest way for everybody for him to get out because that young child has a significant amount of issues, sadly, and he was often quite – could be quite violent.

That young child is the victim of serious trauma; is that right?---Had had a terrible childhood.

Victim of serious trauma; is that right? Is that a fair way to characterise it?---I agree – yes, and long-term trauma.

[REDACTED]

He was, at that stage, a 14-year old boy of slight build; is that right?---Yep.

Police found him hiding in a wheelie bin. You saw that on the footage?---Yes.

He was crouched down in the wheelie bin; is that right?---Yes.

When Constable Rolfe saw him, the first thing he – well, the lid was open. Do you recall that?---Yeah.

The first thing Constable Rolfe did was then slam the lid down on the child. That is, down on the bin so that the child was inside the bin? Do you recall that?---He was already – he was already inside the bin.

Do you recall that Constable Rolfe slammed the lid down on the bin?---I saw that he closed that, I don't know that I would say it was slammed.

Do you want to see the footage again?---If you want. I – I've watched – we watched it a couple of times.

All right. I take it from what you're saying that there is no problem – you didn't have any problem with the way he closed the bin?

MR FRECKELTON AO KC: Your Honour, in fairness to the witness, I request that it be shown to her again.

MS DWYER: Certainly.

DVD PLAYED

DR DWYER: We can stop there.

Ms Vicary, does that remind you of the way in which Constable Rolfe shut the bin lid?---Yeah I still wouldn't say that he slammed it down. He closed it.

He closed it with some force, do you agree with that?---Yeah it went down with some force.

And then he rested his hand on the – his arm on the bin lid, so – for a couple of seconds, so that the child was in the bin, in the dark, do you agree with that?---Yeah, that would appear to be what that was – what happened.

Did it concern you that it was unnecessarily humiliating for the child, in that circumstance?---I don't – I can't say how – how the child felt.

Could you use your imagination, Ms Vicary, and imagine how a 14-year-old child whose the victim of trauma, over many years, might feel, in those circumstances? I suggest to you that they would be humiliated?

A PERSON UNKNOWN: Your Honour, I object (inaudible).

THE WITNESS: I would suggest that they wouldn't be happy with it.

A PERSON UNKNOWN: Could we perhaps stick to objective facts rather than imaginations, your Honour.

THE WITNESS: Thank you.

MR BOULTEN SC: My goodness.

THE CORONER: Well, I suppose I can use my own - - -

DR DWYER: Yes, your Honour.

THE CORONER: - - - common sense to reflect on how a 14-year-old traumatised child, [REDACTED] might feel, shut in a closed bin by a police officer slamming the lid down.

DR DWYER: Yes, your Honour, but it is helpful to get Ms Vicary's reflections on it, and - I think we've - I think she answered the question.

The - Constable Rolfe then, after doing a noise "click, click", slamming the lid - well I withdraw that. Putting the lid down in a way that hit the bin with some force. Resting his arm on there for a couple of seconds. Then pulls the bin down to the ground, causing the child to fall out. Do you have any difficulty with that?---I have some difficulty with the force that they used to do that. That was probably unnecessary.

Why?---Well because it did go down quite hard.

The child then, you would have seen him, when he's pulled out of the bin, says "I'm sorry sir, I'm sorry sir" repeatedly, and "No need to be rough." Do you have any difficulty with the way in which Constable Rolfe communicated, or didn't communicate with him in reply?---I - I couldn't really hear what he was saying, to be honest.

What would you have expected, from one of your police officers, who, in your words, you expect to treat everyone with respect, regardless of what they've done. That's part of the inherent values of the Northern Territory Police Force. What would you have expected them to communicate to a child, after they're pulled from the bin in those circumstances?---Well - well, I probably would have expected them to be communicating before they did that.

How?---So if - if - so well rather than just go and put the bin down, I would have said to him, like what are you doing, like you need to come out of the bin. Like, you know, you know, you've breached your bail, you know you're supposed to be (inaudible). But I would have communicated, like I would have talked to him, at that - you know, and that's - that's what we encourage. But again, I don't know what was going through Zach's head for him to do that behaviour, but it's not something that, you know, that - it shouldn't be the norm.

Is that communication style something that you condone? What you just saw Constable Rolfe exhibit?---No, my preference is always to start at the lowest level. Try and talk to people and get - get compliance that way.

So if you're - knowing that one of your senior officers would have been there, or reviewed that - thinking that they reviewed that, would you have expected some direction to be given to Constable Rolfe, in relation to his use of force there?---Yeah I think they probably should have been talking to him about making sure that they - they were using communication, at least during the process anyway, so that there's (inaudible).

And would you have expected there to be a use of force report, in that incident?---There should have – there should have been.

Are you familiar with the General Order on Custody and Transport, that was in place at the time?---In relation to youths?

No. Just generally?---Yep, (inaudible) I've tried to delete everything out of my brain, but if you tell me, I should be able to figure it out.

I'll read it to you, but just before I do, you'd agree, wouldn't you, that that video shows that child say – saying repeatedly, "I'm sorry sir. I'm sorry sir", after he's got his handcuffs on him. And "There's no need to be rough" is what he said to Constable Rolfe?---Yes.

You would expect some communication from one of your officers, wouldn't you, towards that child, to offer him - - - ?---Yes.

- - - some sort of reassurance that he was safe?---Yes.

You'd agree?---Yes. Yes.

The General Order on Custody and Transport says this. "A member who is" – first of all, sorry, "The duty of care commences at the point a member of the public is, or forms the belief that they're in the control of the Northern Territory Police Force"?---Yes.

It goes on to say, "A member who is responsible for a person in custody, must be diligent and professional in the exercise of their duties. A members duties while caring for persons in custody, will be in accordance with the General Order, and delivered in a manner consistent with the Code of Ethics and Conduct." You would have expected your officers to know about that, correct?---Yes. Yes.

It goes on to say this, "The simplest approach to an understanding of the nature of duty of care required, is to answer the question 'How would I want myself, or a member of my family to be treated if I or they were in custody'" - - - ?---Yes that's correct.

- - - do you - - - ?---Yes.

That's a pretty good way to explain it, isn't it?---Yes.

And it goes on to say, "The appropriate responses should invoke considerations of reasonableness, lawfulness, humanity, civility, and an active concern for safety and welfare." They are honourable standards to abide by, aren't they?---Yes.

When you look at the treatment of that child, [REDACTED] that is not, I suggest to you, the way that you would want, a member of your family treated if they were in custody?---(Inaudible).

MR OFFICER: Well your Honour, if I could just rise - - -

DR DWYER: It's answered I think, I'm afraid.

MR OFFICER: Well, I think in fairness to this witness, and certainly in fairness to Constable Rolfe, (inaudible) cross-examine on it, there's two instances (inaudible) here. You've got the bin pulling to the ground. You've then got the words "You're under arrest" and the taking into custody. I think they're two separate incidents.

DR DWYER: I'll break them up. I'll break them up.

MR OFFICER: And an opinion (inaudible) as a whole.

THE CORONER: All right, we can get opinions on each part.

DR DWYER: I'll break that up, Ms Vicary, at the request of Mr Officer. Firstly, the way in which that child was treated, when the bin lid was placed down on him and then he was pulled to the ground. What do you think about that, in terms of reflecting on the values of the Northern Territory Police Force, treating a member as if they were a – treating a civilian as if they were a member of the family?---Yeah, as I've said, look, it probably wouldn't have been what I would have done, and I would have expected that there would be some communication, and discussion about how to get him out of that, without having to use any sort of force to get the bin down.

I suggest to you that the way in which that child was spoken to, was lacking in civility, do you agree with that?---As I said, I actually had a bit of trouble hearing the actual video.

All right. The way in which that bin was pulled to the ground, showed no active concern for the safety and welfare of the child?---Yeah it – given that they put it down too hard – too hard, I think yeah, that was – that that could have caused some issues.

Well I'll just ask you this open question. When I asked you the question about whether that was how you would want a member of your family treated, if they were in custody, I think you answered "No, I would want – not a member of my family treated like that." Is that right?---That's correct.

Why not? What's wrong with it? Put it in your words?---Well I – you – I would have expected that somebody would have talked to them about, you know, what they were doing, and how – and getting them out, you know, in a way that was – that they were working together, as opposed to just doing it that way.

Are you concerned that if there was someone more senior than Constable Rolfe there, they did nothing to correct him, in relation to the way in which that child was treated?---I would have thought that if there was a senior member there, that they

would have stepped in and said, hey no don't do it like that. I would – it – they – they should have been talking to them.

Are you aware of the fact that, in relation to this particular incident, a letter of complaint was made in relation to the treatment of this young person?---I don't recall.

It was reviewed by the Office of the Ombudsmen, who referred the matter to PSC, a preliminary inquiry was undertaken by Sergeant Lisa Bayliss(?), do you know that sergeant?---Yes, I do.

Do you know what the outcome of that inquiry was?---No.

In fact, the outcome of that inquiry was that Sergeant Bayliss reviewed the body-worn video footage and no difficulty with it. She thought that the arresting officer, Constable Rolfe, used the RISC principals – Rapid Intense Specific Competent – to effect the arrest and, in fact, it was noted that it was commendable that the body-worn video was on on that occasion. Are you concerned with that level of oversight?---I have no control over what the PSC investigations have. That is something you would have to take up with Lisa's- -

No, but Superintendent – sorry, Ms Vicary, please look back on it. Are you someone who cared about the community of the Northern Territory while you Superintendent here?---With every bone in my body.

And you're someone who cared about the treatment of Aboriginal children; is that right?---Yes.

And you're someone who cared about your officers acting with respect towards members of the community- -?---Yes.

Regardless of whether they were Aboriginal or non-Aboriginal; is that right?---Yes.

So when you look back on that, does it concern you that when that body-worn video footage was reviewed by a sergeant, nothing was done to advise Constable Rolfe of the problems with his treatment of an Aboriginal child?---On the basis of looking at that view, but I don't know what other information that that – that sergeant had. They may have had information that we don't have.

But what they did have was the body-worn video footage which shows what you just saw. Do you agree?---Yes.

So what – regardless of whatever other issues there were, is it your view that on the back of that body-worn video footage, Constable Rolfe should have been at least spoken to about his treatment of the child?---Well, as I said. Like, if – if I had have been aware, like, had have been investigating it, I would have been talking to them about having more communication.

Does it concern you about the adequacy of the review – the PSC review – that, in fact, not only was Constable Rolfe not spoken to about his treatment of that child, but he was commended for the use of body-worn video?---Again, unless I saw the whole file that she put together, I think it's not fair that I make an assessment of that.

Right. A further review of Constable Rolfe's use of force incident shows that on 13 occasions over the three years that he was at Alice Springs, he was picked up for failing to activate his body-worn video footage thereby, failing to comply with instructions. On six of the 13 occasions, he was provided with remedial advice by a supervisor, watch commander or divisional superintendent. Is that an excessive number of times? 13 occasions over a - - -?---So if - - -

Where you fail to turn on your body-worn video footage in breach of the general orders that require you to?---So in the – when they – when the body-worn first came out, there – you know, we – there was some grace period where, because it was – it takes awhile, like, it was taking awhile for members to get in the habit of doing it. And after about six months, then we started, like, taking – you know, taking, sort of, things a little bit more seriously and saying, "Hey, you've had six months to get used to getting into that habit of doing this."

So when did you start taking it more seriously?---So six months after, like, there was a grace period of six months where we – we would speak to them about it if they hadn't had – activated it, where we – you know, at musters and at – in training days that members would constantly be reminded to activate their body-worn when they were going to jobs.

When did body-worn video footage first start to be used?---I can't even remember, now.

There was a six month grace period and then what?---So then PSC contacted us to say that, you know, "Right, they've had six months," and that if they were noticing that they weren't wearing the body-worn that that would be – questions would start to be getting asked when they were in the disciplinary process.

And then would you start to ask questions of an officer who repeatedly failed to put the body-worn video on?---I wouldn't probably do it directly. I would have spoken to their senior sergeant or sergeant and been saying to them, you know, why we need to talk to their members about what they're doing.

Would you – were you looking at any time, when you were superintendent, for a pattern that suggested a wilful defiance in terms of body-worn video?---So we – they did audits on them and there were a few members in the station who we were noticing that they weren't activating it as often as they should have been doing.

Was one of them Constable Rolfe?---I believe so. And there was a couple of others.

What was done?---So we started doing dip tests. So the OIC was – or a person that he delegated – would go in and do a dip test of a – of particular members and

ascertain how many, like, if they may have – or how many times they had activated their video over a certain time period and I don't remember what (inaudible) was.

