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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 21 SEPTEMBER 2022

(Continued from 20/09/2022)

Transcribed by:
EPIQ

THE CORONER: Dr Dwyer.

DR DWYER: Thank you, your Honour. Your Honour, the first witness for today, and anticipated to be the witness for today, Sergeant Julie Frost. Before I call Sergeant Frost, might I just tell your Honour that we have another very respected Elder in court, Leanne Oldfield. One of Kumanjaji's mothers is here today.

THE CORONER: Thank you for coming to court today, Ms Oldfield, we appreciate how difficult these proceedings are for you. And you're very welcome to be here, and we thank you for coming today.

DR DWYER: Your Honour, I call Sergeant Julie Frost.

THE CORONER: Thank you.

JULIE SHEREE FROST, affirmed:

XN BY DR DWYER:

DR DWYER: Sergeant Frost, could you please tell the court your full name?---Julie Sheree Frost.

And you're a sergeant in the Northern Territory Police Force, correct?---Yes, that's correct.

Where are you currently based?---Currently based in Assets Forfeiture in Darwin.

And in order to give – give evidence today, you're physically located in Darwin, is that right?---That's correct, yes.

Sergeant Frost I'm going to start with some more general questions about your experience in the Northern Territory, but before I do, I note that later in my questioning I'll be asking you specifically about the events of 9 November. You have given evidence previously at the committal and trial in relation to the trial – the proceedings against Constable Rolfe. Is that right?---That's correct.

And you've also given an interview on 13 November, and then again on 5 December 2019. Is that correct?---Yes, that's correct.

In relation to the transcripts of the court proceedings, and your interviews, do you have in Darwin with you a copy of those documents?---Yes I do.

All right. If we need to turn to them later, I'll take you to them.

MR EDWARDSON KC: Your Honour, sorry to interrupt. Can I ask there be one other important document, which looms large through the transcript. And they are Sergeant Frost's chronology of events, which were typed by her, and form part of the prosecution brief. I just want to make sure that she's got those. It may not matter

now for the purpose of my learned friends questions, but it certainly will be necessary later.

THE CORONER: Sure.

DR DWYER: Sergeant Frost, do you have that chronology with you?---Yes I do.

And obviously that's in the brief of evidence. So for the benefit of my learned friends, 7/36, 7/37, 738, 739, 739A and 739B I anticipate will be documents that the sergeant will be taken to. And of course, there's a number of annexures to that interview on 13 November.

But Sergeant Frost, can I just start by asking you some questions about your experience in the Northern Territory. Prior to becoming a police officer, you were a nurse in the Northern Territory, is that right?---Yes, that's correct (inaudible).

How long were you a nurse for?---Around 17 years.

And which – which communities, in the Northern Territory, did you work as a nurse?---In the last four years of my career I worked at Wadeye, Palumpa, Pepperminarti, Daly River, Jabiru and Bachelor. I think that is it.

The Tiwi Islands as well for a stint. Is that right?---Yes, sorry, yes I did, yes, yes.

And so that – let me take you back a step. When did you first become a nurse?---In 1989, I was a hospital-based trainee attached to the Queen Elizabeth Hospital.

Where is the Queen Elizabeth Hospital?---Sorry, in South Australia.

Okay. And then when did you come to the Northern Territory?---In around 2000, I think it was.

Prior to going out to community, did you work as a nurse in towns, either in Darwin or Alice Springs?---Yes, I did. I worked in the intensive care unit at the Royal Darwin Hospital.

And so, when did you first go into a more remote community like Wadeye?---I think Pepperminarti was my very first post and that would have been sometime in 2000, I think it was.

Sorry, I just wanted to ask you about your experiences working with Aboriginal people prior to become a police officer. Obviously, during your time as a nurse, you will have cared for a significant number of Aboriginal people from different communities around the Northern Territory. Is that correct?---Yes, that's right.

In Darwin hospital, for example, when you're treating people in intensive care, is it the case that you will, as a nurse, treat people from all different communities around the Northern Territory?---Yes, absolutely, yep.

Did you receive any specific training as a nurse in terms of cultural competency?---No, I don't recall ever having done so. I think we primarily learnt on the job.

Were there Aboriginal staff members who you were able to learn on the job from as a nurse. Out in the remote communities, they had Aboriginal health workers and we learnt a lot from the Aboriginal health workers in terms of cultural considerations and what not.

Did you enjoy your time working as a nurse in community?---Yes, I loved it, yep. It was very, very tough but very, very rewarding.

Am I right that during the period of time you were working as a nurse in community, you were married to a police officer for at least part of that time?---A small part of that time, yes.

You mentioned a number of different communities; Wadeye which is sometimes known as – or otherwise known as Port Keats. Is that right?---Yes, that's right.

And then Palumpa, which is between the communities at Pepperminarti and Wadeye?---Yes, that's correct, your Honour.

And Pepperminarti and Daly River?---Yes, that's right, yes.

So, around that broad region, you travelled between communities?---I would take contracts for periods of time. It might have been a contract for six weeks at Pepperminarti and then I would go to Daly River maybe for three months. I was based in Port Keats for nearly two years, I think it was, and the other two years was just doing short-term contracts.

As a nurse, did you learn anything about the cultural structures and considerations that apply to Aboriginal people in those areas?---Yes, I did, yes. They were all a little bit different, but there was all - reasonably similar at the same time. All had our hierarchy structure, so yes.

Were there areas as a nurse that you should not attend for cultural purposes in those communities?---The men's area, we wouldn't be able to attend.

And how would you learn about that, for example?---The health workers would guide us to those – to the areas where there was those men's areas.

When you were working as a nurse in areas like Wadeye or Pepperminarti, did you then work alongside Aboriginal health workers?---Yes, definitely. The first couple of posts, I did Pepperminarti, Palumpa sorry, that didn't have a health worker attached to it and at some point, Pepperminarti didn't have a health worker attached to it. But all of the other communities had health workers attached to them.

Was it an important part of your learning process in terms of being culturally competent to work alongside health workers who were Aboriginal people?---Yes.

And did you form any relationships with other Aboriginal people in the community who you weren't working with?---Just by contact, the fact that you deal with a lot of the same people all the time, so you have the same – you know, you have that contact constantly with certain individuals. There would be other individuals that you may never see, because they've never presented to the health clinic.

In taking, for example, Pepperminarti or Wadeye, did you form positive relationships with other people in the community who were Aboriginal people?---Who were or weren't, sorry?

Who were. Did you form relationships with Aboriginal people in the community?---Yes, yes, yes, I did.

And what – I think - can you tell us when you decided to become a police officer?---In 2004, I went to Scotland and came across a crash and I think it was while dealing with that, that I made a decision that I was going to become a police officer.

What was your rationale for the change in career?---It was something I was always wanting to do. A bit of curiosity. Probably because I had been married to a police officer at some point, I had some sort of understanding of what policing was all about.

Where did you do your training then to become a police officer in the Northern Territory?---March 2005 was when I started my training.

And what did that involve?---It was a six month training course. It had a lot of skills' blocks. A lot of legislation, general (inaudible). There was some cross-cultural training in that.

I appreciate it was a fair while ago now in 2005?---Yes.

But do you recall now whether your cross-cultural training involved face-to-face learning; that is - - -?---Yeah, we went to Daly River and had exposure to some cross-cultural there with (inaudible) I think who was there at the time.

And I appreciate you had already been working alongside Aboriginal people for a significant period of time by then, but did you find that useful?---Yes, it was fantastic, yes.

What can you tell us was particularly good about it?---I think everything that was entered in there was stuff that I had already known. But it was nice to see it from a point of view where I'm not a nurse, I'm now a police officer. So, I can't quite remember what exactly we did now, but it was just, as a police officer, we probably had a little bit different cultural experience, because obviously the difference in jobs.

I'm going to ask you at some point shortly about Yuendumu and the cultural issues with Yuendumu. When you were receiving your training as a police officer, did you – were you specifically told at any stage that it was important to understand the different considerations for different communities?---Through training, sorry?

Yes, through training?---Yep. I can't really remember, to be honest.

Is that something that you did understand as a police officer, that you can't expect that the considerations would be the same in each community?---Yes, yes, definitely.

In terms of your policing experience then, where did you first work as a constable?---Darwin general duties.

Have you ever had any experience in Alice Springs in general duties?---No, I haven't.

Right. And as a police officer, you've spent time in different communities, just as you did as a nurse. I think you've said previously that you had a period of time in Tiwi Islands as a police officer. Is that right?---Yes, that's right, Bathurst Island and Minyerri.

Minyerri is about 250 kilometres south-east of Katherine. Is that right?---That would be about right, yes.

And you spent how long there?---I did a six month stint out there.

At both of those postings in Bathurst Island and Minyerri, did you work alongside Aboriginal community police officers?---Yes, I did, yes.

What's your appreciation for the work that they do?---They're fantastic. Absolutely invaluable. In terms of not only language but the hierarchy structure, the - you know, where you can go, where you can't go, understanding family dynamics, yes, that - they're absolutely worth their weight in gold.

I want to ask you now about Yuendumu. When did you first come to work as a police officer in Yuendumu?---February 2018.

And what was it that took - I withdraw that. Where you immediately before you came to Yuendumu?---I was working in Cold Case Task Force.

And what took you out to Yuendumu?---I got promoted. I got a promotion out there, so I was - I had - sorry - - -

No, please keep going, Sergeant Frost?---I said I applied for two promotional positions. One was for Professional Standards Command and one was for Yuendumu and on thinking about it I withdrew the Professional Standards Command application and decided I would take the challenge of taking on a station of my own

and going down to Alice Springs, as a place that I'd never been before. That - that area, southern desert tip areas, somewhere that I've never been before.

So your role in Yuendumu was your first as a sergeant or officer-in-charge of a station, is that right?---Yes, as officer-in-charge, yes.

So when you arrived in February 2018 who did you take over from?---It was a relief - Lanyon Smith - Senior Constable Lanyon Smith, he was a relief member at the time. Annie Jolley was the permanent member and I think she'd gone prior to me coming in up there.

I ask you firstly about the area that is covered by police in Yuendumu. You've obviously given this evidence on a number of other occasions. So I will see if I can speed some of this up but please correct me if I get anything wrong. As I understand it in 2018 and 2019 Yuendumu police covered Yuendumu itself, which has a population of 800 - fluctuating, is that right?---Yes, that's correct, yes.

And then Nyirripi, which is a community of around 100 people?---Yes, yes, that fluctuates a little bit as well, up and down.

And Nyirripi is, I think, around two hours drive away, is that right - from Yuendumu? ---Yes, that's right. Yes, that's right.

And Yuelamu, which is about 45 minutes away with about 200 people? Is that right? ---Yes, that would be about right.

Previously you've said that police also cover the Tanami gold mine, which is adjacent to the Tanami Highway on the lands of the Warlpiri people, is that right?---Yes, that's correct.

What sort of work would police have to do at the Tanami gold mine and surrounding areas?---Not - we didn't go out there a lot. There would be the occasional traffic crash that we'd have to go to. We had a plane crash at one stage that was - that had taken place nearby there - yes, there wasn't a lot that we - thankfully, we had to do there.

In terms of Yuelamu 45 minutes away from Yuendumu by road, is there a police station there?---No, there's not.

In Nyirripi you've previously described a thema station, can you tell us what that is? ---Yes. It's just a little - it was just a little shipping container, it was set up as part of the inspection. It's still there but it's very much run down now and probably not appropriate to - it's probably not inhabitable at the moment I would imagine.

But at different times in, say 2019, did police use it as a station when needed? ---Occasionally, yes, yes. The thema stations around the district used to get staffed by relief members sometimes, on some occasions and that was so the members of

the community can do things like MVR or they could do follow-ups for us, the police that go out there to do the follow-ups for us and that sort of stuff.

MVR - motor vehicle registration, is that right?---Yes, sorry, yes.

And, Sergeant Frost, in terms of covering that broad area, was it your responsibility to respond to different jobs in the areas and allocate your staff?---Yes, that's correct.

So in terms of staffing level, in that we understand that in the lead-up to November 2019 Yuendumu Police Station was staffed by yourself as a sergeant and also - please correct me if I'm wrong - Constable Alefaio?---No, no, he wasn't - he was a relief member.

Okay so I'll just ask you this question to ask with. What was the full complement of the police station at Yuendumu supposed to be in 2018 and 2019?---It was supposed to be three constables, an ACPO which was Derek, and myself.

Was it often the case that you would not have the full complement of staff?---Very very often, yes.

Why was that?---We had - when members would go on sick leave - sorry - rec leave for instance, they often didn't get replaced, sick leave, it was difficult to replace last minute. I had a couple of members that were - they weren't permanent members, so they were relief members, so their families were in Alice Springs so on their days off they would go to Alice Springs and therefore they weren't available to commence duties as extra resources when I needed them.

So am I right that officer Lanyon Smith, for example, was part of the Territory Relief Pool but had been relieving in Yuendumu for a number of years?---Yes, he had, that's correct, yes.

But family in Alice Springs, is that correct?---Yes, he did.

So when you were short staffed was there an option to pull in a general relief pool? ---Whenever I - you know, I did request extra staff whenever we had rec leave. I didn't get it often.

So in terms of your reporting structure who you could request things from, for issues like extra staffing, did you report up to Senior Sergeant Michael Potts?---Yes, I did, yes.

And if you needed urgent resources or if it was a critical incident you would go to Superintendent Nobbs, who was one level up from him, is that right?---Yes, that's - that's right.

No doubt in any community, issues for police change depending on what is going on in the community but from a policing perspective, what were some of the significant issues for you in Yuendumu from 2018 to 2019? Obviously prior to 9 November?

---So for policing issues, sorry?

Yes, for policing issues in Yuendumu, for you what were some of the significant ones?---There was a lot of unlawful entry. A lot of juvenile issues and domestic violence issues, drugs, alcohol and that sort of - that type of stuff.

Was that every different from the other communities that you had been in in the Northern Territory?---No, not really, no, no, they all had similar challenges for issues like that.

In terms of the unlawful entries, were they primarily - well, did police suspect that they were primarily committed by youth?---Yes, it generally was a lot of the younger kids that were doing the unlawful entries.

And was that the same in 2018 and 2019?---Yes, it was.

I will come back to the issue of staffing but in terms of tackling the root cause of that - the youth offending, what did you suspect to be the main causes?---I think there's a - from what I can see, I believe that there's a lack of structure in the lives of some of the - some of the children. You see them - we would get called out at night - 3 am in the morning - 4 am and the kids would be wandering around. I think the - there wasn't a big focus on sending kids to school, so they were generally up all night and sleeping during the day and I think that the lack - that lack of structure is difficult for - I think there's a lot of boredom and that goes on in the families, with the kids.

I'm sorry, Sergeant Frost, I missed the last - we missed the last comment? There's a lot of?---I think there's - because of the lack of structure there's a lot of boredom with the kids.

So in order to address that, did you ever have stakeholder meetings in Yuendumu in 2018 and 2019 with other service providers?---Yes we did. We had what's called Community Safety Meetings. And they were held every month. We - they were - they were primarily for the community members, as well as the stakeholders. So it was - it was open to anyone.

Where were those meetings held?---Always at the Council.

And would someone chair those meetings?---Yes it was generally me that would chair. It was always a police officer that would chair the meeting.

Was that - were those meetings attended by somebody from the school?---Yes, yes, often they were.

Who would come from the school?---There was a changeover of staff between 2018 and 2019. Mike Timewell(?) from the school would come. Rebecca Tome, if she did the - the little kids, so would come over as well.

And what about from WYDAC? Were there representatives there at the

meeting?---Yes, yes there was. They would generally come.

Who were the main people that you worked with from WYDAC over 2018 and 2019?---So Ivan(?) was the main one that would come to the meetings.

And in terms of other stakeholders, what about the clinic?---Yes they would attend when they could. It was very much, if you could get there, depending on your work load at the time.

So were there - - - ?---But Luana would come.

- - - all right, I beg your pardon, Luana?---Luana would have been there – had come to a few of the meetings. And I think there was some others that had come over time.

Were there ever meetings where people – where you didn't get much of a turn out because of the work load in the community?---Yes, yes. There were some times where there was very few of us. There were some times that I had to cancel the meetings because of the lack of staff. So the lack of police members on the ground, and active jobs that were happening in the community.

Did – was Derek invited to those meetings, your ACPO?---Yes he was, but he never – he never – I don't think – in my time, I don't recall that he came to any.

Do you - - - ?---He may have though.

- - - okay. Were Elders invited to those meetings?---Absolutely, yes.

And did Elders regularly come?---No, not really, no.

Who - - - ?---I think Valerie Martin(?) was probably the one that came the most.

When you answer my question yes when I ask you if Elders were invited. How would an invitation be issued to Elders to come to those meetings?---It was common – it was common knowledge that it was – now I can't remember what day it was. But it was something along the lines of every first Thursday of every month. And it was just that common knowledge. I think, In Yuelumu in for instance, when we would do that, we would put a flyer up in the council, so everyone can see it. But yes, Valerie was always – was pretty much there most time, which was really good. So there was – we – I don't think we ever put a flyer up in the school, but – or the shop. In - - -

Did you regard – I'm sorry, I spoke over top of you sergeant?---Okay.

Did you regard those meetings as important, as a way to resolve issues in the community, or attempt to?---Yes they – they were important. We discussed five different – five topics. One was domestic violence. One – one was kids and their needs, traffic and drugs and alcohol. And we – we often had action items, but it was

very difficult to, I suppose, get a lot of buy in. And everyone was busy. But you know, it's also a good way of involving a way where people would say, look hey, there's alcohol coming in this way, although – so it (inaudible).

Did you have any relationship with the Southern Kurditji Group while you were in Yuendumu?---Yes we did. We had a very good relationship with Charmaine, her name was, and her team.

Charmaine Jonkers(?), does that ring a bell?---Yes, that's right.

And when you say and – and her crew, I think you said. Can you recall - - - ?---Her – her - - -

Can you recall others from – from the Southern Kurditji - - - ?---I can't remember their – I can't remember their names now, it's been a long time.

Did you work with Elders in the Southern Kurditji Group?---No not really, no.

If you had more resources, I appreciate – we're going to come shortly to some of the restrictions on you, but would it have been a good idea to try and have those stakeholder meetings more often, if that was possible?---It was challenging, because it was – because of the work load at the police station, and the lack of staff, it was challenging just to do the one – the every month meeting. So to do it more regularly would have been very difficult, because on top of that, I had to chair the – the meetings in both Yuelumu and Nyirripi as well. And had Family Framework meetings. So there was a lot of expectation, and it was very difficult to sometimes be able to meet those obligations.

So would that – the Family Framework Meetings, were they separate to these stakeholder meetings?---Yes, very separate.

Okay, and so in relation to these stakeholder meetings, do – are you saying to her Honour, that you held a similar sort of meeting in the other communities that you police?---Yes, that's right, your Honour, yes.

How often would that happen?---It was the same. It was once a month. And it would be obviously on a different day, but the community knew it to be, may be, whether it was like the third Thursday of every – of every month, or – and I can't remember how we structured it. But every – they were different.

Take – take for example, Nyirripi, would Elders attend that stakeholder meeting in Nyirripi?---Yes, there was – there was a lot of people that would attend the – the meeting at Nyirripi.

And Yulara?---In Yuelumu?

Sorry, I beg your pardon, at Yuelumu, did you get Elders attending the stakeholder meeting?---There were a few – a few chore people, but not – it wasn't (inaudible) out generally.

I think, you appreciate Sergeant Frost, that one of her Honour's functions is to make recommendations that might assist communities in the future, to avoid the tragedy that happened here. Do you think that one way to strengthen these meetings, is to provide enough resources so that ACPO's can attend?---Absolutely, yes. The – Derek was always invited. I think Derek – Derek had come across to Nyirripi with me on quite a few occasions. And he would quite often come to the Yuelumu ones. But the one's at Yuendumu, I don't recall him coming to. But he was always – always invited.

I – you – you understand, don't you, that there might be some reasons why an ACPO can't attend, that you're not aware of? For - - - ?---There may be. Yeah, there may be, and he would – Derek would tell me and - - -

All right, but wherever possible, you agree that it's a good idea to have an ACPO at a stakeholder meeting?---Yes, yes.

And that just requires enough resources to be able to free people up to attend, provided they're available?---That's – that's right, yes.

Can I just come to Derek for a moment then. You've previously said that the role of an ACPO is to bridge the gap between the community and police. They're valuable in terms of finding information in historic events that cause disturbances, giving cultural guidance, providing assistance to communicate in language, for example. You've spoken about this at length. You've previously been asked whether you found Derek a valuable resource, and you said "Very important." Can you just explain to the court your relationship with Derek?---Yes, we had a – a very good relationship. Derek was invaluable to me. He wasn't always available, and he – he would always tell me though if he couldn't assist in something because of poison relationship or something like that, he would always tell me. But he was really valuable. And particularly when there was a lot of disturbances going on in the community. I think just Derek's mere presence has really helped to (inaudible) and calm a lot of the people because he can then communicate to them in language. And he knows and understands the, I suppose about why something has happened. And he knows all the relationships and that sort of stuff. So he was – he was incredibly valuable that – in that.

When you started at Yuendumu, did you spend some time with Derek getting to know what the issues were for the community, cultural issues?---Yes, I did. I had my first two shifts with Derek and he showed me around all the cultural areas and introduced me to the Elders and got a bit of a handle on some of the cultural issues, yes.

And how important was that to you, Sergeant Frost, in terms of building relationships in the community?---Yeah, really important for me, particularly as a sergeant. And

people got to know my face and were very comfortable coming forward and speaking to me about issues they may have had. So, it was really, really important.

In terms of understanding issues affecting that community, did you have an appreciation of a massacre that had occurred which is known as the Coniston Massacre and understood to be one of the last state-sanctioned massacres in the Northern Territory or if not Australia?---I read it on the induction documents that we had on the – I believe it was on the induction document that we had that, yes.

What was that induction document?---It's a document for police to basically explain what the community, like how many people are in the community, the areas around the community. It's got contact numbers of people. Just a lot of different information about the particular community you're going into. The language spoken and that type of information.

