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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 27 SEPTEMBER 2022

(Continued from 26/09/2022)

Transcribed by:
EPIQ

THE CORONER: Dr Dwyer.

DR DWYER: Thank you, your Honour. Your Honour, I call Superintendent Jody Nobbs.

JODY NOBBS, affirmed:

THE CORONER: Thank you.

DR DWYER: Sir, could you please tell the court your full name and your current rank and where you're stationed?---Superintendent Jody Nobbs, currently stationed – so, attached to the Northern Division, Nhulunbuy Police Station.

Northern Division at Nhulunbuy, did you say?---Correct, yes.

You have prepared a number of statements and interviews that are relevant to her Honour's inquest. The first is, I think, the interview you did on 29 November 2019. Is that right?---Yes.

Your Honour, that's found in the brief of evidence.

And then there is a statement on 4 December 2019, is that correct, that you did, Superintendent; 4 December 2019?---Yes, correct.

And there's a number of attachments to those documents.

Your Honour, the interview is at 7-101.

THE CORONER: Yes.

DR DWYER: Superintendent, have you had an opportunity to read through those recently?---Yes, I have.

You also gave evidence at the trial in relation to the charges brought against Constable Rolfe. Is that right?---Correct, yes.

And have you read through the transcript of evidence that you gave at that trial?---No, I haven't.

If needed, I'm going to take you to those documents.

But your Honour, I am going to try to stick within a timeframe. There is at least two and a half hours, I think, that my learned friends will need to examine Superintendent Nobbs.

THE CORONER: Yes.

DR DWYER: And I note that much of the relevant evidence is set out in great detail

in statements and transcript elsewhere.

THE CORONER: Thank you.

DR DWYER: Superintendent, can I take you first to your history of policing in the Northern Territory? When did you join the force?---1998.

And how old were you when you joined?---21 or 22. 22, I think, a long time ago.

Where were you first posted as a police officer?---Alice Springs.

You have, I think, spent about 25 years in policing in Central Australia since that time. Is that right?---So, of my 24-25, years, 18 years in Central Australia and six in Darwin and one in Nhulunbuy.

Six in Darwin and one in Nhulunbuy?---Well, almost one in Nhulunbuy, correct.

Okay. So, you've got a wealth of experience to draw on. Can I ask you some questions that go to the history of policing over that period of time?---Certainly.

You did your initial training in Darwin. Is that right?---Correct, yes.

And do you recall during that training – I'll withdraw that. Where had you come from before joining the police force?---Western Sydney.

And what made you join the police force in the Northern Territory?---General passion to be a police officer in terms of my - my young history, family shoes, so around wanting to support my community. I generally wanted to join the NSW Police Service but I couldn't get in at that point in time so I was interested in trying any location as a bit of an adventure to get the requisite sort of qualifications to go back to NSW but fell in love with the Northern Territory and I'm now here 25 years later.

Had you had any experience or relationships with Aboriginal people before you came to the Territory?---Very limited.

Do you recall during the time of your training as a very young officer, learning about cross-cultural issues, communication with Aboriginal people?---Yes, certainly.

What did that involve?---So there were some elements within our college training around cultural awareness, we had presentations from cross-cultural awareness advocate agencies, we done some work at Bagot Community, a multitude of our various lessons around policy had intricate cross-cultural elements associated with them, such as, you know, Anunga guidelines within our interviewing frameworks and things such as that, so there was, I guess, a broad cross-cultural theme that permeated through most of our policy sort of lessons.

For the transcript that is the Anunga Guidelines, - A-N-U-N-G-A Guidelines?
---Correct.

Did that relate to how you interview people from different cultural backgrounds?
---Correct. That's just one example, I guess, of it.

And we know that cross-cultural training has developed over the course of the time that you have been in the police force. You also do some important learning on the job, of course, is that right?---That's where most of my learnings occur.

Can you tell her Honour what your experience has been working in remote communities in Central Australia?---Yes, certainly. So my history as I've indicated, 18 years in Central Australia, the last proportion of my career has been operational policing. I've had the pleasure in my mind, to have worked in - lived in most communities within Central Australia. My passion is for bush policing, so I typically gravitate towards remote policing. I lived in Harts Range in the early 2000s for three years, worked in Papunya, Hermannsburg, Ali Curung, Ti Tree, Harts Range, Hermannsburg - I might be repeating some of these now - but a number of locations over the years and it's been a pleasure to have lived in those locations.

Why do you say that?---It's just a different pace. It's - I've truly, like most people, I believe, have joined the job to make a difference within my community. I feel the cut and thrust of policing within an urban environment doesn't tend towards an opportunity to truly engage and truly become part of a community and play basketball which is - I'm not very good at but it's a passion of mine with community members, so it's - they're the sort of opportunities that present in remote policing and that's, I guess, why I love remote policing and gravitate towards that so it's truly being a part of your community.

In the number of communities that you listed, Yuendumu wasn't one of them, is that right?---Correct.

What is the closest you got to Yuendumu?---So I've worked at Papunya, I've worked at Hermannsburg and I've worked in Kintore as sort of that broad western Tanami type region.

Just remind us how far away Papunya is for example?---As the crow flies, 120 kilometres.

And across Papunya, Hermannsburg and Kintore, I'm right that there's many family relationships that relate to Yuendumu?---Correct.

And many Warlpiri people that you interact with?---Correct.

When you were a police officer in the remote communities, what ranks did you hold?
---So constable, senior constable, I've never been a substantive sergeant with any of these locations, so constable, senior constable and acting sergeant. And then more recently a superintendent in charge of the broader oversight of remote communities.

I will come to that shortly. But in terms of your understanding of resourcing on the ground, you've had an experience of the different levels of policing there including acting as sergeant and therefore trying to get resources in to bolster the community when you are short staffed, correct?---Correct.

When you are acting sergeant who is it that you ask up to if you are running low of resourcing?---So, in the context of the southern desert, so the command structure is your constables report to your sergeants - your sergeants report to your senior sergeant and senior sergeant reports to your superintendent. So the Senior sergeant's role is predominantly around general administration and HR support.

And where is the Senior Sergeant physically located?---In Alice Springs.

Similarly, the superintendent of police that's attached to the Southern Command who sits over the top of them is based in Alice Springs?---Correct.

During your experiences working in remote communities, did you work with ACPO's? ---Yes.

Can you tell her Honour what you believe to be the value of the ACPO?---Their value is immense. They are a substantial conduit between police and the community. They are a fantastic tool as a role modelling opportunity. They are fantastic for cross-cultural awareness, they know their community. They generally hold, you know, a role as a leader within the community as well. They have the same - sorry, not the same powers but they swear an oath also to uphold the law and they have powers that are relative to that as well, so they are an immense benefit within a remote community.

During the time that you were - what is the youngest that you were, working in a remote community?---Twenty-two.

Okay. At that time, in terms of learning about how to communicate effectively with the community, where does it - where do you draw most of your assistance from? ---Well, again, it's generally looking and modelling from those above me, both positive and negatively so you know, I've always had my role models that I've looked at in terms of the way they communicate. Communication is a perennial issue for us. We don't deal with it very well, we don't always do it very well. Some people do it better than others so I guess I try to model my methodologies on those that I see that do it really well and then add my own little flair to it I guess, but yes, so it's basically trial and error and learning.

In communities like Papunya and Kintore, did you develop relationships with Elders to assist you with the communication?---Certainly, yes.

How did you do that?---It's a slow burn. It's never just an inferred or implied that you will have it. It's around mutual respect and mutual accountability. It's having courageous conversations. It's having the ability to step back and go, "Yeah, I've got it wrong" and I guess it's about trust building, so it doesn't happen overnight, it

happens over a period of time but once you establish that, you know, you're well placed going forward but once you abuse that then - then it's gone, so.

With your work in those communities, Papunya, Hermannsburg, Kintore, did you develop a good relationship with the ACPOS that you worked with?---Yes.

Did you maintain those relationships after you left the community?---Yes.

How did you do that?---Look, certainly as it relates to Jabalhari Spencer, he was a man that I had the utmost respect for. Every time he would come to Alice Springs if we bumped into each other we would have, you know, chats and laughs and reflections on certain things and - so yeah, it wasn't just - I've now left the community and you have no purpose for me going forward, it's you can't help but establish respect and friendships and relationships over time, so.

Do you agree that that is critical to you being able to do your job effectively in the community?---Correct.

To have respect and relationships?---If you don't have it you might as well not - not do your job.

And in terms of the role of the sergeant - this is relevant to some questions I want to ask you towards the end of your evidence, but do you - what sort of role did they play in establishing the tone and the culture of a particular station out bush?---Critical. So, you know, that's most impressionable constable model their behaviour on their immediate superior so I guess it's critical for the sergeant to establish the parameters in what is and isn't acceptable in terms of what their expectations are, not only in terms of behaviour but around the manner in which they would want the community policed, so the methodology is inherent with that, whether it's going to be a more community orientated policing model, or a more punitive sort of policing model. So they set the tone and the tenor.

And what about when you're in town, for the sergeants in Alice Springs, how important are they in terms of establishing culture and leadership?---Oh certainly, again, equally as important. But I guess through a different lenses. So they're more around modelling behaviour and establishing what is - is and isn't acceptable within a police station environment.

When young police officers join the force, is it your experience that they're often looking for role models?---Yeah, yeah, agreed. Look I - again, without being overly altruistic, I truly believe that everyone joins the police force for the same reason. And that is, we want to make a difference in our community, and to me, as it's specifically being, although a long time ago, an impressionable constable that's come in, the first thing I've done was looked around and try and to establish the best way that you do business.

It's inevitable isn't it, and I'm not being overly critical, you're often going to get young men and women, who are still developing their own maturity. Who end up as police officers with a lot of power, correct?---Certainly.

And it's critical to have effective leadership for those young people, so that they're shaped in a way that makes them responsible police officers?---Correct.

And the role of sergeant is critical in shaping those young officers, correct?---Certainly. Particularly in the context of the community in which we operate here. Particularly for people such as myself that come from Western Sydney.

Mm mm?---This was such a foreign location for me. The culture within my community. I had no appreciation of those things before I got here. So you're kind of behind the eight ball immediately of coming out of college. Your heads spinning with all this information, theoretic information. And then to have to apply it in this foreign location is sort of really challenging.

When you were a young officer, 22 – 23, and you came to Alice Springs for the first time, you are having to police in challenging environments often, is that right?---Correct, yes.