And was Constable Rolfe picked up as somebody who was repeatedly failing to do it?---So he was one of the ones that we were noticing that there wasn't the body-worn on it, and that was raised in the CMT. And after he had been spoken to and after we had, you know, had done the dip test and that again and another one came up and he – he had another incident where he hadn't activated them. And I got a little bit cranky. I thought, "Well, this isn't okay." So I went with the OIC at the time and he had a – he went into PROMIS, because he – it said, like, it just doesn't make any sense. So he went and had a look at the other members that he was working with and rostered with on the shifts. And – to have a look at their body-worn video. And in that case, he identified that there was a body-worn video of a member who had been on leave for, like, over a year and his video had started to be activated. So he had a look into – he had a look at that video and there was some – some of Constable Rolfe's, like, his jobs were on there. So what had happened was a number of the members in our station - the batteries on the body-worn videos started to swell and they were, like, they were in danger of exploding. And they were – we had to send them down, back to Darwin, to get replaced. And we didn't have enough body-worn videos to replace them with. So it would – and so based on what Sergeant Bell had come up with, he said that – so Zach had been using video – the body-worn video of this member who had been away. But- - -

So are you suggesting there wasn't – sorry, Ms Vicary. Are you suggesting there was not a problem with Constable Rolfe using his body-worn video footage?---I'm saying that there were occasions where he may not have, but we certainly identified that he had been using it, but he had been using somebody else's camera. And because there is no record of – of, you know, you don't sign it in and out, it wasn't – nobody – we weren't aware that he was using that one.

So on 13 – I just told you that on 13 occasions he failed to activate his body-worn video footage thereby, failing to comply with instructions. How many of those can put down to the issue you just raised?---I don't know.

Okay. In the case of Malcolm Ryder, the 11 January 2018, where he received 13 stitches, Constable Rolfe's body-worn video footage was not activated. Did you speak to Constable Rolfe or ensure somebody did speak to him about that?---I wasn't – I don't think I was aware of that incident until after it – the court case went and we- - -

How long – how long after the body-worn video footage came in did the – did that incident occur?---I don't recall.

Was it after the six month grace period?---I don't – I don't recall because I honestly can't remember when we got body-worn video.

Over one year later, on 1 April 2019 Master Cleveland Walker, the 17 year old Aboriginal boy was chased on Anzac Hill and sustained a laceration to his head and

Constable Rolfe's body-worn video was not activated. A year and a half after Mr Ryder's case?---Yes.

Does that concern you?---Well, he should have activated it so yes, it concerns me that he hadn't done that. I would have been concerned more if nobody had activated it, so it - was it recorded on somebody else's?

But that's not complying with your obligations under - - -?---No, it's not but what I'm saying is it's not okay that he hadn't activated it, however if there were other people there that had their body-worn on then we would've had vision (inaudible).

You dealt with issues in relation to body-worn video - a pattern - I withdraw that. When it came to your attention that body-worn video footage was not being used there were - on occasions there were station-wide broadcast?---Yes.

Sworn officers broadcast for the whole of the Northern Territory Police Force, is that right?---Yes, as well as we used to issue them like from within Alice Springs as well.

There were at least two broadcasts in 2018, is that right?---Yes.

And Commander Proctor tells us at page 35, "There were agency-wide broadcasts in relation to body-worn video footage use disseminated on 2 March and an additional divisional broadcast in Alice Springs by Acting Superintendent Vicary on 26 March 2018?---Yes.

I've located another internal broadcast of body-worn video - in relation to body-worn video on 12 February 2019 for all sworn officers, reminding officers to use their body-worn?---Yes.

And this sworn officers broadcast indicates that since March 2018, given the trends identified with non-use of body-worn video all officers have been required to explain why they haven't activated their body-worn video in adherence to the policy as part of the complaint investigation process. That will continue and I encourage you to protect yourself, your fellow officers and your organisation by operating your body-worn video. So that is two in 2018 and another reminder in 2019. You would think that your officers would get the message after that, wouldn't you?---You would, wouldn't you.

On 20 April 2019, so just a couple of months after that last broadcast, a complaint was made by NAAJA on behalf of a Mr Luke Madrill, an 18-year-old Aboriginal male relating to unnecessary force on 20 April 2019 when he was arrested by police. He was asleep in his mum's house. Police attended the residence. Mr Madrill exited the residence and ran into bushland. After running for a few minutes, he stopped and put his hands on his back stating words to the effect of, "I've stopped, you can arrest me now". It's alleged that Constable Rolfe took hold of him, picked him up, slung him down the hill, causing him to roll three or four times and he collided with a large rock. He screamed out in pain and in response one of the officers there stated, "That's good, you got flipped, you think you're good" and both officers started

laughing. A complaint was made to the PSC. An ancillary investigated was that all four officers were there - not one operated their body-worn video. Does it suggest to you that the message from those broadcasts was not, in fact, being received?--- Certainly not on that indication anyway.

But it suggests, doesn't it, that that is not being taken seriously, there's a significant number of occasions where the body-worn is not on and all station broadcasts don't change that?---Yes, well certainly on that occasion but the majority of police officers (inaudible).

Sure. I take you take if I may, the statement of Superintendent Reid. That appear at 7-115 of our brief. You recall, Ms Vicary, that she held the position as Divisional Superintendent for the Ethics and Integrity Division?---Yes.

Do you recall that she had oversights investigations into complains against police? ---Yes.

Ms Reid explains in her statement that in early June 2018 a complaint against police was made by NAAJA acting on behalf of M Ryder to the Office of the Ombudsman. Do you recall when that complaint was made?---Is that the Malcolm Ryder one?

That's right. Do you recall finding out about that around June 2018? Or not until later?---It would've been raised in the CMT. I'm not - I'd have to look at the minutes to see if I was there at the time.

Just to remind you, the allegations made relate to the use of excessive force and unlawful arrest and you will recall that Mr Ryder is the gentleman who received 13 stitches at Alice Springs Hospital as a result of head injuries after being arrested by Constable Rolfe and Constable Zendelli. Do you recall that?---Yes.

Initially the investigation was assigned and completed on 3 October 2018. It was finalised with a finding that the actions of the police were reasonable. On 12 June 2019 Superintendent Reid explains she met with Assistance Ombudsman Ms Cargill following her return from maternity leave. One of the topics that arise was concern raised by NAAJA pertaining to the outcomes of the Ryder Investigation in the light of the findings of the criminal court - that is the decision of Judge Borchers once that matter went to trial. You're aware of these issues?---Yes, I'm aware of that.

You're aware of the finding of Judge Borchers in relation to the actions of Constable Rolfe and Zendelli?---Yes.

You're aware that Judge Borchers found in his reasons that Constable Rolfe's evidence lacked credibility?---Yes.

He said, "He lied. He has lied in a statutory declaration about what happened in the bedroom. Nobody can say how Malcolm Ryder was knocked out but he surmises that Ryder might have hit his head while he was being tackled to the ground." Did you become aware of his Honour's findings when they were released in - - -?---I

became aware of it after the court case had occurred. A prosecutor came and spoke to me and sent - like and sent an email.

And what did the email say?---It was basically provided the outcome and the author - the lawyer and that the lawyer - sorry, the judge - and that the judge had spoken to the NAAJA lawyer and recommended that they should be probably be - should be looking at a civil case.

Who was the prosecutor who sent the mail?---I can't remember if it was Phil Emmett or - no, I'm sorry, I'm terrible with names now. I can't remember (inaudible) - - -

Ms Vicary, do we take it that that was shortly after the local court hearing where the judge stated - - -?---It was - I'm not sure if that was the same day or the next day.

And had at any time in your career, had any sort of similar comments been made by a judge about a member of the police force under our command?---Not that I'm aware of.

A pretty shocking finding, isn't it, for a local court judge to make those comments. It's very unusual do you agree?---Yes.

And it would be great concern to you as superintendent in that area, that an experienced local court judge is finding that one of your police officers - or sorry - two of your police officers have lied?---Yes.

And that in effect there's a suggestion of excessive use of force causing those injuries to Mr Ryder?---Yes.

Ms Reid goes on to note that once she finds out about his Honour's findings she reviewed a number of the investigations. On reviewing Mr Walker's file and - sorry, I withdraw that . I am reviewing another file that involved a Mr Walker who was not Kumanjaya . She noted some similarities in Constable Rolfe's behaviour. "Body-worn camera not turned on or turned off early. Head injuries suffered by the complainant and Constable Rolfe being the only police officer present when the injuries occurred. She says, "It was about this time that I spoke to Commander Currie and Superintendent Vicary during a Command Management Team meeting and advised them that I was reviewing a number of the complaints referred to me by the Ombudsman office when NAAJA had raised concerns with a complaint outcome. It was likely they would be re-categorise and further investigated" Do you recall those conversations with Ms Reid?---Yes. I - yes, vaguely recall that that was - (inaudible) yes.

She says, "I further conveyed that I was concerned about Constable Rolfe's non-adherence to the body-worn video policy. And that this was the third occasion that I had become aware of people fleeing from him, and injuries occurring when apprehended." Do you recall her telling you that?---Not in those words, but I think that was the general gist of what she was talking about.

You don't dispute that that is what she said? That she was becoming concerned about - - - ?---Yeah I couldn't confirm it word for word, but that's – that was the conversations that – which she had.

Okay, and I'll just finish my question, because she – I just want to break it down. She expressed to you her concern in relation to his treatment – his lack of respect for the body-worn video policy?---Yep.

And she was concerned that that was the third occasion, where people had been fleeing from Constable Rolfe, and had experienced injuries when apprehended?---Okay, yeah, I'm - - -

When you're interviewed by the 11th of – on 11 February 2020 by police, you reply to Superintendent Morgan:

“So none of the CAPS that were looked at were people who had injuries or anything. I did notice that he was getting a quite a few involved, it wasn't just him and another member with groups. We had multiple people, when he was involved, and that sort of thing, he was involved in. So any time that I have members, sort of popping up all the time, I'll start to have a little bit more of a look and see what's happening. I think I did have a conversation with him at one point. I can't remember what it was about. But he'd actually said to me that he felt he was getting targeted, because, you know, he had a number of complaints that he was getting and that sort of stuff.

So I said you him, you know, you're not getting targeted, but obviously, you know, people will make complaints. We had a period here when NAAJA first took over from CAALAS and there was a particular lawyer there that any time we arrested a youth, we were getting these complaints in. So that was, you know, going on for quite a bit. The lawyer's gone now and we've noticed a significant reduction. But every time they arrest someone, we were getting a complaint about the excessive use of force. But you know, again, the reviews were happening, and it was they were all working within the training that the members had had, and you know, it was deemed to be reasonable. The only other issue I was concerned about was body-worn video.”

When you're interviewed by police in February 2020, Ms Vicary, you don't mention anything about Ms Reid's concerns, that there - - - ?---So when I was – when I was talking about that, what I was talking about there, was the – the complaint resolution processes. I wasn't talking about the ones that PSC were investigating.

But why didn't you mention – go on to mention, in fact there were – there were PSC investigations, that looked at three serious injuries people suffered when they were being arrested by Constable Rolfe. You left that out of your conversation with Superintendent Morgan, do you agree?---Well obviously that's not in there.

Was there any reason why you didn't explain that to him?---No, I – it – obviously just – I was – I was just focussing on what I was involved in, not what other people were doing.

You – you explain to Superintendent Morgan, in this interview in February 2020, that you spoke to Constable Rolfe at some stage, is that right?---Yes.

And when you spoke to him, he said to you that he felt he was getting targeted in terms of complaints, correct?---Mm mm.

And you obviously accepted that from him, that he was being targeted?---I – I accepted from him that that was what he felt was happening.

And he felt - - - ?---That was his – his perception.

- - - and he felt he was being unfairly targeted?---Yes, well that was his perception, yep.

Sure, and he – he obviously said to you, words to the effect that he wasn't using excess force, is that right?---Is that what I said?

No. Is it – that – is that what he said to you? He wasn't being – using excess force, he was being unfairly targeted in the complaints. Words to that effect is what he said to you?---No, yeah well that – I guess that was where the gist of what he was saying.

Did he raise the issue of this NAAJA lawyer who was putting in too many complaints?---No.

Is that something that you - - - ?---Because he wasn't the only person who was getting complaints from that lawyer.

So you accepted what he was saying? That in fact he was being unfairly targeted?---No, I – I was telling him he wasn't being unfairly targeted.

Well what advice did you give him then? About the fact that excess force was – was a concern for the PSC?---Well I would have told him what I tell everybody, if they – if they activate their body-worn video, then their actions are going to be on the video, and then it – you know, it – we're able to look at it and – and negate any of those complaints.

So you spoke to him about the body-worn video footage, but you didn't express any concern, that he might in fact be using excess force?---I don't recall exactly what I said to him, unless - except for what I wrote in that – the statement at the time.

Ms Vicary, Ms Reid explained – I withdraw that. In the Proctor Report, which I think you haven't read the Commander Proctor Report, I think you told us earlier, is that right?---Yes.

I'll just read to you what Commander Proctor says at page 123. He notes, "That in addition to the CIIR, further evidence of Constable Rolfe's behavioural concern comes from the information provided by Detective Superintendent Virginia Reid, in her capacity of managing complaints against police. She had cause to meet, or otherwise discuss issues pertaining to Constable Rolfe's alleged inappropriate behaviours with the CMT, on at least three occasions." You recall, don't you, that Constable Rolfe's name came up at the CMT on more than one occasion?---Yes, it was – he was being investigated.