Was that something that was said to you prior to arriving, or is it available in the police station?---It's available online within NTPF, yes, on the intranet, I think it's the N-drive that they have all the station – it's on your station profile, I guess you could call it.

Just staying with APCOs for a moment, we understand that Derek was available in 2018 and 2019 and you worked alongside him. Did you have an ALO as well at any time. No, not back then, no.

And did you ever have a female Aboriginal community police officer working with you?---No, we did have one identified and she would have been fantastic. She ended up getting the money to go over to – I think she went over to the education department, so she took that one instead.

When you say "one identified", as there a position available for a female ACPO while you were there?---We – and ALO, yes, there was. We were always searching for someone that could fill that role. We did have a one position at that time.

Do you agree that given issues within the community, it would helpful to have more than one APCO if the resourcing was available?---Yes, yes, it would be.

And do you agree that it would be helpful to have a male Aboriginal Community Police Officer?---Yes, definitely.

Have you ever in a station where there has been a female ACPO?---Yes, Minyerri had one actually. Yes, she was very good.

And when you had the female ACPO at Minyerri, did you also have a male ACPO?---Yes, I did, yes.

So, you've had an experience of working with both a male and a female ACPO and seeing how that assists the police station?---Yes, yes.

In terms of respect for the culture of the people whose country you're on, you said that Derek would help you to identify sites of significance as well as Elders that you might speak with. Is that right?---That's right.

And did you also speak to Derek at any stage about the significance of funerals and sorry business?---I can't remember. I'm sure we would have. Derek would also guide us, no matter what was happening. So, I can't recall, but no doubt we did.

In your first interview that you did on 13 November, you said policing can take a backseat for funerals for cultural reasons. It's important that family know that, out of respect for them, policing doesn't need to be up front and centre if you've got funerals or sorry business. Is that right?---That's right. Unless it's something extremely serious where you, you know, you've got to – for instance, a sexual assault or something like. That would be an entirely different situation.

But you've previously said you appreciate that funerals for Aboriginal people are extremely important and there's a lot of cultural responsibilities and significance placed on funerals. Is that something - - -?---Yes, there is.

- - - that you understood well before November 2019. Is that right?---Definitely, yes.

So, have there been occasions, I'm not referring to Kumanjayi, have there been occasions where you have held back an arrest because you want to make sure that a funeral can take place?---No. No, there hasn't been. Not in my time out there.

In any other communities?---No, no.

So, when you say that policing can take a backseat, is that something that you just appreciate could happen if it was necessary, that is - - -?---Yes, that - yes.

It would be culturally inappropriate, unless it was some emergency, it would be culturally inappropriate to arrest somebody during the middle of a funeral, wouldn't it?---Yes, it definitely would be.

In relation to mediation of disputes, you've previously said that – and I'll just quote you from your first interview. Just to save time, I'm not going to take you there unless anybody specifically wants me to, but you said, "We do a hell of a lot of work out in community with mediation. We quite often drag people into the courthouse, sit there and let them talk it out instead of throwing weapons at each other." I'm paraphrasing, but you would spend many hours over and above what you in town trying to mediate disputes. Is that something that you did in communities other than Yuendumu?---No. No, I think Yuendumu was the only place we've ever really done that. I guess because I'd been there for a longer time. No, I'm sorry, Minyerri, we did have a number of riots at Minyerri and we did have some big community meeting where everyone came together and talked about it. But with regards to the general disturbances there that we needed to mediate, Yuendumu was the only community that I've – that's done that.

How often do you – I withdraw that. Without naming any names, can you give us an example of where a mediation was arranged and settled the dispute?---We would bring people down to the courthouse and we would always ensure that the people that attended, if we had three people from one side and three people from the other side, we would make sure that whatever was in that meeting was even. So, there was no imbalance of power, I suppose.

And when you say “we would” organise, who are you referring to there?---It could be myself and the constables and whoever was there at the time.

And would Derek attend those mediation meetings?---He attended some. There was some that he wouldn't have been able to go to because of family reasons, so it really depended on who the family were.

And you say in that first interview again, “Our job rate --”, meaning your job rate for community police, “is not reflected on what actually happens in places, because if you don't settle it, it might explode into something bigger.” So, a lot of resourcing goes into settling disputes. Is that right?---Yes, yes, yeah, we would spend a lot of time just trying to settle one minor dispute. I know we've spent up to 12 hours on one minor dispute – not minor dispute, but on a dispute that you knew that if you didn't stop it at the time, it could get out of hand.

And so, would you effectively act as a mediator in that process, Sergeant Frost, encouraging people to listen to each other's perspectives?---I would – once everyone sat down in the courtroom, I would go and give everyone a cup of coffee, some biscuits and then stand back. I probably would just introduce, you know, trying to break the ice, I suppose. And then I would step back. And it works really well. It was really, really effective, where they would talk and yell. They knew I was around if something got out of hand. But over time, they would just be able to get to understand each other and what the – what each other's issues were. And quite often you would see, as people were walking out of the courtroom, they were hugging each other and it's really very satisfying to see that.

Can you – are you able to tell us how many occasions you think that might have happened during your time as a police officer prior to 9 November?---I think probably 10 – 12, I suppose.

So, I think previously I was asking about that issue about the break-ins which were mostly, you tell us, done by young people. Were you ever able to address those issues through mediation or problem-solving in families?---No, not really. That mediation we did was primarily based around a lot of the disturbances and the family disputes.

I asked you about the clinic coming to those stakeholder meetings. You've been a nurse yourself. You've worked alongside clinic staff then as a police officer in community. Had - prior to 9 November, had you ever worked somewhere where clinic staff have actually left the community because of unlawful entries in their houses?---No, no.

Prior to November 2019 were clinic staff reporting to police in Yuendumu that houses were being broken into?---Yes, they were.

Can you recall whether that was an issue in 2018 as well?---I can't really recall now. I've no doubt it would've - over that time there would've been something.

Was there an - why did you say that?---Because the break-ins were quite prolific in the community. I just can't remember - the Big Shop used to get broken into the most but ad hoc there'd be break-ins at different people's homes.

The statistics on break-ins, or those jobs - are kept obviously aren't they?---Yes, they would be, yes.

So they're available for her Honour to go and check what the actual job numbers were in 2018 and 2019 but do I take it from that answer that your understanding was that whatever break-ins were happening in 2018/2019, were not targeting nursing staff, they were just one of a number of houses?---Yes, that's right, that's right.

In your first interview with police on 13 November you say, "The clinic staff have previously threatened to leave in relation to unlawful entries but they've never actually left a community high and dry like that - never left it unmanned in your experience"?---That's right, yes.

Has there been an occasion in Yuendumu prior to the November 2019 where clinic staff came to you and said, "Look, we're going to have to leave if this is not resolved"?---Prior to the Saturday the 9th?

Yes?---No, no. Saturday the 9th was the first time that they had said he had (inaudible).

Before I ask you about Kumanjayi I just want to ask you some more general issues about training. Obviously as - in terms of your training for a police officer, one of the units that you do is you support?---Yes.

And do you understand that your training in relation to use of force applies in town as well as in regional communities or bush?---Yes, it does.

And that in terms of the accoutrements that you carry, it's the same whether you're in Darwin or Yuendumu, is that right?---That's correct, yes.

But you note in your previous evidence that in practice there's a lot of effort for some peaceful resolution and mediation when you're in bush communities like Yuendumu, correct?---Yes, that's right, yes.

And I'll just read to you something from your first interview where you say, "Out bush we try and resolve it by the lowest means possible. Our use of force out bush is minimal because we do more negotiating than anything. One of the reasons, I

suppose, is that we know if we used force we would also be potentially turned on - turned on against the family - the family might turn on us. We've got to live in community and we want to build respect and if we can resolve something at the lowest possible level, that's how we do it"---Yes.

And was that the case when you were policing in Wadeye and other communities as well as Yuendumu?---I didn't police in Wadeye but - but yes, Minyerri, absolutely because you're very aware of the fact that you don't have back-up available to you, so if something went bad, if you used force, the community would be very angry about it and could potentially (inaudible) you and then you don't have that ready back-up and it's very difficult to get resources at a moment's notice.

And implicit in your answer in your first interview is also that you build relationships with people. You obviously care about members of the community, correct?---Yes, definitely, yes, absolutely.

How do you - so relationship building is critical to good community policing, correct? ---Yes, it is, yes.

Just tell us how you build your relationships then, in community like Yuendumu, as a sergeant?---I think through attendance at meetings, on the job when you go to a particular job you would often come across people more regularly. There were certain people that you'd come across, they got to know you, you go to know them and I think the more you got - the more I get to know people like you have a little bit of banter between yourselves and there's a little bit of trust built just through - just through attending jobs, I think.

You did have an experience of calling in additional resources and I will ask you about fatigue levels, but in terms of a specialist unit like the TRG, had you - Tactical Response Group - had you ever called TRG to assist in Yuendumu?---No, I haven't, no.

You had once prior to November 2019 called the IRT - the Immediate Response Team, is that correct?---Yes, that's right.

How did you come to know about the existence of the IRT?---I don't remember. I just knew of it, that's all.

What you tell the interviewers in your first interview, is "When we had riots in the street in Yuendumu in 2018" you called the IRT but by the time they got out there we had managed to quell a lot of it so they provided some high visibility patrols that night and I haven't seen how they work other than that" is that right?---Yes, that's right.

How did you manage to quell those issues in 2018, prior to the IRT getting there? ---A lot of talking. We had to extract a lot of weapons from people. I think - I can't remember how many people there were to this particular one, it felt like about 300 - a lot of kids milling around as well. It was just a lot of direction and - on - and taking weapons from people. I think that one resulted in one of the community members

grabbing a car and at one point driving it towards a group of people. Luckily she stopped before hitting anyone and I think that was something that we were able to arrest her straight away and I think that was something that made the community a bit calmer, after we'd - - -

Do you - I'm so sorry, Sergeant Frost?---No, that's okay.

Do you know what the underlying issues were that caused those arguments?---I can't remember what that one was, but a lot of it is sparked from something as simple as a Facebook post and very quickly that would progress into family fighting and that type of stuff.

Sergeant Frost, you would appreciate, wouldn't you, that there might be a whole lot of stuff going on under the surface that you, as a non-Aboriginal police officer, don't know about in terms of those disputes?---Absolutely, yes, yes.

And in terms of resolving it on that day, you've confiscated weapons, you spoke to community members. Do you recall whether or not Derek was available in the community to assist at that time?---No, he wasn't there. He wasn't available.

Who were the other police officers that assisted you?---It was Constable Smith and Constable Alefaio on that particular occasion.

And am I right that by that time they had developed relationships with the community?---Yes, Xavier had been in the community for around five years and knew everyone and Felix had been in community for about a year and-a-half and had a really good relationship with people in the community.

It is probably just common sense Sergeant Frost, but those - building those relationships is just critical isn't it, in terms of helping the community to resolve a dispute?---Absolutely, yes.

In terms of the history of the community in Yuendumu, do you have an understanding, given your training as a nurse and a police officer, of the history of trauma for Aboriginal people in and around Yuendumu?---Yes, yes.

Do you appreciate that some ongoing conflict might relate to trauma?---Yes, yes.

As a police officer, do you have access to any resourcing to call into the community, from trauma specialists?---No I – I think it's part of the Families Safety Framework, there was – I had Kerrie-Anne Chilvers that would come into the community, on occasions, for those meetings. And so she was probably, the principal person I'd pick, yes, to deal with that.

And fortunately, the inquest will hear from Kerrie-Anne Chilvers, so we'll have that perspective. But I'm thinking also in terms of say the children, who are then witnessing a dispute, do you have any resourcing to be able to refer those kids to counselling?---We refer – every domestic violence incident, for instance, where kids

are involved, we will always submit Territory Families (inaudible). And on the back of that, I don't recall counsellors ever coming out in my time, but on the face of that, it would be flagged through Territory Families. Particularly the – for the kids that were constantly involved in or (inaudible).

All right?---There is that type of (inaudible).

And then – and then you're basically reliant on Territory Families to arrange the counselling, is that right?---Well that's what they would do, yes, yes.

At the time – during the time you were in Yuendumu in 2018 to 2019, were there any permanent staff from Territory Families based in Yuendumu?---No there wasn't, no.

And there was no counsellor based in Yuendumu, is that right?---That's right.

In relation to the incident, you told us about the IRT, you've previously given evidence, but in order to call the IRT therein, in 2018, given that you ultimately didn't – you ultimately had solved most of the problem before they got there, what you did was contact Superintendent Nobbs. Told him what's happening, and then he arranged for the IRT to attend, is that right?---Yes, that's how that happened, yes.

You did not fill out any paperwork for that specific request that you can recall?---No it was a – it was an emerging situation where we were on the ground, and it was not practical to go back to the police station, leave my two members there, so Superintendent Nobbs basically had arranged it for us.

Do you recall how many members of the IRT came into the community at that time?--No I don't, no.

Do you recall meeting the members of the IRT at that time?---I recall meeting Sergeant Lee Bowens. He was the one that I remember.

What discussions did you have with Sergeant Bowens at that time?---I can't – no I can't remember, no.

They – you've said previously in your first – on 13 November, that they – the IRT provided some high visibility patrols when they came in, in 2018. Do you recall whether or not the IRT had any long arms, firearms, AR15s for example?---No, I can't recall whether they brought any out. I think they normally travel with them. I think that's part of their protocol is to travel with them and have them available, but I don't recall on that occasion.

You don't recall seeing them walk around the street carrying AR15s?---Oh no, definitely not, no.

So in terms of the IRT conducting high visibility patrols in 2018, would you have expected them to walk around the street carrying long arms?---Absolutely not.

What would you have thought about that if you had seen it in 2018?---I – I would have been mortified.

Why?---It's not – it's not necessary to carry. It's very threatening. It's not necessary to carry that type of weapon in a community. It would be very confronting for community members to see that.

Would you think that if they saw that, it would then affect their trust of local police?---Yes, definitely.

And in terms of the IRT, at that time, you've previously said you were not aware of any standard operating procedures around the IRT?---No, not really, no.

And essentially, you left it to Superintendent Nobbs to sort it out on that occasion?---Yes I did.

Do you recall how long they stayed in the community then?---No, I – I can't remember. I was trying to think about it the other day. I don't recall how long they did.

Do you - - - ?---So there - - -

- - - do you recall the community reporting any negative experience with the IRT on that occasion?---No, no, nothing at all.

I'm going to ask you now about the lead up to the 9 November 2019. You've previously given evidence this morning about staffing loads, and the challenge that could be caused by low staff. In the lead up to 2019, Yuendumu Police Station was staffed by yourself, as the sergeant, Lanyon Smith, correct?---Yes.

Senior Constable Smith?---Yes.

I think Leilani Weathers, was gazetted - - - ?---Yes.

- - - to Yuendumu, is that right?---Yes, that's correct.

Constable Alefaio, is that correct?---I think he left in February 2019.

Constable Alefaio worked in – nearby, on occasion, in the relieving pool, is that right?---Yes he did.

And Constable Mark Parbs was relieving from Alice Springs, from the Southern Remote Support Unit? (Inaudible)?---That – he was out at – he was out at Nyirripi.

Okay, so for Yuendumu police, in the week leading up to 9 November, there was yourself, Lanyon Smith, Derek Williams, correct?---Yes.

And is it the case that Chris – that Senior Constable Chris Hand was relieving, because Leilani Weathers was away?---That – that’s right, yes. No, sorry I beg your pardon. She – Leilani was there. I can’t remember who – who Chris – I think – we had a (inaudible) in the community, and I think he had left, and Chris had replaced him, on a temporary basis. So Dr Dwyer, my apologies, but I can’t see your Honour in my screen. So I’m not sure – I’m not sure - - -

It’s - - - ?---Is that - - -

- - - it’s really awkward for you, Sergeant Frost, I know, but - - -

THE CORONER: I’m here - - -

DR DWYER: - - - but she is here.

THE CORONER: - - - I’m listening, and I can see you clearly?---No worries, thank you.

DR DWYER: And if you were here in the witness box, Dr Freckelton would be telling you to look at her Honour, but it’s very difficult - - - ?---Yes.

- - - you can’t see her?---Yes.

THE CORONER: I can see you clearly, and the direction that you’re looking in, is appropriate for everyone in the court room?---Right, thank you, your Honour.

DR DWYER: So that’s your full five compliment I think is, yourself, Constable Smith, Leilani Weathers, Derek Williams, and Chris Hand, relieving, is that right?---That’s correct, yes.

You’ve previously given evidence that Constable Mark Parbs, who was relieving from Alice Springs, his placement in Yuendumu, Willowra, and Nyirripi was pretty sporadic, is that right?---Yes, that’s correct.

He was in Nyirripi from 5 November until 9 November, and then returned to Alice Springs via Yuendumu?---I believe – I believe it was 5 November that they went – him and Constable Alefaio went out there.

In terms of the work load leading up to 9 November, you’ve previously spoken about some unrest in Nyirripi, which added to your work load, is that right?---Yes, that’s correct. And in fact, that was actually what Constable Alefaio and Constable Parbs – that is the reason they were out there.

So from – our records show that from 5 November to 9 November, those two officers were out stationed at Nyirripi to try and address those issues, is that right?---Yes, that’s correct.

You've given evidence in your – on 13 November, that you had something like seven domestic disputes within a 24 hour period, and a couple of aggravated assaults in amongst that, and a couple at Yuelumu. So there was a lot of work for the station in Yuendumu, is that right?---Yes, that's right. On that occasion, it was actually just Derek and myself in the community. And that – (inaudible) that we had in that 24 – 24-hour period was very, very busy.

So when was that 24-hour period?---It was a couple of weeks beforehand I think it was. It was – yeah, I don't know, I'd have to go back.

So you've previously given evidence that around that time in November, Yuendumu Police Station had huge resource problems. What can you – what were the cause of the resource problems?---Not being relieved. There was sick leave. Relief members, like I said before, relief members who – because they were based in town, they would go home for their days off.

Sergeant Frost, you've got a – there's a Territory relief pool that police officers, at that stage, could be drawn from to assist communities. Is that right?---Yes, that's correct.

How would you go about getting support from that pool?---I would generally phone or email Senior Sergeant Potts.

And were there occasions prior to 9 November when you had called or emailed Sergeant Potts – Senior Sergeant Potts, I'm sorry, and got those resources?---I didn't often – I didn't get them too often, but yes, there were times that we did get them.

In relation to the issues that you were facing with short staffing and unrest in Nyirripi in November, did you ever make a specific request of Sergeant Potts for additional resources?---Yes, yes.

How did you do that?---Email or phone, generally.

And when did you do that?---There were a number of times that I did that throughout the two years.

What about in November?---I don't remember, but we – I think at that time, because we had had Chris come into the community, we technically had a full compliment of staff, but it was very – it was very erratic and it depend on who – whether Lanyon for instance, would go back to Alice Springs or whether one of us was on sick leave or that type of stuff.

Were you reluctant ever to request additional resourcing from the remote pool?---No, I was never reluctant to request them.

Were you ever frustrated that you didn't get the additional support that you needed?--Yes, there was some frustrations there, but I totally understand it. It's every difficult

to field or to, you know, fill a lot of relief spots throughout the southern desert. I understand the challenge of resourcing all throughout the southern desert division.

I'm going to come to – I withdraw that. In terms of resourcing, you appreciate, of course, that people higher who you're asking for resources might have their own difficulties in sourcing the resourcing. Does that lack of resourcing, is that something that plagued you from 2018 right through to November 2019?---Yes, definitely.

And so, if you're trying to assist the community to tackle some underlying issues like youth crime, does it make it particularly difficult if you're not adequately resourced with your policing compliment?---Yes, it does. It prevents us from being able to do a lot of the engagement-type roles. It prevents us from doing nightshifts, for instance. Yeah, it does hamper us.

Were you aware whether other stakeholders like the school or the clinic had the same issues in terms of resourcing?---I think it's – it would be sporadic. For instance, the clinic sometimes may be full, sometimes they may have a few staff missing. It was always very sporadic.

I'm going to come now to ask you about Kumanjayi. Do you recall when you first met him?---No, I don't.

Had you had an experience of arresting Kumanjayi prior to November?---Yes, on one occasion, I did.

And what was that for?---I can't remember what that was for.

Where did you arrest him?---At House 577 and with Constable Alefaio.

And can you recall roughly when that was?---I believe it was end of 2018, towards the end of 2018.

When you arrested him, what happened?---What my knowledge of Kumanjayi was, was that you had to get in and arrest him very quickly, otherwise he was prone to resist. So, that's what Constable Alefaio did, he went into the bedroom as soon as we got in there. He had cuffs on.

I'll just stop you there. In terms of your knowledge of Kumanjayi, how did you acquire that knowledge?---I dealt with him while he was in the watchhouse on a number of occasion and the conversations that myself and Lanyon and the police (inaudible), we would – we knew what he was like. He was also – I think there were alerts for him that he may resist and may run.

By the time that you met Kumanjayi, he was either just about to be an adult or was an adult at 18. Is that right?---Yes, that's right.

When you saw him in the watch-house, you had access to the system that allows you to look at somebody's background. Correct?---Yes, that's correct.

Did you understand him to be a young person who had experienced quite a lot of trauma?---Yes, I did, yes.

Did you understand him to have any learning difficulties?---Yes, I did.

As a result of – or how did you gain that understanding?---I think it was primarily through the family safety framework, him and Rakeisha were on that. And we got to, I guess, learn a lot about his history from that.

Did you ever speak to Kerri-Anne Chilvers about Kumanjayi's background prior to 2019?---Yes, we had conversations through that family safety framework process.

As a result then of understanding his background, did you approach him any differently? Apart from arresting him quickly, was there anything that you did to communicate with him differently?---No, but when he was in custody, we would always try and have someone there for him, whether it was a family member or whether it was Jackson from Wadeye.

And in terms of your communication with him, were you able to speak with Kumanjayi and get a response from him?---He was very quiet. You could certainly communicate, but he was very quiet, didn't say a lot.

The time that you arrested him with the assistance of Constable Alefaio, was it actually Constable Alefaio who did most of the talking and action with Kumanjayi?---I think we both – I can't remember, but – no I can't remember.

Was there anything notable about that arrest?---No, not that I recall.