You're having to deal with vulnerable people in challenging environments - - - ?---Yes.

- - - correct? A number of people that you have to detain are severely intoxicated, is that right?---Yes.

There – police are given the responsibility to pick up intoxicated people and put them in protective custody, correct?---Correct.

And that's often challenging, for police?---Yes.

And you often have to do overnight shifts that are arduous, is that right?---Yes.

Do you recall, as a young officer, yourself, developing some negative attitudes towards the people that you had to arrest?---I think negative attitudes is probably a very simplistic question. And I mean no disrespect by saying that, but - - -

Sure?---I certainly acknowledge and recall acknowledging how pervasive and prodigious the issues that we had within our community were at the time, and remain today. So the things I've seen people do to people they purport to love, have just been sort of mind blowing. So as a young person seeing some of the horrendous things that I've seen, I guess saddened is probably a more appropriate response, rather than negative, or whatever your question was sorry.

Negative attitudes was the question I asked you. And you're right, it's simplistic. And it's – I'm going to suggest to you that it's an important dialogue. So I'm going to

keep going, unless someone stops me. Sergeant – sorry, Superintendent, when you're a young officer, you're dealing with trauma, is that right?---Yes.

Did you receive any training, at any stage in your time in the police, about how you safeguard yourself, as an officer, when you're confronted with that trauma?---Well safeguard, I guess that – that's again fairly new one. So safeguard in terms of the immediate response?

How you protect yourself?---So you know, the – obviously the foundation, the ten safety principles, is your response to the situation. But if you're talking about from a mental health welfare perspective, early in the career, probably not as refined as it presently is. Early in the career, it was more around the social club, or social interactions, or probably some unhealthy practises around liquor consumption and things such as that. So there's been an evolution since those early days in my career, but – so those sorts of things aren't the go to now. It's more around support services, and things such as that. Which I've been a user of, many times, over many years. So – so it's more healthier ways to deal with it.

Do you – are you familiar with the phrase “trauma informed counselling”, or “trauma informed work”?---Yeah, in a broad sense.

Have you had any trauma informed training recently delivered by the Northern Territory Police?---No.

I'll come back to those issues, but during your time as a young officer in Alice Springs, did you hear your superiors use racist terms? I'm talking about overt racism like referring to Aboriginal people as bush coons, or niggers, or meandaphiles?---Look not that I could genuinely recall.

What about amongst the young constables? Do you recall any discussions about that? Barbeques, or anything like that, using those terms?---No, again, not that I could generally recall in such a derogatory fashion. As I've said to you, I guess there is discussions around some of the egregious things that we've seen in terms of trauma, but not in such a derogatory fashion.

Would it – do you agree with me that police are – you're just drawing – you're a micro-puzzle of the community, aren't you?---Correct, yes.

You're going to get people with different personalities and different life experiences?---Yes.

Just remind us of the year again that you joined?---1998 – May of 98.

At that time, do you recall hearing those terms I just used in the general community used in Alice Springs at all?---Yes. It's – I consider Alice Springs, and I've seen it – a community that I'm passionate about, I've seen it sort of deteriorate over the years. It has a relatively intolerant community. So yeah, I've seen and heard that across sections of our community.

But do you say in the police station that you've never heard or seen those – or heard that language?---No, look again, to me, I think if there is that language, that language is generally communicated with the targets that have been picked. I'd like to think that my approach to conduct such as that is well known, and no one would say things such as that to me, because my response would be quite clearly, quite decisive in terms of – in terms of it. So.

I'm going to show you –

Well I ask that you be provided with MFI C.

I'll give you my copy of it. Just have a look at the first page if you will, Superintendent. You see there, the sender of a text message in February 2019 is Constable Rolfe. He's texting a friend that "Alice Springs is the wild west with fuck all rules in the job really." Is that ever been your experience, that you – that you thought that being in Alice Springs, as a young officer, meant that you were somewhere with no rules?---No, your Honour.

You see the – the next text message is Constable Rolfe to another person. And he says "I'm at Borroloola, a random community on the coast because they're rioting. But we came up last time they did this and smashed the whole community, so this time as soon as we arrived, they start behaving." Is it ever – was it ever in your contemplation that a constable, working in the Southern Desert Division, would go into an Aboriginal community, and then – where there was rioting, and then boast about smashing the whole community?---No.

Can you have a look at page two. You see there an exchange between Constable Rolfe, and somebody else who I won't name, where he says that – he suggests he's got a licence to towel up locals?---Yes.

Was it in your contemplation that a constable under your command would boast about having a licence to towel up the locals?---No.

What would you do if you became aware that a constable in your command was boasting about those sorts of things when he had – carried weaponry and had a responsibility for policing the community?---Look, it's – it would be clearly a situation where I would be dealing with the constable in relation to those matters. If I had something, as I have now, in terms of an evidence piece in respect to a particular behaviour, I'm a prescribed member within the *Police Administration Act* and certainly, comments such as these are comments that would have the tendency to bring the organisation into disrepute and erode the confidence the community would have in police. So, accordingly, I would be – I would operate within the *Police Administration Act* to deal with it through the formal disciplinary process. That said, I would still be having conversations to see what underpins this thinking, because I want to have, rather than just in isolation a disciplinary action, I would also want to have a – tried to have an appreciation of how and why we got to the stage that we've got to. Is it something that I could potentially influence more broadly.

Sure. You would want to know, wouldn't you, whether or not their sergeant is aware of the – using that language?---Correct.

And boasting about towelling people?---I would certainly want to have an appreciation of how widespread it is and whether this was a symptom of something more egregious.

And you would want to know, wouldn't you, is it a symptom of some mental health decline or is it a symptom of someone having nasty racist attitudes towards Aboriginal people?---Certainly.

If you have a look, please, at page 3, you will see there, text message from a serving police officer to Constable Rolfe about the duty belt, et cetera. That's the first one. And then, Constable Rolfe texted back about the belt and then in that same exchange, the constable at the top of the page says:

“Heard you had a rough arvo yesterday, grubby fucks”. And Constable Rolfe writes back, “Nah brah, just slightly annoying, ha ha, coons man”.

And you will see if you just scan your eyes down that page, Constable Rolfe also refers to Neanderthals when he's texting somebody. And then, there's an exchange between another serving police officer and Constable Rolfe, where the other serving police officer texts and says:

“Who was the silly bitch?” And Constable Rolfe says, “Fuck knows, some white bitch who thinks she's Aboriginal.” And the other constable says, “Lying in the dirt, pissed, doing a fuckin' good impression”.

I just want to take you to one further exchange, right over the page. A sergeant then, who you will know the name of, but I won't say at the moment, texted Constable Rolfe:

“Cool, as long as we got him, had a run, hey.” And then Constable Rolfe to that sergeant, “Yeah, the bush cops would never have been able to get him, impossible for them”. And then Constable Rolfe to the sergeant, “So, it would good. We went – the bush cops fucked up as usual, but that just meant we had a run instead of getting him cordoned properly. So, it's all good”.

I'll just stop there. By the time you get to that text message, if you had known about that, you realise, don't you, that there is a number of police officers in Alice Springs who have revealed to have those attitudes and to be sharing them with each other. And one of them is a sergeant who is supposed to be exercising discipline over younger officers. And they're using racist terms and that you've got a young officer boasting about towelling up locals and going into the community and smashing it up. What would you do about that if you found out while you were a superintendent of that division?---Yeah, again, I acknowledge that that's a broader issue than – broader than an isolated issue and it's certainly attitudes that I wouldn't want

permeating across what I considered to be a very necessary functional unit. So, I would be certainly dealing, not only with the sergeant, but any of the officers that shared those views in terms of - you know, whether that's through trying to get an appreciation of how and why we've got to the stage that we've got to, assessing whether there's any warfare considerations necessary, but then also reasserting unequivocally that I have no tolerance for those sorts of attitudes and there's disciplinary actions that would need to follow.

And you see down that page, this is July 2019, and the sergeant, who there has a leadership role in relation to Constable Zach writes, this is in the same exchange where he's suggesting that the bush cops fucked up as usual, so they had a run. And the sergeant writes:

“Good job, I'll let Nobbs know the details. I want to do more of this stuff. That's a couple we've got from Nobbs.” And then Constable Rolfe, “Yeah, I'm hell keen. It seems he's getting onboard.” And then the sergeant, “These bush coons aren't used to people going after them.” And then Constable Rolfe, “Yeah, bush cops blow my mind. I'll let you about these dudes when I see you.” And then Constable Rolfe to his sergeant, “We could just cut a few people and rejig the team. Nobbs should be loving us at the moment.”

What do you think about that, Superintendent?---Look, it's certainly disappointing, incredibly disappointing. I'm – and I've expressed it a number of times before, I'm a strong supporter of the IRT concept as a national best practice model and I have advocated quite strongly for the IRT in the past and continue to advocate for an IRT concept going forward. So, it's really sort of derailed any sort of reasonable and clinical and considered conversations that anyone would have in relation to IRT concept. So, I find it extremely disappointing and quite frustrating.

And the idea that there – they're boasting about smashing up a community, that's the exact opposite, isn't it, to what you want from a disciplined IRT team who you might need to call on in difficult circumstances. Do you agree?---Yeah, it certainly is. It certainly, in terms of a deployment, sometimes a deployment requires swift and decisive action, but certainly, the notion that we go into a community and smash it up is just counterintuitive of what we're trying to achieve.

And can I suggest to your Superintendent, it's the exact opposite of what you just said is important in terms of you building relationships in communities and developing trust between communities and police. Correct?---Correct.

Now that those text messages have been flushed out, you're aware, aren't you, that it's caused some pain and reflection amongst members of the police force, correct?---Yes, I am.

I think, in an editorial piece in the NT Independent, one former member was complaining that the last bastion of comradery is now being destroyed because police officers can't feel free to talk to each other in that language, what do you think about that?---Look, there is no justification of anyone speaking to anyone in such

vulgar language. But yeah, I don't think that's the case, but it's certainly disappointing that that's – I won't say the prevailing attitude, but it's certainly an attitude of some.

You had no idea, of course, that those text exchanges were being sent?---No.

Do you think that there's, in some respects although it might be painful, it's actually healthy to flush that stuff out and become aware of it, so that you can deal with it?---Yes, certainly, I agree. It's – we're an agency that is constantly trying to grow and develop and sometimes it takes for us to – or someone potentially to check our blind-spot and tell us that we're not quite up to the par as it relates to certain matters. And it's that robust and considered conversation that brings about meaningful reform because ultimately, we do as I indicated before, want to operate within our community to make a difference in our community. So, I'm open to constructive criticism.