She – "Superintendent Reid noted Constable Rolfe's non-adherence to body-worn video, and his failure to activate body-worn video during use of force episodes. No record of any action taken by the Alice Springs supervisors is recorded in the minutes of the Alice Springs Command Management Meetings, held in June, July or October 2019, when these issues were directly raised by Superintendent Reid. A check of the Blue Team Records, and a My Career Profile, shows no evidence or indication of any action being taken." And Ms Vicary, that's in spite of the fact that a judge of the Northern Territory Local Court, found that – in his view, Constable Rolfe had lied in relation to an – an incident, where a man ended up with 13 stitches in his head. Why was no action taken by you, in relation to the potential use of excess force?---Because there's no formal outcome from those investigations, at that point. At that point, PSC was still investigating those matters, as from – from what I can recall.

But your evidence is that you did not, in any way, speak to Constable Rolfe about the possibility that he had lied during those local court proceedings, is that right?---It – that was under investigation by – by the other area. So I don't interfere with that. However, the fact that two of my members had been identified as not telling the truth in court, was raised, and I spoke at the training days about it. I made it very clear to people that that behaviour is unacceptable. And we used it as a – as a learning opportunity for the whole station, that if they're going to make a – write a statement about their actions at a job, that they should be reviewing the body-worn video, and writing their statements, based on the body-worn video, so that it is very- it is consistent with (inaudible).

Is – by the end of 2019, you had, that is by October 2019, it was the third occasion in a CMT when Constable Rolfe's name had been raised as a concern. Do you accept that?---I accept that they were raising it, and they were investigating it. But that – that we wait for the outcome (inaudible).

And by October - - - ?---Unfortunately the – the investigations were taking a really long time.

- - - and by October 2019, you had an understanding of the concerns of Superintendent Reid, that there was more than one occasion when Constable Rolfe had not turned on his body-worn video, and a member – an Aboriginal person ended up with head injuries. You knew about that?---A person, yeah, regardless of whether they were Aboriginal or not, but they were Aboriginal, but it – it's a person.

A member of the community ended up with head injuries. You didn't – it didn't concern you?---As – as – well it did concern me. And as I've explained, that we – you know, we spoke to the supervisors. We spoke to people, to the watch commanders. We discussed it first – did as a whole station. Like we regularly at, you know, probably weekly, talked to them about reminding them of body-worn video.

All right, Ms Vicary - - -?---If he was – if he was already under investigation for that, I wasn't going to – like, then going in and interfering with the – the outcome of that.

All right. And you weren't going to talk to any of your senior sergeants or sergeants to ask him – to ask them to speak to him, to review his behaviour or to keep a close eye on him. Is that correct?---We – we – I spoke to the watch commanders and supervisors about the body-worn video all the time.

You did not speak to them in any way to ask them to keep a close eye or to do anything particular in relation to Constable Rolfe. Is that right?---I can't recall if I went and spoke directly to his supervisor, and raised the concerns with him or not. I would be surprised if (inaudible).

You'd be surprised if you did? Is that right?---If - if I didn't.

Well, who would you have spoken to about that?---Well, whoever his PG supervisor was at the time, so it may have been – I think he either had Lee or Alistair Gall, were his people.

And Lee Bauwens had a particular position of leadership, didn't he, given that he was head of the IRT?---Yeah.

Well, did you speak to him about any concerns that were expressed in relation to Constable Rolfe's potential excess use of force?---Not in relation to the IRT. (inaudible) because I would have spoken to him if he – if it was directly related to him for his – if he was his patrol sergeant or watch commander.

Just – if you will just let me finish my questions. I want to put some things to you, Ms Reid. By the – by mid-October?---Vicary.

Sorry, Ms Vicary?---Thank you.

By mid-October 2019, Superintendent Reid explains that – well, in mid-October, she raised again with the commander of Southern that they had received yet another complaint from NAAJA, was made on behalf of Mr Madrill, where Constable Rolfe was the subject officer, had chased Madrill through rocky country, caught up to him, and by the time the other officers arrived, Madrill had suffered an injury that required medical attention. Once again, the body-worn camera provided to Rolfe had not been activated. That matter remained under investigation. That was a fact you knew, as at mid-October 2019. Do you agree?---Sorry, was that raised at the CMT, or do you raise it directly with him in his office?

It was – the – Mr Madrill's name appears in minutes of the CMT. Do you recall a discussion about it?---No.

You knew by mid-October 2019, that there were a number of complaints relating to Constable Rolfe where he had not turned his body-worn video on, and members of the public had been injured. Do you agree?---Yes.

You knew by that time that a judge of the Northern Territory had formed an opinion that he had lied in relation to an incident where a member of the public had sustained a head injury requiring stitches. Correct?---Yes.

You knew that the judge of the Northern Territory had formed the view that his version of events did not match up with the body-worn video. Correct?---Yes.

And is your evidence that you cannot recall sitting there today providing any advice through your sergeants or senior sergeants as to what could be done in relation to Constable Rolfe, remedial action or otherwise. You have no recollection of doing so?---Not – I don't recall doing it, but we – I spoke with the senior sergeants and sergeants, and the stations around those behaviours and that – that they needed to be making sure that they were doing things within the values of the organisation, that they were using their body-worn videos. That was the constant messaging that I sent out.

And that was a generalised message about all officers, rather than specific to Constable Rolfe. Is that right?---Yes, I can't recall whether – I might have directly spoke with his supervisor about him.

Well, Superintendent Nobbs has given evidence – there were a range of options available in those circumstances, a multitude of things, well – ranging from welfare intervention, remedial support, placement in an administrative position while investigated, a first person management plan. Did you give consideration to any of those issues?---Well, not at that point. We had – like, we didn't have outcomes from the PSC investigations at that point.

No, but did you give - - -?---Once - - -

Did you (inaudible) consideration?---No, no. Not unless – I'm not going to put things on somebody's – my career if there hasn't actually been a formal outcome from the investigation.

Did it occur to you that the officer who was the subject of the CMT issues, Constable Rolfe, was still a young officer who had a very difficult job to do, often?---Yes.

Did it occur to you that he just might not be coping in some areas, and that's why these complaints were coming in?---It didn't occur to me that he may not be coping.

I certainly didn't have any feedback from his direct supervisors or anything, no, that – that he wasn't coping. He didn't seem to be – to not seem to be under control, so I – no, no, was, like, the information that I was getting.

It seemed to be under control, despite the fact that Superintendent Reid was raising with you the number of complaints where he hadn't turned his body-worn video on, and members of the public were ending up with head injuries. Did that seem to you to be a young man who didn't have any – might not have any difficulties in the job?---I – I don't think that that's a fair assumption. I think there were allegations that had been made that hadn't been investigated yet, and until there was an outcome – and they – and during that outcome, they – they would have included them speaking to Constable Rolfe, and if those issues were raised – but nobody raised any concerns with me that – about him not coping.

I think you've seen a number of different videos. One of them is an incident that occurs in Araluen Park. Does that ring a bell? You've - - -?---(inaudible) but I saw that in – in relation to the video yes.

Bec, would you mind just playing that, briefly?

DVD PLAYED

DR DWYER: Stop that there.

Superintendent, do you see that that appears to be Constable Rolfe watching that incident on his phone? That is, his video of that from the (inaudible)?---I didn't see that, but yesterday I only saw the body-worn video yesterday.

Right, do you now appreciate, having watched that, that in fact Constable Rolfe filmed the computer screen so that he had a copy of that incident on his phone?---Well, I – I can see that now. I didn't see that yesterday.

And then appears to be playing it back to somebody laughing, giving commentary?---Yep, I – I can see that.

What do you think? Does that - - -?---I think it's extremely immature, and it's not okay.

It's ill-disciplined, do you agree with that?---Yes.

And it looks like it's celebrating a use of force?---Well, it looks like it's celebrating – like, in making fun of it, of somebody, while – after they've used the force, yes.

And that's wholly unacceptable for a police officer, isn't it?---In my opinion, yes.

Completely inconsistent with the values of the Northern Territory Police Force about respect for members of the public?---Yes.

In relation to your – either your officers underneath you, sergeants and senior sergeants, you would expect, wouldn't you, that if they had become aware that there were problems with behaviours or attitudes of someone like Constable Rolfe, they would have intervened?---Yes, I give – if they had have seen his behaviours like that, I would have expected that that would have gone and is a (inaudible) for disciplinary issues.

Would you expect that if they heard racist language, they would intervene?---(inaudible).

Sorry?---Yes, yes.

Would you have expected, prior to this inquest, that sergeants in your command would be using racist language?---I would hope not.

Well, have you become aware that they have – some racist language has been exposed?---I am aware of some text messages where that was the case.

Did you tolerate any racist language in your command?---No.

Did you hear racist language used in the Alice Springs- - ?---No.

- - -Command in front of you?---No.

You would occasionally go to the muster room; is that right?---Yes.

Did anybody use racist language in front of you?---No.

There's a document called MFI C in this – these proceedings, with a number of text messages. Have you been shown any of those text messages in preparation for this inquest?---Yes.

You're aware that two of your sergeants are involved in exchanging text messages that are racist?---Yes.

One of them is Sergeant Bauwens, who was the head of the IRT?---Yes.

Does it – did it surprise you to find out that he was using racist language in a text exchange with Constable Rolfe?---Yes.

What do you say about that, in terms of his leadership and your expectations?---It's real – like, it really saddens me and I'm – and I'm really disappointed. It's not okay.

Did you read, in these text messages in relation to Sergeant Bauwens, a contempt for bush police or community police?---I read a comment. I wouldn't say, from my experience, that he had a contempt for them. I think there were frustrations at times and they – that they would vent about each other. And that – that went on both sides. Having sat on both sides of the fence, but the fact that they're doing it, you

know, in text messages outside of work, that's – you know, that's – that's also very disappointing and not okay.

Do you agree that that is a failure of leadership from Sergeant Bauwens, modelling that sort of behaviour towards Constable Rolfe? The lack of respect for fellow police officers?---It's not the standard that we expect of our sergeants, no.

And he was modelling behaviour in those text messages that it's okay to use racist language?---It would appear so, yes.

And did you read here the language used by Sergeant Kirkby?---I did see a text from him about that as well.

Have – do you have MFI C in front of you, so that I don't read that language out?---No, I don't – I don't have them – I don't have the text messages.

Just for the benefit of my friends, it's page 3 of MFI C?---So that explains the C-word and the N-word. You can just do it like that if it's easier for you.

It's in an exchange at page 3. Constable Rolfe – and I apologise to the Aboriginal people, particularly in the courtroom and anybody listening. Constable Rolfe – Paul Kirkby, first of all, says:

“Who was the silly bitch?”

Constable Rolfe: “Fuck knows. Some white bitch who thinks she's Aboriginal.”

Constable – Sergeant Kirkby: “Lying in the dirt, pissed, doing a fucking good impression.”

What do you say about that in terms of the leadership demonstrated by a sergeant to a constable?---It's appalling.

Do you appreciate that the use of racist language can lead to dehumanising Aboriginal people in the community?---Yes.

And were you shocked to read that racist exchange?---Yes.

You're aware that Constable Rolfe was trying to get into the TRG?---Yes.

And he had some frustrations about being knocked back from the – or not getting a placement?---Yes.

You – can I remind you that in an exchange with Sergeant Kirkby, Sergeant Kirkby is expressing sympathy for Constable Rolfe not getting chosen and he says on 22 September:

“Everyone knows police go out bush because they’re fucking lazy. Maybe that’s who they’re looking for now. The order of preferences now is blacks, chicks, gays and lazy fucks, then Zach.”

Do you agree that that text message is sexist, racist and homophobic?---It’s – yes, it is.

And what do you say about it in terms of the leadership demonstrated for a Constable?---It’s definitely not either the – sort of, the standard that we would expect from our sergeants.

Does it surprise you, given that you started this – given your evidence saying that your expectations from your sergeant was that sergeants were – that they were upholding the values of the Northern Territory Police Force?---Yeah. It – I – I’m really disappointed and I’m not disappointed that, like, nobody spoke up about it.

Okay. It’s important now, isn’t it, to do some truth-telling about what was going on at that time?---Yes.

So that we can avoid it happening again, if there’s risk of it. Do you agree?---Yes, and I – and I would like to just say, like, the majority of our police – I do not believe – do that behaviour or have that – that thing. It think it may be a pocket of young people who have got in a clique and that behaviour wasn’t okay.

A pocket of- - -?---I would be very surprised if other members weren’t as shocked as what we – what I am.

I appreciate that, Ms Vicary, but you’re talking about a pocket of young people who get in a clique. We’re talking about two sergeants. Sergeant Bauwens, extremely experienced, had been in the TRG for 10 years?---Yep.

Was seen as a mentor and an important leader for these young people in your command; do you agree?---Yep.

And was- - -?---He was – sorry, I’m just old and I think everybody is younger than me.

Okay. He- - -?---So “younger” is not really the right word.

He was in a position of considerable leadership, mentoring young minds, wasn’t he?---Yes, he was.