And once Kumanjayi was arrested, he was taken to the watchhouse at Yuendumu. Is that right?---That would be correct.

And do you recall whether his family came then to attend on him?---From my knowledge from my dealings whenever he was in custody, it was very difficult to get the family to come to the station. We did a lot of engagement when we actually did make the arrest on the ground with Eddy Lottie generally. You know, we spent a lot of time with them talking and making sure that he was okay. So, they always knew he was in custody, but not often that we could get them to come down to see him.

I'm going to come to interactions you had with Eddy and Lottie, but you have previously acknowledged them as very well-respected Elders in the community of Yuendumu?---Yes, they are.

And you had a good relationship with them leading up the tragic incident of Kumanjayi?---Yeah, I've dealt with Eddy and Lottie quite a bit just through that family safety framework process.

Your Honour, is that a convenient time to break?

THE CORONER: It is. We'll take the 15-minute morning adjournment.

WITNESS WITHDREW

ADJOURNED

RESUMED

JULIE SHEREE FROST:

DR DWYER: Sergeant Frost, can you hear us okay?---Yes I can, thank you.

And I apologise for keeping you waiting?---No, that's okay.

Sergeant Frost, before the break, I was asking you about an occasion when you and Constable Alefaio had arrested Kumanjayi. And you've previously given evidence about this. Constable Alefaio had arrested Kumanjayi, you understood, on a number of occasions, is that right?---Yes, that's right. I believe it's about four occasions that he has arrested Kumanjayi.

So he was someone that you knew could identify Kumanjayi by sight, obviously?---Yes, yes, most definitely.

And did he appear to be able to communicate with Kumanjayi?---Yes he did.

On that occasion that you arrested Kumanjayi with Constable Alefaio, I take it there were no weapons involved?---No there weren't, your Honour.

And no threats were made by Kumanjayi to yourself or Constable Alefaio?---Not that I recall, no.

On 30 October, is it the case that you found out Kumanjayi had breached a suspended sentence by leaving CAAAPU, the alcohol rehabilitation centre?---I can't remember what date it was, but it would have been around that time.

How did you find that out?---No I can't remember.

Are you aware that – I withdraw that. There's a system of alerts on PROMIS, is that right, in relation to different community members?---Yes there is.

And did you come to read any sort of alert about Kumanjayi having breached his suspended sentence, or was it information that came from other community members or police?---No, I can't actually remember how, sorry, your Honour.

Okay. I'm just going to take you to – there's a statement in the brief of evidence from a Sergeant Robert Kent. And I'll read to you –

For the benefit of those following the evidence, it's at 7-74 of the brief.

I'm just going to read to you parts of this statement, Sergeant Frost. In his statement, at par 7, he says that "At about 8 am", and he's referring to 30 October, "He received information from his Watch Commander, Senior Sergeant Kerr, that Kumanjayi had been seen at House 2, Warlpiri Camp, earlier in the morning, and that information had been received", he says in his statement, "From Sergeant

Frost." Do you recall any communication around that time with police in Alice Springs?---Yes I do, your Honour. I remember that Derek had told me that he had information that Kumanjaya was at House 2 and as a result of that information I contacted the watch commander and told him that it appeared that he was at that house at the moment.

And what was your understanding then as to what would be done with that information?---That they would go and have a look for him and arrest him if they found him.

At that time - that was, say, 30 October according to Sergeant Kent. Did you have any further information about Kumanjaya's whereabouts between 30 October and 6 November?---No, I didn't, your Honour, no.

And did you see Kumanjaya at all yourself in the community at any time prior to - - -? ---No, I didn't. No, I didn't.

Can you recall whether or not in the week leading up to 6 November, there were any complaints about break-ins?---I can't recall, no.

Do you - apart from contacting Sergeant Kent to tell him about that intel you received, was Kumanjaya much of your focus at all between 30 October and 6 November?---No, not really, your Honour. We were dealing with more domestic violence and break-ins and that type of offending.

And am I right in thinking that because of the intel that you'd received, you thought Kumanjaya was in Alice Springs, not Yuendumu?---Derek told me that - and I won't name the person - but it was very credible information that he was at House 2, Warlpiri Camp.

In Alice Springs?---He was actually sighted there - in Alice Springs, that's right, yes.

So it stands to reason doesn't it, that you weren't actively looking for Kumanjaya in Yuendumu prior to 6 November?---No, not - no.

Now, I am going to ask you now about something that has been referred to as the "Axe incident" on 6 November. The court knows a lot about this incident already of course because it's been the subject of evidence and interviews so I am not going to take you through it chapter and verse?---Yes.

You have previously said that you were not aware that Constable Smith or Senior Constable Hand were going to go to Kumanjaya's house to make an arrest of Kumanjaya on 6 November. Is that correct?---That's correct.

At about 6.40 pm on 6 November you got a call from Senior Constable Hand, he was out of breath, he told you that Kumanjaya had come at him and Lanyon Smith with an axe. You called yourself on duty and you watched the body-worn video footage from those officers, is that right?---That's what I remember, yes.

Do you recall also contacting the watch commander?---Yes, I did.

And you also spoke to Superintendent Nobbs that night, is that right?---Yes, that's correct your Honour.

In terms of watching the body-worn video footage, do you recall whether you watched the footage from both Officers Hand and Smith?---I can't recall. I most likely would have but I can't recall.

When you saw the footage what were our thoughts about it?---I - I was quite shocked that Kumanjaya did what he had done. That wasn't common for Kumanjaya to do what and it was relatively - it was, you know, relatively confronting, I guess, to see that.

You've given evidence previously Senior Constable Hand was your domestic partner, romantic partner as well as your colleague in policing. Did that change at all the way that you viewed that incident?---No, not at all, no.

You went and spoke to Lottie and Eddy on the evening of 6 November after watching the body-worn video footage, correct?---Yes, that's correct.

Who did you attend their house with?---Constable Smith and Constable Hand.

A PERSON UNKNOWN: I'm sorry, could you just repeat those two names?

DR DWYER: Constable Smith and Senior Constable Hand.

Did they actually go into the house with you or were they outside?---We didn't actually - - -

Sorry, sorry, Sergeant Frost, I asked that question in a really clumsy way. Did they actually attend the outside perimeter of the house with you?---Yes, they did, your Honour.

Was Derek there when you went to the house on the evening of the 6th?---No, he wasn't.

You've previously given evidence again of this conversation that you had with Lottie - and I will come to that shortly. Did you - had you by this stage contacted Superintendent Nobbs or did you do that after you got back from Lottie's house? ---I can't actually remember when I contact Superintendent Nobbs.

Senior Constable Hand has given evidence previously that he made it known to you that he did not want to be part of the arrest team after the axe incident for Kumanjaya. He's given evidence that it might be said that he was biased if he had to use force in a subsequent arrest, and they were the victims of that incident and left themselves vulnerable to complaints of excessive use of force. He thinks he might have had

that - I withdraw that. I will tell you when he thinks he had the conversation but firstly, do you remember any conversation with Senior Constable Hand about that? ---We had discussions about it. I was very concerned that he would be any part of an arrest team only because I was concerned about the retaliate - possible - if we to resort to a use of force, any possible - it would look like retaliation more than anything and because we all have to live in the community, I didn't want that to add towards my members.

So is that the same consideration with respect to Senior Constable Smith?---That's correct. However, Senior Constable Smith had already gone into Alice Springs on Thursday so he was naturally not available anyway.

I see. So can I come back to the evening of 6 November when you went to the home where Lottie and Eddy live. When you arrived Lottie was sitting on a chair. It was dark. Do you recall that?---Yes, it was.

And I think Rakeisha was there as well, do you recall that?---Yes, she was.

And you've given evidence of this conversation on a number of different occasions, Sergeant Frost, so if you need to refer to your notes please tell us, but to the best of your memory what was the conversation at that time?---It was something along the lines of "Lottie, what's happened here tonight is very serious. It could have resulted in one of my members getting hurt or Kumanjayi getting hurt." I am probably going to have to refer to my notes.

I might just read to you what you said in your first statement from 13 November, you said, "Lottie, what's happened is extremely serious. I am here to talk to you and Eddy about it. Where is Eddy at the moment?" Do you recall that?---Yes, I do, yes.

And Lottie said that "Eddy is still chasing Kumanjayi in the bush?---That - that's correct, yes.

And Rakeisha was there. You said to her, "We're going to be putting you before court with regard to what you did" and something like, "Your actions could've got my members seriously and could have got Kumanjayi killed. Do you understand that?" And Rakeisha said, "Yes"?---I'm sorry, there was about a 10 second drop out there, towards the end. I'm sorry about that.

I will just read that conversation with Rakeisha again that you record at page 7-8 of your first statement:

"Rakeisha, we're going to be putting you before court with regards to what you did, and I said something along the lines of, 'Your actions could've got my members seriously hurt and it could've got Kumanjayi killed - do you understand that?---Yes'?"

THE WITNESS: Sorry, it did drop out again but it was - what - sorry, I did say that to Rakeisha. I did pick up some parts of what you just said, I did say that to Rakeisha, yes.

When you spoke to Rakeisha - can I ask you to cast your mind back, Sergeant Frost, to what you were experiencing. Were you - what was your emotional state when you were having that conversation with Lottie and Rakeisha?---I was very firm. I was quite firm. I was calm but I was - I was quite - I guess you could say angry with Rakeisha with regards to how she had obstructed my members to go into that - into the bedroom and - knowing that that allowed Kumanjayi time to get the axe, so I was quite firm with her and quite direct.

You – at some point Eddy came back, and you recall in your first interview, he was very angry initially, and he said “why are you chasing Kumanjayi? You keep chasing him”. You recall that?---Yes. Yes, I do, yes.

And Lottie stepped in and said “No, no, no, he came at them with an axe”, and then Eddy said “Okay, okay, I’m really sorry”, something like that?---Yes that’s – that’s correct, yes.

And you also say, you said something like “Kumanjayi only had seven days left in CAAAPU and he would have been home and hosed. He didn’t have to cut off his bracelet. He’s made it much worse for himself”, words to that effect?---Yes, that’s correct.

What made you think he only had seven days in CAAAPU?---I – I can’t remember now. I – so like I said I can’t remember how it came to my notice that Kumanjayi had had a warrant issued. But I remember thinking at the time that he really didn’t have any – didn’t have much time to go on his CAAAPU – CAAAPU time.

You also record that you said something like, “We are your community police officers. We don’t do this type of thing out here. We very fair to the community.” And you record in your statement “They agreed, and said ‘yes, yes, yes.’”. Who agreed with you?---Both Eddy and Lottie, yep, they – they understood that we are their police officers and we’re there to help them.

You reiterated that it could have got your member – this is what you say in your first statement, at page eight, “I reiterated the fact that he could have got my members killed. And Kumanjayi could have been killed as well, or could have been shot by his actions.” Do you recall saying that?---Yes. Yes, I do, your Honour.

And why did you think that?---Because of the seriousness of – the seriousness of what he had done. It could have – it could have warranted a level of force.

And it was your view that it could have warranted a level of force, including use of a firearm, in response to it – that axe incident?---Yes.

And obviously, the way that Officers Smith and Hand had handled it, was to retreat, and avoid having to use their tactical weapons?---Yes, yes.

At that stage, Sergeant Frost, when you were reviewing the body-worn footage, were you in any way critical of the way that they handled it?---No, not at all. I was very – very impressed with the way they handle it – handled it. And I was very thankful that it didn't resort into any use of force.

In relation to the conversation with Lottie and Eddy, you record in your first interview that you said to them, "Right, what we're going to do is I'm going to give Kumanjayi two hours, where you can hand him in – you can bring him to the police station. We'll deal with him fairly. We've dealt with him fairly before. If he's -" and do you recall that?---Yes I do, yes, your Honour.

And then you recall saying something like "If he's not here at the police station within two hours, I'm going to be pulling resources from town because this is really serious." Do you recall - - - ?---Yes.

- - - saying something like that?---Yes I did.

Did you actually ever specifically mention on that occasion, Alice Springs Police?---I don't recall. I don't know. I don't recall.

Do you recall whether or not you mentioned a dog at that stage, on 6 November?---I don't recall now whether I did.

I'll come back to when you returned to Lottie and Eddy on the seventh. You told them that you would wait at the police station for the next two hours. Is that right?---Yes, that's correct, yes.

When you go back to Lottie and Eddy and speak with them again the next - - -

A PERSON UNKNOWN: Sorry, your Honour, can I just understand, was it the sixth or the seventh that she went back to – there's two visits.

DR DWYER: I'll clarify that.

I'm talking – I'm referring specifically to 6 November, when you spoke to Lottie and Eddy. And that was the conversation I was just asking you about. When is the next time that you go around and see Lottie and Eddy?---In the morning on the seventh.

Okay, so I'll come to that shortly. When you go around on 7 November and speak to Lottie and Eddy, do you recall apologising for raising your voice?---I recall that Eddy and Lottie, as we approached them, said "Oh we're very, very sorry about what happened last night." And I said "Look I'm – I'm very sorry that I raised my voice as well." I said, "You know, it was a pretty serious incident."

At what point in the conversation on 6 November had you raised your voice?---I possibly raised my voice more at Rakeisha. I was probably a lot more forthright and forceful with Rakeisha.

When you went around in the morning of – I withdraw that. When you went around on 7 November, can you recall roughly what time it was?---No, not really. It would have been around 9 o'clock I would imagine.

And when you spoke with Lottie and Eddy on that occasion, you said you were first greeted by Eddy and he was saying I'm sorry about what happened?---Yes, that's right.

So did you – that second occasion, when you went – when you went around in the morning, how would you describe the nature of that conversation?---Yes it was – it was really – really quite – it was good. It was very peaceful conversation, I suppose. We – it was a good conversation I think.

I just want to go back one step, which is this. You spoke to Eddy and Lottie, you've told us, on 6 November, that's when you explained how serious the incident was, and that you would wait for two hours for Kumanjayi to come in. Obviously he – he didn't come in on the night of 6 November. When you went back to the station on 6 November, that evening, you started preparing a file. And you got Senior Constable Smith to prepare his statement. Do you recall that?---Yes, that's correct.

And Senior Constable Chris Hand did the statement of facts, in relation to the incident with the axe, correct?---Yes, that's correct.

And you contacted the Watch Commander, and contacted Superintendent Nobbs, do you – on the evening of the sixth, at some stage, do you recall that?---Yes, yes I do.

You also put an alert up in relation to Kumanjayi, because of the incident with the axe in the house, correct?---Yes I put two alerts on for him.

And Sergeant Frost you've – I know these have been the subject of evidence previously, but I'll just put them on the screen again so that everybody can understand them.

Those alerts appear, they're exhibit 7 in the trial. 19-58, and I'm looking at the two alerts from 6 November.

Sergeant Frost, can you see that document there?---Yes I can.

Okay. And we can all see that too. So the bottom two entries there reveal, "Active target, can be arrested, assault police 6 November, and may be violent" – "And may be violent towards police, 6 November." You're very familiar with that document, correct?---That document actually an intel – intelligence document. So it's not something that we would see automatically, if we were to go into PROMIS, but - - -

I see?---That effectively, it's not just from intel of all of his – all of Kumanjayi's alerts.

In relation to the bottom two entries though, is that the alert – are they the two alerts that you put up on 6 November?---Yes that's correct.

If I could then –

That can come down now. Can I ask then for exhibit 8 to go up, which is 19-59. And it's a case note.

This is a case note created on 6 November. And I'll ask you whether this is something that you created, Sergeant Frost. Is that your document?---Yes. Yes it is.

And did you do that on the evening on 6 November?---Yes I did.

And is that document then available to all police in the Northern Territory?---Only if you were to go into the actual PROMIS job. Having said that, I made it a management (inaudible) one, so anyone who looks at all of the management significant jobs, can actually have a look at that running sheet.

And that's available for the parties to see, so I won't read that out onto the record. But it essentially details what had occurred in the house, from the perspective of the police, is that right? On the axe incident?---Yes, that's correct, yes. Yes, your Honour.

And what was the purpose of recording, firstly, this case that you can - - -?---Because of the seriousness of it, I wanted it to become subject of a management significant event where it would then alert higher up executive members of the nature of it because there was a likelihood that we're going to be requesting resources. It was a serious incident. It also triggers things like welfare support for team members as well.

And in relation to the alerts that went on PROMIS, what was the purpose of putting those specific alerts up?---If Kumanjayi had gone into town following the incident, it was a way of basically saying, if he comes to attention or if you need to arrest him, he may get hold of weapons in order to escape and the fact that he was an arrest target as well.

And Sergeant Frost, are those alerts of assistance to police in risk assessment when you're planning for an arrest?---Yes, they are. Yes, your Honour.

In relation to your conversation with Superintendent Nobbs, do you recall now whether or not you spoke to him about the need for additional resources on that evening of 6 November?---I don't recall exactly what I spoke with him on that night.

Was it in your mind on that evening of 6 November that if Kumanjayi did not hand himself in at that stage, you would have to ask for a specialist force?---I can't recall whether I was considering it at that time.

Okay. At that time on 6 November, you knew that Constable Smith was about to finish his duties for a few days' rest. Is that right?---Yes, on the 7th, he was, yes.

And Constable Hand was conflicted. What other resources were available to you to effect an arrest for Kumanjaya after 6 November?---Well, really, there was only Derek and myself able to do that.

And in relation to Constable Parbs and Constable Alefaio, they were out at Nyirripi at that stage. Is that correct?---Yes, that's correct, yes.

Could you have waited for them to come into the community or called on them for assistance with the arrest?---I could have. However, because I really wanted an early morning arrest, I didn't believe that Kumanjaya would go back to 577 on the Wednesday night, because he would have been very fearful that we would be looking for him. So, I had to consider that if I took Constable Parbs and Alefaio away from Nyirripi, that would deplete the resources there, particularly in view of the fact that there were a number of riots that were happening at the time, and because they would have probably had to come over very early on Thursday morning or Friday morning of whenever we planned it in order to basically get ready.

Sergeant Frost, I'm still on that night of 6 November, at that time, were you aware that there was a funeral in the community that was being planned for?---No, I think I found out about that on the 7th with Derek.

So, the following morning, the 7th of – I'll just withdraw that. Just going back a step, I think you told the trial court previously that you finished work on 6 November at about 10:45 pm?---That would be right, yes.

You started work the next day at 8 am. You were on with Senior Constable Hand, Constable Lanyon Smith and Derek Williams. Is that right?---Yes, that's correct, your Honour.

And your ACPO, Derek, told you that in fact Kumanjaya had to go to a funeral?---Yes, I believe that's how the conversation came out.

How did that affect your thinking?---To my mind, it gave me another way of negotiating perhaps a surrender, a peaceful surrender. And it allowed me to speak to Eddy and Lottie and say, look please, I will let you go to the funeral, but please, please bring him in after that. So, it gave me a bit of time also to start preparing for resources.

So, you have explained previously, you and Derek went to House 577 and Lanyon Smith and Chris Hand were in a separate car nearby?---Yes, they were.

And as you said previously, you approached Eddy and Lottie, Eddy said I'm so sorry for what happened last night and you had a – you said, I'm sorry for raising my voice, and it was an amicable conversation at that time, correct?---Yes, it was, yes.

Previously, you've explained that you said to them, "I'm going to allow Kumanjayi the liberty to go to the funeral tomorrow without us trying to get him in the next day or so. As soon as the funeral's over, he needs to come to the police station and present himself. I'm going to allow you the respect to do that." And they said, "Thank you."?---Yes, they did, yes.

So, in your mind at that time when you were speaking to Eddy and Lottie, what was the arrest plan if Kumanjayi didn't present himself?---On the Thursday, I don't believe I had an arrest plan at all at that time.

Could you see any urgency at that stage in terms of detaining Kumanjayi?---No, look, there was always a risk that – look, there was a risk leaving him there, but I also noted that we had to now – because of the response reaction from Kumanjayi towards my members, I had to put in like a planned operation that was safe with resources. So, I knew that was going to take me some time.

In the trial, you were asked, "Why did you come to the arrangement with Lottie and Eddy that day about Kumanjayi being able to hand himself in after the funeral?" And you said, "I wanted to resolve the arrest at the lowest possible means. Is that right?---Yes, That's right. Yes, that's correct.

You didn't want to have to use force, if possible?---Not at all, no, no.

And you were asked, "What was your assessment of the danger to the community?" And you said, "I believe there was very little concern for the safety of the community at that time from Kumanjayi." Why was that?---Kumanjayi wasn't particularly one that would assault other people. He wasn't one to – there was potential for risk towards Rakeisha, there was that potential. But he wasn't one that would assault other community members.

You said, I think previously before the break, that in your dealings with Kumanjayi after arrest or at the police station, he was a quiet young man. Is that right?---He was always very teary in the police station. You could speak to him at times. At times, he'd become angry, but you could speak to him. But generally, he never wanted to be in custody and he was quite distressed at times while he was in custody.

Sergeant Frost, in relation to him being teary and distressed, I was asking you before about a counsellor. You explained there was no permanent counselling service. Do you recall making any enquiries yourself about someone who could come and provide him with support services?---Whilst he was in custody?

Yes?---Yes, Jackson from WYDAC would often come in.

In terms of the 8th – I withdraw that. In terms of the 7th, you've told us you had that conversation with Lottie and Eddy, Kumanjayi was going to hand – your hope was that he would hand himself in after the funeral. Did you have an understanding of

how long the funeral or sorry business – I'll withdraw that. I'm referring to the funeral, are you intending to include sorry business in the funeral service that you were allowing Kumanjayi to attend without trying to arrest him?---I don't know whether I gave thought to the timing or the sorry business.

So, when you were saying to Lottie and Eddy, "We'll allow him to go to the funeral and we won't try to arrest him during that time", what time were you thinking you would not try to actively detain him for?---Overnight.

Given your work in communities, you appreciate, don't you, that funerals can take longer than just one night?---Yes, they can, yes.

Did you have any conversation with Derek about whether or not – or what Kumanjayi's cultural obligations might be at sorry business as well as a funeral?---No, I don't recall having any conversations with Derek about that, no.