In terms of the evidence you gave earlier, you said you don't think anybody would be comfortable to use that language in front of you because they know that you wouldn't approve of it and you would deal with it. Knowing it now, what do you think the way forward is in terms of educating the police and building back morale?---Well, I think the way forward is a continuation of the journey that we're on. We're the highest representative police service in terms of Aboriginal and Torres Strait Islander representation within the police service across Australia by far. So, that's a starting point. We're a much more multicultural police service today, representative of the community in which we operate. So, they're the sorts of things that really sort of move the needle in my mind. We're more geared towards building frameworks and processes that align with community policing methodologies and local decision-making and frameworks and integration across community activities. So, they're the sorts of things, I guess, that inherent within that in building trust and building respect and building relationships and then forming relationships on a human level, that's I think, where we need to go and it's a continuation of that journey.

Superintendent, I am making you twist your head around and I don't mean to, so feel free to just move perhaps - - -?---Sorry, your Honour.

THE CORONER: No, that's fine, just be comfortable.

DR DWYER: Superintendent, with the development of that framework, do you agree that it's important to ensure that wherever possible, Aboriginal people are promoted within the force to the most senior positions?---Certainly, yes.

At the moment I think the most senior - if I remember the evidence correctly from Assistant Commissioner Wurst, the most senior Aboriginal ranking officer is a sergeant. Ideally you would want to see commissioned officers going forward wherever possible do you agree?---Yes, certainly.

I am going to come back to your position as superintendent of police attached to the Southern Command, Southern Desert Division, which is a position that you held in November 2019, is that correct?---Yes.

At that time you were responsible for 11 remote police stations. We have an organisational chart, I don't know if Bec has it handy there, it's at 19-57. And that can come onto the screen. And it will demonstrate, Superintendent, the enormity of the role that you would perform when you're a superintendent but you were also in that position in July of 2019, is that correct?---Yes, your Honour.

Yes, you held it for two and-a-half years?---Correct. It started from 2018 through until late '20.

Have you gone back to reflect on what was happening in July 2019 at the time of these text messages?---I'd have to refer to my notes. I know I had a number of IRT deployments from - so the most notable was my deployment in August of '18 to the Ali Curung riots, I had deployments to Barrow Creek in April, I had deployments to a number of locations consecutively across the months - middle of the year in '19.

Did they involve use of force?---They involved - no. They certainly involved the deployment of IRT and in most cases so if I deploy IRT I generally deploy IRT, dog and drone concurrently, so each of the deployments have generally me articulating what my commander's intent is to Sergeant Bauwens in most cases. They generally had a mission in mind and each of those occasions, as communicated back to me, that the objective was achieved without injury or incident, so nothing in terms of it being reported to me in terms of force or certainly not any excessive force being applied in most cases.

The 9 July texts appear to suggest that there was a use of force possibly?---Can I have a very quick moment just to refer to my notes and just to reference to- - -

It's page 1 - sorry it's also page 1?---Your Honour, I don't recall a deployment in July. I did have an incident at Harts Range that I required a surge response to but I don't recall that being IRT, so I don't recall any IRT deployments in July that I had an involvement with - not saying that that wasn't the case but not that I can recall.

Superintendent, what about March 2019 is the - I am referring to the Borroloola text, "I'm out at Borroloola, they're rioting. We came up last time they did this and smashed up the community"?---So IRT sit within Alice Springs as a support capability, so they are under the Alice Springs superintendent in terms of they're in charge of the IRT and they're ultimately their deployment . Borroloola doesn't sit within the Southern Desert Division so as an end user of IRT, I would utilise them and call upon their assistance within the southern desert. Equally, the superintendent of Barkly or any other superintendent would call upon them to operate within their area of responsibility, so if there was a Borroloola deployment that, in my mind I am not aware of but it would have been co-ordinated by the Barkly Superintendent at their request.

Can you have a look at that Org chart if you can see it okay? I know it's a bit fuzzy. You will see yourself there on the left-hand side as we look at that chart. It starts with Assistant Commissioner Travis Wurst and then underneath is the Southern Command or the Commander of Southern, Brad Currie and then off to the left there is the superintendent Southern Division and yourself, Superintendent Nobbs. Underneath you is Senior Sergeant Michael Potts and then each of the stations are listed, Willowra, Papunya, Yuendumu, Alice Springs General Duties"?---Yes, noted.

I am trying see this - the number of senior sergeants under your command at that time, is it just one?---Yes, correct.

And how many sergeants were under your command?---So I had 11 police stations and six police posts across my 400,000 square kilometres, which was my area of operation, so the 11 police stations I had two substantive sergeants, which was Yuendumu and Yulara and the other nine police stations were remote sergeants, so they were senior constables or constables that receive a special designation when they are operating within that police station, but once they leave that police station they revert back to their nominal constable rank, So nine remote sergeants, two substantive sergeants and six police posts that I had obligations for but that didn't have a substantive workforce within those.

You see in Alice Springs there were three sergeants there, correct?---No, Alice Springs have many more sergeants than that.

I see?---This is, I guess, just a sort of indicative of the sort of broad structure but Alice Springs have, you know, five different patrol groups, so there's five sergeants attached to that and each of the watchhouses have their own sergeant so there's about 20 - 20 plus sergeants within Alice Springs.

That can come down now. In our role then as superintendent, were you regularly meeting with your sergeants?---Yes.

In what forum?---So, formally we would have our - what we would call our "tasking coordination group" meeting weekly so that would set the tempo for the week ahead, that would reflect on the week ahead, that would reflect on the week that has just passed, that would look at both operational and strategic priorities, it would look at gaps, risk concerns or issues that the sergeants have. It would have some sort of broad assessment of some administrative matters. So that was sort of the predominant framework. Then we'd have sort of other frameworks which might be - yeah, your work health and safety meetings that met quarterly, risk meetings that would meet periodically and then outside of that I consider myself a relatively approachable individual so I had an open door policy and a capacity for anyone to call me at any time, not attempting to subvert the command structure but to, I guess, compliment that and bring about outcomes I guess.

In terms of - so you said that there was a weekly meeting of task and coordination as a group meeting, weekly?---Yes.

And all the sergeants would attend that?---Yes.

Including the sergeant who was the head of the IRT, is that right?---No.

I see?---No, the IRT is a sort of unique beast insofar as it is just a cadre of police members that are attached to Alice Springs General Duties, that have - went through some sort of recruitment process, received advanced training but then form up on an as needs basis at the request of the end user which is, you know, me, if I required something within my area of operation.

But was the sergeant who is the head of the IRT also a substantive sergeant in the station?---Yes.

So would he happen to be at those meetings in any event?---he would have his own TCG process within their division, so my division TCG process was limited to my division.

So, your weekly meetings were limited to your divisional sergeant's - - -?---To my 11 police stations, yes.

And how many other – I'll withdraw that. So, the sergeant who was head of the IRT in 2019, what weekly meetings would he be going to, somebody else's TCG meeting, correct?---Correct. You know, I'm not sure. That's a matter for the superintendent for the Alice Springs operational service division, but I would suggest there was a multitude of meetings that he would participate in within that broader portfolio.

Who was that superintendent in 2019?---Pauline Vickery.

We will have the opportunity to ask Ms Vickery when she comes to give evidence, but do I take it from your earlier meetings of that – your earlier evidence, at those weekly meetings in terms of the sergeants under your command, you never heard any racist language expressed?---Certainly not, no.

And you never heard any negative – I'll withdraw that. You never heard any expressions about smashing up communities or wanting to use excessive force. Is that right?---No.

In relation to your work in 2019, you were responsible for the 11 remote police stations and Yuendumu was one of them. Correct?---Yes, correct.

How often did you visit Yuendumu in that time?---The first year, not as much as I would like. So, in charge of 11 police stations plus your general business continuity, it's – it makes it really difficult to get to them. So, maybe a couple of times in 2018, but from Christmas – sorry, New Year, '19 through to March, we had a fairly substantial spike in property crime within Yuendumu. We got to the stage where it was a week on week substantial increase in property crime instances. I then went out in the start of March to try to establish some framework to address and arrest the

spiralling reports. I formed up a community safety – so Yuendumu Community Safety Committee framework in March and then from there, I went out there fortnightly to try to drive the both operational and sort of strategic response to some of those property matters which weren't limited to property. I guess there was some nuance within that as well. So, you know, social disorder and family issues. So, that was a focus broadly within that framework.

So, you identified as the superintendent that there were some particular issues for Yuendumu in terms of property crime. Is that right?---Yeah, there was always issues in Yuendumu for property crime. It was always over-represented across my crime data, but it became increasingly problematic over that summer period, post-Christmas/New Year that meant that we couldn't just doing what we were doing, we needed to do something decisive. And I went out there for a week in March to hopefully set the framework going forward and then I would go out there fortnightly thereafter.

Could you just remind, Superintendent, what was the name of that meeting framework that you developed?---It was the Yuendumu Community Safety Committee framework.

And had you developed that sort of framework in other communities, or is this the first time?---No, look, there was nothing, I guess, unique about the framework. It just sought to leverage community integration and interoperability and more connectedness and communication. So, it wasn't dissimilar to the community safety action plan framework that was already in existence, but the distinction, I guess in this case, is that it had a superintendent locally driving the objectives within the framework.

You were chairing that meeting. Is that right?---Correct, yes.

Who attended?---So, I guess as I went out there for that first week, I guess I had four factors to consider. So, I went out a search workforce which was about high visibility patrolling to try to address the issues to bring about some circuit breaker to break the issue. There were some broad-based community engagements. So, a multitude of community meetings that I participated in, including some media meetings, discreet conversations with clan groups and Elders, broader conversations with some stakeholders around some target hardening strategies, so somebody you've got repeat victim locations. And then from there, it was about building the integrated interagency sort of framework. So, to answer your question, it was your agencies that had some, you know, similarity to family safety frameworks, some statutory obligations. But then you also had your sort of periphery agencies as well, such as, you know, your WYDACs, your Southern Tanami Kurdiji, your Centrelink. So, it was a more sort of comprehensive group. But it also had some Elders within that as well, such as Mr Eddy Robertson and people such as that.

And you regarded Eddy Robertson – I withdraw that. You still regard Eddy Robertson as an important and well-respected Elder. Is that right?---Yeah, he is a man that I have the utmost respect for and it's being a privilege to have many

conversations with him over the time and have learnt a lot from him. So, he was pro – sorry, he is pro-police and you know, had a sort of pragmatic attitude towards things. So, yes.