And it was an abject failure of leadership for him to engage in dialogue with Constable Rolfe that was racist. Do you agree?---Yes. Yes, I do.

And in addition to that, Sergeant Kirkby. Not a young officer- - -?---No.

An experienced officer, who was in a position of leadership and mentoring. Do you agree?---Yes.

And it was an abject failure of his leadership to engage in that racist, derogatory language- - -?---Yeah.

- - -speaking with a young officer. Do you agree?---I do.

On 2 September, Sergeant Kirkby texts Constable Rolfe who says:

“Sorry about the stress caused by losing my shit the other night. Stress you didn’t need. You sorted it well, I had just had enough. He was the second person to press my button that night.”

And the response is this: “Bro” – from Constable Rolfe – “Bro, it is literally no stress about it. I’m all for that shit. I’ve done the same thing to you more than once before. I’m always ready to make my camera face the other way and be a dramatic cunt for the film, ha ha.”

And Sergeant Kirkby: “And the Oscar goes to.”

And Constable Rolfe: “Ha, ha.”

Superintendent, you’ve given evidence about three – before this – three station-wide broadcasts that go out, reminding people to use their body-worn video cameras. Your expectation that sergeants will speak to constables and remind them of the importance of turning on your body-worn camera, and then you’ve got a sergeant in Constable Rolfe’s patrol group, apologising for “Losing his shit,” and then laughing along with Constable Rolfe who says:

“I’ve done the same thing to you more than once. I’m always ready to make my camera face the other way and be a dramatic cunt for the film.”

What do you say about that, in terms of the leadership in your command?---There are just no words. That is just not – it is just beyond appalling.

And it completely undermines the message that you were trying to send about the importance of turning on your body-worn video?---Yeah.

Can I remind you, while we’re reflecting on it, this is less than six months after a judge of the Northern Territory has made a finding – publicly – that Constable Rolfe has lied in a matter where he failed to turn on his body-worn video footage and a man ended up with 13 stitches in his head? And he is laughing with a sergeant about making his camera face the other way and acting like, “A dramatic cunt,” on a film? It’s just appalling, isn’t it?---(inaudible) it is, yes.

And it suggests, doesn’t it, that it wasn’t just one officer or one group of young people, but that there was a culture in the Alice Springs Force at that time where

excess force and not turning your body-worn footage on – or not using it properly – was acceptable?---I would suggest that it is not – was not a culture in the whole of the Alice Springs Police Station. I would say that there would seem to be a group of likeminded people who were interacting and working with each other, and that was a thing, but not the whole of the Alice Police Station at all.

All right. A group of likeminded people who were interacting and working with each other in a way where they were, on occasion, using excess force to arrest people?---That would appear from what you're telling me, that seems to be what is going on.

And that sergeants who supervise them appear to turn a blind eye to it?---Well, it's - so it would appear.

And as far as we see from Sergeant Kirkby, at least on this occasion, participated in it?---So it would appear.

Are you familiar with an officer - I am going to ask for a non publication there. I will just remind people of the non-publication order over this name.

THE CORONER: Yes.

DR DWYER: I will use the initials, "CV". Are you familiar with that officer who worked within the IRT?---Worked in the - a male one?

A male officer?---Yes. So that person is no longer in the police force.

That's right?---Yes, I know who you're talking about . (Inaudible).

Did you have any concerns about that person's use of excessive force?---I haven't even - I haven't really looked into that.

Did anybody bring to your attention any concerns with that person's use of excessive force?---Not that I recall, and I haven't really turned my attention to that. His name wasn't one of the ones we were prepped on.

Okay. I might ask you some questions about that shortly after the lunch break. Do you know a Claudia Campagnaro?---Yes.

She was a young officer who was in your station for a period of less than a year, is that right?---Yes.

Did you ever meet her?---Yes.

You're aware that she gave evidence on Friday last week?---Yes.

She was, when she was a police officer in Alice Springs, 24 years of age. It was her first posting and she told the court that she had always wanted to be a police officer?

---Yes.

The very first interview that she participated in in the Northern Territory Police Force was the interview of Mr Malcom Ryder on 18 January when he came in, with his head patched up after getting 13 stitches in the Alice Springs Hospital, are you aware of that?---No.

She participated in that interview with an officer with a surname Fisher, are you familiar with that person?

THE CORONER: I think it's a hyphenated surname.

DR DWYER: It's Gerbets-Fisher? Otherwise known as "Fish"? Do you know that person?---No.

She gives evidence that she was concerned after that interview, about the excess force that was used or may have been used against Mr Ryder. He kept saying in the interview that he hadn't done anything and that the officer had hit him or kicked him and she was concerned about the injuries that he received. Pretty confronting, isn't it, to have your very first interview that you do with another officer being a situation where an Aboriginal person has got those wounds to his head and he is complaining of a use of force?---Yes.

You would expect at that time, that incident to be thoroughly investigated?---I would have thought so, yes. Did she - did she tell her concerns to her supervisor or the watch commander?

She was in the interview with Mr Gerbets-Fisher who was a senior officer. You would have expected, wouldn't you, that if he was concerned he would take those concerns up?---I would have but I would have also expected that she would raise it with a supervisor as well, if that didn't occur - - -

When you became aware of the Malcolm Ryder incident did you do anything to investigate in terms of speaking with the officers who had been involved with Mr Ryder's interview?---So my understanding was that he - that the prosecution were going to be putting it like a blue team job on and talking to PSC about it. That was my (inaudible) - - -

So therefore you didn't?---Yes, I - I don't interfere. I then took the approach of "This is something we have a lot of young people in our - you know, young probationers and junior constables who have never given evidence and who are - like we need to make sure that their - their statements are accurate and then their preparation for court is accurate. So I did as a learning thing for the whole station, not the actual (inaudible) because that was going to be investigated outside of our - - -

Was it your belief after the Ryder matter was - after the judge brought down his findings in Ryder, that the real problem was that officers weren't watching their body-worn video footage before they provided a statement?---Well, that was - that

was one of the issues, that they were sitting there not looking at their body-worn and then - and writing it down, so that was one of the issues but obviously the biggest issues is that they lied in court.

And did you give any general instruction to officers about that?---Yes.

The importance of honesty and integrity?---Yes, so that was one of the things that we raised in the training days.

That's the training days that you with sergeants, is that right?---No, the training days are for everybody - all of the members.

Do I take it then from your answers that you didn't do anything specific yourself to enquire into the circumstances of Mr Ryder's case once it was an investigation. Is that right?---That is correct.

Do you recall who the detectives were who were working - I withdraw that - were the detectives in Alice Springs while you were superintendent, upstairs from the more junior officers?---Yes, so the GD's are on the ground floor, PRB(?) are on the - or crime are on the first floor and the executive are on the second floor.

Do you recall now, as you sit there, who were the female detectives in 2018?
---Not off the top of my head. There was Dee Ward was probably there, Wanita Harris, Tony Hawkings' partner but I can't remember her name off the top of my head I'm sorry. I'm not sure if Shannon Lind(?) was in there at that point.

How many, roughly, female detectives did you have working there at the time?
---That - so they're not - it's not my - they're not my people, I'm not 100 per cent sure but there was quite a few females, yes.

Did you ever hear any suggestion that a female detective had deliberately scratched Constable Rolfe to justify his use of force in the Ryder matter?---No. Not until I got prepped about this case.

Your Honour, is that a convenient time? I probably have 15 minutes more to go?

THE CORONER: Yes, we will take the lunch break.

WITNESS WITHDREW

ADJOURNED

LIVESTREAM RECOMMENCED

DR DWYER: Ms Vicary, can you hear and see me okay?

No, I think Ms Vicary might be muted. Muted herself, or Bec might have muted her.

We need to be taken off mute.

Ms Vicary, can you hear me okay? Ms Vicary?

She might have muted herself.

Ms Vicary, can you hear me now? Ms Vicary, can you hear us? Ms Vicary, can you hear me?

Your Honour, that was just the red sign that was above Claudia Campagnaro when she was giving evidence and the livestream was muted. So I don't know if that's the livestream or the video.

THE CORONER: Do you want me to go off the Bench? Ms Vicary might need to close out of it as well, and then come back in.

I'll adjourn briefly.

ADJOURNED

RESUMED

PAULINE VICARY:

XN BY DR DYWER:

DR DYWER: Your Honour, I have apologised to Ms Vicary for that technical difficulty that has resulted in the delay.

THE CORONER: Yes.

DR DWYER: Ms Vicary, can I – I will try and go as promptly as I can do. I just wanted to ask you briefly about IRT and TRG before I move back to some themes. You explain in your first record of interview with police, when you're talking about the TRG, I will just quote you at page 9: "I don't have a very tactical brain. It's not an area that I'm – it's not one of my strength areas, so any time I've, sort of, had to do one of those things, I will always call the TRG Superintendent"?---Yes.

And then in relation to the IRT, similarly, given their tactical or strategic deployment, you would rely on other people in your command in relation to the IRT; is that right?---Yes. So what I generally do is I, sort of, write down what – I will come up with what I think would have to happen, and then I would speak to somebody else who had more expertise in that matter, in that way. And then I, like, I would say, "Right, have I missed anything? Is there something I need – else I need to think about?"

And the head of the IRT, during your period of time as superintendent, was Lee Bauwens?---Yes, that's correct.

And he was a sergeant – you had expectations would abide by the values of the Northern Territory Police Force, correct?---Yes.

And you have given evidence – I think in that first statement again – that there was no formal risk assessment process that went on, so it goes to Brad – meaning Brad Currie- - -?---Yeah.

- - -and there's usually a verbal conversation about what's happening, et cetera. So it would really be a matter where Sergeant Bauwens would be – you would have the expectation that he would be running the IRT efficiently, effectively and professionally; is that right?---Yes.

And you have certainly given evidence that you trusted him to be a good example of leadership and mentoring?---Yes.

Was that the same case with the sergeant who has the initial CV, who I referred to you about earlier?---Yes.

You've since been sent a message with his full name on it; is that right?---I had a conversation, yes.

And that's exactly who you thought I was referring to before the break, when I was asking you about that person?---Yes.

And were any concerns raised with you as to his propensity to violence on the job?---So he has been gone for quite so time. So I would have to, like, really stretch back. I don't recall the – that word you just said to violence, but he was having some issues with his mental wellbeing and we were, sort of, focused on his welfare.

He- -?---But I don't – can't recall specific incidents of violence or complaints in relation to his – in relation to his use of force.

He was someone who was active, as in working, in 2019 when Constable Rolfe was working; is that correct?---I believe so.

There's an exchange between that person and Constable Rolfe on 14 October, where CV writes:

“It's going to sound weird, bro, in the nicest way, of course. Glad someone thinks the way I do and I'm not going mad.”

Constable Rolfe replies: “Nah, I feel exactly the same, man. Cut from the same cloth. I've only talked to you and Sykesy about my head, but even he doesn't get violent like us. But you're not mad, we're just different than normal folk.”

Does it surprise you, any exchange where Constable Rolfe was suggesting to CV that Sykesy – he has talked to Sykesy about his head but even Sykesy doesn't get violent like you, CV, and me, Constable Rolfe?---Well, I hadn't experienced CV like that. I do – I'm sorry, I've got to, like, really sort of think back. Because I think when he went off he was working in the youth area, like, with our youth engagement team, from memory. But it surprises me that they would be, like, that that was – that this issue was happening and we hadn't been advised about it.

Ms Vicary, if you – if one of your constables in Constable Rolfe's position – I withdraw that. If – you would expect, wouldn't you, that if a constable raised with a sergeant that he had problems with his head and was getting violent, that sergeant would take action to assist the officer, first?---Absolutely.

And would raise any concerns with that sergeant's superiors? The senior sergeant or yourself?---That would be – generally be the process, so you – I would hope so.

You would hope so, wouldn't you, because otherwise, members of the public might be put at risk?---Yep.

But that didn't happen. In fact, CV didn't ever raise that issue with you,

correct?---Not that I'm – yeah. I don't recall anything about anything like that.

And your understanding was that CV himself had identified mental health issues for him?---Yeah, I believe that was one of the reasons he went on leave. He recognised it in himself.

In – I think you gave evidence before the lunch break that your view was – at least until this inquest – that in terms of any use of force complaints, it might have involved a small number of young officers?---No, that's not what I was talking about.

Do you – were you talking about with the use of racist language?---Yes.

And your view – well, is your view still that that involved a small number of young officers?---Well, I – I think I said to you that young officers was the wrong word, but there was a group – I would call it, maybe, a clique. A group of people – likeminded people that were all hanging out and friends and workmates and that, you know, they exchange those comments and texts and behaviours. But I certainly do not believe that it is – was, you know, in the wider group the police station.

All right. Let me just remind you now of some of the things we know as a result of this inquest. We know – Claudia Campagnaro has given evidence on Friday where she said that racist language was frequently spoken about – spoken and used in the station in Alice Springs when she worked there throughout 2018. And she specifically acknowledged that the words “coon” and “nigger” were the kinds of words that were used, freely spoken, in the Alice Springs Police. You say you never heard those words? They weren't spoken of in front of you?---No, that's – they are two words that I detest and abhor.