When you look back, Sergeant Frost, as you have done over many years now, at what happened with Kumanjayi, do you think it would have been better in hindsight to have a longer conversation with Derek about what was involved for Kumanjayi in going to that funeral?---Yes I think so, looking back. Yeah, most definitely.

On the Thursday night of the 7th, you got a text message at 8.46 from Derek to say "Boss the funeral's now on Saturday, it's not on Friday"?---Yes.

Did that affect your thinking as to an arrest plan for Kumanjayi? I withdraw that, because you said I think, there was no specific plan. Did that affect your thinking as to whether there'd be an active effort to detain him?---Yes so the same – same applied. As soon as the funeral was finished, there was that expectation that he would hand himself in.

But as you said in your first interview, it didn't matter to police when you were going to get Kumanjayi. It mattered that he was detained, at some point in time, but it was no skin off your nose when that happened, correct?---I probably didn't phrase that as well as I should have.

Okay?---It – there was – there was concern. I did – I had – I had to weigh up a number of factors. Resources being one, but also the (inaudible) to Rakeisha, so probably – yeah, like I said, I probably didn't word that very well in my statement.

When Derek told you that, on the Thursday night, that the funeral had changed from Friday the eighth, to Saturday the ninth, were you still happy to wait until after the funeral on Saturday the ninth?---Yes – yes I was. Yes, and because I needed – I really wanted Constable Alefaio to be present during any arrest. So the fact that he was in Nyirripi, dealing with a number of riots over there, I knew that come the day of the funeral, those people involved in the riots would be travelling to Yuendumu for the funeral. And then that enabled Constable Alefaio to be present before we could (inaudible) others.

So you made arrangements for Senior Constable Parbs and Constable Alefaio to come to Yuendumu to assist with the funeral, correct?---With Constable Alefaio I did, but Constable Parbs told me that he had to go back – back to Alice Springs, on that Saturday afternoon. So I knew he wasn't available.

When did Constable Alefaio arrive back in Yuendumu?---I'm not entirely sure. It was sometime in the morning.

The morning of the - - - ?---On Saturday – on, yes, that's correct.

So then just to clarify, from the morning of 9 November, who were the police officers that you had available in the community?---Well Chris and I had – Chris and I were there. We'd been up all night, we'd just knocked off. So that really - - -

I'll come to - - - ?---Okay. That only let – left Felix, or Constable Alefaio, once he arrived.

So overnight, on 8 November, you started at 6 am in the morning, and you and Senior Constable Hand, were on call that night, is that right?---Yes, that's correct, yes.

You've previously given evidence that you got called out at about midnight. You were called to three incidents. First a general disturbance. Second, an unlawful entry at the clinic nurses home. And third, a domestic violence incident at Yuelumu 40 hour – sorry, 40 minutes' drive away, correct?---Yes, that's correct.

Did you have any sleep at all that night?---No.

You I think sent an email to Superintendent Nobbs at 5.46 am, is that correct?---It would have been around that time, yes.

It's exhibit P4 in the trial, and if I can ask that that be placed on the screen now.

THE CORONER: And the brief reference is?

DR DWYER: I'm just coming to it, I apologise, your Honour. That is 19-56. It's the email from Sergeant Frost, through to J-E-S-C-C.

That's the Joint Emergency Services Community Centre Sergeant Frost, is that right?---Yes. That's correct, yes.

And it's copied to Superintendent Nobbs?---Yes.

And it says:

“Good morning JESCC, please be advised that myself and Chris Hand have been up now since 12.30 am. We'll be knocking off in the next 20 minutes after attending three jobs overnight, whilst we were rostered to start at 10 am,

we'll now be starting our rostered shift around 2 pm due to fatigue levels from being up all night, followed on from a heavy work load through the week. We ask that you do not contact us on the on-call phone, other than for an emergency. There are no other members in Yuendumu that can assist with the work load and call-outs.

Having said that, I have two members, Mark Parbs and Felix Alefaio, who will be travelling from Nyirripi this morning to help out. And should be here around 10:00 to 10.30. I'll have them look in the admin bin for any jobs and action them. I've also advised them to contact you to provide an alternative phone number so you don't have to call Yuendumu on-call mobile phone in the event of an emergency. Alternatively, you can contact the station number, Parbs and Alefaio will know to continue to look in the admin bin though."

Why did you send that email?---(Inaudible) - - -

Firstly to JESCC and copied to Superintendent Nobbs?---To let Superintendent Nobbs know what had taken place. That we'd been up all night. But primarily, on occasion, JESCC have been known to contact us just to let us know that there's a job in the admin bin. So if we're trying to sleep, and they're calling us, to let us know that there's a job in the admin bin, it really makes it very difficult to have a good sleep when you're getting phone calls that aren't necessary.

And what was the reason for sending it to Superintendent Nobbs?---Just so he was aware of the – of what we'd been doing all night.

You had three or four hours sleep that night, I think, is that right, or that morning?---(Inaudible) - - -

You came in - - - ?---I – I don't recall getting a lot of sleep. I may have had a couple of hours.

And then what did you do on the morning of 9 November, for the rest of the morning?---I came into the police station at about 10 o'clock and – sorry 11 o'clock I think it was. And I - - -

On your – on your way in, you got a text message, is that right?---Yes, that's correct.

That appears at 7-36, it's JF1. It's –

I'll just read it to you, Sergeant Frost.

That document can come down Bec.

It says – it says, from Constable Parbs, 10.54 am:

"All good Julie. Hey I see you guys were called out last night. So I'm not calling you now. FYI Cassie from the clinic pulled us up before here in

Yuendumu. She's informed us that her bosses have directed clinic staff to start packing due to break-ins at their properties. She has not stated they're leaving community, but it's a possibility at this stage."

You – when you've gone into the office – or – I withdraw that. When you got into the police station, were Constable Parbs and Felix Alefaio there?---Yes they were.

You then had a conversation with Constable Parbs, where he told you about that – being approached by a clinic nurse, is that right?---That would be right, yes.

And you've previously said that Constable Parbs told you that the nurses had been directed to leave the community?---Yes, that's correct.

You then contacted the on-call Yuendumu Clinic nurse, Cassandra Holland?---Yes I did.

What conversation did you have with her?---I asked her what was going on, and why they were leaving, and what their contingency was for any medical help that people need overnight and while they're away.

And what did she say?---She said that the Yuelumu – there's an expectation on the Yuelumu nurses, that they will cover any call-outs for Yuendumu.

Did she explain what she meant by that, cover any call-outs?---That Yuendumu members – sorry, the Yuelumu members will come across to Yuendumu, in the event that anyone needed medical assistance.

And when – was it during that conversation with Cassandra Holland that she explained to you what the expectation of police was in those circumstances?---Yes I believe she said that there was an expectation that we would accompany Yuelumu members (inaudible) Yuelumu nurses, to any jobs that happened, if they needed to come over to Yuendumu.

What did you think about that?---Absolute not going to happen.

Why not?---We did not have the staff for it. We have enough of our own issues to deal with.

Sergeant Frost, you'd had very little sleep, at least over that night, and it had been a very busy period of time. Was that a tense conversation that you had with the nurse?---No, no, it - no, it wasn't tense. I basically - I just said, "Cassie, we can't do that. This is not something we have got the ability to do."

And did she offer you any further suggestions?---No, she didn't. Not from memory, but as a result I then contacted the Yuelamu clinic nurses and had a discussion with them about it.

And you've recorded previously you contacted Lorraine Walcott and spoke with her at the Yuelamu clinic, is that right?---Yes, I believe it was Lorraine.

You were advised that the instruction from their bosses was that they were to call police to provide an escort to any jobs?---Sorry, can you repeat that?

You were told that she also was of the view that police would be accompanying them to any jobs?---Yes, yes, that's correct.

And you advised her that she needed to call her boss back and let her know that that couldn't happen, correct?---Yes, I did, yes, that's correct.

I asked you earlier about whether you'd had an experience of nursing staff leaving a clinic and you had not at any time while you were a police officer?---Not - yes, not that I can recall.

And while you were a nurse, had nursing staff ever left a community because of any break-ins?---From memory I believe at some stage the Wadeye nurses had left. I wasn't there at that stage but - and I can't remember at what point in time but I believe they may have left at some time.

I just want to ask you about this issue of nursing staff leaving. Constable Pahi in his statement - for the benefit of my friends, at 7-108, par 9, says that when he was in Willowra - I will spell that - W-I-L-L-O-W-R-A, there were incidents previous to this where the teachers and nurses left the community due to community unrest and then they came back after a while. But is our experience that that had not happened on - while you were either an officer or a nurse in a community?---I - now that you say that I now do recall that the Willowra nurses did leave and - and the teachers.

When was that?---No, I don't recall. I don't - I don't know. Now that you say that though it does - I do have a memory of that.

But you weren't a police in Willowra when that was happening?---No, we didn't cover Willowra - at that stage.

Okay. So, were you concerned that you were being told on the morning of 9 November that clinic staff had a plan to leave the community when there had not been any consultation or discussion with police beforehand?---I was very concerned that they were leaving, and there wasn't a lot of discussion with us about it, it was just, "This is what we are going to be doing."

What - this might sound like an obvious question, but what were your concerns? ---Well, the fact that we would then probably be called on if someone needed medical assistance or Yuelamu staff would be called upon, depending on the type of medical assistance it is and if there was the expectation that police would have to accompany Yuelamu to Yuendumu, that was a significant resource implication for us.

Did either of the nurses that you spoke with, either Cassandra or Lorraine, tell you that they had had any consultation with the community?---No, not that I - no.

Would you have expected those nurses to be able to explain to Elders and discuss with them the decision-making before they left?---I would think it would be relatively necessary, yes.

Was there any way at that stage of calling together the stakeholders before you got to the point where the nurses left the community?---I don't think so. I'm not sure. I didn't - I think to try and get all of the stakeholders together would have been a very significant amount of time.

I am just going to draw on your experience then as a nurse and a police officer. Do you agree that before - wherever possible, before nursing staff take the step of leaving the community, there should be consultation with the Elders?---I think it should be well known throughout the community. I - I think it would be probably appropriate to make contact with the Elders.

Given the risk of clinic staff not being in community to assist with a medical emergency, do you agree that every effort should be made to mediate an issue before clinic staff move out of a community?---Yes, yes.

And that mediating an issue means every effort should be made to meet with community Elders and leaders?---Yes, yes.

I am going to take you at the end of your evidence to some lessons that might come from the tragic death of Kumanjayi. Do you agree that one of them is that it would be really good for nursing staff to understand how to bring decision-makers together if you reach a crisis point?---Yes.

In terms of the risk for the community, am I right that it placed extra pressure on police to have clinic staff move out?---Yes, it did, yes. And particularly there was that expectation that we would accompany Yuelamu nurses to Yuendumu.

In terms of actually dealing with a medical emergency, the suggestion was that Yuelamu nurses could come in to Yuendumu, if there was one. You were a trained nurse, you'd had, I think, you'd been a police officer for some 14 years or so, is that right?---At that time about 15 I think it was.

Do police officers have basic training in first aid?---Yes, we all have basic training.

Had you kept up any of your additional advanced nursing skills over the 14 years you've been a police officer?---No. I haven't actually practised since about 2007 I think it was.

In terms of the morning of the night, after you'd spoken to the clinic nurses you then contacted Superintendent Nobbs to let him know what the situation was, correct?

Yes, that's correct.

Did you tell him your concerns about the nursing staff moving out?---Yes, I did.

What did you say to him?---I said, "There's an expectation on us that we would accompany the Yuelamu nurses to Yuendumu to assist any medical emergency - any medical issues or emergencies." I said, "We can't do that - that can't happen. We don't have the ability to do that." And he said, "No, I agree."

And he offered to ring the Manager of Health, is that right?---Yes, he did, yes.

And you understand that he did that?---I believe so, yes.

We have got call charge records that show that there was a conversation between you and Superintendent Nobbs at 1.09 pm on 9 November and that you spoke with Superintendent Nobbs on a number of occasions throughout that day, is that right? ---Yes, that's correct.

At the time - on any of the occasions when you spoke with Superintendent Nobbs, did he suggest that he might try to persuade the nurses to stay?---I can't recall. I'm not sure.

Did you feel that you had any ability to try and persuade the nurses to stay?---No, I didn't. I didn't feel that I had any ability at all. I think they'd made their mind up and they were going.

Did you have a way of escalating yourself above the nursing staff, to help management?---Sorry, I don't quite understand that.

In terms of - so you've given evidence that you had conversations with the two nurses, Cassandra and Lorraine. In terms of speaking to anybody higher than them about the decision to leave, did you do that through Superintendent Nobbs? ---Yes, that's right. Superintendent Nobbs.

Okay. In your conversations with Superintendent Nobbs, what did you ask him about additional resourcing for police? On that day? The 9th?---I said to him - yes, sorry. I said to him that the funeral was happening today - Saturday and we still haven't - obviously Kumanjaya was still an arrest target so I asked him whether we could have additional resources today. I specifically asked for the dog unit and I asked for the IRT team, but I would've been happy to have had experienced officers. But if I could have the IRT, that would be preferable.

You've given evidence about this on a number of different occasions, Sergeant Frost, so I'll try and shorten it a little bit, in terms of specifically asking for the IRT, why was that?---I believed they were very - I believed they had a fairly high level of training in terms of risky apprehension and also a cordon and contain team.

You were advised by Superintendent Nobbs to put together an operations order. Is

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

And I'm drawing on the evidence that you've previously, but can I – I'll put a document on the screen, 19-56, exhibit 1.12 at trial. In short, Sergeant Nobbs – I'll withdraw that, Sergeant Frost, Superintendent Nobbs told you to put together the operations order to contact Officer Shane McCormack and get some advice from him, because he believed he'd previously had experience with an operations order, and then to forward the operations orders to Superintendent Nobbs for approval. Is that correct?---Yes, that's correct.

Can I have that document on the screen, which is an email from Officer Shane McCormack to Sergeant Frost on 9 November at 4:22 pm.

So, we see there, Sergeant, that at 4:22, he sends that document to you and copies in a number of other officers, and they include Superintendent Nobbs and Sergeant Lee Bauwens, who was then the head of the IRT, correct?---Yes, that's correct.

Am I right that this was only the second occasion that you had ever had anything to do with the IRT?---Yes, that's correct.

The first being that time in 2018 that you told us about earlier?---Yes, that's right.

And on that occasion, you hadn't had to put together an operations order, correct?---No, that's correct, not for IRT.

So, you got information from Officer McCormack, as stipulated in that email, and it says: "IRT call out arrest of violent offender --", and then Kumanjayi's name is there, and it's noted that he's an active target for breach of suspended sentence, "Active target to be arrest for 'assault police' and multiple alerts for violent behaviour." The situation is outlined there in terms of the incident on 6 November and the task is listed, "Provide a local presence of armed police to uphold law and order in the community; provide support to local members; arrest Kumanjayi and transport back to Alice Springs." In terms of outlining that task, was that something that Officer McCormack had decided on, or was that your view of – about what the task should be?---That was certainly my view of what the task was going to be.

Had you had any phone conversations with Officer McCormack in the lead up to this?---I actually can't recall. I know there was some email contact. It's possible that there was phone contact.

All right. In any event, do I take it from your answer, Sergeant Frost, that that task accurately records what you thought the IRT would be coming to assist with on the 9th?---That's what I wanted them to come and assist with, yes.

And then, if you scroll down, if you don't mind.

The individual names of the officers are listed there. did you have any role in choosing the names of the officers who would come out?---No, I didn't.

Did you know any of those officers prior to 9 November?---Only Constable Hawkings.

What dealings had you had with Constable Hawkings?---Very limited. He'd come out to the community previously to assist with some arrest files.

MR FRECKELTON AO KC: Sorry, I just didn't hear that.

DR DWYER: He had come out to the community previously to assist with some arrest files. How long did he remain in the community at that time?---They were there for a few days. We had – I think it was in response to about 16 juveniles that we had arrested on one particular day; and that for us is very, very significant. So, we had a number of members that came out and helped with that.

And we can obviously check this with Constable Hawkings if you don't remember, but do you have a rough recollection of when that was?---No, I don't.

Do you recall any particular interactions, positive or negative, with him when he came out?---They were always positive, yes. Yep, they were good.

And so, just going back to the operations plan, the hours there were from 9 November 2019, 2:30 - To be confirmed". Did that indicated that they were to come, they were to be on duty to assist from 2:30 and how long they stayed was yet to be confirmed at this stage?---Yeah, I believe Senior Constable McCormack added that time of 14:30 to, in fact, mean that they were coming to Alice Springs at that time.

So, they'd have to have travel time from 2:30 pm to get to Yuendumu?---Yes, I believe so.

And in terms of the equipment and the cars that they use, that's set out there by Senior Constable McCormack and the equipment is listed as "Beanbag shotguns x 2; two AR15s, swags and safety equipment". Do we take it then, Sergeant Frost, that it was Senior Constable McCormack who determined what equipment the IRT should be going out?---Yes, that's what he dictated.

Did you know, at that stage, what Senior Constable McCormack's role was in general in the force?---No, I don't believe I did.

Did you - - -?---Superintendent - - -

Sorry, I spoke over the top of you?---Sorry. No, Superintendent Nobbs said that I would make contact with Senior Constable McCormack because he has the knowledge on the IRT team and the equipment.

And Sergeant Frost, I'll just read to you this one. You reply to Senior Constable McCormack, whose first name is Shane, but he's often referred to as

Paddy. Is that right?---Yes, that's correct.

And you say, "Thanks heaps, Paddy. I've included this info into a brief ops order which I will forward to everyone soon. Cheers, Julie" And you then – and that's at 4:47 pm. At 4:49 pm, you email a document to Superintendent Nobbs and that's at JP2, it's 19-56 - 19-56 TX1.3. It's the email from Sergeant Frost to Superintendent Nobbs and it's annexure, if it's easier, JF2. You've seen this document many times now, Sergeant Frost, over the years since Kumanjayi passed away.

That was the one I just had on the screen and then I just want to put up JF2 annexure, which is Sergeant Frost. It's 1.13 if that's an identifier.

While that's coming on the screen, Sergeant Frost, what I'm putting up here, you'll be familiar with, is the email you then sent to Superintendent Nobbs with the operations order that you had prepared, based in part on the information you had been given by Senior Constable McCormack. Is that right?---Yes, that's correct.

So, you effectively either cut and pasted or typed into that document information you received from Senior Constable McCormack, correct?---Yes, that's correct.

You certainly didn't over-ride any decision he made about the equipment that should be bought into the community?---No. No, I didn't.

Did you actively turn your mind though to whether or not that equipment was appropriate?---No, I didn't. Generally, to my mind, when the likes of TRG come out to a place or – we don't dictate what equipment they bring out. That was what was in my mind, so that's why I didn't turn my mind to that at all. I accepted that that was okay.

Onto that document, highlighted in red are the words, "Please be advised of numerous alerts for - may try to escape custody, may be suicidal and violence alerts." What was the purpose of you writing that in red?---To make it known that there were alerts for Kumanjayi and that basically, the members actually know what they have to – what they are dealing with, what the risks are to them.

So, you expected them to take into account those alerts as part of their risk assessment. Is that right?---Yes, yes.

Your Honour, is that a convenient time? I will return to that document after the break and we can have that on screen.

THE CORONER: Great. Yes, we will break now for the lunch.

WITNESS WITHDREW

ADJOURNED

RESUMED

JULIE SHEREE FROST:

THE CORONER: Dr Dwyer.

DR DWYER: Thank you, your Honour.

Sergeant Frost, before the break, we were discussing the operations plan that you sent to Superintendent Nobbs at 4.49 pm. That contained some of the information – or – that Senior Constable McCormack had provided, do you recall that discussion?---Yes, I do, your Honour.

Bec's now going to put that on the screen.

It shows photos of Kumanjayi, which we're just going to go past quickly, to try and minimise any distress, so I apologise that they might come up briefly.

I just want to take you to the plan, day one.

Which is page two, just immediately after the photographs, thank you for that.

THE CORONER: Go up a little bit.

DR DWYER: Stop.

So can you see that on your screen, sergeant?---Yes I can, yes.

The plan day one, "Saturday 9 November 2019, 11 pm, IRT commence duty and conduct high visibility patrols and respond to call-outs." Was that your expectation of what the IRT would do, after arriving on the evening of the ninth?---Yes it was.

And then if you just scroll - - -

THE CORONER: Sorry, just before we go. Can you just scroll up a little bit, for the heading "Members." And that – that red line.

So that's the red line you read out earlier?

DR DWYER: Yes, your Honour.

THE CORONER: And then the members there, where did that information come from?

DR DWYER: Sergeant Frost, her Honour is just asking, in relation to the IRT, the names of those members firstly, where did that information come from?---From Constable McCormack.

And the Dog Unit Officer was Adam Donaldson, where did that information come from?---I think Superintendent Nobbs told me that he was going to be the person that came out.

And then underneath that, are local members, “Felix Alefaio, Julie Frost, Member Hand will remain separate to operation, due to conflict of interest.” Where did that information come from?---I did that.

And in terms of you writing there that you would remain separate to the operation, due to the conflict of interest, what was your consideration there?

A PERSON UNKNOWN: Sorry, your Honour, that - - -

THE WITNESS: It was more Member Hand that was going to remain separate to the operation.

DR DWYER: I beg your pardon, I misquoted you. So “Local Members Felix Alefaio and Julie Frost, and then Member Hand will remain separate, due to conflict of interest”?---Yes, like I said before, it wasn’t necessarily a conflict of interest. It was all of the – if we had the ability and the members to keep him out of it, and myself, potentially, if there’s likely to be any use of force, I didn’t want it to be like retribution. So because we had the members, Member Hand was going to stay out of it.

But does that indicate that the local members, who would be there to assist, in some respect, were yourself, and Constable Alefaio?---Yes, I – I was there to be the conduit if they needed – if people needed to contact me, or anything. I was ideally going to stay out of that as well, just because of – of partnership with Chris. And any perception that it may be I was secret (inaudible) and force had to be used. But Felix was – Felix was my primary member that I wanted. He was the local knowledge. He was the one.

And we see reference to him again shortly, Sergeant Frost.

If Bec could just scroll down so we could see Sunday, 10 November 2019, 5 am.