Were there other prominent Elders who would attend those meetings?---Mr Williams comes to them, but by and large, not really well attended within the community space.

Do you know why that is, when you're trying to get buy in from the local community?---Look, I guess that's a really difficult one to answer. It's something that I've sort of grappled with for many years in many locations, not just Yuendumu. Every framework that we build is built around the importance of local decision-making in community buy in, because that's where the answers are. My – if I had to provide an answer, my answer would be that there is an over-proliferation of these frameworks within communities and to me, that makes it really problematic. Community members' time is equally as important as mine. They're not remunerated to go to these meetings. There is one meeting in Yuendumu that's – and it's not just Yuendumu, but it's across the broader area, it's the local authority meeting. That's relatively well attended by community members. They are remunerated to participate in that. But the other meetings, you know, I could count four, five, six meetings within Yuendumu that replicate the same intention and yeah, it's – and all of them, notwithstanding their sort of importance and recognition of the importance of local decision-makers within the framework, all of them struggle with the same basis that they have no community buy in.

That's an interesting reflection that you agree that the time and skill level is – should be rewarded. If you're asking Aboriginal people to come and do such an important role?---Agreed.

It sounds from the evidence you've previously given that you absolutely accept that local – that decision-making should be local and that Aboriginal people should be empowered to make decisions about their own communities. Correct?---100 percent.

You're familiar with the Aboriginal Justice Agreement. Is that right?---Yes, I had the pleasure of working with Leanne Liddle over the last 10 years, albeit not so much over the most recent years, but around the inception and some of the consultations around the Aboriginal Justice Agreement. And it was quite informative to be part of the community-based consultations around that, just to see and hear firsthand the communities' desire and expectations around those models.

What did you take from listening to the community about what they want?---I guess it was a bit of an eye opener for me. You sort of frustratingly view and probably arrogantly that some of these communities are disengaged and disempowered, but there is genuinely a want to be part of the conversation and part of the solution. So, it's just where we fail is the next step to actually integrate the local decision-makers into the framework and I think that's because we apply a too rigid lens to it.

You – you’ve got – can I suggest to you, Superintendent, some really important reflections about this to give, given your experiences in the community. I’m not asking you to come up with a solution on the spot, but are you part of an ongoing conversation about how a community like Yuendumu can empower local decision making?---I guess, you know, one of the things I tell my constables and my sergeants all the time, so I try to continue to push the Community Safety Action Plan Framework. That’s, I guess, the police framework. It’s – you know, we hold the mandate of community safety, notwithstanding I agree and continue to assert that community safety’s broader than police. It’s a whole community thing. But my police officers still have this sort of prevailing attitude that a community safety meeting is three o’clock on Tuesday at the basketball court. And then a surprise, month after month when no one turns up. So I guess what I tried to encourage them to do within that sort of construct is say, a community safety meeting doesn’t have to be a one meeting in that traditional sense. It could be a multitude of conversations with leaders, that we then seek to consolidate the learnings from those conversations. And that effectively becomes the community safety meeting. So bringing the conversation to the people, I guess, for the lack of a better term, than simply saying well it’s now five past three, no one’s here, so let’s wrap up and go home. But – so I guess that’s a – there’s a bit of a legacy around that, and it’s an attempt to re-educate my work force around – around that. But the Community Safety Action Plan for me, it’s – it’s critical – critically important. And the answers are within the community. It’s not within police.

When you had the fortnightly meetings in Yuendumu in 2019 in – in response to the property damage. Was the ACPO there with you?---He was always in the station, but rarely participated, no.

And why – do you know why that is?---Not sure. Derek is – is a sort of a quiet, unassuming individual, and likes to just get on and get the job done. And he’s one that I’ve found greater success in pulling him aside and saying, “Hey Derek, what do I do for this? Give me some advice.” Rather than him being front and centre within a meeting, where I put an emphasis on now give us the answers Derek. So I guess that’s kind of what my thinking has always been around Derek, and my experience with Derek.

Did you ever get to the bottom of what were the cause of the property crime?---Well that’s – that’s - - -

I’ll go back a step. I’ll go back a step. That might be too philosophical. But firstly, what sort of properties were being broken into, when you talk about that Christmas period, and up until March 2019?---Soft targets. So repeat victim locations. So the community stores. Both the community stores multiple times over. Some of the service providers locations, a number of times over. Commercial locations. So predominantly commercial, but occasionally service providers. And generally, over prevalence of like teachers’ accommodations, and things such as that, when school holiday period’s on, and everyone leaves communities.

Do you recall any break-in of the houses of the clinic staff?---Oh I'm sorry, I couldn't answer that. It's certainly - acknowledge break-ins of clinic staff over the years, but whether it was within that discrete crime series, I'm - I'm not too sure.

Do you recall any discussion at that meeting, that there were - it was predominantly young - young people who were involved?---Yeah I - the focus of that meeting for me wasn't just sort of arbitrary adult - so under age. It was - we kind of focussed from adolescence up to 25. So - so that the premise of this meeting was about trying to identify your core cohort of repeat offenders. And then dealing - and that's not the right term, but dealing with that - sorry, supporting that cohort from an end to end model. So early intervention, engagement, all the way through to tactical enforcement, and repeat offender management. So an end to end framework. But plugging in things like how do we get this person to school. Or how do we - so there were sort of focuses within that framework, but - - -

So - - - ?---It wasn't just an arbitrary youth by our definition.

Can we safely assume that it was people under the age 25 who were doing most of the break-ins?---Yes.

And did it come to your attention that some of the break-ins were for the purposes of looking for alcohol in houses, where people had permits to have alcohol?---Potentially.

Was that a large - was that a significant reason that the break-ins were occurring, do you believe?---One of the many - many reasons.

In other cases, it was to get food from the store, is that right?---Food from the store, correct.

And when you talk about soft targets, you're talking about houses where there are material possessions likely to be? Like in the houses of nurses or teachers?---Yeah, I'm more - when I say "soft targets", I'm more talking about where there is a vulnerability at a location, and they continue to exploit that vulnerability, and despite us having conversations with the owners of those premises around target hardening, or Septeb(?) audits, or resolving those vulnerabilities, they would still be exploited.

We - - - ?---You know, it could be an insubstantial tin roof that could easily be pried open, or things such as that.

And her Honour has some evidence of an - of angle grinders being used to - for the break-ins. Was that happening in - - - ?---It does. But again, that - I won't say a degree of sophistication, that demonstrates a little bit more degree of planning. Most of it didn't have that degree of sophistication. It was sort of crude, blunt instruments to effect entry.

Did you have a perception of how many people under the age of 25 were engaged in repeat offending property offences?---Our focus remained on 10. So the top 10

within that community safety framework, but that fluctuated in terms of one transitioning out, and then a new one coming in. So there was probably a cohort of 20 young people within the community that had varying degrees of recidivism.

And when – during the course of those meetings, you said there are a number of different stakeholders there. Was the school represented there?---Yes.

And WYDAC was represented there?---Yes.

And frequently Eddy was there, as a community member, correct?---Yes.

The clinic staff, did they attend?---Yes. Again, not every meeting had full representation. So you know, depending on what was occurring within the community at the relevant time, would dictate what the tenants would look like. But it was relatively well attended, and I kind of enforced that that to be the case. So I'd remind them that I was coming out the next day, and reassert my expectations in terms of attendance.

And was there a representative of the Council there?---So you would have Southern Tanami Kurdiji representing sort of the Council. So Yuendumu was somewhat sort of unique. So Yuendumu sat under the Central Desert Regional Shire, but – and I might be getting my terminology not correct here, but a lot of those sort of key aspects were outsourced to the Southern Tanami Kurdiji around safety patrol and mediation, and things such as that. So – so the shire within the context of Yuendumu was more around municipal matters. So they rarely would attend on that basis. Unless we had some sort of environmental issue that we wanted to resolve.

Was there a representative from the Southern Tanami Kurdiji - - - ?---Yes.

- - - who attended? Who was that?---Now you're testing me. Chantelle, I think. Sorry.

An Aboriginal person, or a non-Aboriginal person?---I'm not too sure.

Sure?---She – I don't believe she was an Aboriginal lady.

Okay, so I'm going to go back to my causal question. There's any number of reasons, and they might be many and varied but – as to why that group of 10 to 20 people were repeatedly breaking in. It could be boredom, substance abuse, mental health or behavioural issues, lack of parental control. Did – was there any work to try and get to the bottom of that cause?---Yeah – yes. There was. You know, quite often, you know – I wanted to framework to be a sort of action orientated conversation. So it might have been the case if we had a young person in, I might say, health, please give me an assessment as to whether FASD or there was any other cognitive issues. So I would then – they would go away and assess that. I'd say to Territory Families, Territory Families, I want some advice as to whether there's any active CP case, so Child Protection cases ongoing, and what were the outcomes around that." "School - please tell me what the attendance is and have we

linked in to Wanta(?)" – Wanta, I think, they were called - in terms of the early morning school program. So there was - we were attempting to sort of try to look across the whole spectrum of the issues that might influence the young person and then try to wrap around as best we can in a sort of fulsome response to hopefully bring about some change and support.

Did you feel over - over what period of time when you were there were those meetings conducted, leading up to November 2019?---So from March - I don't think they went all the way to November but yes, for a long time.

I think the last one prior to the tragedy of 9 November was 30 October and for a particular reason you were called elsewhere?---No, I think that one you're referring to is the Family Safety Framework.

I see?---That's another framework entirely.

So focussing on those community meetings then at any stage over that period did you feel like you were making any progress in terms of reducing the number of break- ins?---Look certainly we reduced the number - well, sorry - its cyclical. So - but I think where I probably achieved more was having a better appreciation across the service provider footprint in terms of the things that they - so we weren't just focussing on the youth and how we support the youth but we were also focussing on how do we better problem identify the environmental issues that are impacting on this, so it was about me holding them and them holding me accountable for some of the other things that I say we should be doing around X, Y and Z issue.

Identifying the problem is one thing and then finding solutions is more difficult. But was one problem you identified overcrowding in houses, which would then sometimes lead to young people leaving the house overnight?---Look, I've always noted overcrowding as a perennial issue across everywhere. I guess our focus was trying to be on what we can do at a local level to move the needle, that's a more sort of systemic complex issue than was within our operational mandate.