She said it was the case that superior officers, like agents – sorry, like sergeants – were also using that language freely. She specifically nominated Sergeant Bauwens and Sergeant Kirkby as freely using that racist language. And that comes as a surprise to you, doesn't it?---Yes, it does.

That is consistent, isn't it – the fact that they would speak that language – is consistent with what you saw on the text exchanges that also took you by surprise, correct?---Yes.

And you can't possibly say then, can you, that the use of that racist language is isolated to one group of young friends who were workmates and a clique?---But I – I – you can't say that it's the whole police station, either.

Just focus on my question, if you don't mind. The use of that language – and I just have to remind you, it also – on – these text exchanges also involved racist exchanges where – between Mitch Hansen, another constable, and Zachary Rolfe. You're aware of that?---Yes, and that one really surprised me, because he would not normally do that sort of behaviour. Like, I never – he was – I was completely shocked with that one.

It also exchanged – it also involved exchanges between Mark Sykes and Constable Rolfe that were racist in nature. You understand that?---Yep.

And did that shock you?---They all shock me.

All right. So I'll just go back to your evidence. It was a clique, it was a likeminded group of friends and workmates. But in fact, what we know as a result of this inquest, is that it was, at the very least, Mark Sykes, Mitch Hansen, Sergeant Bauwens, Sergeant Kirkby, so you couldn't possibly say, could you, that this was restricted to a small group of young officers who were work mates in a click. You can't just say that it's isolated like that?---Well though I'm wondering were they all on the same patrol group.

Well Sergeant Bauwens wasn't on that patrol group was he?---I don't – I don't know. I'd have to have a look at a roster and see where they all fit in at that point.

The facts, Ms Vicary, that you were so surprised, an appalled that people that you know and trusted, engaged in that racist language, suggests to you, doesn't it, that you don't know how many others were engaged in that racist language. Because it wasn't used in front of you - - - ?---That would be - - -

- - - and no one brought it to your attention?---Yeah that's – that's a fair comment.

Similarly, with respect to Constable Rolfe filming body-worn video footage on his phone, and then sending it on, to civilians. You just – that surprised you?---That outstounded me. I've never heard – heard of that happening.

And you don't know whether it was done by other officers, in his patrol group, or other officers in Alice Springs, do you?---Well I'm not aware of it, so I can't know about it, can I?

But given that nobody brought to your attention the racist language, it may well be that that was happening more frequently, and no one brought that to your attention either?---That is a potential scenario, yes.

And then there's Constable Rolfe, texting a sergeant, saying there's something – “Thanks to talking to me about what's going in my head, not even Sykie gets violent like you and me.” And that wasn't brought to your attention?---Is - - -

Does that concern you?---Yeah, absolutely, and it confounds me that people would let that sort of thing go.

In relation to – my final questions, in relation to the use of force issues. In your second interview, which I took you to earlier, you said this at page seven. You were referring to the fact that Constable Rolfe was involved in many of the matters where the body-worn video was not turned on. And you say:

“He was obviously involved in a lot of those ones, but you know, he has a really high work rate. He always – he’s always the go to person if you want something done. And you know, quickly and effectively, and efficiently.”

And he was often the one that you would sort of see say “Hey we really need to locate this person, and you know, he was – he had a really good work ethic’?---Yeah.

Those are - - - ?---He - - -

- - - those are important qualities in a police officer aren’t they? That he got the job done, and he had a good work ethic, and he had a high work rate, is how you describe him?---Yes, but I would have expected he did it within the values of our organisation.

You go on to say, over the page:

“I don’t think it came up. I can’t recall a specific conversation”, this is relation to the CMT process and a propensity of complaints. “I don’t think it came up. I can’t recall a specific conversation. I don’t think it came up to say, oh, we’re red flagging him or anything. You know, there might have been discussions where we sort of said, he’s coming up, and you know, we’re monitoring. But I don’t recall anything particularly about it.”

When you look back on this Ms Vicary, and you reflect on what Ms Reid was drawing to your attention. Can I suggest to you there were red flags that were raised with you, given his non-adherence to the body-worn video policy. The occasions of people fleeing from him, and the injuries ascertained. And the findings of Judge Borchers, that he had lied in the Ryder matter. They were red flags in relation to Constable Rolfe?---They could be considered that, yes.

Do you think in – looking back on it, that because you placed such great weight on his abilities, his tactical abilities, and his high work rate, you didn’t sufficiently prioritise those red flags?---I think, looking back at it, with the information that I have now, then I could have looked at it a little bit harder, yes.

And then just – I’m asking for your reflections here, as an experienced superintendent. Looking back on it, even with the information you had been raised at the CMT, which included Judge Borchers findings about him lying, insufficient attention was given to the risks, the red flags that were being raised about Constable Rolfe’s behaviour?---I don’t know that I’d say that it was insufficient attention. I would say that – I don’t know that I would say it was insufficient intention, I was just - may be a different way I could’ve (inaudible) practice that I did.

All right?---Rather than wait for outcomes, I – I should have probably potentially been a little bit more – used a bit more initiative.

I'm going to suggest to you, and I'm not doing this to give you a hard time, I'm – I'm asking you to reflect on it, so that we can learn for next time. I'm going to suggest to you that you – irrespective of the outcomes of the PSC, it was encumbered on the superintendent, in your position, to monitor his behaviour, once those red flags were raised by constable – by Superintendent Reid, and that that was not sufficiently done. Do you accept that?---Well not completely, but you're welcome to suggest it, and I think we – we can all do things better, so, yep.

Nothing further, your Honour.

THE CORONER: Mr Boulten?

XXN BY MR BOULTEN:

MR BOULTEN: Well Ms Vicary, my name's Phillip Boulten. I'm a barrister, and appearing for NAAJA. You're familiar with NAAJA?---Yes.

They acted for the 14 year old boy in the bin, Mr Ryder, Cleveland Walker, Luke Madrill, the man who was pushed into a wall at the Council Chambers. The young solicitor who sent many, many complaints to the police services – the police, about your officers behaviour. That's NAAJA, okay?---Yes, I know who you're talking - - -

Certainly. So, I want to ask you about cultural awareness, and your experience here in Alice Springs. I think – Alice Springs has people living here from every corner of the central desert, right?---Yes.

With many – many - - - ?---Some people from the Top End as well.

Sorry?---And some people from the Top End as well.

And there are many different languages spoken in Alice Springs?---Yes.

The cultures, even compared to the Barkly Region, are noticeably different, than here in the area two or 300 kilometres radius around Alice Springs?---Yes.

It's a complex population to police, isn't it?---Yes it is.

How many police in Alice Springs, say in the five years before you left, could speak any of the languages of the people in this region?---There was a few.

Yes?---Yep.

How many, approximately?---I couldn't – I can't tell you off the top of my head, we didn't do a – we didn't do a tally of them. But I know there was one that spoke quite fluent – but I can't remember which one he spoke.

You can't remember what language it was?---No I think it – there – he – it was like from the people out around Harts Range, that area, I think. Because he'd – he'd spent a lot of time out in those communities.

Okay. What about Aranda speakers, how many of them?---I don't – I cannot give you the information you – I don't have that information. I don't know.

Well you worked here since 2013, if you give us an impression, as best you can - - - ?---No - - -

- - - at any one time, were there two, three, eight, four, whatever?---I don't know.

Did you ever go to any language classes to learn any language other than English? ---No.

Were you interested in learning any languages?---I was and I tried to pick up a few different words but I could never pronounce them properly and the ladies used to laugh at me.

That's terrible that they laughed at you?---I tried.

But do you know where to go to learn a language like Arunta or Warlpiri or - - -? ---Yep, they had classes - they had classes at CSC, that's Central - - -

How many police went to those sorts of - those classes?---I don't know, it wasn't a mandatory thing. If people wanted to do that in their own time they did but - there was a record, like that you can send, they every now and then would send a thing saying that if you can speak a certain language to send it through, that HR used to put out, but again, it wasn't, you know, something that was reported back to us.

Were there any positions, apart from ALO's and ACPO's were there any positions in the Alice Springs command that were set aside specifically for Aboriginal people? ---As in like - actually I'm not quite sure what you're asking me.

Okay. So in the Northern Territory Public Service there's this concept of Special Measures positions where the merit principles are secondary and where the position is dedicated to any Aboriginal person who is suitable for the job. Was there any such mechanism in the police?---I don't believe so, no.

When your colleagues were sitting for exams, was there any particular steps taken to positively encourage Aboriginal candidates for advancement?---Yes, so at the college they have - they had a year that - are you talking about in general or are you talking about Alice Springs?

Well I am talking about your understanding of how things worked here in Alice Springs and talking about police who are already sworn police officers who might be contemplating an advancement in rank. Was there any program, measure or step that was taken to encourage someone who is an Aboriginal candidate - a potential

candidate - to stop up for the exams?---So there wasn't any program, but I - when the exams were coming - would come up I would send out emails to (inaudible) station and so we didn't encourage Aboriginal people any differently than we would have encouraged non-Aboriginal people. If people wanted to get promoted then they would come and discuss it with us and then, you know, I would make myself available to work through anything or help them with their study programs or you know, give them some mentoring through that process, but there was nothing formal.

You said several times today that you don't treat people on the basis of their race and that you treat people equally. That's a very commonly held set of principles that are acknowledge and respected but are you also aware of a set of principles that suggest that there are some people in the community who are relatively disadvantaged and that they need separate and different treatment to people who are not so disadvantaged. Are you aware of that idea?---I would, but I would suggest that given those police - the Aboriginal police officers have gone through the same training and passed the same tests and passed the same physical and educational skills that we have at our police collage that it would - if I - some of them would be insulted if we did that.

Do you think it would be insulting - - -?---I would say that - - -

- - - to provide some sort of encouragement and mentorship to Aboriginal people?
---I would - no, I'm not saying that it's - - -

But not something different than white people, is that what you're saying?---I am not saying that they would be insulted about mentoring. Mentoring was something we do. I'm saying that if you're suggesting that we had a separate promotion or system for Aboriginal people that made it easier or was different to what everybody else did then that would be - some of them may find that offensive in that we were thinking that they were not of the same intelligence that the other members were when they've been literally passed the same obstacles that everybody else has to get to where they got to.

Ms Vicary, I am not suggesting that Aboriginal people be given a lower pass mark in the exams or that they be given a job that they are not suited to. What I am asking you to consider is that there might be positive measure taken to encourage people and give them support in their endeavours to pass the exams and get the jobs that they don't actually have. Do you understand the difference?---I understand that you think there's as difference but I am saying that we provide that - well, I provided that same encouragement and mentoring and that for all of the members including my Aboriginal police officers.

I am not going to harp on this and this is all I will ask about it, but lawyers in the Northern Territory have the benefit of a scheme where Aboriginal law students receive a special encouragement to get through their exams to be mentored and to become Aboriginal Lawyers in the Northern Territory. Is there not a similar thing that might help to get the numbers of Aboriginal police officers even higher than what they are now, Ms Vicary?---I - I - I'm failing to see that having Aboriginal people

getting the - any different - like if they - everyone that is in - gets the same mentoring - I don't really understand where you're coming from.

No, no, I think you just disagree with where I am coming from, but that's fine?---No, it's not I'm disagreeing, it's just - I think that our police officers, whether they are Aboriginal or not have all gone through the same process to get to where they are and there are non-Aboriginal people who don't do well in their exams as well.

Yes, okay, so Ms Vicary, as I understand the standard operating procedures for the IRT you had a special role in administering the IRT?---Yes.

Have I got that right or wrong?---Yes, I had a role in the administration of it, yes.

The officer-in-charge of the IRT was required to consult you about when a member of the IRT was it to serve or not, correct?---That's correct, according to the policy, yes.

Yes, and I want to know whether or not you were ever asked to consider the fitness of any person to be in or remain in the IRT whilst you were the divisional superintendent?---No.

You were never asked?---No.

Okay. So did you ever ask anyone about whether anyone was fit or unfit to be in the IRT?---I never – no.

So what about Mr Bauwens? Did you ever check to see if he was fit to be the leader of the IRT, Ms Vicary?---Well, as I've explained to the other counsel, that what, you know, in my dealings with them – with him, I – he didn't give me cause not to - -

Okay- -?---to think of him.

As I understand the standard operational procedures, after the deployment of the IRT in any particular task, there was to be a debriefing. Do you understand that, or have I got that right?---Yes, that's – in IRT or any incident – critical incident that we deal with, we do a briefing.

The debriefings – sorry, the SOPs concerning debriefing the IRT required that issues or recommendations arising from the debriefing should be forwarded to you and the Territory Support Superintendent and Specialist Services. Have I got that right?---Can you tell me which paragraph you're talking about?

1.2.2?---Okay, that's what it says, yes.

Did you ever attend any IRT debriefings?---I don't – not – not the IRTs specifically. If there was a debrief in my area, I would generally attend them. And if we couldn't do them physically because everybody couldn't be there, we would get them to provide

the feedback via email and then we would discuss them at a debrief. The majority of the IRT deployments weren't done in Alice Springs. They were done in other areas.