“SDOU”, Senior Dog Operations Unit Donaldson?---Southern.

Southern?---Yes, Southern Dog Operation Unit.

And “Yuendumu: Alefaio commenced duty at 5 am along with IRT members to effect the arrest of Kumanjayi”. And then, if arrested, there was a plan for him there, correct?---That's correct, yes.

If arrested, he was to be taken to Yuendumu watch-station and placed on a s 133 of the *Police Administration* and convey immediately by two members of the IRT, pending fatigue levels, into Alice Springs Watchhouse along with Officer Donaldson. Is that right?---Yes, I think from that, that was – once he was arrested, I was always going to be – I was always going to be called out regardless, but I think I may not

have put in there. I think it was only – I read the plan the other day and I realised that I'd actually made a bit of a mistake. But it was clear that once he was to be arrested, once he had been arrested, I was to be called out.

Okay. And just following that, I won't read the entire document out, but you'll see that it says there, "The file and transport risk assessment will be completed in the event of an arrest. Interview and completion of full file to be completed by crime members, if available." Who were the crime members, if available?---I believe it was Glen Phillips(?). I think that's who I directed that email to. He was the sergeant.

And are they based in Alice Springs?---Yes, that's correct.

Okay. And then, "The two IRT members and the Dog Operations Unit member will remain in Alice Springs. If fatigue levels exist, Sergeant Frost to be called out and Kumanjayi will be conveyed by Sergeant Frost, Alefaio, with Donaldson travelling in convoy for additional security. Two remaining IRT members to remain in Yuendumu on stand down and provide high visibility patrols as well as on call duties from 11 pm to 7 am." Correct?---Yes, that's right.

And then, "If there had been no arrest of Kumanjayi, the IRT and the dog unit was to stand down until Sunday evening when the plan above would be again implemented."?---Yes, that's correct.

So, that can come down.

That was emailed to Superintendent Nobbs at 4:49 pm. Was it approved after that time?---Yes, it was.

And it was approved by Superintendent Nobbs, correct?---Yes, that's correct.

And then 10 minutes later, I don't need to put this on the screen, but 10 minutes later at 4:59 pm, and you see this at document – for my friends, 19-56 1/14. That document is emailed to the watch commanders in Alice Springs, to Officers Donaldson, Hawkings, Eberl, Rolfe and Kirstenfeldt as well as Alefaio, Hand and the Alice Springs' supervisors. Obviously, it's then copied to Superintendent Nobbs and a number of others, correct?---Yes.

What was the point of emailing it then to Officer Alefaio as well as the IRT?---Just so he had an electronic copy if he needed it for his records at some stage.

And you had put in plan that Constable Alefaio was to accompany the IRT at 5 am to assist with the arrest of Kumanjayi. Why was that?---He was critical. He – because he had known Kumanjayi for a long time and had arrested him on a number of occasions, he knew the two principal locations where Kumanjayi was likely to be; being 577 the primary, and 511 the secondary. He also knew the entrance and exit points of those houses and he also knew the bedrooms where Kumanjayi was likely to be sleeping and he can provide an immediate identity of Kumanjayi as well.

And did you inform Constable Alefaio that that was the plan, that he take part in that arrest?---Yes, that's correct.

And was he happy to assist in that regard?---Yes, he was.

At any time, did you consider involving Derek in the arrest plan for Kumanjayi?---I had texted Derek Saturday afternoon and I think it was about 2 o'clock and asked him if he could give me a call. I didn't get a response back from him. I then texted him again I believe at about 6:20 and basically said, look I understand that, you know, you don't – I think it was something along the lines, I understand you don't – call me back. Just start at 12 o'clock tomorrow, but if you get that information from Eddy and Lottie, give me a ring. And that's the information that we had organised for Eddy and Lottie, that should Kumanjayi return to the house, they would contact Derek and Derek would contact me.

So, was it ever part of your thinking that Derek might be involved in that early morning arrest?---Not really, no. Primarily because he was related to Kumanjayi and generally with arrests of Kumanjayi, in my experience, he's sort of stayed in the background. The other thing I was mindful with Derek is that he doesn't have access to a firearm, so by including him in an arrest that potentially may have led to some level of force, I was potentially putting him at some level of risk.

All right. So, in terms of Constable Alefaio, you had an experience that he'd arrested Kumanjayi previously without any use of force, correct?---Yes, yes.

Did you think that would be of assistance to the IRT?---That was critical. I think Constable Alefaio was probably my most critical resource for that planned operation. Second was the dog.

And Sergeant Frost – well, I'll just pick you up on that. In relation to the dog, why was it that you thought the dog was important?---In the event that Kumanjayi had run or – but more to the point where, if there was a cordon and contain situation, we would have used the dog in a negotiated surrender, I guess it was, where we could negotiate with Kumanjayi to say look, we've got the dog here, please hand yourself in and you know, we'll – I think the presence of just having the dog there was really valuable.

Did you have an appreciation at that stage that Kumanjayi had actually been bitten by a dog previously in the course of a police apprehension?---No.

Okay?---No, I didn't.

A dog is obviously – well it might be frightening to members of the community. Is that right?---Yes, yes, correct.

Can it nevertheless assist to avoid actual use of force?---Most definitely, yes.

Why is that?---I think just the fear that the dog may be deployed, if need be, is

enough often to have people surrender themselves.

Sergeant Frost, I don't need to return you back to the written document, but you've previously given evidence about an error in terms of the location of interest. There are numerous houses listed; one is 577 which was correct. Another is House 512, 515, 516 and 454. House 512 was supposed to be 511. Is that right?---Yes, that's correct.

When did you pick up that there was that error in the plan?---I think Constable Smith had called me after I sent it to everyone and I think that's how it came about, and he confirmed that it was that he – I think he said, I made a mistake, it's 511. I think that's how it came about.

All right. And when did you – did you get a chance to address that with the IRT members?---Yes, I did, yes.

When did you do that?---At the briefing.

Okay. You told them that in fact it's House 511?---Yes.

All right. And I'll come to that briefing shortly. Just before I do, Sergeant Frost, you've told us about a conversation you had with Superintendent Nobbs on 6 November on the Wednesday after the axe incident, and then there were further conversation on 9 November. And it was in your mind after the axe incident that Kumanjayi needed to be detained, you were happy to wait until after the funeral arrangements. Is that a fair summary?---Yes.

When you came in on Saturday 9 November, before you found out about the clinic staff leaving, did you have any intention to call Superintendent Nobbs and escalate the resourcing coming in?---Yes, because of the funeral taking place that day.

So what was it about the funeral taking place that made you think, "Oh, I'm going to call Superintendent Nobbs"?---Because I'd always said that the plan I'd put in place was as soon as the funeral had finished Kumanjayi was to hand himself in. So I didn't want to risk leaving the community for any longer than I had to, so I knew that the Sunday morning would be the best time to implement that plan.

Can I come now then, Sergeant Frost, to the arrival of the IRT in the community. I am not going to go through the exercise in the same way that was done at trial where you were played the various footage at length but I just want to take you to remind you of the timings?---Yes.

We see in stills that were - I withdraw that. Just going back a step, there is CCTV footage in the police station, is that right?---Yes, there is, yes.

And there's numerous - there's a lot of CCTV footage in our brief that her Honour will have access to and can look at outside of court. It's the case that it doesn't capture every single area in the police station, is that right ?---Yes, that's right.

And unfortunately it doesn't capture sound, is that correct?---That's correct, yes.

So whereas if you turn on your body-worn video you capture the conversation as well as a picture. CCTV just captures images, correct?---Yes, that's correct.

I will just ask that the first still come up which shows, I think, Officer Donaldson - it's the case isn't it, Sergeant Frost, that the first of the members of the IRT and dog unit to arrive was, in fact, the Dog Operations Unit officer Donaldson?---Yes, that's correct.

We see here an image, I think at 5.52.37, do you recognise in that grainy footage, officer Donaldson?---Yes, I do.

When he first came in on his own, to the best of your recollection, what conversation did you have with him?

That can come down now Bec

THE WITNESS: I gave him a rundown on what was happening in the community and basically we discussed about the importance of the deployment of the dog if necessary. I told him that the nurses had left the community. I think I told him about the riots that were going on and it just - just a general bit about the plan but basically that he effectively was to start at 5 o'clock in the morning and to prepare for the arrest at 5:30. We also discussed things like where does he need to house his dog for the night, where does he need to sleep, all the logistical type things.

He said something like, "I'm self-sufficient, I don't need much." He went for a drive around the community and he was given a map, in order to familiarise himself, is that right?---Yes, that's right.

Do you recall handing him a copy of the operations order?---I believe I did, yes.

Can I just ask that the next still come up. It's a still from - I think it's still 8. It's 6:17 pm. Just while that's coming on the screen, Sergeant Frost, in relation to the operations order, you've previously given evidence that you printed out five copies. Do you recall that?---Yes.

Why did you do that?---Because I knew that at the time the members left the Alice Springs Police Station they wouldn't have - that the email wouldn't have arrived, so the had arrived then en route to Yuendumu? It also had photographs of Kumanjayi that was in like an A4 - on an A4 paper, so that - that would be useful if there were any intelligence persons.

Had you ever met Officer Donaldson before?---Yes, I have.

In what capacity and when?---I can't recall. A few times - a few times over the years but I can't remember what capacity.

And what was your ability like to communicate with him?---He was fine. He was good, pretty easy to communicate with.

Sorry, Sergeant Frost, just give us one moment. I want to just show you an image if I can. If not I will move on. We're having some technical difficulties I'm afraid.

Do you see there - I appreciate it's very hard to have - to be able to recognise it from the grainy image but do you recognise a number of officers in that picture?---One looks like Chris.

Okay?---I don't - yes, I don't know who - no, I couldn't tell you.

Do you see there an officer standing up with a document in his hand?---Yes, I do.

Do you now who that officer is?---No.

Do you know what that document is?---That appears to be a part of the arrest plan that I'd printed out.

You've mentioned earlier that the arrest plan has had a number of photographs of Kumanjaya and that document, do you agree with me, although it's a bit black and grainy, shows what appears to be photographs in the top left hand corner?---Yes.

Thank you. That can come down, thank you. And, your Honour, just to make it clear, I anticipate it will be accepted but it will be my submission that that photograph of that still depicts Officer Donaldson holding a copy of the Operations Order and page 2 which show the photographs of Kumanjaya.

THE CORONER: So that's a still that comes from CCTV and if you follow the CCTV though you can see at other points that that is Officer Donaldson.

DR DWYER: Exactly, your Honour, and we could actually do it now, it's just that it saves time.

THE CORONER: Sure.

DR DWYER: But that's exactly right.

MR EDWARDSON: Your Honour, if it is of any assistance, insofar as the trial is concerned, it is certainly our position that he was one officer that did receive that particular document, that is, he took it a car and comes back in to the station without (inaudible) as is shown in CCTV footage.

THE CORONER: Thanks, Mr Edwardson?

DR DWYER: Thank you, your Honour. And could I then now come, Sergeant Frost, to the arrival of the next two officers who were from the IRT

contingent and they are officers Kirstenfeldt and Constable Rolfe. There should be a still - I think it is still 10, from 6:33:22 pm that shows the arrival of those officers?
---Yes.

Do you recognise those officers there, Constable Rolfe coming in second, in that door?---Yes, I do.

That 6:33:52 when those officers arrived, was Officer Donaldson there or had he left?
---No, he had left at that stage.

And he had left to go for a look around the community, correct?---Yes, that's correct.

Okay.

That can come down now then Bec.

And I will just ask you about when those two officers arrived- and I know you've given evidence of this previously, Sergeant Frost, but to the best of - well, I withdraw that. Had you met Constable Rolfe previously?---No.

Had you met officer Kirstenfeldt previously?---No.

When those two officers arrived what conversation did you have with them?
---I didn't have any conversation with Constable Rolfe. The conversation was generally with Officer Kirstenfeldt and it was round a lot of discussion of how it was - and parts of the plan and logistics and that type of conversation.

And you've previously described that conversation with Constable Kirstenfeldt, or Senior Constable Kirstenfeldt as "challenging"?---Yes, it was.

Of course her Honour will have access to your previous comments on that but just in your own words now can you explain why it was challenging?---He was very overbearing. He didn't want to listen to what I was saying and he was trying to rush me into a briefing.

And you didn't want to do a briefing at that time with just the two officers, correct?
---No, no, no.

Why was that?---It was important that everyone had access to the same information.

In your interview in December, you say – I think I'm – in fact you say in your first interview it was challenging. In your second interview you say,

“I mentioned that we had a challenging conversation, because he wasn't listening to me. He was just very intense on terms of 'where's this', 'where's that', 'what are we doing', type of thing. I basically – I wanted to basically say I'll give you a briefing when everyone's there. There's no point in me giving two briefings, one to you and then one again when they're all there. So

basically, I was trying to indicate, just chill out, and we'll wait for the next crew, and then give the briefing. But he was quite intensive, his demeanour."

You recall that?---Yeah, expect it was – I think the word was "intense", I think that was a not intensive.

Okay?---I think that was a transcript error.

Did that effect the way that you could communicate with him do you think?---I – no, I don't think so. I think I tolerated – I tolerated him. And I – I think I just tolerated what was – you know, what his behaviour was. I didn't necessarily want to intervene at that stage, because they'd just come out to come and help us. I - - -

Was that type of challenging demeanour anything like what you experienced with the IRT in 2018?---Not at all, no, no.

So had you been expecting anything like that?---Not at all, no.

Do the men in the - - - ?---I actually – sorry.

Do the men in the Northern Territory Police Force, who are junior to you, generally speak to you in those challenging ways?---No.

At 6.56 pm and 25 seconds, there's footage showing Officers Eberl and Hawkings arrive. That'll come up on the screen.

That's still 18.

Sergeant Frost, I think I interrupted you there, just while – while – I think we've got that quickly now. But is there anything else you want to say about that conversation with Constable – with Senior Constable Kirstenfeldt?---I – I can't remember what I was going to say, sorry.

I apologise for speaking over you. At 6.56 and 25 pm, we see the two – other – final officers from the IRT arrive. We know them to be Officers Eberl and Hawkings. Is - - - ?---Yes.

That occurred – accords with your memory?---Yes it does.

Okay, so that can come down now, Bec.

And I'm not going to play you this footage again, unless anybody asks me to. But the CCTV footage shows that at 7 pm and 30 seconds, through to 7.05 and 16 seconds, the four IRT members and for most part, Officer Donaldson, are there. What was said by you to those IRT members, during that five minutes or so?---So I – I gave them the briefing. It was – it was an informal briefing. It was more like a conversation, but, it was effectively what had been happening in the community, and what I expected them to do.

At the time of that informal briefing, do you recall actually referring to the written document, the operations order?---I can't recall now. But I know that -- I know in my head I was satisfied that they were all aware of it.

How did you satisfy yourself of that?---Well I -- I know that -- I know that the plan -- plan was on the table. I made -- made reference to the fact they'd all -- they'd all see the emails in relation to it as well.

The plan was on the table. Which table was it on?---It was on the table that we were having the briefing on.

And was that an officers desk?---Yes it was Constable Weather's desk.

And Sergeant Frost, during the trial, you were shown some CCTV footage, is that right, of the layout of the -- of the station, correct?---I think it was a hand drawn map of it, a -- yeah.

I'll come to the point shortly, where we have some CCTV footage of what is available, depicting the operations order, or any maps. But you said that the operations order was on the desk of Leilani Weathers. And that was on the desk during the time of that five minute briefing, is that right?---Yes, that's correct.

At any time, between that briefing, and the time that Kumanjayi was treated for his gunshot wounds, did the operations order get moved, to your knowledge?---Not to my knowledge, no.

Just excuse me one minute, if you will.

Excuse me one minute - - -

THE CORONER: Sure.

DR DWYER: Sergeant Frost, I'm going to show now, some body-worn video footage from Officer Hawkings. It is video footage from after Kumanjayi was shot by Constable Rolfe. And then I'm going to show you some stills of that CCTV footage.

I'll just let everybody know whose watching, that this will not show any sensitive footage of Kumanjayi, but by very nature of the event, of course that it's a sad and sensitive event.

Bec - - -

THE CORONER: So this is body-worn that you're about to show us?

DR DWYER: It's body-worn video footage, your Honour. And it's footage from after the shooting. So I'm jumping in chronology.

THE CORONER: Sure.

DR DWYER: But the purpose is in relation to the operations plan.

THE CORONER: Sure, I just – at one point you said body worn, at one point you said CCTV - - -

DR DWYER: I've confused - - -

THE CORONER: - - - but it's body-worn.

DR DWYER: It's body-worn.

THE CORONER: Yes, thanks.

DR DWYER: And you were not shown this in the trial, I don't think.

So if you could just pause there for a moment, Bec.

Your Honour, that is body-worn video footage from Officer Hawkings, at –

I'm just looking at the time –

And the time there is not accurate, but if you can take it from me, your Honour, that that's immediately after Kumanjaya was shot and the police were returning to the station.

THE CORONER: Mm mm.

DR DWYER: You can play that, thank you Bec.

DVD PLAYED

DR DWYER: I don't know what that noise is.

But Sergeant Frost, could you see that footage okay?---Yes I could, yes.

Right. Do you see on that footage – do you recognise yourself in that footage?---Yes I do.

Do you recognise where Constable Weather's desk is, in that footage?---Yes I do.

Do you see that there's been a slowing down of that footage towards the end of it, to focus on that desk area?---Yes.

Do you see in that image right – that you're looking at now, there appears to be a set of keys?---Yes.

THE CORONER: So we're talking about the bottom right hand corner?

DR DWYER: Yes. I think it's a frame too far.

If we could just play that again please Bec.

DVD PLAYED

DR DWYER: Can you pause it there, Bec.

So this is difficult to see, Sergeant Frost, but were you able to see before the court officer just paused it, a drink bottle, a document, and some keys?---Yes I can.

Are they on the desk of Leilani Weathers, where she normally - - - ?---Yes they are. Yes, that's correct.

All right. And you are able, watching that, to recognise the document that the keys are on?---It appeared to be a – one of the copies of the plan.

When you say "The plan", do you mean the operations order?---Yeah, sorry, yes.

All right, thank you.

THE CORONER: Which has also been referred to as an arrest plan by this witness.

DR DWYER: Thank you. Thank you, your Honour.

THE CORONER: It's the same document - - -

DR DWYER: Yes I think that - - -

THE CORONER: - - - the arrest plan - - -

DR DWYER: - - - Sergeant Frost, is that correct, the arrest plan is the operations order?---That's correct, yes. Yes, your Honour.

And then the next footage is eight, number eight, if you could play that.

DVD PLAYED

DR DWYER: Can you pause there, please, Bec?

All right. Sergeant Frost, and I'll say this for the benefit of the court, that's some minutes later, I'll get the exact times shortly. But can I ask you to accept that at this time, Kumanjaya is inside the police station being treated for his wounds. That's still the body-worn video of Officer Hawkings and that image is much clearer. Do you recognise there the next of Leilani Weathers?---Yes, I do.

And a drink bottle and a set of keys on top of a document?---Yes, I do, your Honour.

And the keys are on top of a document that is the arrest order or operations plan, correct – arrest plan?---I'm not sure about that second document. I think it's the first document next to the water bottle.

I see, okay.

THE CORONER: Can we go back a little bit.

DR DWYER: Yes, can we see that again.

THE CORONER: Are you able to drag that back, or do you have to start from the beginning?

DR DWYER: That's better?---Yep.

THE CORONER: Go back a bit further. Just go – yep. And now, maybe play it from there and if there is a point where you can see two separate documents, one near the drink bottle and one under the keys, and just try and stop it there, if that's possible.

DVD PLAYED

DR DWYER: Are you able to recognise those documents, Sergeant Frost?---Yes, definitely the first on next to the water bottle. I can't really see the one under the keys.

All right, I'm going to come to that shortly with the assistance of a technical expert. But my question for you, Sergeant Frost, is when you were conducting the briefing with the IRT members that you told us about that went for around 5 minutes and you referred to the arrest plan or operations order being on the desk where Leilani Weathers sit. Is that where it was as pictured in this video?---Yes, that's right.

And had it moved at all from the time that you conducted the five minute briefing to the time that Officer Hawkings entered the building, on this occasion, after Kumanjayi was there having been shot?---No, I didn't.

Thank you, that can come down. Could I ask the court officer to place on the screen document nine. Your Honour, it's really for the benefit of the court to clarify the evidence. I'm referring to a document of – that's produced by Academic and Digital Investigations Consultant Matthew James Sorell. It's found in the brief at 10-17B.

Officer Sorell provides a report which indicates that he received stills from Officer Hawkings' body-worn video footage on that night to do a comparison of the operations order sent by Sergeant Frost to Superintendent Nobbs with this document on the next of Leilani Weathers to see whether it was possible to confirm that the

documents were the same. His conclusion, after reviewing it, was that a number of comparison of the features of those documents can be made. He closely compared the number of lines of the text, including a row of asterisks, the fact that the left-hand side of the document was justified and the right-hand was unjustified or ragged, and to the extent it was possible to do so, the words that were capitalised and gaps caused by dashes. And he confirms that, in his opinion, that document in the video footage is consistent with the operations order. Sergeant Frost, you don't recall that this was ever put to you at trial. Is that right?---No.

Thank you, that can come down.

Sergeant Frost, while you were delivering that five minute briefing, did you appear to have the attention of the four IRT members?---Yes, I did. I certainly thought people were nodding and agreeing at the right times.

At the time that you had that briefing, do you recall any mention of the fact that Constable Alefaio was available to assist with the arrest plan at 5 am the next morning – 5:30?---Yes, I did. I mentioned Constable Alefaio on two occasions; 1) that because the IRT were going to take the on-call phone for the night, I mentioned that he would be available if members needed any local knowledge or they needed to go to Yuendumu or Nyirripi and didn't know how to get there. And then I let Derek know that he was supposed to be starting at 5 o'clock and they met him at 5 o'clock with Constable Donaldson.

Was Constable Alefaio there at the time of the briefing, in the vicinity?---He was in the vicinity. I had already spoken to Constable Alefaio about the plan and he was very happy for that – he was happy to do the on call as the local call out, if required. He wasn't actually part of the briefing. He was actually sitting in a – like a desk a reasonable way away. He likely would have heard some parts of that.