Let me touch on one issue which might be in your operational mandate. If you found out, for example - this is just hypothetical - that a young person aged 12 or 13 was wandering around the community and breaking into houses because they were being subjected to violence or neglect - mistreatment at home, you could try and stage an intervention around that young person, is that right?---Yes, correct.

And that might involve, for example, WYDAC and the school and another intervention - or the clinic?---Generally in that case it would be - again, we were a sort of a - I'd like to say a finely tuned cog, we all had our important part to play in that broader piece, so if we had the scenario that you just outlined, it would be a whole set of concurrent actions. So I'd be saying to Health, "Please give me an insight into the history of this young person to assess whether there is or anything we should or shouldn't be doing to support them from a cognitive or medical perspective. But then I'd be - WYDAC, "What can we do to engage this person?" "School - how do we engage him to go to school?" "Territory Families, Is there an

open CP case? And what can we do around that?" Then I would be going to police, "How can we do something from a role modelling perspective? How can we have a conversation with this young person?" I always apply the sort of philosophy that you can't be what you can't see, so I wanted my police to engage the young people to see that we aren't - Jody Nobbs - sorry, the police officer in the community, "I'm Jody Nobbs who happens to wear a uniform but generally cares and wants to have a conversation with you." So I would often say to my police, "I don't care if you come to work tomorrow in your PT gear and you kick the footy all day, if opportunity presents, go do it." So that's the sort of things that we're trying to build within the framework to try to role model, mentor, change the trajectory or attitude of a young person.

In that particular meeting group did you have a representative from Territory Families?---Yes.

They play a critical role, don't they, in that scenario that I just mentioned of a young person who has been subjected to neglect or mistreatment?---Yes, no more critical than any of the other cogs, but certainly a critical cog within the machine, so.

Getting those stakeholders to work together effectively is key to changing the trajectory of a person who is offending like that. Do you agree?---Yes, agreed, and it was - like initially it was - setting it up was really difficult because we had a lot of people that had sort of different outlooks and philosophies on certain things, so there were some robust conversations in the early stages in terms of "Let's park that and let's just focus on what we all consider as being the best interests of the individual and we're all sitting at the table because we all genuinely care, so let's see" and I feel that we've sort of formed some good respectful mutual accountable relationships from that.

Do you recall the representative of WYDAC who were there?---Yes, Suwana (sic) - I can't remember - - -

Sinana?---Sorry, Sinana, my apologies, yes.

And Ashley Jander(?) was he there at any time?---He wouldn't - didn't participate in that but he had a very active interaction with the local police.

Move to another topic but still on meetings for the moment. The Yuendumu Family Safety Framework was also a meeting that you chaired, correct?---Yes, correct.

And that was fortnightly, correct?---Correct, yes.

And that's the one where you said the meeting prior to 9 November was 30 October 2019, you had some operational priorities in Yulara and you couldn't attend on that day. Did you otherwise attend that regularly?---Yes, so the vast majority of the meetings I attended and shared but my proxy was Senior Sergeant Potts so he would attend in my absence on the rare occasion that I was unavailable through - - -

How did that meeting differ from the one you just told us about?---Well, that meeting - so the other one was about let's be open, honest, frank and have a meaningful, wholesome conversation about how do we address some of the issues central to people, but the Family Safety Framework was a very limited in its composition. It was the sort of agencies that have some sort of statutory or regulatory obligation around domestic violence, so again, the underpinning construct of the meeting was the same insofar as it was an integrated inter-agency meeting where we try to do intensive case management to try to address, you know, pervasive issues within the domestic - you know, pervasive domestic violence issues within the community.

What stakeholders would attend?---So that would be - so WYDAC, some of your DV advocacy services operating in Alice Springs although they would go out there to do advocacy, so like your women's shelter, police obviously, Corrections, so, you know to facilitate things like release from prisoner, notifications and things such as that. So WYDAC, Police, Health - WYDAC, Police, Health, Territory Families, some of the DV advocacy services- it was pretty limited to that.

Any Aboriginal Elders or emerging leaders?---No. None at all.

Why not?---Well, as I touched on, it was very constrained to those that have some statutory obligation. We were discussing quite sensitive and pertinent issues about the compositions of families and some of the challenges that we had, information sharing protocols across that framework or across that cohort but that didn't extent beyond that cohort.

Did Derek attend those meetings?---No.

And why was that?---Again, for the same reason I expressed before, I had the feeling - and may that it's just my interpretation, that he had better engagement involvement at an interpersonal level, one on one than sitting in a room where we defer to Derek as the person required to give the answers to some complex issues.

Was there a meeting separate to the structures you've just talked about, which then did engage Aboriginal Elders other than Eddy?---That's the CSAP framework, so that's - it's been done for a real long time, again not very good, that's this sort of - so what we focus on in the CSAP framework was - or is - you know, alcohol, domestic violence, amenity an social order, so those sorts of - again, it's supposed to be about problem solving, it's supposed to be about identifying issues - - -

THE CORONER: Can I just ask, is CSAP the same as the Community Safety Action Framework?---No, your Honour. It's Community Safety Action Plan, so the one - - -

And that – is that the – is that the meeting that you've already told us about - - - ?---No, your Honour - - -

It's a different one?---And this is my point in terms of this - - -

- - - okay?---Over representation of meetings across these communities. But CSAP is a meeting that's held in all communities. It's been going for a long time. It's a police driven conversation. The Community Safety meeting I spoke about before, is limited to Yuendumu. And that was the one driven by me, in response to a – a need, which was at the time, the property crime matters. But then I guess became something that we continued to work through, given it was – it's relative success. So the CSAP one is the one that I've said to my sergeants, you really need to rethink the way that you engage within a CSAP construct. It shouldn't be a three o'clock meeting at a basketball court.

DR DWYER: What does CSAP stand for?---Community Safety Action Plan.

Okay, and - - -

THE CORONER: Can I ask, the community meeting that you've told us about, was focussing on the top 10 young people who were coming to police attention within a cohort of potentially 20 young people. Was Kumanjayi Walker one of those persons in the 10 or 20?---No, your Honour. He was a person that – I think the lady Charmaine raised a couple of times, but no, he wasn't on the – that framework. I – I think he spent some of his time in, and I could be wrong here, but incarcerated whilst that was operational. But I'm not a 100 percent there.

DR DWYER: I'm just checking those - - -

THE CORONER: But he was a person who was being considered as part of the Family Safety Framework?---Very – very much so, your Honour, over a long time. And probably my most challenging person within that framework.

DR DWYER: So just before I move on from meetings, Superintendent, the CSAP you said it's held in all communities. It's been going for a long time. It's not particularly effective. Is it again stakeholders?---The design, it's supposed to be everyone. It – the design is that it's the bringing together the community to have – so it's the typical – what community people refer to as a community meeting. So it's – where community representation is strong, is when community say we've got an issue, we've got to have a community meeting. They – they then drive when is – the community meeting occur. And then generally, there's a relatively good turnout. But the – the CSAP that we've identified, that we arbitrarily say will occur at this particular time, by and large, is not well attended. Although, some community's it's really well attended, so, you know, Titjikala CSAP was very – very well attended. So there's varying degrees of success. But I often find that the degree of success is generally driven by the sergeant, and the engagement, and probably to a lesser extent, how connected the community may or may not be.

And do you recall how often it met, in the lead up to November 2019?---It's supposed to meet monthly.

And did you attend those meetings ever?---No.

I see. Are you aware of which community leaders from Yuendumu attended those meetings?---That's – my point is, I don't think very many, if any. Again, if there was a – an emerging issue, may be, but I can't definitively say.

Do you agree with me that it's often the case that Aboriginal Elders are asked to do a lot over various different committees, often unremunerated?---Agreed.

And it's a big strain often on members of the community?---Certainly it is.

And so that whole concept needs to be looked at doesn't it, if we want to get proper community engagement and buy in?---Agreed. Look my – and I wasn't invited, despite my protests, to the local authority meetings. They were a sort of local government controlled meeting. But that was the meeting where community are remunerated for attending. Where I've managed to, from time to time, to get myself onto the agenda to have a conversation, if there was an issue. So it wasn't uncommon, from time to time, that community within that framework might express some law and order issues. Then the local authority would send me a letter. I then would provide a response two months later. And it just wasn't sort of practical in terms of giving meaningful response to issues. So what I said in some locations, if we felt that there was likely to be a law and order issue, please invite me. I'll come. I'll go at the start of the agenda. I'll have my say. Answer some questions. Give some reassurances and I'd leave. But I'd – I'd find the limited interactions I'd have in those frameworks that was really considered conversations, because of the representation within the room.

Do you – do you actually remember now attending any local authority meeting in Yuendumu?---No, never.

We know that Kumanjaya, just checking the record, was remanded in custody from July 2018 until 27 December 2018. And then he was remanded in custody again, from 19 March 2019. Over that period, it's really just two and a half months, January, February, and part of March. Do you recall Kumanjaya coming to your attention at any of the times when you went out to meetings in Yuendumu?---Yeah, I – I certainly recall Kumanjaya being discussed within that Community Safety Committee meeting, predominantly by – again the name escapes me, I think it was Charmaine. She was the lady that had done sort of, you know, Sand Play, and some of the other sort of things around healing, and so yeah she would raise Kumanjaya from time to time. But - - -

That was in the context of his relationship with Rakeisha is that right?---Correct, but we generally had most of our conversations around Kumanjaya within the Family Safety Framework.

And just before the break, can I ask you, in relation to the Family Safety Network, was the – was part of the purpose - - -

THE CORONER: Framework.

DR DWYER: - - - sorry, thank you, your Honour.

In relation to that framework, the Yuendumu Family Safety Framework, in relation to the discussions amongst stakeholders, was it part of the goal to educate the person who was perpetrating the violence, and to support them to not continue with that violence? Or was it more about removing the victim from it?---No it was more of an intensive case management. So I was – so it was more about the intensive case management of a particular issue. It wasn't about the sort of long term. So again, it also had an end to end philosophy around how do we do some early interventions, establishing safety plans, looking at some needs of the family from a CP(?) perspective. But then also, at the other end of the equation, the repeat offender management aspects as well. So targeting of the offender, including, you know, what does prisoner debriefing look like before he leaves the prison. Try to get an appreciation of what he's sort of attitudes are towards the victim at the time. Making sure there was domestic violence orders in place. Making sure that there was a safety plan. Making sure the victim was sufficiently engaged and notified of the impending release. And then helping, I guess, to integrate the subject back into community. And then doing some pre-emptive repeat offender engagements, and repeat victim support. So that's sort of the basis of it. But once we were satisfied that we had an end to end support framework in place, they were integrated off the framework. And then it became general business for, you know, child protection or the other statutory agencies, just to do their general – general business.