Well, that's why I'm asking you about it, because Superintendent Nobbs made it absolutely clear that it was not his job to be involved in supervising the IRT, that it was your job. And according to the SOP's, it is your job to be involved – or was your job to be involved in debriefing issues. So that's why I ask?---Yeah, no- - -

On the one point- -?---but I would suggest that if – I – I wasn't involved in debriefs. That happened in another division.

Well- -?---So if – if- - -

Yes?---And I understand what you're saying and what he's saying.

Yes?---But I – if an incident happens in the southern command area or in Tennant Creek and the IRT members go, I wouldn't be involved in that debrief because I had nothing to do with that operation or what had happened. And would – so the debriefing should be done by the superintendent who was in charge of that incident. So if they had called out, like, I had got it through (inaudible) the IRT to go, then the debriefing should have been done. Even, like, the (inaudible) but I- - -

So it wasn't a policy?---Yeah, but I- - -

So it wasn't a policy?---No.

And it's not what happened, because if we accept what Mr Nobbs says, he didn't do it. So did you think he was doing it?---Well, I would – that would be the normal, standard thing that would happen. Like, if- - -

What do you mean by that? Do you mean you know it happened or you don't know it happened and you assumed that it happened or what are you talking about?---I would – I would imagine – well, I- - -

Forget that. Please, don't imagine. Could you just tell the court what happened?---Okay. So what happened was, if something happened in an area outside of Alice Springs, I was not involved in the debrief unless I was – unless I was involved in the actual operation.

That's fine. So if Mr Nobbs says that he didn't supervise or debrief, then we can accept – the court can accept that it didn't happen if the operation was deployed outside of Alice Springs. Is that what you're saying?---Well, yeah. According to Mr Nobbs, that would be what is happening.

So what about in Alice Springs? Did you receive reports, recommendations or notice of issues that arose during the course of deployment of IRT in your command?---So if it was in my division and there was an incident that had happened and I would

generally have been involved in the debriefing or – I would have been appraised of it. Like, there wasn't many that IRT were deployed in – debrief that I'm aware of.

During the time that you were the superintendent, how many times was the IRT deployed in Alice Springs?---I couldn't tell you off the top of my head.

Roughly?---Well, I know of one – the one that I deployed – I asked for them to be deployed. There was – there may have been some that were happening when I was on leave. I think there was – they got deployed to a couple of siege-y type situations, but I couldn't tell you even roughly, because I don't know.

Right. So the one that you can remember, is that the one that you used to say, "I was involving in debriefings"?---Yeah. So it may – and we may not have done it as a, like, everybody came into the room and talked about it.

Yes, okay?---But- - -

What about the siege-y type situations that happened when you were on leave? Were you involved in any debriefings in relation to those issues?---No, because I wasn't there.

But you were the superintendent and it says- -?---Yep.

- - -that- - -?---If I'm on leave- - -

- - -issues and recommendations go to the superintendent?---Yes, but if I'm on leave, I will – and I'm not the superintendent- - -

Right- - -?---when I'm on leave, there's somebody else doing that job.

Well, was there a central repository for information concerning the administration of the IRT at Alice Springs Police Station?---Yeah. So they – we had drive – made a folder on our local drive that they could put their information in. So- - -

And did you maintain that drive?---So that was – no. So that was my – that folder was maintained by Sergeant Bauwens. But it was, like, other people could – like, you could look at it.

General access?---Yeah.

Okay. So did you regard yourself, in the line of command, above Mr Bauwens so far as the IRT operations was concerned?---Yeah, so I was the – there was Sergeant Bauwens and me in relation to the administration.

Did you help to formulate the training program?---No.

Did you know what the training program was?---No.

Was there any document that set out what the training program was?---When – if – when Lee would run a course, he would provide a timetable of what they did.

Yes, but that is beside the point. Was there some scheme or plan that dictated what training members of the IRT should undertake?---Yes, I believe there was, but I – that was the area that I was involved in.

Yes, but did you check it?---No, because it wasn't the area that I was responsible for.

Well, why do you say that? Because you are the superintendent who was supervising the IRT, were you not?---I was – I was responsible for the administration side of that, but the training was - - -

(Inaudible) administration?---The training was conducted through the TRG.

Well, the TRG did not dictate what happened in the IRT, did it?---No, but they worked with Sergeant – initially Sergeant – the first sergeant, and then Sergeant Bauwens after that, they worked on the training. All of the training records were held in the TRG.

Why were the training records held at the TRG, when you were the superintendent that was in charge of the IRT?---Because they have a program there that they use for their tactical training, and that's why it was done there.

Did - - - ?---I didn't have (inaudible).

Did you have any opinion about whether the training was adequate for the task?---No, I didn't have an opinion, no, because I wasn't involved in that side of it. From what I could tell, the members were, you know, well trained in what they were doing.

The Standard Operating Procedures required membership of the IRT to be exemplary, correct?---What – what are you looking at now?

Well - - - ?---Does it use that word?

No. It doesn't use that word. What it does say, at 4.2, is that "The IRT will be expected to have a higher standard of tactical awareness and weapons handling skills than general duties members"?---Yes.

"It is expected that IRT members display a high standard of professionalism and behaviour, fitting their role. And it is expected that members are performing to a high standard in their primary role, and that their participation in the IRT is not detrimental to this performance." It says all of those things, you'll agree?---Yes.

Then it also says, "That members who are the subject of disciplinary action will be stood down during the investigation, or subsequent penalty period, at the discretion

of the Commander, Southern Command, in consultation with the OIC IRT, and Alice Springs Divisional Superintendent.” It says all of that. Do you agree with that?---Yes, as I – that’s what it says.

But it also says, “That the OIC of the IRT, in consultation with the Divisional Superintendent, may at any time, stand down a member, who due to personal or stress related issues, should not be put into the tactical environment.” Right?---Yes, that’s correct.

So, just to take up briefly, some of the issues that you have already touched upon in your evidence. By at least September 2019, you were aware of a number of issues that called into question Zachary Rolfe’s suitability to continue in the IRT, right?---Sorry, somebody coughed over you and I couldn’t hear what you were saying.

Yes, I appreciate the problem. By at least September 2019, you were aware of a number of issues that called into question Zachary Rolfe’s suitability to remain a member of the IRT, right?---Yes.

What did you do about it?---Well a number of those issues were under investigation.

That’s all – that’s all understood?---I – yes.

That’s all understood. What did you do about it?---Well I suppose I was – I was waiting for the outcome of those investigations before I would have considered discussing whether or not he should be removed.

Did you not even have a quiet word with Mr Bauwens?---It never came up.

Standard Operating Procedures, allow for action, prior to the termination of disciplinary investigations, right?---Yes.

Did you ignore that? Didn’t think of it? Or decided that this was not an appropriate case to take action?---No I just didn’t think of it. That was my – my failing. I didn’t think of it. I’ll accept that.

Going back to complaints. Would it be fair to say that the vast majority of complaints generated against your members were initiated by lawyers at NAAJA, or before NAAJA was here, CAALAS?---Yeah, most of the complaints come through the – through the legal people.

And a vast – vast majority of them, right?---Yes. Yes.

And you were cynic about those complaints, in part, because they were generated by lawyers who were acting for the complainants, agreed?---No. I was cynical about one particular lawyer who generated more complaints in the short time that he was there, than any of the other lawyers in – that I’d been dealing with for several years. It was just relentless.

This is a lawyer in Alice Springs or in Darwin?---I – I don't know. I'm – I'm pretty sure it was somebody in Darwin and Alice, but the Alice lawyers were still based in Alice Springs.

Well was it man or a woman?---It was a male, I think. It's long ago.

Well were these complaints given different treatment than any of the other complaints that - - - ?---No, most of the complaints – most of the complaints I'm talking about were the CRP complaints. And there's a process for that, that was followed, regardless of whether we thought they were complaints that were being – being reported by you know, by an overzealous lawyer.

Well what – how did you know that they were – that the lawyer was overzealous?---Well - - -

Because of the pattern of complaints? The number of complaints? Or because they were baseless complaints?---Well, initially obviously when they were coming through we – we were looking at it, and then the majority of them, when we looked into them, were – were not substantiated and - - -

All right - - - ?---And were (inaudible) minor. So I'm talking about ones where the people were injured or you know it was – they were spoken to, you know, partially, or they were, you know, a range of complaints that came through. And it was just – it was almost every – we were dealing with a lot of issues with youth, at that point, and it just seemed that every time that there was interactions, we were getting complaints. It was making it very difficult all around.

So, you were shown a video of a boy in a bin, earlier today?---Mm mm.

You never became aware of that one, it would seem, until you were asked to review it for the purposes of your evidence, is that right?---Yeah, but then that one didn't come through as a CRP complaint.

Nor was it the subject of a use of force form, I suggest. What do you say about that?---It would appear it wasn't.

Should it have been?---Given the circumstances, I – I think so, yes.

Well given the circumstances in that force was used, it should have been the subject of a use of force complaint, right?---That's what I said.

That's what you meant, were you on the same wave length. When you were asked about this earlier today, there was some aspects of the video that eventually you came to agree were unacceptable. But there were some aspects of the video that eventually you came to agree were unacceptable, but there were some aspects of the video which initially you sought to not offer a view about or to offer a guarded

view about and in the course of your evidence you suggested essentially that you knew a bit about this fellow and you suggested he was known for violence. So I want to ask you about that, madam?---You can call me Pauline, but that's okay.

Pauline then - Pauline?---Yes.

This man, we have checked had no convictions for violence at any time prior to the date of that video. Do you agree, disagree or don't know?---Well, I don't know if he had any convictions but that doesn't mean that he hadn't used violence.

Right. And do you suggest even if so, that there was justification in tipping the bin over in the way that we saw Mr Rolfe do it?---As I said, I don't know what they were thinking and why they did that. It isn't probably what I would have done but I don't know what was going through their thought processes in relation to doing it that way but it wouldn't have been how I would have done it unless there was sort of - if he was not going to comply and wasn't helping or was going to or got angry. I wouldn't have done it that way.

Ms Vicary, this might not be fair - reject it if you will - but it sounded very much like, if this one had been the subject of a complaint by a NAAJA lawyer and that you had reviewed it, any time at around about it happening you would not have taken any action against the man who tipped the boy out of the bin, would you?---That is not - it's not a fair thing and I would've - I would've looked into it. I would not have dismissed it, I would have - it would have been investigated by someone.

Done what? What would you have done?---Well, it depends on the outcome of what the investigation.

So, we will put that young man to one side. The complaint mechanism that you were a part of and which still exists in the Northern Territory, involves a chain of review where the person at the top of the chain reviews what a number of people have done below them in the chain without the person at the top of the chain necessarily or usually, doing anything else to check other than to accept what has been done by the first person who checked the source information. Do you agree?---Sorry are we talking about complaints against the police or the use of force?

Complaints against police?---So generally somebody will be allocated the complaint to investigate and then that person will do the investigation and then provide a report back to the superintendent. We will look at it and then it goes to the commander, from memory, and then it goes to PSC for the final (inaudible).

So when, this morning you were asked specifically about a particular review that came to you, you told the court that your determination was - and I think these are your words - quote, "Wholly reliant on the watch commander or watch commanders"?---So you're - that was a use of force review, not a complaint against police review.

Okay, well in relation to that one then?---Yes.

Without any regard to any contrary version or different version, you would have regard to what the watch commander concluded?---Yes.

Did you ever either in a use of force audit or in any complaint mechanism review either as part of the complaint resolution process or any other complaint mechanism, interview the complainant?---Did I personally interview them?

That's what I'm asking?---Not - not unless I was the investigating officer. That's not the process.

No. It's not. And when you say, "Not unless I was the investigating officer", when you were the investigating officer were you the superintendent? Did you carry out - - ?---(Inaudible)?

Okay, so when you carried out investigations as part of a - was it part of a complaints resolution process?---Generally.

And when you interviewed the complainant was it before or after the conciliation process was reached or was it part of the resolution or was it part of the investigation?---Sometimes I - like I usually speak to the person when we got the complaint and get (inaudible) what had happened and then I would go back and talk to the members and then I would sit down and be with the person who complained and go through the conciliation process with both sides of the story and - to get an outcome for that.

How often did that happen?---Not - not very often as a superintendent (inaudible) they get delegated down but when I was a sergeant and things I think I had to do quite a few.

When you were the superintendent you became aware that Mr Rolfe made a number of applications to join the TRG, right?---Yes.

You said in your interview of the 30 November 2019 that he applied, you thought at that time, on two or three occasions but he didn't get appointed on those occasions. Is that your memory now?---Yes.

You said at page 27, that "There were other people who got the positions over him because of merit or having worked in remote stations and part of the selection process" so he'd been actively trying to get into that role, right?---Yes.

You were interviewed again in February 2020 when you told Mr Morgan that Zach had passed the TRG assessment in 2019, that he'd put in a number of applications for the TRG and you said that, "I have to provide sponsors for so in his earlier ones I had said that I felt that he needed to do more GDs work before he got into a specialist role." So that's in your interview at page 24, Ms Vicary, okay?---Yes. I'm just trying to find it, hang on.