Do you recall the body-worn video footage being played to any members of the IRT, that is the body-worn of the axe incident, I should say?---Yes, it was played to some of the members. I believe I had asked everyone, had they seen it and did they want to watch it again. Those that wanted to watch it, it was shown to them and those that had seen it and didn't want to watch it again, that was fine. As long as I knew – I know that I was very satisfied in my mind that they'd all seen it.

And what was the purpose of offering to show that to them again and showing it again to some members?---So, they knew the risk that they were going into. They knew what had happened. They knew the potential for risk. They knew what Kumanjaya was capable of doing and they could sight and identify him.

In relation to the operations order, there were two aspects to it, weren't there, in terms of the plan. There was the arrest of Kumanjaya at 5:30 the next morning and there was the fact that there would be high visibility policing during the course of the evening. Is that right?---Yes, that's correct.

At some point, you suggested to the members that they might like to sleep until

11 pm, or have a rest?---So, initially, I had a start time of 11 pm, because I wasn't quite sure what all of those members had worked previously, so really, I put the 11 pm start on purely so, if they needed to or wanted to have a rest because they had been up for a fair period of time or they wanted a bit of a break before they started. But they indicated to me that they were very happy to work through it.

And what was your thoughts about that?---Oh I was – I was wrapped. Knowing that there was a – a memorial concert, and knowing with all the rioting that we'd been having, just that police presence from an earlier stage, particularly during daylight hours where we are out – we are showing a presence.

What memorial concert was taking place?---I think that was for – following the funeral.

And how had you found out about that?---I believe Derek told me.

In relation to the visibility presence, what did you have in mind yourself for that?---Just drive around the communities. But the other thing I told the members, was that the nurses had been – there'd been a spate of break-ins at the nurses properties. So part of the high visibility was saturating that area. As well as just providing a police – police presence in the community at night.

When the members came in, the IRT members, in groups of twos, did you notice that they had with them their long arm weapons?---Yes I did.

Did you have any discussion with them in their – in the briefing about the involvement of those long arm weapons?---No I didn't, no.

When – we know that the – from the CCTV footage, that the IRT members left at about 7.05 and 16 seconds. Did you see them leave the compound – the police compound?---Yes I did, yes.

Do you recall seeing whether they had their – or noticing whether they had any long arm weapons with them when they left?---I don't recall now. No I don't recall now.

When you – at the time – or after that – the completion of your five minute briefing, what did you think would happen when the IRT and the Dog Unit left the station?---Well Constable Donaldson was going to knock off. He was – I think he was just going to another drive around with the IRT team. But he is effectively going to knock off for the night, and prepare for a 5 o'clock start. But the IRT team were just to drive around and provide high visibility policing. And – and just be present.

Did you envisage that they would walk around the – that any of them would walk around the community with long arm firearms?---Not at all.

What's your – we know of course that they – that a number – well at least one of the officers had an AR15. And the other had the bean bag rifle, and well left the police

station immediately, and those weapons were carried. What is your thought about that?---There's – there's no conceivable way that I would have allowed that, had I known. I – if – generally on general duties, if we decide to take a shot gun out, we would put it in the car in a rack(?) bar and they're concealed. So that's what I believed would have happened with those – those rifles.

Just before I leave that briefing that you had for five minutes, do you recall now, and I know you've given evidence about this on a number of occasions, do you recall any discussion about what the members were to do if they came across Kumanjaya prior to five o'clock?---I was asked by Constable Kirstenfeldt at the end of my briefing, he specifically said to me, "What do you want us to do if we come across him?" And I said, "By all means lock him up."

After the IRT members left the station, what did you do?---I was preparing to – starting to prepare to knock off. And I'd said to Felix, you know, start preparing to knock off as well. I think Chris was still doing his statement. I had the bulk of the file ready to go. I'd done the – you know, the transport risk assessment for once he was arrested – once Kumanjaya was arrested. So just had everything in order, ready to go, and before knocking off.

Why did you have all those documents in order, before knocking off?---So when – once Kumanjaya got arrested, we didn't have to mess around with waiting on any additional documents.

In relation to meeting with Constable Alefaio at the police station in the morning, what arrangements were made, between – for the IRT and Alefaio in that regard?---So in the briefing I – I discussed with them that Constable Alefaio knew the community. He knew the two principle houses of interest. He knows the entry and exit points of the houses. He knows Kumanjaya by sight. So he was going to be that local intelligence service.

Previously when you were giving an interview in – with police in December, in relation to the carrying of the long arms, you said this.

"I knew that they had bought the long arms into the station, but I had no idea that they were going to be carrying – what they were going to be carrying when they went out. I didn't know they were going out with long arms, or whether they were just going to keep them in the car. But I did see them coming into the station once arriving."

Do you recall any – did anybody ever ask you where they could store the long arms?---We had an armoury – the armoury was available to them.

Do you recall any discussion about that?---No, no I didn't.

But if they'd wanted to store them somewhere in the station, that was available, is that right?---Yes, that's right.

Do you recall any discussion about carrying a radio for the police – the IRT, when they were out on duty?---They'd told me that the – the IRT team told me that they didn't bring their radios. So I made my radios available to them.

Did that enable them to communicate with each other on the radio?---Yes that's correct, yes.

And did it – did it mean that other police in Yuendumu listening in on the radio frequency could also pick up what they were discussing?---If they were in the office they could, yes.

Sergeant Frost, I'm not going to take you to the events of what occurred in the house where Kumanjayi was shot. I'll just take you to the point at which you heard about it subsequently. You've given evidence previously in your first interview, you heard the chatter on radio. It was a channel where you could hear what was occurring, and you think that you heard reference to the fact that there'd been a shooting. And then you got a phone call to say that Kumanjayi had been shot. Is that right?---Yes, that's right.

You said in your first interview, you're pretty sure it was on your mobile. You don't recall who – who made that call?---No I don't.

You immediately contacted Superintendent Nobbs and told him what happened, is that right?---I believe I contacted the Yuelumu Clinic first.

Okay?---Because I knew it was going to take a long time for them to mobilise their resources.

You say this, and before I take you to your conversation with the clinic, you've said previously that you got the phone call to say Kumanjayi had been shot, and you – at the time, you say, "The fear I felt at the time of hearing that", and then that trails off, and you explain that you were married to a police officer and living in Wadeye when a police officer, Mr Whittington shot an Aboriginal person. And her Honour has the circumstances of that in the brief. But can you just explain then what feelings you did have when you found out that Kumanjayi had been shot?---Yeah it was – I was – I was very confused as to how, and quite angry. But extremely scared about what was about to – what was about to happen.

Did it shock you that there had been a shooting?---Yes, yes.

Given the events of 6 August, did you think – when the IRT went out, was it in your mind at all, try to cast your mind back, that there could possibly be a shooting that night?---I didn't contemplate it.

I'm talking of course about the axe incident on 6 November. Did you then – I think you just said "I didn't contemplate it", is that - - - ?---Didn't contemplate it for a minute.

Why not?---It was – the resources I had available to me, in my mind, were specialist resources. A local member who was a critical resource, plus a dog. Not for a minute did I think that there would be a shooting. I thought there was sufficient resources to not have any – not – to not have any use of force really.

You explained earlier, you started to explain that you contacted Luana, who was the clinic manager. And I think you said to her, “Luana I need to get – you need to get me the plane as a matter of urgency”, is that right?---Yes, that’s right.

And what did she say?---I can’t remember now. I can’t remember.

All right. And you’ve given this evidence and you’ve got it written down, Sergeant Frost, so I’m not going to try and tax your memory three years later, but you have said previously in your first interview that from that point in time, everything felt like a total blur. Is that right?---Yes, that’s correct.

Yes. You asked Senior Constable Hand to start a running sheet. Is that correct?---Yes, that’s correct, yes.

Why was that?---So, he could record the phone calls, the times of different events; it’s one of the processes that happens or occurs in any critical incident.

In terms of your role, you were still at the station when you found – when you got the news that Kumanjayi had been shot, correct?---Yes, that’s correct.

What did you focus on doing?---So, I became the forward commander. I had to consider the security of the compound and the resources. I think when I rang Superintendent Nobbs, I basically said I needed to be resourced out here now. So, it was basically – also, I was providing cigarettes to superiors. There was phone calls coming in. There was a lot happening. But effectively, I was just demanding, “Get me resources, get me resources”, making sure the Yuendumu clinic was on route.

So, in relation to the medical attention for Kumanjayi, you phoned Luana, the clinic manager, and said you needed a plane as a matter of urgency?---Yes. I think I might have asked, how do I get hold of RFDS now, not go through the Alice Springs police station – sorry, Alice Springs clinic. Not wait for – I wanted the RFDS phone number now.

And you then had conversations with Air Retrieval. Is that right?---Yes, I believe I did, yes.

At 7:25 pm, according to the running sheet that was started by Senior Constable Hand, you called Yuelamu Clinic and said, “Lorraine --”, meaning Lorraine Walcott, “I need you here right now. We’ve had a police shooting.”?---That’s probably likely, yes.

And you record in a previous statement that you received a phone call from an Alice Springs-based doctor and spoke to her about the need for a plane?---Yes, yes.

And over the next few hours, you continued to coordinate the response, correct?---That's correct, yes.

I'm not going to show you it, because it's distressing. But in the brief of evidence, her Honour has the CCTV footage and body-worn video footage that shows members of the IRT performing first aid on Kumanjaya after he was taken into the station. Did you assist in that at all?---No. A very small part of it. I could see – I knew the members that were performing CPR were military – had a military background and I knew they – what they were doing, they were doing a fantastic job, as good as you could do with the equipment we had. So, I knew the medical side of things were being covered and they had four members to rotate the medical side of things. And that allowed me to continue planning resources, ensuring the safety of my members and all members. Compound, making sure that the town wasn't (inaudible), that type of stuff.

In relation to the first aid for Kumanjaya, you had been a nurse previously. Did you think that you could provide Kumanjaya with any further assistance than those IRT members could?---No, nothing at all. We had no equipment whatsoever. We had nothing but basic life support equipment. So, we are all trained in basic life support. The IRT team were doing a really, really good job. I knew, that side of the fence, that side of what was happening was totally covered. But yeah, so there was nothing more I could have done with what we had.

Sergeant Frost, did you have the keys to the clinic?---No, I didn't.

Did you have any access to – other than having the keys to the clinic, did you have access to their ambulance equipment or anything that would have assisted Kumanjaya?---No, they took the – I said to Cassie when she parked her car, take everything out, because we – the compound has been broken into before, as has my house in the compound. So, I said to Cassie, look just take everything out. Take it with the rest.

You're referring there to the conversation that you had with Cassie when the nursing staff left the clinic in the morning. Is that right?---Yeah, so Cassie had parked the ambulance in the police station, so it was somewhat secure, I suppose.

In relation to the IRT and while they were assisting Kumanjaya with first aid, you have been asked previously whether you had a conversation with Constable Rolfe about what had occurred and you've previously said a scant version of event, you pretty much said, "Are you okay?" You did not ask him what the circumstances were. Is that right?---That's correct, yes.

Why was that?---Well, we're not meant to talk about what had happened. So, my concern was just whether he was okay.

In respect of the officers in the station, who was there at the time that Kumanjaya was brought in by the IRT members?---Constable Hand and Constable Alefaio.

It's the case that Constable Alefaio had not yet finished his shift for that day by the time the IRT came. Is that right?---That's right, yes.

We know that Derek and Warren Williams entered into the police station at some point while Kumanjayi was being treated for the gunshot wounds, correct?---That's right, yes.

Derek had called you at around 8 pm and said, "What's going on?" And you said, "I need you now." And he ended up coming down to the station, coming in for a matter of minutes and then going back outside. Correct?---That's right, yes.

And you - - -?---He told me that he would go out and try and calm the crowds.

And I don't need to put them to you, Sergeant, but we have text exchanges that you had with Derek that night so that you could communicate. Is that right?---Yes, that's correct.

I just want to ask you about the role that Derek played on that evening. You've said in your first interview, "By that stage --", and this is the time when Kumanjayi was in the police station wounded, you said, "I think it's only by virtue of the most incredible work done by ACPO Williams out the front. Most people cleared away from the area and you had some reprieve." And you've also said that you believe, in hindsight, that Derek potentially saved you from serious damage and injury to members. You spoke to Derek a number of times. He has a lot of standing in the community and you were thankful for the role that his father Warren played that evening?---Absolutely. He – both Warren and Derek were incredible.

While you were in the station organising the logistics, did you have a sense of what people outside were doing?---Yes. There was rocks being thrown on the roof towards the windows. I could hear a lot of screaming and yelling. Like very angry – yes appeared very angry and hostile.

What were your feelings at that time?---I was very concerned. Yes, knowing – having seen – having the experience in a community for the last two years and knowing the level of violence sometimes after such things as a Facebook post cause, given that it was a local member that was shot, it was a very, very scary feeling for us.

MR FRECKELTON: Sorry, could you repeat that, I couldn't hear.

DR DWYER: "It was a very scary feeling for us."

MR FRECKELTON: Thank you.

DR DWYER: Do you recall that Nurse Walcott and another nurse from Yuelamu arrived at some point after – shortly after 9 o'clock?---Yes.

By the time they arrived, Kumanjayi had passed away sadly. Is that right?---That's correct.

After Kumanjayi passed away, did you have any conversation with Derek, that is, that evening before midnight, other than your text messages?---I would have to look at the – I think I called him a few times and he couldn't answer because he didn't want to be seen talking to me. It was difficult to have contact with him at all times. I do know - I did ask Felix at one point - sorry, Constable Alefaio at one point, "Can you see Derek, is he okay?" And his text back to me was, "He's okay. Derek told me to just go inside and lock the door."

Sergeant Frost, while Kumanjayi was injured and before he passed away, members of his family were outside in the - outside the police station. Did you come to know that? This is - of course Derek was there as well, but other members of his family? ---I don't believe I did. I know - no, I don't - no, I don't think I did enquire.

You knew some of Kumanjayi's family at that time and they - in terms of his broader family, you understood that his partner was Rakeisha? Correct?---Yes, that's correct.

And his grandparents, Lottie and Eddy, lived in the community?---Yes, that's correct, yes.

Did you know about Leanne Oldfield - one of his mums that helped raise him? ---Yes, I think I knew that, yes.

And did you know about his connections to the Brown - or his relationship with the Brown family?---Yes, I did because they are attached to House 511.

Did you think about getting in any family members to comfort Kumanjayi while he was injured?---No. No, we didn't. No.

Why not?---Because I was concerned that there may be hostility towards my members and that may be to - safety concerns for my members and the family and it was - it was a decision that we had to make on that night based on safety.

I am going to come to different decisions that were made but in terms of that decision to not allow family in, or to not go and look for family, was that your decision?---I didn't even know any of the family were there at that time. It was not until Eddy called some time early Sunday morning that I knew of any family members because I had no contact really with Derek. We only text - we only contacted by text and the phone calls - I think most of them went unanswered but yes, no, I wasn't alerted to or made aware that any family member was there.

Sergeant Frost you've talked what happened in Wadeye when you were there as a police officer and an Aboriginal member of the community was shot. Were there riots that followed that?---I just want to correct you. I was nurse at that time, no a police officer.

I'm sorry?---But I was also working - I did a Strong Women Strong Babies project for six months so I did that at Palumpa and I was commuting between Port Keats and Palumpa every day so when I heard about that, I had to get - I had to basically go back to Port Keats in my vehicle and get met on the road by police, to get escorted back into my house, into the police compound. But yes, there were a lot of fight at that particular time until the community settled down.

That incident occurred in October 2002. Do you tell her Honour that you had a sense of being in the area or near the area at that time?---Sorry, I don't understand.

The shooting death of Mr Jongmin occurred in 2002 in October. Where were you when that happened?---At that time of the shooting I was working in Palumpa.

Did you have a sense of fear for your personal safety when that happened?---Yes. Yes.

And did other nursing staff talk about a sense of fear for personal safety?---I – I actually didn't have much contact with them at that time because I had done a - like I was saying before, I did a Strong Women Strong Babies project for six months so - and I don't - I think we left the community not too long after that but effectively, the nurses locked down and we were locked down at the police for a period of time, so I didn't have a lot of - - -

I'm sorry, you went quiet after - you didn't have a - - -?---Sorry, didn't have a lot - yes, didn't have a lot of contact with the nurses.

Sergeant Frost, did you ever receive any counselling yourself for any trauma that might have been experienced as a result of being involved to some extent, in that incident?---No, no.

Do you think that you did suffer trauma yourself, as a result of that?---No, I don't think so. No, I don't think so. It was a very scary event but there was certainly a lot more people that were closer to the event than what I was. I just (inaudible) the aftermath of it.

Was the fact of that even in your mind at the time of - of the night that Kumanjayi was shot?---It did have - it did have some bearing, because - yeah, because I'd seen what the reaction of – in Port Keats was, so it did play in my mind.

Sergeant Frost, you were aware that many members of Kumanjayi's family feel a great deal of pain that he was not able to be comforted by a loved one in the last hours before he passed away. Do you understand that?---Absolutely, yes, and look, it's a decision we had to make for safety, but I totally understand the anger and the pain that they are feeling and I - it's something that is very hard to - very hard to sort of come to terms with that we had to make those decisions.

Do you think that you exaggerated in your mind the risk to police?---No, I don't. And I say that because, like I said, I think we were very lucky that Derek was there but the - you know, there was a couple of text exchanges between Derek and I, so I was - I was placed - my concern was the rocks being thrown on the roof, the hostility, the knowledge of the community, the general events and how volatile it can be, but also I think a text message that Derek and I had where I said, "Derek, are we in danger?" And he said, "Yeah, all will be in danger but we (inaudible) so it was a combination of things. But like I said, I think it - - -

A PERSON UNKNOWN: Excuse me, your Honour, can I just get that repeated please?

DR DWYER: Just let her finish and then I'll read it again.

Sorry, Sergeant Frost, keep going?---Yes, like I said, I think - I think we were very lucky with the fact that Derek and Lauren were there on that night. I believe that that really helped us get through it.

And you've referred to some text messages that you had with Derek. I am not going to put them on the screen, but they are JF4, they're an annexure to your statement and they start from around 8:21 am and they include a number of discussions. For example, at one point in time Superintendent Nobbs, you believed, gave a direction that police should leave. Do you recall that?---Yes, yes.

And then you texted Derek at 8:21 to say, "Nobbsy's given you a direction to leave - are you going? We're about five minutes from leaving out the back. Can you come?" And Derek said, "No, I'm all right with my family"?---Yes.

And you understood that he'd made a decision that he would stay and help his family and the community?---Yes.

And you respected that decision?---Yes.

And he made it clear that you should text rather than call him, correct?---Yes, that's right.

And you texted Derek at some time after 10 pm saying, "How would gathering Elders go for a conversation to quell the crowd if they find out about this, is there going to be trouble once they find out?" What were you referring to? "If they find out about this"?---I believe I was referring to if they find out if Kumanjayi passed away.

Kumanjayi passed - resuscitation ceased for Kumanjayi at 8:36 pm. The nurses attended after that and he was declared formally to be deceased at 9:09 pm. By the time you you're sending this text to Derek after 10 pm did you assume that Derek knew?---I did have an assumption, yes.

And I'm going to try not to talk about that too much because – just because it's distressing to family who are watching, so I – can I just apologise to anybody listening into the livestream.

When – you assumed that Derek knew that Kumanjayi had passed by that time?---I – I – yes, I made an assumption.

And Derek responded to your question in text, you said “How will gathering Elders go for a conversation to quell the crowd if they find about this, is there going to be trouble once they find out?” Derek replied, “Yeah, they will be trouble, but people just want to find out. Elders will help with the sorting out – with sorting out families.” Do you agree that Derek there is – is actually asking for information?---Yes - - -

(Inaudible) - - - ?---Yes I do, yeah.

And then you replied, “Will the Elders be able to help at all if they find out? Are we in danger at all?” And Derek replied “Yeah all will be in danger and Elders will sort it from there.” And then you asked Derek a series of questions about whether there should be an evacuation. And Derek – there's no answer from Derek before midnight. What did you think Derek was saying to you? Appreciating that it was difficult for him to text?---I - - -

By the message - - - ?---I - - -

- - - by the message, “Yeah, all be in danger and Elders will sort it from there.” What did you think?---Yeah I thought then that he – he had the – he was right out the front. So he had the – he could see what was happening, and – and what was being said. So when he made reference “All will be in danger”, I – that – that said to me, that yes, we are about to – there's going to be a level of hostility towards us.

But do you agree that what Derek also says in that text, is that Elders will sort it from there?---Yeah, so – yes that's – that – I don't think – I think when he said “All will be in danger”, but we will sort it out afterwards, after the danger.

Sergeant Frost did you wrestle with the decision about whether to tell the – some members of the community about Kumanjayi's passing?---The decision was really made by above me. And it was – it was a tough decision. It really was a tough decision to make. And – but effectively, it was made for the safety of the police, and the community. Because we just couldn't risk any level of violence towards us, or us towards the community as a result of violence towards us.

I think recorded in your – in the chronology, will I'll come to shortly – excuse me one moment. I withdraw that. You've previously given evidence that at 8.40 pm, a critical decision was made by Superintendent Nobbs, after Kumanjayi passed away, that his body should be transported. What was the decision conveyed to you?---I think that was around between when we were looking at evacuating, and so – so Kumanjayi's body would have evacuated with us, would have come with us.

We know that at some point the – there were additional police coming in from Alice Springs by plane. And a decision was made that two police cars and an ambulance would go out to meet the Alice Springs police, and that was to give the impression that Kumanjaya may be still alive, and being conveyed into Alice Springs. And then those vehicles would come back to the station, with the Alice Springs police. Who made that decision, Sergeant Frost?---I made the – I made the plan, initially and that was approved with Superintendent Nobbs.