How long have you been working with the frameworks?---So when I took over the role as the Superintendent, I took over the role as the chair of that framework. So it was in – it was part of my portfolio responsibility.

Are there similar safety frameworks in each of the 11 communities?---No. It's – so from a remote policing prospective, Yuendumu, certainly in the Southern Desert, is the only place that has it. So there's a Family Safety Framework in Alice Springs. There's a Family Safety Framework in Yuendumu. There's one in Tennant Creek. There's one in Nhulunbuy. There's one in Darwin. One in Katherine. But outside that, there's not too many, at a regional level.

Is there one in Wadeye?---I'm not sure – I – sorry.

Have you had an experience of where you're working with – you understand the dynamic of a couple who are the subject of a safety framework, and it is effective, getting those stakeholders together, to stop the cycle of violence?---Agreed, yes. The benefit of getting the – so the integrated consideration and response is key to the early interventions and engagements. So it's us not responding to the trauma after it's occurred. It's us preventing the trauma from occurring. So it's doing the best we can to put all the frameworks in place to support the reunification of the family, generally post the release of the individual from incarceration.

Are you familiar with the work done under – or pursuant to the AJA of the development of law and justice groups?---Only in a sort of conceptual construct. I haven't seen the – the operational framework that will underpin that.

As a conceptual framework, do you – or concept, do you agree that there's an important way to ensure the safety of a community?---Yes.

Your Honour, is that a convenient time to break?

THE CORONER: It is. We'll break for 15 minutes.

WITNESS WITHDREW

ADJOURNED

RESUMED

THE CORONER: Yes, Dr Dwyer.

DR DWYER: Thank you, your Honour.

JODY NOBBS:

DR DWYER: Superintendent, I will move on meeting shortly, but I've got three short questions that arise from what you've told us earlier. Do you know whether there was a debriefing of Kumanjayi before he left custody to go into CAAAPU in October 2019?---No. Within the family safety framework, our intention would have been to debrief him before he left CAAAPU as part of integrating him back into the community.

What about debriefing before the – before he left the custodial environment to go to CAAAPU?---I can't recall whether there was or wasn't. I would suspect not.

Okay. You suspect not because in a family safety framework, the debriefing was to occur just before somebody came back into community. Is that right?---Generally, it would be – so it would have a schedule of anticipated releases within the next six weeks from Corrections and then from there, there would be a task within that to look at those that are within the next month, with a view to doing it around two weeks before.

Okay.

THE CORONER: Two weeks before?---Before they're released, your Honour.

Released from?---From – whether it's detention, incarceration or generally prison, but certainly not limited to prison. So, whether there is an opportunity to deal with in within CAAAPU, there might have been an opportunity there as well.

Why wouldn't you have done it before he was released from custody?---It was something that we attempted to do as frequently as we could, but we certainly didn't get to them all, all the time. But certainly – it's certainly something that we could have or should have done.

Is that a resourcing issue?---Not necessarily. In all honesty, your Honour, I can't recall the rationale why we did or didn't. But certainly, I can say that we didn't in this case.

And when you say "we" didn't, who would have been responsible for the debriefing?--Generally, it was done within our intel section within police. So, that was a tasking to police and then we would attend, as in police would attend, the prison and have the conversation.

And the purpose of the debrief was to assist you to identify or provide some

additional information for risk assessments?---Exactly, your Honour. So, I would have similar conversations with the victim, obviously through a different lens, as part of the broader safety plan. So, what are their needs in anticipation of the impending release and then equally, what are the needs of the detainee, given their impending release as well, in terms of where they intend to go, where they intend to live, try to get an assessment, as imprecise as it might be in terms of their attitudes towards the victim, particularly if they were incarcerated for serious violence matters, particularly on the victim recognising that that's probably the most tenuous and risky time for a victim immediately post their release of an offender. So, that was the recognition around that.

Are you familiar with the name Kerri-Anne Chilvers?---Yes.

And can you recall – or how did you come to know Kerri-Anne?---Kerri-Anne was a lady that had a very broad skill set. So, I can't quite recall who she worked for, whether it was Southern Tanami Kurdiji or whoever, but certainly, she was in the community. She was the lady that had the sort of – I think she was a psychologist utilised sand play quite effectively for youth over periods of time, so part of a broader holistic treatment plan.

And I think – well, I know we'll hear evidence from Ms Chilvers and her role changed, and I think she became a – she was initially a counsellor and then she ultimately was qualified as a psychologist. Do you recall meeting her in Yuendumu?---Yes, I do.

Was she living in Yuendumu throughout 2019, to your knowledge?---Yeah, I think so. I don't recall her coming into the community just for the purpose of the meetings. I think she resided there.

Did she attend the family safety framework?---No.

Did she attend any of the meetings that you've told us about?---Yes, the community safety committee meeting, the one I formed in March.

Do you have any recollection of discussions with her about Kumanjayi?---Yes. She was the one that raised Kumanjayi Walker within that framework.

And what sort of discussions would you have in terms of assisting him or Rakeisha?--Again, I can't recall any substantive elements of those conversations other than to say that I do recall that we had conversations within that framework. But most of the conversations were limited within the family safety framework, most of the substantive conversations.

In terms of the meeting that you've told us about that you initiated, around the property offences, were there minutes of that meeting kept?---Yes, yeah there was.

And - - - ?---It was kind of a running sheet, and it became a very long running sheet over a period of time, but yes.

So there – where were they stored, just in terms of accessing them?---They were stored on our local drive for the Southern Desert Division.

Are you able to assist us, they may be buried in our brief, but if they're not, are you able to assist us to access those?---Yes, certainly.

Can I come now to the events that followed Kumanjayi leaving CAAAPU. We know from the evidence you've previously given, that you received an email dated 30 October?---Correct, yes.

And I'll just – excuse me one moment, I'll just read from it. I'm definitely going to finish by lunch time, Superintendent, which is a challenge. So I won't put all these documents up unless I need to. An email comes from a Gemma Bonanai(?), is that right?---Correct, yes.

And she held a role at that time, in October 2019, as the Intelligence Support Officer?---Yes, and the secretary function of the Family Safety Framework.

I see. So she sent an email to yourself, Julie Frost, and a significant number of others, including, for example, Michael Timewell at the school, and someone from WOSSCA and Charmaine Hayes-Jonkers, and various other people working with the Yuendumu Community, and lets them know that Kumanjayi has escaped from CAAAPU, and he's currently an arrest target for breach of suspended sentence?---Correct.

"If you are currently engaged with Rakeisha, please ensure she's aware." So that's an email she sends to the Family Safety Framework. Is that correct?---Correct, and I'm not entirely certain, but I think at my request. So I think we had a conversation. And then I said we need to refer through to Family Safety Framework. But I may have been wrong there.

Included in that email exchange is the Coordinator of the Yuendumu Southern Tanami Kurdiji, is that right?---Correct, yes.

The level of importance that – of that email is noted to be high. Did you agree with that?---Very, very much so.

Why was that?---The – so absconding from CAAAPU in my mind, triggered the notification to the Family Safety Framework, given the longstanding and prevailing risk to Rakeisha, which given that Kumanjayi Walker was at large, and the whereabouts unknown, elevated the risk, as I was concerned, to Rakeisha. Particularly that we hadn't had that fulsome victim engagement with her and – to assess her state of safety.

In terms of what you were being told there, that there was a breach then of suspended sentence. Do police have discretion, in terms of whether or not to arrest somebody for a breach of a court order?---No. So s 43 of the *Sentencing Act*, read

in conjunction with 38(2) of our *Arrest General Order*, effectively mandates no discretion in respect to a court order.

Does – is there still an element of discretion, if you are going to detain somebody in a community, depending on the level of urgency, to wait until after a funeral, given the cultural significance?---Well no discretion is no discretion. It's – notwithstanding I sought to ignore that factor and apply discretion, so I guess I'm saying there potentially is. But it – it's certainly not sanctioned - - -

Sure?---Or approved. It was me going out on a – well, me in consultation with Sergeant Frost, going out on a limb, and applying discretion where discretion wasn't allowed.

Even if it's not technically allowed under the legislation, there's still got to be room for common sense and cultural sensitivity, doesn't there?---Yeah, correct.

You have elsewhere given evidence that, and set out clearly in your statement, at about 9.30 pm on Wednesday 6 November, you got a telephone call from Sergeant Frost. She informed you that there had been an incident, where there'd been an attempt to arrest Kumanjayi and he had effectively used an axe to threaten police and escape then from them. The police were shaken, but okay. She'd spoken to Eddy and he'd apologised for the actions of Kumanjayi?---Correct, yes.

When you were having that telephone conversation with her, was there any discussion about what should follow that incident?---No, not necessarily. It was – I guess, it was a call later in the evening. It was me establishing that the police officers involved, two highly experienced police officers, were okay. From that, Julie did indicate that they were okay. So it was kind of a welfare conversation. Julie then did provide advice that Eddy Robertson was in support of policing in respect to that. And that they certainly had some preliminary conversations about Eddy also agreeing that it was unacceptable what had occurred. And that he was going to work with police to facilitate the surrender of Kumanjayi Walker.

After that time, you then requested that Sergeant Frost made a notification to the watch commander as to the incident, to facilitate a web EOC(?) notification being generated, or notification of the event, to the relevant reporting channels and recipients. What's the significance of that in layman's terms?---Well it's significant, so it's multifaceted I guess. So the first notification, so there's a recognition that I'm not on duty at the relevant time. So there needs to be some broader base situation awareness across the operational foot print. That would ultimately support Yuendumu, if there was a surge, or urgent deployment required. So that's the notification to the watch commander. The watch commander is the on-duty senior police officer that would facilitate a response, if there was a reoccurrence, or an escalation. The notification also was internally, around notification up to our senior executive in terms of the nature of the incident to highlight and put on their radar that we've got this sort of emerging situation occurring within Yuendumu.

In terms of alerting other police officers who might come across Kumanjaya and detain him, did the web EOC notification do anything?---No. That's an alert system. So alert system is what facilitates broad based notification to the front line from an information perspective.

Right. You didn't review the body-worn video at that time, is that right?---No.

Have you since reviewed the body-worn video?---No.