Page 24, halfway down the page?---Sorry, that one is on my computer and it's - it's jumped up so just bear with me for a minute. Right.

How are you going there? Have you got it?---I just – I've just got to search it up and put this down the bottom of it.

It's on the – it's in the interview of 11 February 2020?---Yes. I've read it, I've got it – just you've used the words sponsored and I don't remember – don't know that that's – I should have used.

How are you going? Have you found it?---Yes, I'm just waiting for a (inaudible) to come up. Stand by. I apologise. So can you just say what page it was again?

Yes, page 24, halfway down the page?---Okay. I'm all right, yes.

Why did you talk to Mr Rolfe and suggest that it wasn't time for him to go into the TRG?---Why did I talk to him?

Why did you suggest to him that it wasn't time yet for him to get a job in the TRG?---To – why did I talk to Zach?

Why did you talk to Zachary Rolfe and tell him it wasn't yet time for him to take up a job in the TRG?---In that – so on the third occasion when I spoke with him and he didn't get in, I – and I hadn't recommended – no, the second occasion, I hadn't recommended him. And I was informed that he was quite upset that I – I think it was the second one – that he – that I – that he wasn't getting in. So I went down and had a conversation with him because I had also spoken with a member – a sergeant in TRG at the time and had a conversation with him about well, you know, he has only just passed the course. You know, is he going, like, you know. His expectation was he had passed the course so he should be able to get into TRG. So that was what I wanted to talk to him about, because I felt that his expectations were too – like, a bit above about what would – what would actually happen.

Why didn't you think he should get into the TRG?---So on the two – two occasions that I didn't recommend him, I just felt that it's really important that members get a good grounding in the frontline policing before they go into specialist units.

You said, on the next page, that the last application he put through you did recommend him, because you had seen the sort of change in him and the maturity that he was starting to show?---Yes.

Okay?---So – yes.

So in what areas did he lack maturity or fitness for the TRG that led you to recommend against his appointment when you did?---Well, I think earlier, that – if I had, sort of, spoken to him earlier in relation to think I, you know, if I was talking to them about – if we were, sort of, doing jobs or – and I was having a conversation,

I would often sort of feel like that I was being listened to, but I was being tolerated rather than – and – and they weren't really taking on board what I was trying to say.

Who is they? You mean Zach?---Yeah, not just Zach. There were, you know- - -

He was one of them?---He was one of them.

Yes, okay?---So- - -

Go on?---So – yeah. So – and so, you know, we talked about that if, you know, I talked to the supervisors and senior sergeants if I have concerns about behaviours and I would ask them to address them. I had started to see a change in Zach in how he presented himself in relation to, you know, he – he was listening. He was – if I, you know, you could see that he was activating like, you know, body-worn was starting. He was putting that on more and, like, doing that now. So where, you know, where we were having those issues before, I could see that he was starting to go, “All right, this is where – what I need to be doing.” So- - -

When he just – sorry. I think you've said enough for me to ask the next question, and I wanted to ask you about his attitude that you thought was just tolerating you when you were talking to him?---Yes, not just him.

You were talking to him about what? Like, not wearing his body-worn or what? What were you talking to him about that you thought- - -?---It wasn't- - -

“He's not really – he's just tolerating me.” What was that about, Ms Vicary?---So it wasn't – it wasn't necessarily just him on his own. It was often, sort of, you know, like the training days and- - -

What was the topic that was barely tolerated?---Well, it wasn't necessarily a specific topic.

Just generally?---Well, in the training days we talk about a number of things. So it was, like – and I couldn't tell you off the top of my head, but my – often when I would speak with, like, the members, they – you know, it was – you, sort of, sometimes felt like, you know, “Here we go again.”

Can I ask you this- - -?---Get another lecture.

Can I ask you this: do you think that he disregarded you in part, at least, because you're a woman?---I don't – I don't think – I don't know. But he wasn't certainly wasn't on his own.

Hey?---If he did, he certainly wasn't on his own.

Well, can I just add these things: we've got him on videotape saying foul things about a woman. We've got him on text messages saying foul things about women. The videotape I'm talking about is the one where he is viewing, on his phone – and

filming him in the car with a colleague – just before he jumped out and pushed two drunk men over on the ground out at the Araluen Park, all right? You remember seeing that?---Yeah, I saw the video, yes.

Okay. So he's in the car and he says foul things about a woman that the two men have just seen outside the car?---Yeah, I couldn't – I couldn't hear that very well, so I didn't- - -

Okay, well, I'm not going to repeat it because I wouldn't do it?---Yeah, that's fair enough.

But – all right. They're talking about a woman, they're talking about what they're seeing and how – they're talking about a woman. Zach's talking about a woman?---Okay.

And we've got it in writing in his text messages. He disregards woman with his colleagues – men, particularly. You picked it up, that he and others disregarded women, right? Have we got this right?---Disregarded me. I don't – I couldn't say – talk for everyone. But based on what you're saying, that would be a fair comment.

And unlike the shielding of you from racist views and attitudes, did you get the sense that some men in your police station gave you less deference because you're a woman?---Yes, and not just at the junior levels.

And I'm afraid not just in the police station, either, I bet?---What do you mean – what do you mean?

It's a very common attitude in the community everywhere, to give less respect to women in authority than men in authority, do you agree?---Yes.

I think I've had enough time, your Honour.

THE CORONER: Thank you, Mr Boulten.

Ms Morreau.

MS MORREAU: Thank you, your Honour.

XXN BY MS MORREAU:

MS MORREAU: Ms Vicary, I only have a couple of questions for you. Do you know when it was - - -

THE CORONER: Just let her know who you are.

MS MORREAU: I'm sorry, I'm Paula Morreau, it's a bit late in the day, I'm sure you're tider than I am. Paula Morreau, I'm acting for the Brown family in this matter?---Okay.

The family of Kumanjaya Walker?---Okay.

Now, can you tell us when it was that you recommended him on his final TRG application? How long before he shot Kumanjaya Walker that was?---I don't think it was very long, but I can't give you an actual date, I'm not sure.

It must have been fairly close in time to then, correct?---Yes - - -

Because - - - ?---Yes, it wasn't – yeah it was, you know, probably within a 142, I would think.

I see. And so you saw a change in him, and the maturity that he was starting to show, in a positive light, at the same time that you were accumulating you're awareness of the number of complaints and issues that were being raised with you by ethical standards?---So they were earlier. So the allegations of those things all came through earlier. And as I said, it was taking a very long time for those investigations to happen. So in between then, you know, he – you could see that he was starting to – his behaviour was changing. Maybe it was because he had been complained about, maybe it was investigated and he was, you know, trying to do better, but I could see a change in his behaviours.

I see. But these were still some complaints that were occurring in 2019 weren't there?---Yep.

So we're still talking in the same year?---Yep.

So not only did you not think of reviewing his fitness for service for the IRT, correct?---Yes.

But you in fact, promoted him for a tactical position with the TRG?---I didn't promote him at all. I provided – I gave him his – the support. It then goes through a panel of other independent people.

Sure. You provided a positive recommendation for him?---I said that I recommended him.

Okay. The second topic is a matter that you spoke about in relation to your last role in the police force in training. I just wanted to ask you about that. Through the probationary – sorry. The Probationary Training and Cadet Program, I understand you were involved in, in your last position in the police force, is that correct?---Yeah, that's right.

Can I ask you, clearly enough, when people are progressing through that course, they are tested and examined, and then passed, and move on to being constables, ultimately, is that right?---So the – the probationary cadets are completely different.

I see, there's - - - ?---Right, so the probations are the members who have graduated from the police college. And so because of the really large volume of probationers that we had in Alice Springs, I was asked to do some oversight and support of those members, and with – with Sergeant Wilson. As well as (inaudible) and another member were tasked with taking on the cadet program. Which is – so the cadet's just always a current program.

All right, so they are working as cadets with other police officers at that time, or they're still in training?---They're still in schools.

Okay, so - - - ?---School based program.

Okay, still in the program. Is there any component of that program that involves an assessment of a person's psychological, or personality or temperance - - -

THE CORONER: Cadet – are you talking about the cadet program, Ms Morreau?

MS MORREAU: Yes.

THE CORONER: They're just like work experience students.

MS MORREAU: I see, I apologise, thank you, your Honour - - - ?---Yes, we – so we - - -

- - - I (inaudible)?---Yeah, so we have 12 young people that we work like they apply for the position to be on the course. And they get a Cert II and Cert III at the end of it. It was the – when I was doing it, it was the first year that we were doing the Yarrara kids. So we had the urban school, as well as the Yarrara Boarding School.

Thank you, Ms Vicary, given my misunderstanding of that, I don't have any - - -

THE CORONER: So it's more than work experience. They're obviously doing that Cert II or Cert III, but they're school – it's a school-based program.

MS MORREAU: Yes, I don't need to bother you with that, Ms Vicary. They're all my questions, thank you?---Okay.

THE CORONER: Ms Pincus.

XXN BY MS PINCUS:

MS PINCUS: Hello, Ms Vicary, my name is Julia Pincus. I represent – I'm one of the lawyers representing the Walker, Lane and Robertson families. I know a lot – a lot of the matters – a number of the matters I'm going to raise have already been discussed. But I just want to clarify a couple of things. Is that okay?---Sure.

So the first one is on becoming superintendent, were you given any guidance in relation to how you were to access, or how you should be assessing any of the

complaints when they – when they came to you? Or was it just sort of accepted practise that you could just accept what had been done, or did – did anyone give you any direction about what was expected of you, in terms of your assessment?---So you talking about complaints about police or the use of force stuff?

Any – any complaints really, but primary the use of force ones.

THE CORONER: Well there are two different areas. So the complaint actually comes from a member of the public - - -

MS PINCUS: Yes, sorry, okay.

THE CORONER: - - - or some outside person.

MS PINCUS: So once – once it makes its way to you, through the senior sergeant?---So use of force or the complaint?

Yes, the use of force?---So the – when we get to the superintendent level, it's just – it's just assumed that you know what to do.

Okay, and so – so you weren't for example, told – instructed about what sort of standard or onus of proof that you should be applying in relation to your assessments?---There's a – there's a General Order that we follow.

Okay, that tells you that. Can you tell me what that says in terms of the onus and standard of proof?---No.

No?---Not any more.

Okay. So yesterday we heard some evidence from another witness that in order to make a finding of an allegation – in relation to an allegation of excessive use of force, there needs to be strong evidence is needed from the complainant. So – and then – and in your statement, you seem to distinguish between sort of a serious complaint about an assault, or something that was a really serious nature versus a lower level of assault complaint. And you make – you've made that distinction without any guidance. And so it seems there - - - ?---There are – there are – there is guidance on those, so there's the General Order that follow – there's a policy that has the information about CRPs and the – and then the CAT. There's CAT 1, CAT 2, CAT3, complaints against police.

Right, okay, and you – you put them into those different categories?---So if they are – if they're complaints against police that come through PSC, they – they categorise it.

So they – so you're accepting that categorisation, yes, okay?---Well it's – it's PSC so they- they're the people who do it and - - -

And so - - - ?---Otherwise it'll obviously come (inaudible) CRP.

So the standard of proof that they use is also in the guidelines as well. So it's just your – on the base that you're accepting theirs – their findings, did you know what process they use in concluding whether or not the force is justified, or whether to dismiss the complaint?---So – well there's a policy that covers all of it. And then, like the – so the investigators in PSC are all qualified detectives.

It's probably best if I try and explain where I'm heading here. For your benefit and her Honour's benefit. So the families that we represent are interested in making sure that there is clarity and consistency and transparency in the approach that's taken to the complaints review process. And our current thinking, and this is very much a sort of a work in progress, for which we'd love your input, is that it should be clear that those people like yourself, who are having the review the complaints, are very aware of the onus – who holds the onus, and the standard of proof that needs to be applied. And so then this then dictates the necessary steps that need to be taken in the process, for example whether or not the complainant is to be interviewed et cetera. So I was just wondering whether you have any feel - or you can indicate what level of satisfaction you think should be ascertained in relation to that finding of whether or not the level of force is justified?---So any time we have - whether it's a CRP or a complaint, we always have to speak to the victim and if there were any witnesses then we talk to the witnesses as well and then we talk to the members and then, depending on the seriousness of what the allegation is they may be the subject to a directed interview. So it's like a - well, it's not a statement it's a proper record of interview and they are directed to answer the questions and then based on all of that information then we draw a conclusion and we would look at the body-worn and we would look at any other information that is - if there was CCTV or anything like that.

But in terms of reaching that conclusion do you know what the sort of standard of proof that is applied? I am not sure how familiar you are with the concepts of you know, whether it is on the balance of probabilities or beyond reasonable doubt or some other standard?---Well because it's not like a criminal - it's not a criminal investigation.

Yes, I understand that?---Look, I - I couldn't tell you if that is in the policy or not at the (inaudible) now.