This has been the subject of much discussion. Why did you make that plan, and then have it approved by Superintendent Nobbs?---I think we made it in conjunction – we had to work out how we could get Constable Rolfe safely out of the community, onto the plane. And we had to work out then, firstly, how to get the six – six members that had come off the plane, I believe it was six, and all their equipment. So we needed enough vehicles to hold the whole six members and all the equipment. So we utilised the – the ambulance, as a luggage carrier I guess, and the two police cars as security for the ambulance.

And I'll just get you the timing of that, which is recorded in the log sheet by Senior Constable Hand. At 10.45 the handful of members left the station to travel to the airstrip. At 10.56 the crews mobile from the airstrip returned to the station. At 11 pm they arrived back at the station, and a nurse was injured from the rock thrown. And we've heard evidence about that. Sergeant Frost, there's – we've heard evidence from members of the community that there is a real sense, if I can just paraphrase it, of being betrayed. That they were not told the truth that Kumanjaya had passed away by then. What do you want to say about that?---I – I understand – I understand their anger. It's – I totally – I totally understand, and I really want to apologise to the community. Again, we had to make these decisions for the benefit of safety of both the community, and the police. And unfortunately, we had to do it in such a way that that's what we came up with.

And the timeline shows then what occurred the next day. We know that Officer Zang arrived as the Forward Commander from Alice Springs, at 11.50 pm. After he arrived as Forward Commander, did he effectively take over from you?---Yes, yes he did.

At 11 pm, Eddy had contacted the main line in very upset, asking if Kumanjaya was still alive, or had passed on. Senior Constable Hand answered the phone, and advised that he didn't have any information, and he would get Sergeant Frost to call him back. Did you call Eddy back at all?---No. No at that stage then, everything was taken out of my hands. I think Terry Zang – between Terry Zang and Superintendent Nobbs, they were making those decisions as to how to best convey that information.

11.05 pm, there's a note on Senior Constable Hand's log sheet, that you were advised of the call, and you were on the phone to Derek at the time, and he suggested that any information should come the bosses, the management?---Yes.

Do you recall a - - - ?---Yes.

- - - conversation with Derek like that?---I don't recall it now.

Okay. At 12:07 am, Eddy Robertson was called by the forward commander, Officer Zang, and Officer Zang will be asked about this, of course. But he actually told Eddy that Kumanjayi was still receiving medical treatment at that time. That wasn't the truth. Do you know why he told him that?---No, I didn't even know he had the conversation.

That was not your decision, correct?---No.

Okay. We know, of course, the Eddy was advised in the early hours of the morning, sometime after 4 am. Were you any part of that decision-making?---No.

I want to ask you some questions, Officer, before we get into the days that followed and your recording, about some text messages that we've heard evidence of in this inquest that were discovered because they were on the phone of Constable Rolfe. I'm not going to repeat the exact nature of the text messages, but you understand, don't you, that on that phone, there was language used to describe members of the Aboriginal community, not specifically in reference to Kumanjayi, but language including describing members of the Aboriginal community as "Neanderthals, coons and niggers." When did you first find out that that language was on the phone of Constable Rolfe?---When I saw it, I don't think it was – well, it was last week when it was first released.

Is that language that you have heard other serving members of the Northern Territory Police Force use during your time as an officer?---No.

As a sergeant of Yuendumu, what would you do if you heard a junior officer use that language?---I would certainly pull them aside and counsel them about it and try and work out why they hold those views, and to tell them that that has to stop. It would also be very difficult, it would be very difficult, I think if someone came out to my station who did refer to the community members in that way. I couldn't understand how – I don't understand any members who would want to come out and live in the community, if they held those views.

Do you agree that that language is racist?---Yes.

And disgusting?---Yes.

And abhorrent?---Yes.

Were you shocked when you heard it last week, that it was on the phone of Constable Rolfe?---Yes.

Would you – do you appreciate that the text messages involve, not just Constable Rolfe, but a number of members of serving police officers who were based in Alice Springs?---Yeah, that's what I understand.

Including some members of the IRT?---I don't know if I know who they were from and to.

Do you accept – would you accept from me that that language was used by a sergeant who has had involvement in the IRT?---Yes.

Would you have ever called in members of the IRT if you knew that they held derogatory or racist views about Aboriginal people?---No.

Would you have allowed those members of the community to come into Yuendumu and assist - - -?---No.

- - - in arresting Kumanjayi?---No.

I'll break there, your Honour, if we may, just for 15 minutes.

THE CORONER: Yes, we'll adjourn for the afternoon break.

ADJOURNED

RESUMED

JULIE SHEREE FROST:

THE CORONER: Yes, Dr Dwyer.

DR DWYER: Sergeant Frost –

Your Honour, I note that there's a number of people missing from the Bar table. I – I wonder if – I thank my learned friend.

Sorry, Sergeant Frost.

A PERSON UNKNOWN: Apologise, your Honour.

A PERSON UNKNOWN: Apologies, your Honour.

DR DWYER: Sergeant Frost, I'm not going to take you to much of many of the incidents after 9 November. I just want to first ask you about your recording of the incidents.

I ask that the court officer put on the screen 7-39. I think it's document two.

This was your notebook entry, Sergeant Frost. You'll see first a notebook entry from 6 November 2019. Is that your handwriting, Sergeant Frost?---Yes it is.

And you see there a brief notation, can I suggest, 18.40 through to 22.45, in relation to the incident that occurred on 6 November 2019?---Yes, that's correct.

Sergeant Frost, we have this entry from 6 November, the seventh and the eighth. Is it the case that the type of notebook entries that you see there from the sixth, are typical of how you used your notebook in 2019, in conjunction with the computerised records?---Yes, yes.

Did you make a notebook on 9 November?---No.

And –

That can come down now, Bec.

Why was that?---There was no time to make any notebook. I was always – we went to – I think we went to the three jobs on the Wednesday – sorry, the Friday night. And my plan is to always complete those notes. And then the events that unfolded, and what was happening on Saturday, and doing the plan, and getting the IRT team here, that was the last of my concern that time, so I was planning to update my notebook the following day. But of course, then the shooting happened. So that was it.

And in terms of the notes that police officers keep, you agree that the notebook is a useful way to record events of an evening?---Yes it is, yes.

You then, in relation to any significant event, have to do a computerised record, is that right?---No, no, just in your notebook generally. But – yeah, no just in your notebook.

If something becomes an incident where someone is charged, you might do an event – a computerised event, is that right?---You'd certainly update the PROMIS job, that respective PROMIS job, yes.

And if you go to say an unlawful entry, but you don't identify an offender, does a PROMIS job still get created?---Yes, yes.

So Sergeant Frost, there's no notebook entry for the ninth or 10 November, in relation to Kumanjayi's death. After Kumanjayi passed away, when did you leave the community of Yuendumu?---Sunday afternoon, around – just after lunch I think it was.

That was 10 November, correct?---Yes, that's correct.

In terms again of this record, and I'll take you to some events on the 10th shortly. But to the best of your memory, when was the first time that you made a record on paper of anything that had happened in relation to Kumanjayi shooting?---It was after I spoke to my lawyer, prior to giving my police statement.

In relation – I'm not going to ask you about any of the advice you received from a lawyer, which is subject to legal professional privilege, but after you spoke to a lawyer, you got certain advice, correct?---Yes, correct.

And then do I take it from that answer, you then prepared, or you put something in writing, correct?---Yeah, I prepared a chronology, because when I was speaking to the lawyer, I think I was still quite upset and I was jumping all over the place when I was speaking to him. And so he suggested, look put a chronology together, just so when you give your statement it made it easier.

And when you prepared that chronology, did you – or I withdraw that. Before I ask you any questions about it.

Could I ask that the court officer put on the screen, 7-38, a chronology prepared by Sergeant Frost. It begins with "Chronology of events, Wednesday, 6 November."

Do you see this document, Sergeant Frost?---Yes, yes I do.

Is that the chronology that you're referring to?---Yes it is.

And that chronology's in the brief of evidence. I just wanted to identify the document. It's typed – it's five typed pages in our document. The next time that you are on

record, is an interview of 13 November 2019. Did you finish those five typed pages prior to that interview?---Yes it was pretty rough, but that chronology was done rough – done roughly, and it was just to enable me to give a free recall. So you know, it wasn't word perfect. It was just so I could give a good recall in my statement.

That chronology can come down now, thank you.

So then you were interviewed on 13 November 2019, at your home address, your then home address?---Yes, that's correct, yes.

And that's at 7.36, your Honour.

And then attached to your interview are a number of documents that you thought would assist, including the text messages from Mark Parbs, the arrest plan, the running sheet constructed by Chris Hand, for example. There are seven - - - ?---Yes, that's right.

Okay?---Yes.

Did you, when you did that interview on 13 November, did you have that chronology with you?---I believe I did, yes, yes. Yes I did.

It's not attached to your interview, is that right?---No, no - - -

Do - any reason for that?---Yeah, I – for some reason, Detective Sergeant Wells didn't take that document, at the time. And yeah he never – he never – it was never of interest. And I think because I – I never actually referred to it in my statement, because by the time that chronology had just enabled me to have in my mind a series of events that I needed to get out from my free recall.

You were then interviewed again, with some follow up questions on 5 December 2019, correct?---Yes.

And that's at 737, your Honour.

You gave evidence at committal on 1 September 2020, that's the committal into the charge of Constable Rolfe, correct?---Yes that's correct.

That's at 739A.

And you gave evidence at trial on 10 February, or starting on 10 February 2022, this year, correct?---Yes, that's correct, yes.

Sergeant Frost, over time, memory can change. What do you tell her Honour about whether or not at all times you've done your best to tell – to give an accurate account of what happened?---Yes, absolutely. I – yeah, absolutely I have.

I just wanted to finish by – with giving you an opportunity to comment on some thoughts that people might have had about what happened. You were in the community on Sunday, the 10th, after Kumanjayi had passed away. What were you feeling, on that day?---On Sunday, sorry?

Yes, after Kumanjayi had passed away?---Yeah. Absolutely devastated. Extremely exhausted. I don't think I slept at all on Saturday –sorry, Sunday. I think I knocked off Sunday morning, at about 5.30 – 6 o'clock and I think, Terry – Senior Sergeant Zang knocked on my window about 15 minutes later. So incredibly exhausted, but - - -

And do you recall - - - ?---But – sorry.

- - - I'm sorry, sergeant. No, sorry, please keep – please keep going sergeant?---No, that's okay, I forgot what I was saying.

Do you recall a Sergeant Mitchum King – Meachum King(?), being in the community?---Yes I do.

Do you recall going to the home of Lottie Robertson, and speaking with her on that day?---Yes I do.

You can appreciate, can't you, that Lottie was absolutely devastated and distraught about the loss of Kumanjayi?---Absolutely.

You know that – you know that she loved him very much?---Of course, yes she did.

You would expect her to be grief stricken, as a result of what had happened?---Oh absolutely.

There is body-worn video footage from Officer Meakum King, which I don't need to show you, but I just want to read to you, something that Lottie said when she spoke to you. She was speaking quite calmly, but clearly distressed, and she said this. You remind her of the incident with the axe on 6 November, and you – she says to you, “Then again, when I heard you say that they were going to bring a task force in here to be able to look for him, and hunt him down like a dog. And you said they might be able to shoot him too.” And you say, “No I didn't say that.” And Lottie says, “I remember it.” And then sergeant – Senior Sergeant Zang says “The reason we came was to try and find him, and apprehend him safely.” Did you ever say anything to Lottie and Eddy – or to Lottie on either the Thursday of the 6 November or the morning of the 7 November that you were going to bring a taskforce in who would look for Kumanjayi and hunt him like a dog and that they might be able to shoot him?---No, I didn't. I said to Lottie on the Thursday night, look if he – you know, if he doesn't bring – if he doesn't hand himself in within two hours, I'm going to have get the Alice Springs police out and they'll go in a lot harder than what, you know, your community members would. And your Honour, I know that doesn't sound great, but it was my way of appealing to Eddy and Lottie, this was become very serious and, please – it was a plead almost to get them to bring Kumanjayi in.

And do you recall mentioning the dog, the fact that there might be a dog squad brought in from Alice Springs?---I don't recall whether I mentioned a dog. I – no, I don't recall that.

Is it possible that you did?---Yes, yeah it is possible.

Okay. Would you ever say the words, "hunt him down like a dog"?---No. That's not terminology I would ever use and I would have to apologise to Eddy and Lottie if what I said to them on that Thursday night was ever to mean that. That's not my – that's not what I said.

You could understand, couldn't you, that given that you had said to them on Thursday night and to Rakeisha, look Kumanjayi could have hurt one of my members and he could have got himself shot, that might be interpreted to mean you were going to bring a taskforce out and they might shoot him?---Yes, yes.

So, you can appreciate there's room for, particularly when people are traumatised, for misunderstanding in there?---Yes, I do, yep.

And before I leave that topic then, Sergeant Frost, is there anything else you wanted to say, particularly if Lottie and Eddy look at this. What's your evidence at any time?---Yeah, again, just to apologise if what I said to them on Wednesday night was misinterpreted to mean that. And I do apologise to them for that.

Then finally, Sergeant Frost, in the years that have followed Kumanjayi being – Kumanjayi passing away and Constable Rolfe being charged with murder and manslaughter, there's been a lot of reporting in the press on different aspects. In relation to that last conversation, have you watched the film that was done by Spotlight. There are two different films being shown in Australia; one featuring Richard Rolfe and one featuring Constable Rolfe?---No, I haven't seen either of them.

Did you ever, at any stage, have a request from those IRT members for the assistance of local police on the evening of 9 November?---No.

Did you ever say that – did you ever deny any request for assistance from local police?---No, they never asked for assistance.

You are familiar, I think, with the NT Independent, which is an online website. I'm just going to read to you some of the things that have been reported there and ask you if they're correct. It was reported in that publication on August, the 16th that you should be – and this was not the editor's quote, it was a suggestion by Constable Rolfe's father, Richard Rolfe, that you should be charged with perjury. Have you ever misled any court?---No, I haven't.

What do you say to a suggestion that you would be deliberately dishonest in court?---Absolutely ridiculous.

It was suggested by Constable Rolfe's father that you should be charged with failing to rescue for refusing to provide first aid to Kumanjayi. What do you say about that?---That's incorrect. First aid was being provided. Excellent first aid was being provided.

If you could have done anything to assist Kumanjayi, to save his life, would you have?---Of course. If we had any equipment available to us more than CPR, of course.

It was suggested by Mr Rolfe's father that you could have saved Kumanjayi and you didn't. Is that correct?---No.

It's suggested in here as published that it's your complete dereliction of duty that's responsible of the death of Kumanjayi. What do you want to say about that?---I would probably rather not say, your Honour.

Sergeant Frost, is there anything that you – I know that you don't want to make this about yourself, but are you able to tell the court about the pressures on a – on yourself that have followed Kumanjayi's passing?---Yes, the shooting incident itself was incredibly difficult and it was very hard to – it was a very hard – very hard to sort of come to terms with what happened on that weekend. To have the social media stuff propagated by Richard Rolfe and friends of the family has been nothing short of devastating to me and has had a lot of reputational damage. It's – the stuff that has been reported is factually incorrect. It's biased. It's self-serving. It's nothing but self-serving propaganda. And unfortunately, there's a big group of people that have believed what has been placed in these – in both social media and the NT Independent.

Does it make it difficult for you as a serving police officer?---Yes, yes.

Sergeant Frost, we've heard about the terrible – well, her Honour has received some evidence of that terrible trauma for a family to lose Kumanjayi like this, do you accept that there's also trauma for the family of a police officer who's charged in these circumstances with a criminal offence?---Of course, yes.

And then trauma for yourself, as an officer who was involved in the aftermath and prior to the IRT being called?---I think everyone that was there, would have felt some level of trauma.

Do you agree that the circumstances of Kumanjayi's death demonstrate that we should learn whatever lessons possible to try and prevent something like this happening in the future?---Yes, yes, I do.

Sergeant Frost, I think you wanted to say something to the family. You prefer to wait until the end before you read that statement. Is that right?---Yes, that would be right, yes, thank you.

I just wanted to tell the family that that's coming, your Honour and that completes my examination.

THE CORONER: Thank you.

Thank you very much for being very patient so far. There are more questions to come and Mr Mullens is about to stand up and he has some questions as well for you, Sergeant, if you don't mind?---Thank you, your Honour.

MR MULLINS: Thank you, your Honour.

XXN BY MR MULLINS:

MR MULLINS: Sergeant Frost, can you hear me?---Yes, I can, yes thanks.

You've spoken about the moment that you discovered there had been a police shooting?

THE CORONER: Just before we go on, if counsel wouldn't mind just informing Sergeant Frost their role in the proceedings.

MR MULLINS: I apologise.

THE CORONER: No, that's okay. I just think it's fair enough that she knows who each counsel represents.

MR MULLINS: Sergeant Frost, my name is Mullins and I appear on behalf of the Brown family, including Leanne Oldfield?---Thank you.

Now, the moment that you discovered that someone had been shot by a police officer, you've described that you were at the police station?---That's correct, yes.

And you were there with Constables Hand and Alefaio?---That's correct, yes.

And you've also described that you were shocked, that's right?---Yes. Yes, that's correct.

In your interview with the Detective Senior Constable First Class Alicia Harvey, you say that when you heard those words, you - "Knowing what can happen with a Facebook post, I knew where we were heading for a police shooting" and is it correct that the moment you discovered that there had been a shooting you thought that this was a very serious situation that was going to follow?---I did think it was a very serious situation. Just to correct you there, sorry, it wasn't Alicia Harvey that interviewed me.

I apologise. She might have been the person who transcribed it, I am told. And within a few minutes you made a telephone call to Superintendent Nobbs?---Yes, that's correct.

And you said, "Get me every resource now, we need it"?---Yes, something to that effect, yes.

And when you were being interviewed in your first interview, you were asked by – I am sorry, it was Detective Wells - you were asked about riots and you said this;

"It's - usually they're armed. A lot of it is women - on women it tends to be, I haven't had too many men, it's generally the women but the women are particularly violent when they get going and they always arm themselves and it's usually star pickets and, um, what ever they can find. They've usually got lots of weapons secreted around the community and in their yards ready to go. They - they have it all ready. Generally with them they're not directing their aggression towards us, it's towards each other but it really doesn't take very much to set off, so I knew when it was a police shooting they had a lot of reason then to direct their anger towards us."

Now, was that what you were thinking about when you thought about the potential for danger, your experience of women fighting?---No, what I was thinking about - so obviously what I was thinking about is what I knew of the community over the last past two years. I also know that the community, part of their culture is for payback and what was happening at the police station, given that we had a young Aboriginal male in our police cells, having been shot by police. I - that's what I was thinking about that this was going to be very volatile.

Can you describe your understanding of payback?---Yes, if some - if one of the community members hurts another community member or - so there's an expectation that there will be a level of payback.

And did you understand that that would translate into a situation where a police officer injured a community member that there would be payback to that police officer or police in general?---Police in general, I think.

And where did that understanding come from?---Well, I think - I mean, I - I could, you know, I could hear the rocks being thrown on the roof and I knew that there was anger out the front, so knowing that the community, you know the community are generally would seek payback and it would - it could be quite violent towards us.

Can I just - you're talking about rocks being thrown on the roof, that was some time after the initial phone call, wasn't it?---Yes, yes.

So - - ?---A little while - little time after, yes.

I am just wanting to discuss with you and understand your mind-set at the time you called Superintendent Nobbs, I think it's at about 7:30 pm or a few minutes after where you said words to the effect, "Get me every resource now - we need it" when you thought there was going to be a catastrophe. Okay, so just go back to that mind-set. You mentioned in your statement that I've read out to you there, the

conflict between women. You've mentioned your understanding of payback as being a second factor that you took into account. Is it also the case that you spoke to Chris Hand who was at the station at the time?---I - I would have, yes.

He gave evidence yesterday - maybe the day before - at some stage - but he told police that he thought there was a real possibility that the police station could get stormed.

"There's only glass doors out the front, there's open access from the front to the front doors, there's lots of windows on that front side of the station where the Sergeant's office is, all it would take would be a big rock to get thrown through a window or a car to get driven through the doors if they were that angry and then one - all it takes is one person to go through and then the whole mob will go through."

Is that the sense of the sort of impending danger you had in that moments after you heard there was going to be - or there had been a shooting of a community member by a police officer?---Similar, yes, similar.

Can I just ask this question. We were talking a few moments ago about a riot and you were talking about the riots at Yuelamu. What do you describe as a riot? ---A hundred to 200 people with, you know, fighting and carrying weapons.

So are you saying that in Yuelamu in the days leading up to this event, I think you mentioned there were riots at the sporting event?---Nyirripi.

Nyirripi, there were riots at the sporting event. Are you saying there were fights involving hundreds of people at Nyirripi?---No, no. When I have seen riots in Yuendumu it could be up to 100 - 200 people. In Nyirripi the - a lot of the community members would get involved when there's trouble there.

But just so we have a clear understanding of what you mean by "riots" are you saying literally hundreds of people being involved or do you say a fight between two groups of five people is a riot?---I don't now if there's any definition applied to it in terms of amount of people, but effectively where there's far more people fighting than police can control safely.

All right. Now, just one other matter about your own experience. You were asked some questions about your experience at Wadeye?---Yes.

And that was back in October 2002?---Yes.

And you were a nurse at the time?---Yes, but not at Port Keats Clinic.

Well this is what I - I couldn't quite understand in the end what your narrative in respect of that is. Were you actually at Wadeye when these riots occurred?---I was at - I - sorry - I was working in Palumpa and living in the police compound at Wadeye at the time. I wasn't present at the time of the actual shooting, I was in Palumpa but

for weeks and weeks after that death occurred I witnessed a lot of riots in that community.

Now, when you say you witnessed a lot of riots, was that on the day of the shooting or were you - is it Palumpa?---I was at Palumpa at the time.

And were you in Palumpa just for the day or were you there for a week or something?---I commuted every day. So every day I - I was doing a Strong Women Strong Babies program with the community in Palumpa and I commuted from Port Keats every day.

So did you return to Palumpa on the day of the shooting?---I was already in Palumpa at the time of the shooting. I think it was around midday and then I got called back after the shooting I was called back by my husband at the time I think, and was met on the road to make sure I could get from the outskirts of Port Keats back into the police compound.

And were there riots at the police compound that night?---Yes, yes.