Of the – of the incident, which has come to be known as the axe incident?---No, your Honour.

You satisfied yourself that Sergeant Frost had a – a plan to move forward?---Correct, so Sergeant Frost provided me with a fairly detailed and extensive appreciation of what occurred. And outlined a sort of very broad-based plan on the night. I didn't have opportunity the next day to review the body-worn. What generally occurs in – in such a situation is a use of force notification is generated. There's a policy framework around that. The use of force is then subsequently reviewed. So it would have been generated by the two members involved, Smith and Hand. Reviewed by Sergeant Frost. Subsequently reviewed by Senior Sergeant Potts, and then ultimately reviewed by me. So we didn't get that far progressed within that reviewing framework.

But if the – if the tragedy on 9 November had not occurred, you would have ultimately reviewed that incident, is that right?---Certainly, yes.

On 7 November, you were rostered on duty. Started at 8 am. You had a number of engagements in relation to this, and that included discussion with Senior Sergeant Potts, in relation to the welfare of your members who had been affected?---Correct.

And you discussed with Sergeant – so that was Senior Sergeant Potts. You then discuss with Sergeant Frost, that a plan was being generated at the local level, to locate and arrest Kumanjaya and assess Rakeisha's welfare. Sergeant Frost advised you that she didn't know the whereabouts of Rakeisha?---Correct.

But from a member's perspective, she appeared to be safe, correct?---Yes, correct.

She told you that she had hindered police attempting to arrest Kumanjaya the night before?---Well sorry, she appeared to be safe, was a broad inference drawn, on the basis that she hindered police, and seemed to be actively participating in facilitating Kumanjaya Walker's remaining at large. So that was a – a broad inference. A very, very broad inference drawn.

Suggested though that there were no immediate concerns for you – she did not hold immediate concerns for her safety?---Correct.

But she was asking police to deal with at the time?---Yes.

She also said – or you also note in your statement that Sergeant Frost said “She had a good dialogue with Eddy and they’d established a plan, which would see Eddy Robertson either bring Kumanjaya to the station, or text local police about his locations”?---Correct.

And you endorsed that plan - I withdraw that - you then note, "This plan was endorsed on the basis of it being a no or less force option and an opportunity for Kumanjaya to surrender"?---Correct, and at this stage there was conversations around the funeral so it wasn't just a sort of Sergeant Frost outlining this as a concept and I endorsed it. We actually bounced backwards and forwards quite substantially around the pros and cons of both and the risks inherent within it as it relates to Rakeisha and we reached a consensus that we would place greater weight on the cultural sensitivities and the impending funeral.

At that stage the plan was that Kumanjaya could attend the funeral scheduled in the community on Friday and then that police would not actively pursue Kumanjaya prior to the funeral if he presented to the police station and surrendered, then he would be dealt with of course during that time. For cultural reasons the plan mandated that police were not going to attend the funeral to arrest Kumanjaya. There is notification there that the funeral was planned for Friday. Given your experience in communities, did you expect that the funeral would be one day?---No. I acknowledge that a funeral - so, sorry business in a broad cultural construct is larger than a funeral but certainly we applied a very narrow in my interpretation and my expectations was a very narrow lens to the funeral within my construct of what a funeral is.

And why was that?---Because the convergence of all the things that we were dealing with meant to me that we couldn't prolong - in my mind - prolong the continued - it didn't sit well with me and I wasn't comfortable, notwithstanding that I elevated the cultural sensitivities over the safety issues but it just didn't sit well with me at all, so I drew a line in the sand that once the funeral proper - sorry that is not the right term but I think you know what I mean - occurred, that's when the surrender was going to take place and the subsequent arrest.

Did you distinguish between a funeral service on the one hand and sorry business or the period of mourning that would follow it on the other?---I do distinguish it and I do acknowledge it but I certainly distinguished - distinguished in so far as that the expectation was over the funeral service was the threshold that we would reach in terms of the arrest.

You were trying to balance there, I take it from your answers and your previous evidence, Superintendent, the obligation to detain Kumanjaya pursuant to the warrant, with the desire to be culturally respectful to the extent you possibly could be, correct?---Yes, so pursuant to the warrant, the incident the night before and the other - the safety concerns that loomed large in my mind around Rakeisha.

So that was my next question. At that stage, in terms of the urgency, accepting that there is a legal mandate to arrest people on a warrant, is there anything else that

elevated the urgency at that stage or the priority?---There was ultimately - and obviously I am now jumping ahead a little bit but there was ultimately five things that were concerning me, but if I had to elevate one over the others it was the Rakeisha safety concern in my mind. It just did not sit well with me that my experience over the years within the family safety framework is they were such a challenging couple and it just did not sit well with me in terms of the fact that he continued to be at large, notwithstanding it was for a genuine bona fide cultural reason.

On Friday 8 November - so I will just go back a step. On Thursday 7 November, you had the fact that there was a warrant issued because Kumanjayi breached a suspended sentence and you had the axe incident that Sergeant Frost had advised you of and they are the two factors?

THE CORONER: No, and the safety of Rakeisha.

DR DWYER: Sorry, and the safety of Rakeisha, so you've got three factors, correct?---Yes, your Honour.

And you're balancing that with the need to respect the funeral process, correct?---Yes, your Honour.

Then on 8 November you find out that the funeral has been moved - scheduled - or postponed to the following day, the Saturday, correct?---Correct, yes.

And you know that Kumanjayi hasn't presented himself as had been the hope, but local police intended to honour the undertaking in relation to not attending the funeral out of respect and recognition of culture and in those circumstances you were content for it to be delayed for one more day, is that right?---Again, that is a very simplistic way of looking at it but a painstaking conversation with myself and Julie backwards and forwards around the pros and cons, the ifs and then type discussion points around that , so, yes.

At that stage Sergeant Frost still hoped that Eddy would be able to bring Kumanjayi in to the station after the funeral?---We were both extremely optimistic that that is - well, I was optimistic - I can't talk for Julie but I was optimistic that we would still achieve that.

And you were - - -

THE CORONER: Sorry, I was just going to say, I think the issue you had with the previous question was the word "content". It was suggested by Dr Dwyer that you were content to wait and I think that "content" is not the right word but you, having that painstaking conversation you agreed to continue to give priority to the funeral and the possibility that the family would assist in bringing Kumanjayi to the station?---Thanks for the clarification, your Honour, and that's the case.

DR DWYER: Why were you optimistic that Eddy would be able to assist?---Well, as I indicated earlier, Eddy Robertson was very pro police - again I am very much

guided by the information provided to me by Sergeant Frost, so I wasn't there but she indicated to me that he expressed considerable remorse and upset for what his grandson had been involved in and you know, he is a powerful Elder in that community and we were optimistic that if he was there genuinely for a participation in the funeral that he would come down after the funeral as the undertaking provided.

On Saturday you were rostered off. At some time in the morning you checked your emails and you saw that you had received an email from Sergeant Frost sent at 5:46 am and we have that of course in the brief of evidence, it is annexure B to our statement. She says in that email, which is sent to the JESCC Watch commanders in Alice Springs and copied to you;

"Please be advised that myself and Chris Hand now have been up since 12:30 and we will be knocking off in the next 20 minutes after attending three jobs overnight. While we were rostered to start at 10 am today we will now be starting around 2 pm due to fatigue levels from being up all night following on from a heavy workload throughout the week. We ask that you not contact us on the on call phone other than for an emergency situation. There's no other members in Yuendumu at the moment that can assist with the workload and callouts. Having said this, 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 am. I've told them to look in the admin bin for any jobs and action them, et cetera."

On the basis of that, having read that that, you didn't contact Sergeant Frost because you didn't want to wake her up immediately?---Correct, yes.

At about 11:35 am Sergeant Frost called you and told you a number of things, correct?---Correct, yes.

You set this out in your statement. Do you recall it now, Superintendent or would you like to look at your statement?---I recall it.

What did Sergeant Frost tell you then?---So she effectively outlined a number of things. One was that the clinic staff had given an indication that they were leaving the community and that their departure was imminent. They cited that that was a consequence of being involved in a series of property matters throughout the preceding 24 hours. She also indicated that the funeral was on later that day and that there was some activities that were occurring afterwards. She indicated that the whereabouts of Kumanjayi was still unknown and equally the whereabouts of Rakeisha were also unknown. She had a broad fear that the departure of the medical personnel would have an impact on police, specifically that - notwithstanding that she indicated that there was going to be a redundancy put in place from Yuelamu but not withstanding that, there would be an impact on police that we would inevitably called to provide assistance - medical assistance throughout the course of the night. She also indicated that medical assessment inherent within that sort of redundancy plan was the expectation that we would accompany them to all call outs throughout the night before and it was Sergeant Frost's view - which I accepted - that

that would compound their fatigue levels within the community. So the broad - broad issues.

Do you recall a discussion that Sergeant Frost suspected that Kumanjayi was directly or indirectly involved in the property offences?---Yes, she did. We had a long conversation around that. Kumanjayi Walker was known to be a repeat property offender, we consider a recidivist property offender and we consider a person that's highly influential to the second-tier offending cohort within the community. So, there was a real apprehension on the part of Sergeant Frost, one that I concurred with that he was involved in that property offending. And then the last thing Sergeant Frost and myself discussed was a search deployment requirement and we thrashed backwards and forwards and it was a recommendation that that deployment would be a specialised capability, being IRT.

In your statement at the top of page 7, you say this, "Sergeant Frost requested that I provide her with a IRT deployment to supplement the local police resources." Did Sergeant Frost actually specifically ask you for IRT?---Look, I'm not sure. I note that that's what I've written in my statement. I'm more inclined to say that I probably suggested IRT and Sergeant Frost followed my lead. But I can't definitely say there. As I've indicated, I've used IRT many times over the years and I have an acute understanding of their capability and skillset. So, maybe Julie asked for it, but I'm more inclined to say I perhaps probably suggested it. But again, I'm not sure.

When you were giving evidence at the trial, you said, "Sergeant Frost requested -", this is at page 253 for the records, "she requested some additional resources be sent out from Alice Springs to not only assist with the funeral, but to predominately provide additional capability for likely overflow of police calls through the net period of time that the medical staff were away." You're nodding?---Sorry, my apologies, yes, agreed.