Okay. I mean, one thing that we were thinking was that it - to apply what is known as the Briginshaw standard which is namely in essence that the more serious the evidence the more substantial proof is required. What do you think of that as a proposal?---Well, I think that if we've got information that the members have done - have breached either discipline or did it come within an offence then they would be found to have, you know, to have breached it and then they would have to be, you know, there would be either disciplinary action or if it was found that they had committed a criminal act then they would be - A file would go up to DPP for an opinion.

Okay?---I'm not helping you very much am I.

No, but thank you for your input. Just moving on to another topic, on page 8 of your second statement you talk about how that you were going back and looking at the use of force of other members and the use of force wasn't deemed excessive. I am no sure i you have your statement there. I was just wondering which - - -?---Hang on, which - the first statement?

Your second statement, page 8 if you've got it in front of you?---Yes.

Have you got that one? Can you see - - -?---It's taking a while to scroll up.

I think it's about - it's about two-thirds of the way down. Right, so which one are you talking about?

So you say, Lee Morgan asked you:

"Were there any other actions taken in your remedial advice conversation with Rolfe around the way he does his business?" And then you go on to say, "None at that point so as I said, so when we sort of were going back and you know looking at the use of force in the other members and that sort of thing that were involved, you know, the use of force they were using, you know, wasn't deemed to be excessive".

I am just wondering, was this after 9 November you were looking at the other use of force with the other members of the IRT or who are the members you are looking at here?---I don't even remember now.

You don't? Okay?---That's a bit of a hot mess that conversation, wasn't it?

Okay, so you can't give us any information about what was looked at there?---I'm just - I'm going back to the other page just to see if I can - - -

That's okay Ms Vicary if you're not sure about that that's fine?---Okay.

Moving on in relation to funerals, you make a comment in relation to the Kumanjayi Walker's passing and you say that your understanding was the arrangement was probably to arrest after the funeral and you go onto say that you would have waited for the next day out of respect?---Mm mm.

And I am just wondering what you are basing that on?---So it was - it was quite a common practice in the remote communities when there was sorry business or funerals because they are such a, you know, very important part of their culture that, you know, if there was something that we needed to arrest somebody for, we would talk to the elders and say that, you know, we needed to arrest that person and then they would - no, not me - the members - and then they would, with the Elders would come up with a plan and the Elders would give an undertaking that they would present that person. It didn't always happen, that was (inaudible).

No, thank you, I was just more specifically asking about sort of the understanding of the concept of after the funeral and sort of bearing in mind the awareness of Indigenous people, especially in communities have little regard of the precise time and whether or not there is a sort of widely held understanding of how long you should wait or whether that was just your personal view?---Yes, I think it would depend on the circumstances, but given the circumstances of what had happened with Kumanjaji Walker and the seriousness of the previous incident, that the members would have been - would have been talking to the Elders about it and the Elders, I think had come to an agreement that they would present him in the morning. That's my understanding. It may not be correct.

Thank you. So the next one is - and I am almost finished. You were asked about Constable Rolfe's background and training and the first thing you say is, "I'm aware that he was previously in the army." Could you tell me how you were aware? Is that just something that as well known or was there something about him, was there something that he made very clear or is it that (inaudible) - - -?---No, I think it was raised during the - like when that rescue stuff was all going on.

Okay?---When that first - you know, that was the first interaction that I'd had and somebody I think had said to me that he had been in the army previously and in the debrief I had asked him that as part of his army training had he done any of those sort water rescues and he'd said that no, he hadn't. So that - I think that's how that came up.

Okay, so there was nothing about sort of the way that he behaved in the patrol group that made it clear?---No. He didn't come in and say, "Hey, I'm ex-army and look how great I am".

This is my final question. You talk about on page 9 of statement 1 about feudal type behaviour amongst Aboriginal people. I just wondered if you can explain what you were referring to there?---Right, so I'd had quite a few experiences as Superintendent where I'd had to go into communities where there had been - where there's been ongoing feuds between different families within the community and that had resulted in damage to the community, people being killed or had armed and then - and then I've sort of had to go in with the members and work with the community to try to resolve that so that people can return to their homes and that sort of thing and I am aware that there has been quite a number of those sort of incidents in Yuendumu because of family dynamics (inaudible).

And Ms Vicary, I know this is a difficult question, but one that I would really ask you to answer truthfully: do you think as a result of those experiences, you developed negative views against Indigenous people? Based on those interactions?---No.

No?---Why, I had really, like you know, when I had gone into those communities after it - because I - I wasn't there when it was (inaudible) up but I would be going into - I had, you know, a lot of conversations and community meetings with people. And so (inaudible) not. I don't hold a - any sort of negative things around Aboriginal people.

And do you have any personal relationships with Indigenous people outside the workplace?---Yes. Four of my grandchildren are Indigenous.

I see. Thank you, no further questions.

MR OFFICER: Your Honour, I will be brief, given the time.

THE CORONER: Yes, thank you.

XXN BY MR OFFICER

MR OFFICER: Ms Vicary, my name is Luke Officer. I act for Constable Rolfe. Can you hear me all right?---I can hear you, but for some reason, I've got a thing up on my screen. It's blocking your face. But that's okay, I can hear you.

All right. Well, you're not missing much, I can tell you. Ms Vicary, I just want to talk briefly about use of force. You're aware of a Southern Desert Division daily synopsis?---Yes.

And that sets out the previous day/evening's events for the next – measures that come on to shift? That's the purpose of that document?---Yes, from memory.

And as part of information sharing, you have documents which divulge who might be a priority arrest target?---Yes.

Arrest targets generally?---Yes.

Warrant targets?---Yes.

And bail targets?---Yes.

And that follows a TCG meeting; is that right?---Yes.

A Tasking and Coordination Group?---Yes.

And we heard some evidence yesterday that that – or those documents are shared – is it weekly as opposed to daily?---Yeah, that's the – the TCG's a weekly document.

And the information we have from witness, Alistair Gall, yesterday in relation to all of those targets, on my count, on that list there was about 15 people who were either on a bail warrant or arrest target collectively?---Okay.

Is that an unusual number?---No.

It could be higher on different occasions?---Maybe a lot – yeah, higher or lower.

Higher or lower?---Depending on what has been happening.

And so when you gave- -?---So that's for the Southern Desert area. So that's not just one station. That's multiple stations.

Sure. And you gave some evidence earlier to counsel assisting that, in the three years that Constable Rolfe had been a police officer, his involvement in 46 use of force incidents wasn't an unusually high number. Do you recall that evidence?---Yes.

And if 22 of those occasions were involving the utilisation of use of force options, such as handcuffs – that and OC spray or firearm – do you agree that that is not an unusually high number?---Well, every – every time we arrest someone, they have to handcuff them. So, you know, that's not unusual.

Yes. And so context is entirely relevant, isn't it, when you assess someone's use of force history?---The context is really important.

I just want to talk about police complaints – and I'm talking about CAPs – so Complaints Against Police?---Yes.

As opposed to the separate issue of use of force incidents?---Yes.

If someone was to have a complaint against police in 2017, two in 2018 and two in 2019 – four of which involve the use of force – is that an unusually high number?---No, I would say that's an exceptional number.

Because part of policing – or a by-product of it, is it not – is that you're going to get a complaint as a police officer?---Invariably.

Invariably? You've seen police officers with a number of complaints higher than that number?---Yes.

And just on the topic of complaints against police – and tell me if you can or can't answer this – when a complaint against police is made, there's oversight from the ombudsmen the entire way through the complaint, isn't there?---Yes, that's correct.

And so if a complaint against police is made in specific terms, those specific terms don't limit the nature of the investigation. In other words, if someone views particular body-worn and the complaint is completely separate to something they see on the body-worn and think, "That's not quite right," they're not precluded or restricted from looking at or raising further issues that arise from that complaint, are they?---So what often happens is – and it was – it's something that wasn't always appreciated – was that they – a complaint would be made about a specific issue or an issue about complaint of assault. And then they would do the investigation and then they would find other auxiliary – auxiliary matters that they picked up that may have been a breach of policy or hadn't been done in accordance to an SOP. And then the members would be given remedial advice in relation to those matters, even if the other matter was found not to be substantiated.

Yes. And because a complainant against police has the mechanism of ombudsmen oversight, that's an independent body who is also looking at the complaint the same time as Northern Territory Police, isn't it?---Yes, and I believe ICAC also do it now as well.

Sure. I'm talking about between 2017 and 2019?---Yes.

And there's also the ability of the ombudsmen to recategorise a complaint, isn't there?---I believe so, yes.

So something can come in as a CRP and the ombudsmen might say, "It's a bit more serious than that," and recategorise it if it's something more serious?---Yes. So they're – and they're conversations that happen between the ombudsmen and PFC.

And likewise, if something comes in as a serious complaint and the ombudsmen thinks, "It's not so serious," they can downgrade it?---Yes, that's right.

And every step of the way – depending on the categorisation – PFC, Northern Territory Police or the ombudsmen have dealings with the complainant?---Yes, they should – they should be.

Should be. And so if a complaint against police is made, all the circumstances are taken into account, context is taken into account and ultimately, at the end of it, there is still that independent oversight of the outcome of the complainant against police by the ombudsmen?---Yes.

And sometimes complaints, on their face, are serious? And you agree?---Yes.

Sometimes complaints, on their face – I think as you mentioned in your statement, common sense tells you that there's nothing to see here?---Yes.

Just want to finish on the topic of Master Gibson. This is the one involving the wheelie bin?---Yes.

You've been taken to that by counsel assisting Mr Boulten SC, in relation to the tipping over of the bin, and giving your opinion on that. What I want to ask you – having regard to the video that you were shown – once he was arrested – or that the effect of the arrest and what followed – you saw – or you heard, did you not – Constable Rolfe telling him he was under arrest?---Yes.

He read him his arrest rights?---Yeah, I couldn't hear – I couldn't hear it all very well, but I'm assuming that he would have done that.

Would you accept from me that he reads him his arrest rights?---Sure.

Picks him up and walks him away calmly?---Yeah, I thought he told him he was arrested when he was walking him away, but he might have done it twice.

Sure. My question is, is there anything at the time in which he is arrested and given – and read his rights and taken away, that concerned you about Constable Rolfe's conduct in that situation?---No. Well, as I said, I – it was probably not how I would have – would have done it. But, you know, he – he was firm with him, which is not uncommon. And he – but he wasn't rude and he was professional. And as I said, it all comes, like, it comes down to the context and what he was thinking at the time. Like, anyone can give an opinion about something but it, you know, we weren't there and it comes down to context.

Yes. Sorry, there was one last topic, body-worn video. And there are occasions when Constable Rolfe didn't activate his body-worn video, either when he was apprehending a person himself or when he was with a group of people?---Yeah.

He might not have activated – there might be situations where a member doesn't activate their body-worn video, but other members attending might activate their body-worn video?---Yeah, that's correct.

And you don't know what their body-worn- -?---Yes, that's (inaudible).

Sorry?---That's why we tell everybody that's there to do it, in case one either – somebody forgets or they might not, like, go tap it and it hasn't – hasn't gone on.

Yes, certainly. You don't know, as an attending member, what other people's body-worn video is capturing?---That's correct.

Or what it's not capturing?---That's true.

Nothing further, your Honour.

THE CORONER: Yes.

Any other questions?

Dr Freckelton?

MR FRECKELTON: No, thank you, your Honour.

DR DWYER: Your Honour, just very briefly.

REXN BY DR DWYER:

DR DWYER: Ms Vicary, in relation to the question just asked of you, are you – I think you gave evidence, just to clarify, it's not excusable to not turn your body-worn video footage on, because you think the same incident might be captured by one of your colleagues though is it?---Not – not as an intentional thing, no.

Because you might not, for example, that body-worn video might not capture the angle that you're approaching the matter from? Or approaching the incident from?--- Yes, potentially, yeah.

And in any event, body-worn video footage of somebody else, your colleague might malfunction, or fall off?---Well that can be – your one can do that as well, so – that's why we ask everybody to have it, so that if there is a malfunction of one, then the other one – you've got it on the other one.

In relation to the use of force, it's the case isn't it, that a simple handcuffing of a suspect is not a matter which required a use of force report, agreed?---Not on – not on its own.

So the 46 use of force reports that we had for Constable Rolfe, involved something more significant than a simple handcuffing of the suspects, didn't they?---Yeah, so it could have – it could have been in relation to their – his use of – like defensive tactic hold to ground stabilise somebody in order to be – to get them under control to – to handcuff them. Or they may have been required to use their OC spray or their – or their Tasers, or – we rarely – very rarely use batons any more. So yeah, so that – there's usually a – like a combination of things that come in when the use of force incident.

And in the absence of a use of force report, it becomes very difficult doesn't it, to try and pick up any patterns of excess force? That is the use of force reports were critical weren't they, in ensuring - - - ?---Yeah, yeah. I would imagine so.

Thank you, your Honour?---I would imagine.

THE CORONER: Look, it's been a long day. Thank you very much again for making yourself available, and carefully listening to, and answering all those questions.

WITNESS WITHDREW

THE CORONER: And we will adjourn until tomorrow at 9.30.

ADJOURNED