That you experienced?---That I saw, yes.

And what happened?---I can't remember now but it's - you know, that's going back a long time but I definitely know that there was, you know, a lot of - there was a lot of security issues for police and nurses, a lot of trouble happening.

Can you describe that in any greater detail so we can get a picture of what it was at Wadeye that was concerning you when you were - experienced this event on 9 November 2019?---Well, there was, you know, there was always weapons involved, but I can't describe - like I can't describe it now but I know - it's difficult to describe because these went on for weeks, so I couldn't describe one from the other.

So if I can summarise then events that led you to have a notion that there was going to be a catastrophe here, it included your experience of the riots, and fighting amongst women at Yuendumu, that's right?---Yep, yes.

To some extent, the experience you've described at Wadeye?---To some extent, yes.

The discussions that you'd had with Chris Hand, about the circumstances, or the danger he thought you might be in?---I don't know whether we actually had a discussion like that. I know he feared things. I feared things. But I don't think we discussed what we feared, at the time. We were too busy trying to get resources into the community.

And the final thing was the – your understanding of payback in the community?---Yes.

Now was there anything else that was at the forefront of your mind that gave you that feeling of dread about what was going to happen?---I know in previous – not in my time, and not in any (inaudible) time, but there was a – a very respected Elder that didn't like one of the police members, and he drove his car through the compound, and damaged the fence, because he didn't like the police officer. I – I know that – the reason we don't – we avoid force at all cost, is because if we use any level of force, we would be turned on by community members. So it's a collection of a whole different experiences and that's what I drew on.

All right. Now soon after Kumanjaya was brought back to the police station, there were then the members of the IRT and Officer Donaldson, at the station, in conjunction with yourself, and Officers Hand and Alefaio, that's right?---Yes, that's – yes, that's right.

And it was pretty chaotic, wasn't it?---It was chaotic, yes.

There was a lot of people trying to help out with the CPR?---Yes.

There – you and Officer Hand were trying to organise resources?---Senior Constable Hand was doing the running sheets, I was doing forward commanding and the (inaudible) and organising resources.

Now, at that point in time, Kumanjaya was still talking?---I can't remember now – I don't know timings. I couldn't tell you.

And did you have any communication, either with him – did you have any communication with him directly?---I don't recall, no I don't recall.

Did you do any assessment yourself of his condition, using your nursing experience?---Yes, at some stage I was standing – standing above him while he was having CPR being performed on him, and I was assessing things like colour. I was looking at whether there was any evidence of lung injury, and I looked at the blood lost.

And was your assessment that he was in a pretty bad way?---Oh yes.

And that there was a possibility that he may pass in the presence of the officers who were there?---Yes.

Amidst that chaos, in the first 20 minutes or so, did Derek Williams and Warren Williams arrive at the station?---Yes they did.

Did they come in the front door, or through the – another entrance?---I believe it was the back entrance.

And did you welcome them in?---Oh yes, most definitely.

And they are both very respected members of the community, as you've said?---Yes.

And when they arrived, they were very calm?---Yes – yes they appeared to be, yep.

The Williams gentlemen aren't big talkers, are they?---Oh I don't know that to be the case. Derek's a pretty good talker.

All right, well they certainly don't – they certainly weren't yelling at you, and demanding answers as to what happened, were they?---No they weren't.

There was no anger?---No. Not from them, no.

They weren't asking you how did this ever happen?---I don't think so, no.

They were there to help?---Yes, and they did.

Can you just describe to the best of your recollection, the conversation you had with them, in the few moments you spoke to them, before they went back out in front of the police station?---I – I couldn't describe it word for word. It was just something along the lines of Derek said, "Don't worry, just lock yourselves in and we'll go out and try and – try and calm the crowd."

And did he take a firearm?---No he hasn't got access to firearms.

And so you despatched both Warren and Derek out the front door, to the front of the police station, that's right?---That's what Derek was – yes, that's what Derek was happy to do.

And did you make any arrangements for communication with him before he went out?---I think we said we'll text and call each other. And feed – feed information back.

Now, over the next few hours, Officer Hand recorded the events as they unfolded, in the running sheet?---Yes.

And is it the case that the only evidence of unrest that you were aware of where two things. The first was, the throwing of rocks that were landing on the roof?---Sorry?

Am I interfering with the system here?

THE CORONER: No, I just think she wasn't – you said two things, and you mentioned one. I think she thought you might (inaudible) second one - - -

MR MULLINS: Sorry?---Yes.

Two things. I'll deal with the first, first. So the first one is, the throwing of rocks that were landing on the roof?---Yes.

That's the first objective piece of evidence you have that there was some unrest, that's right?---Yes – no, actually that's – sorry, there – we did get a phone call from Steve from the school. And he said there's (inaudible) – I can't think of the words, words to the effect, there's a 100 very angry (inaudible) walking your way. I think it was Steve.

Okay. So well that – that was going to be my second. Was that you were aware that people were angry, that's right?---Yes.

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

Now, is it the case that after you received that first phone call, at about 7.30 pm, you actually never left the station until the very end of the exercise?---I think I went outside on a couple of occasions.

Into the compound?---I believe so, yes. Yep.

Well you - - - ?---And I had - - -

- - - sorry, go on?---Sorry, I had contact with Constable Alefaio who was – he was watching out the front as well.

So you never left though the station, or the compound of the station, over those hours?---No.

So your experience of the anger that you described, was what you observed, through the glass?---I didn't see – I didn't see it. We couldn't see anything. It was – we had – we'd put paper up, and we'd put the curtains down, in case there was a rock that was thrown through the window.

So in terms of the anger, all you could rely upon was what you heard?---Yes.

And you - - - ?---Objective, yep.

- - - so you heard what appeared to be angry words from people?---Yes.

And then the rocks on the roof?---Yes.

Now, there is a lot of glass at the front of the station, that's right?---Yes, correct – yeah, that's correct.

And there wasn't a single window smashed?---I'm actually not sure.

Well to your knowledge, there was not a single window smashed?---Not that I know of, I don't know. I left the community on Sunday. We didn't – I didn't – I went out the back when I knocked off in the early hours of the morning. And I never went out the front, so I don't know.

You mentioned that Constable Alefaio was doing the rounds of the perimeter of the compound?---Yes he was.

And he gave evidence yesterday. And he said that it wasn't hard to breach the compound in some spots?---That – that's correct, yes.

And his evidence was that nobody even tried to breach the compound?---I don't know about that.

Well, can I ask you the converse question, did you have any knowledge of any person ever, during the course of those five or so hours, trying to breach the compound?---No.

Now, you were asked about some texts that you were exchanging with Derek. Do you remember being asked some questions about that?---Yes, I do, yes.

I'm going to take you to those texts.

If that's possible, please, Bec, it's exhibit 7-36 and the annexure is JF4. That's all right, we'll move onto something else while we're just getting that up.

Have you ever seen the videos that were taken by Samara Fernandez-Brown at various points across the course of the evening?---No, I haven't.

So, that was evidence that was tendered during the course of this inquest. You haven't watched that at all?---No, I haven't.

I'm going to suggest to you that, it's a question of judgment, of course, for the court, but I'm going to suggest to you that those videos show calm, relative calm at the front of the police station.

MR FRECKELTON: Well, I object to that comment. How can this witness possibly comment on a video she hasn't seen.

MR MULLINS: I wasn't to put the proposition to her, your Honour, that the – did any of her experience across the night – or does any of her experience across the night, is it consistent with there being calm from time to time? So, I'll put it that way.

Is it your experience, or was it your experience, across the evening that there was period of calm?---There was a period and I don't – I couldn't – I would hate to put a time on it, but where things had started to settle.

And was that about the time that the aeroplane was going to land?---I couldn't tell you. It was – no, I couldn't tell you.

MR MULLINS: All right.

How did we do with that exhibit?

Now, can you see that, Sergeant Frost?---Yes.

And we can see that the first text from you to Derek is, "Hey Derek, getting IRT out here tonight. Can you give me a quick buzz at some stage before or after the funeral - - -?---Yes.

- - - so I can put a plan in action." All right, so that's obviously in the afternoon. And Saturday, 8:21 pm, are you okay. I need to talk to you, if free." He says, "Use the back gate near Leilani house." That's obviously after the shooting. Is that right?---Yes, that's right.

And were you organising a personal meeting with him?---I can't remember. I think with reference to using the back gate near Leilani's house – no, look I can't remember.

There's then a text from him, "Text me. They might see me talking." And then from you, "Nobbsy(?) has given you a direction to leave. Are you going? We are about five minutes from leaving out the back. Can you come?" He responds, "No, I'm all right with my family." You say, "Okay, take care and get the duck out of there, if need. We will leave in five." Then at 10:11, there's a text from you, "Call me urgent." Can you see that?---Yes.

And then he says in response, "Just let me know by text, because I'm talking with the people out the front." And you say, "How will gathering Elders go for a conversation to quell the crowd. If they find out about this, is there going to be trouble once they find out?" Now, do I understand your evidence to be that you understand that at that point in time or that your assumption was, at that point in time, that you believed that Derek knew that Kumanjaya had passed?---I suspected he may have known, because he had come in when Kumanjaya had CPR being performed on him.

Well, how is it do you know, or how was it that he could have known that Kumanjaya had passed away if you hadn't told him?---Like I said, I suspected that he may have realised that he'd passed away.

Well, then he responds, "Yeah, they will be troubled, but people just want to find out. Elders will help with the sorting out families." And then you say, "Will the Elders be able to help? If they find out, are we in danger at all?" Next, "Will the Elders be able to help? If they find out, are we in danger at all?" Response, "Yeah, all be in danger, and Elders will sort it from there." And then a series of questions relating to evacuation. Now, do you recollect having a conversation with Superintendent Nobbs at about 10:10 pm that night?---I had a number of conversations with Superintendent Nobbs. We were back and forward on the phone quite a bit.

In the statement of Superintendent Nobbs, he makes this statement.

And we might pull this up, I apologise. It's 7-101.

THE CORONER: The actual statement?

MR MULLINS: It's the statement, it's 7-101 and it's the statement of – a recorded statement of 29 November 2019. So, just the written transcript, I apologise. Page 35, please. And if we can just scroll down to page 36, about a third of the way down the page. Thank you. Can you see there, it says "Approximately 10:11 pm, a teleconference again with Darwin IRT. I provided IRT with the situation report, specifically that the deceased remained in the station, our recourses, namely three Yuendumu IRT and dog remained in the station. Relieve engage is ongoing. Seven in transit in the air, likely to be on the ground in five to 20 minutes for landing. Comm plan communicated for the transfer, transfer from airstrip to station, tasked to Frost and Williams to establish engagement structure with the cohort of Elders. Accepted that this may be difficult, as the main Elder being Eddy Robertson, is Walker's grandfather." Now, did you mention before that you were unaware that there were any relatives out the front of the police station? Correct me if I'm wrong there, but that was just the note that I made?---I didn't know of any family members specifically and I don't think – I don't even know when I knew Eddy was there, other than when he first rang. One thing, Derek didn't communicate as to who was out there and I couldn't see anyone out there, because I didn't look.

Was there any other person communicating with Superintendent Nobbs, to your knowledge?---No, not that I know of, no.

So, any information that Commissioner Nobbs was getting in respect of what was happening at the Yuendumu Police Station was coming from you?---Yes.

If we continue on then, in the same paragraph, "Concern continues to be expressed by Frost in relation to personal safety and probable breach of the station. Between 20 to 200 have approached the station, with numbers and aggression fluctuating. At this stage, no overt acts of violence, other than rocks being thrown at the police station roof. From Julie's assessment, calm, predicated on community belief, that aircraft is coming into the community for the purpose of treating Walker." Is that what you told - - - ?---I don't recall that, no. I don't recall.

"Rolfe to be conveyed to the airstrip for conveyance, plan remain the same still in development, injured person Rolfe treated and superficial. TRG deployment arrival in Yuendumu ETA 12.30 am. Crime deployed to Yuendumu in plain clothes with approach – appropriate accoutrement. Media have already noted incident, with significant negative – negative social media ongoing. Williams still not aware of Walker, that Walker is deceased." Did you tell Commissioner Nobbs that at around 10 pm, on 19 November - - - ?---Superintendent – Superintendent Nobbs. I – I don't know. I don't recall. I only suspected that Derek may have known, but the direction was is that we weren't going to tell him.

Well that would certainly be inconsistent with your assumption, that you told the court about today, wouldn't it? That when you sent that text, at or about the same time, that you assumed that he knew?---Sorry I don't understand.

As I understand your evidence is that – your evidence is that when you sent that text at about 10.10 pm, you assumed that Derek Williams knew that Kumanjaya Walker had passed?---Like I said, it – I – it was – I suspected that he may have assumed, but didn't know.

So you suspected that he might have known, but you didn't know?---Well I assumed that he may have known, but I – I – I wasn't sure at all whether he did know.

All right - - - ?---I certainly never – I certainly never told him, because the direction was is that we wouldn't tell him.

All right.

Now, while we have that document open. Can I just ask to go back to page 30.

And, at the very bottom of page 30, Superintendent Nobbs says at about 9.06 pm, "Contact with Frost, situation" – this is on the next page then, 31, "Situation report was received from Frost and myself" and a couple of lines down, "The following matters were considered by me, that the situation as it relates to Walker was unchanged. The situation as previously mentioned relative to the safety of members was unchanged. There was some further information Williams was still not aware of Walker's passing. Williams remains an expected – respected Elder, and family member of Walker's. Ongoing engagement and dialogue with the community was critical to maintain safety of the community, community members and family. I have the ongoing belief that police are providing some medical attention to Walker, and any entry of the station or violence towards police will comprise this." Now is it the case that you had that discussion with Superintendent Nobbs, that you understood that family members and the community believed that Kumanjaya Walker was continuing to get medical attention?---Yes.

And of course, one doesn't give a person who has passed away medical attention does one?---No.

No, and so by 9.06 pm, Kumanjaya had been – had passed for more than approximately 30 minutes, is that right?---I – I couldn't remember what time he's passed away. I know it's come up, but I can't remember what time that was.

And so you knew, at that point in time, that the community were under a mistaken belief that Kumanjaya was still alive?---Yes.

Your Honour, I have about 15 more minutes - - -

THE CORONER: Keep going, Mr Mullins, yes.

MR MULLINS: Keep going, all right.

THE CORONER: Yes. We can sit until 4.30 if that's suitable to everybody.

MR MULLINS: Now the direction that you received, ultimately - - -

THE CORONER: Would you like that document taken down?

MR MULLINS: Thank you.

Take that document down now, thank you.

The direction that you ultimately received from your superiors, that neither the community, nor Derek Williams should be told about the passing of Kumanjayi was at or about 10 pm, in or around that region, is that right?---Well if that's what Superintendent Nobbs has written, that would be correct, yes.

So there was certainly an hour or so, between 8.30 and 9.30 – 10, where you were making that decision?---I don't remember. I don't recall actually.

Do you remember, in that time zone, at the time immediately before Kumanjayi had passed away, and soon after, whether there was some person giving you a direction that you weren't to tell the family, and you weren't to tell the community?---I don't know if Superintendent Nobbs and I had discussed that within that time of Kumanjayi passing, and then the 10 o'clock (inaudible).

You mentioned in your evidence that you did not know of any other members of his family were outside. And did you give consideration to investigating the possibility of inviting two or three members of the family inside, so they can be with him, before he passed?---No, like I said before, we had to make the decision not to allow anyone in, because of was security issues.

Did you give any consideration to inviting Derek and Warren, and possibly another member – there was another senior Elder present, who has since passed away, did you give consideration to inviting them inside to have a discussion about the situation?---No we didn't. No I didn't.

I read you a passage before from your interaction with Superintendent Nobbs, where there was a direction given to you, to investigate the possibility of having a cohort of Elders come into the police station?---Sorry, what was the question?

I showed you a passage from Superintendent Nobbs statement, where there was a suggestion that you either try to get a cohort of Elders together, in order to have a discussion with them – with Derek Williams. Did you do that?---Is that what the text was that I sent?

I'm not sure what you're referring to there, but - - - ?---The text where I said – I referred to the Elders.

Well I think what you say is "What would the Elders" – or – I'll withdraw that and go back a step. Are you saying that that was your attempt to get some feedback from the Elders?---I can't recall. It really is very difficult to – without seeing a timeline of

everything together, it's very difficult to remember, given the critical incident, the nature of it. It is very difficult now, three years later, to recall a lot of that detail. I didn't even - even recall a lot of the detail after, when I gave like a (inaudible) - sorry, my first statement. It was like I said, it was quite a blur.

Did you understand that the - I asked you this question before, but just to take you back there, that the arrival of the aeroplane was a factor that was keeping people calm, because they thought, that is the community thought, and your understanding was, that they thought, that Kumanjayi was going to be taken out on the aeroplane?---I'm not sure.

When you say "I'm not sure", are you - so you have no recollection of that, or you just don't remember that occurring?---No I don't - I don't remember that.

Did you understand, or believe, that the community thought that Kumanjayi was going to be transported away by an aeroplane?---I don't recall thinking that, I'm not sure.

If that was the case, the community were going to be misled, weren't they?---Like I said in my evidence with Dr Dwyer, there was a level of having to mislead the community and that was based on security issues and (inaudible) the security of Constable Rolfe and my members and the community and getting the members off the plane and safely back into the Yuendumu compound.

Do you understand how devastated some members of the community were in discovering that they had been misled?---Absolutely.

After the flight left with Constable Rolfe aboard the flight, is it the case that apart from the - when the vehicles returned, there were some rocks thrown at those vehicles, but beyond that, the crowd then dissipated?---I don't know. I wasn't there.

When you reflect on what occurred on that night, it's the case, as you said, that Derek and Warren did exactly what they said they would do?---Yes.

And they did so with the help of other members of the community?---I'm not sure.

They kept the community calm for a long period of time?---Well, they certainly calmed the crowd down after a long period of time.

Well, they calmed the crowd down right from the beginning, didn't they?---No.

So, you suggest that the crowd was an angry mob, what, for how many hours?---I couldn't tell you, but certainly there was a lot of anger and rocks being thrown when Derek and Warren were out there.

And as counsel assisting questioned you and suggested to you that the family, and the Brown family, were upset about two matters. First, that they were lied to and misled; and secondly, that Kumanjayi was left to die alone in the police station

without the presence of his family. Do you understand that?---Yes.

Derek Williams had been an ACPO for almost 13 years when this happened?---I'm not sure.

Okay?---He'd been – he's a senior ACPO. He's been an ACPO for a long time.

And his service had been exemplary?---Yes.

And you agree that he has good reason to feel that he was betrayed by you and other colleagues?---Of course.

Because you didn't tell him the truth about what happened?---No, as a direction from Superintendent Nobbs and based on the safety fears, no.

And he put his own safety at risk for you and for others. That's right?---Yes.

And he was lied to as a response to that. That's right?---Yes.

And you knew that he was an uncle of Kumanjayi Walker?---Yes, I did.

And so, he was not only an ACPO; he was also family?---Yes.

I understand that it was not solely your choice as to whether he was informed, but do you regret not informing Derek and the community about the true position?--- Completely. However, you know, once we inform Derek, Derek has then got the obligation of informing his family members, and that was why we made that decision.

Well, Derek was the line of communication between what was going on in the police station and the community, wasn't he?---Yes, he was.

And when you cut off that source of communication, you cut off the source of communication to the community, didn't you?---Yes.

Do you regret not allowing the family – or at least some family members to be with Kumanjayi before he passed?---I'm not sure whether I would say that "regret" was the right word. I was devastated for the family that we couldn't allow that, but we did that for a specific reason and that was safety. Regret, I'm not sure if that's quite the correct word I would use.

How many police officers were in the station immediately before Kumanjayi passed, soon after 8:30?---Seven, I think.

And you had an armoury of guns?---Yes.

Why couldn't you allow two or three members of the family to come into the station and stay at the station with the body and with him as he was passing?---Because there was a safety concern, even with the family, of being in the police station.

Do you think that the community would have attacked the station, if Derek and Warren were inside the station?---Yes.

Did you give any consideration – sorry, I withdraw that. Why is it you think the station would have been attacked if the two of them were inside?---If the two of them were inside, sorry?

Inside the station, yes?---Sorry, is that – was that your previous question?

Well, I asked the question, do you think the station would have been overrun by the community if Derek and Warren were inside, and you said, “Yes”?---Sorry, I misinterpreted you to mean outside the front. I don’t know. I don’t know.

Did you give any consideration to doing that?---Bringing Derek and Warren inside?

Correct?---No.

Why not?---Because they were doing a brilliant job out the front quelling the crowds.

Did you give any consideration to bringing any other persons inside?---No.

Nothing further. Thank you, your Honour.

THE CORONER: Thank you.

MR BOE: Your Honour, just as a matter, just quickly before the witness goes, would I be able to provide to counsel assisting tomorrow a list of other documents that the witness may need to look at, so we don’t have the difficulty from today. I’ll do it as quickly as possible. So, I noticed that the witness said that she couldn’t recall that context. I’m just making sure that she - - -

THE CORONER: Sure. That will be absolutely fine - - -

MR BOE: Thank you, your Honour.

THE CORONER: - - - Mr Boe. They will try and make sure they can isolate those documents, so it makes it a bit quicker to find them in the brief.

MR BOE: Thank you.

MR FRECKELTON: Your Honour, just for clarifying purposes, I wonder if you could provide the bar table with broad perimeters of what you regard as appropriate for duration of questioning.

THE CORONER: Well, the witness is available for Friday and Friday only. So, I would ask that counsel communicate with each other to ensure that all the further questions can be completed within the time that is provided.

MR FRECKELTON: Thank you, your Honour.

THE CORONER: And then, perhaps you could communicate with counsel assisting, how you propose to use that time.

MR FRECKELTON: Thank you.

DR DWYER: We have a meeting, just to remind everybody now, about the timetable to see – and perhaps we could discuss it during that time.

THE CORONER: Look, thank you very much. It has been a long day. We won't be sitting tomorrow, of course, but we will see you again on Friday at 9:30 am?---Yes, thank you, your Honour, thank you.

WITNESS WITHDREW

THE CORONER: We can adjourn.

ADJOURNED