I appreciate how difficult it is when you've given evidence in multiple forums and it's a number of years down the track, is this the situation that you and Sergeant Frost, as experienced officers, both discussed what additional police resources were required?---I'm confused by my statement. My statement says Sergeant Frost asked for it, but until I re-read my statement recently, I was quite steadfast that I was the one that recommended IRT and – but I concede that it was a long fulsome conversation where it was a sort of – there was no imbalance of power within the conversation. We both thrashed out the options available to us and we landed with the IRT.

But by the end of it, you both thought that the right approach was to have the IRT deployed into the community. Is that correct?---Correct, yes.

The purpose of the deployment, as I understand it, was twofold. One was to assist with general duties. Is that right?---Yes, so again, that's a bit limited. So, assist with general duties in the context of breaking the back of the property crime issue, giving the community some broad-based reassurance and providing a respite opportunity to the members that had been extensively worked over the preceding three or four

days. So, it was general duties, so taking over business continuity, but concurrently doing those other activities.

And were they also going to assist with the arrest plan for Kumanjayi?---Yes.

You're familiar, of course, with the fact that there are standard operating procedures for the IRT. Correct?---Yes.

And any high-risk deployment of the IRT requires assistant commissioner approval?--Yes.

Was this a high-risk deployment of the IRT?---Certainly not by my assessment of things.

Was Kumanjayi a high-risk arrest target?---The term "high-risk" is somewhat problematic and I certainly perpetuate that issue there, insofar as the sort of broad use I use of the term. So, he was certainly a – there was certainly a heightened sense of risk with Kumanjayi Walker, but in terms of looking at the term "high-risk" through the lens of the SOP as a trigger within the SOP, no he wasn't a high-risk within that construct.

So, why was this not a high-risk deployment of the IRT?---Well, it was a deployment of the IRT that had a heightened sense of risk, hence the deployment of the IRT as a specialist support capability. But it wasn't high-risk in the context of a high-risk as outlined within the SOP, which talks about cede situation or active shooter or civil unrest resulting in death or things such as that. So, that's the threshold within the SOP. But he was noted as a violent offender which sits within the general support parameters of the SOP.

In order to deploy the IRT for – I'll just withdraw that. I'm looking at 1.1 of the standard operating procedures which appear – I'm not going to put them on the video, but they are 17-23, 1.1 says, "A high-risk deployment of the IRT requires assistant commissioner approval. The IRT will provide an initial response following liaison with the TRG tactical commander in a cordon, contain and negotiate capacity with an arrest, surrender and immediate emergency action, i.e., a capability"?--- Correct, yes.

So, once it has the particular status of a high-risk deployment, a number of actions have to follow. Correct?---Correct, yes.

And they then result in a high level of planning for a particular operation?---Yes, a high level of planning and the involvement of a tactical commander within TRG. But again, that additional level of tactical capability still is a specialist support capability that would be utilised by me as the incident controller with me exercising overall authority for the operational response oversighted by the assistant commissioner who has delegation for approval.

All right. But it's a number of structured steps that you have to go through, isn't

it?---Correct, yes.

And assistant commissioner approval ultimately, of course?---Correct, yes.

On the other hand, if there is just deployment for – to assist with general support to Yuendumu Police Station, is there still a requirement for approval?---Yes.

From whom?---That's with the commander of Southern Command. In the case at that time, the nominal was Commander Bradley Currie.

And in this case, as we know, Commander Bradley Currie had a night off and Commander Travis Wurst stepped in for him - - -?---Yes.

- - - on the occasion of 9 November. Correct?---It was actually – so, Commander Brad Currie was out camping and uncontactable, but it was actually Assistant Commissioner Travis Wurst that stepped in. So, he was assuming the delegation of assistant commissioner at the time.

He is now assistant commissioner, correct?---Correct.

But in that – in approving, as he did, the IRT for general support operation, he was in effect stepping into Commander Currie's shoes?---No, he was in effect stepping into Assistant Commissioner Narelle Beer's shoes. She was the acting deputy commissioner and Travis was the acting assistant commissioner for – Bradley Currie was the commander, the nominal commander, he was just out camping. So, the command structure for Alice Springs at the time was myself and my superintendent colleagues holding our respective portfolios, Commander Currie as the commander and Assistant Commissioner Travis Wurst as the assistant commissioner, and our nominal assistant commissioner, Dr Narelle Beer, was the acting deputy commissioner.

I'm going to come shortly to a conversation that you had with Assistant Commissioner Wurst at 1:51 pm, according to his phone records. Do you recall that conversation?---Yes, I do.

Were you intending, by having that conversation, to get the approval for the IRT from the assistant commissioner?---Not in the context of approval from an assistant commissioner. It was just an administrative approval, given the absence of Commander Currie. So, it wasn't sought to say this is a high-risk and I'm seeking a high-risk deployment and accordingly, I'm going to an assistant commissioner, it was Commander Currie's sort of email sent to us before he left was, "I'm going camping. Travis is happy to answer and provide any approvals for me in my absence." So, it was - - -

So, if Travis – I beg your pardon, I'm cutting you off?---I was just going to say it was an administrative gap, I guess. But the approach to assistant commissioner was just in the absence of the substantive commander.

Okay. So, am I right – well, I'll withdraw that. If Commander Currie had been available that evening, would you have called him to have the discussion about the deployment?---Correct and wouldn't have went to, or notified, the assistant commissioner at all.

The IRT stops at 1.2.1 note that they were available for general support operations, that's the heading, "Available to assist other units, including but not limited to assistance in the arrest of violent offenders, assistance in the arrest of persons evading police or who have escaped lawful custody. Assistance in the arrest of armed officers, and – armed offenders, I beg your pardon. Re-establishing order following civil unrest. Assistance with search and rescue, for example, large scale community disorder, and approval for that was needed to be sought through the Commander of Southern. Is it – were you asking for approval for the IRT, under that section?---Yes.

The note under 1.2.1 says "Approval for the IRT is through the Commander Southern and TDS (TDS are to notify Commander of Southern as soon as possible for the request and approval)". What's TDS?---So TDS is referred to as the Territory Duties Superintendent. That is the commission officer that's on duty 24/7. They operate out of the JESCC in Darwin. They provide sort of broader, strategic, and operational commission officer oversight to the day to day activities within the police service, across the whole of the Territory. But I note at the relevant time, notwithstanding the – the SOP talks about the TDS, is that it was the previous – so under the previous Commissioner, the TDS was disbanded over the relevant time. So we had no active TDS available. So that's why there was a – I guess a larger propensity for front line to come to me as the nominal duties – sorry, the nominal superintendent, notwithstanding I was off duty at the time. You know, hence the bus crash I'd dealt with that day, and the – and the – this incident.

Superintendent, with – in relation to the deployment of the IRT under this banner, for general support operations, it still had to be planned, organised, structured and approved, didn't it?---Yes.

And after approval for deployment through the Southern Command, it notes "That the OIC of the IRT, should discuss with the relevant superintendent or watch commander, the purpose and scope of the IRT deployment." The OIC of the IRT, was that Sergeant Lee Bauwens at the time?---There was – he assumed an – so- it was a unique unit in so far as it wasn't a functioning day to day unit. It was a part time unit. Sergeant Bauwens was the ranking officer within that construct. So he was the person that assumed, I guess, an OIC role, yes.

So you would – this – if you were going in accordance with the Standard Operating Procedure, Sergeant – and everybody was on duty, Sergeant Bauwen's would discuss with the relevant superintendent or watch commander, the purpose and scope. Who was then the relevant superintendent or watch commander?---So I'm the relevant superintendent. And Senior Sergeant Furness is the relevant watch commander. Sergeant Bauwens, I'm not quite sure where he was – he certainly wasn't at work. Whether he was on leave or – or whatever, but quite fortuitously,

Senior Constable Acting Sergeant Shane McCormack(?) was on duty at the time. So he was kind of a 2IC to Sergeant Bauwens as a ranking officer within the IRT team. So fortuitously, he was on duty at the time, as the acting shift sergeant, so it was conversations I had with Sergeant McCormack, and Senior Sergeant Furness that shaped the initial discussions around the plan.

“And then with the approval of the Commander of Southern, the IRT are also available to provide general support to other operations or capabilities”, as it goes on. So you, at the beginning, when you received that phone call from Sergeant Frost, and there’s a discussion – there’s a decision that the IRT should go in general duty support, and be available to assist with the arrest of Kumanjayi Walker, thinking that you’re going to follow the Standard Operating Procedures, and have a highly – well an organised, disciplined team, who will go in and act in accordance with an Operations Order. Is that right?---Yes.

Was that your experience of the IRT, prior to November 2019?---Yes.

In relation to an arrest plan, did you discuss that with Sergeant Frost?---We had a number of conversations. I had a number of conversations backwards and forwards with Sergeant Frost. Some of the early conversations were quite lengthy configuration. But within that, I expressed, I guess, my broad, overarching commander’s intent. And then I – I only provided very liminal – limited input into the sort of nuances of the actual plan. It was my expectations that the – the nuances of the plan, through a sort of then type methodology, would have been established, once the IRT were in community, and had the benefit of sitting down with Sergeant Frost and mapping those things out.

I’ll come to the Operations Order that you ultimately saw and approved in the afternoon of 9 November. But in relation to any arrest plan, did you discuss with Sergeant Frost involvement of the ACPO?---No, my understanding, Derek was tied up with cultural matters at the time. But it’s no – not – not – again, not into the sort of the nuances of the plan.

You had an expectation, didn’t you, that despite the IRT being called into community, there would still – you would still wait until after the funeral before Kumanjayi was arrested?---Well the intention was to wait until the next day for the – for the arrest plan.

In relation to seeking approval then, you had a phone call with Travis Wurst. The phone records show that that’s at 1.51 pm. You accept that?---Yes.

And what do you remember of that phone call?---I had so many phone calls that day, but I eventually got to a stage where I would say the same things on every phone call. It just kind of rolled off my tongue quite easily. So the conversation I had with Assistant Commissioner Wurst was around the five things, I highlighted those five things. And the five things at the time was the – an appreciation – or having an appreciation that he was aware of the incident from the night before – sorry, from Wednesday night. Referred to as the axe incident. Advice and respect to the

property issues overnight, and the perception, although no evidence to support that, but the perception that Kumanjayi Walker was involved in that. The risks and concerns relative to Rakeisha, and the linkages to the Family Safety Framework, and the acknowledgement that they were both outstanding at that point in time. The medical withdrawal from the community, that being imminent. And the concerns expressed by Sergeant Frost in respect to increased workload on police. And then lastly, the respite requirements of local police in terms of the substantive work that they'd done over the last week. From that, I then requested that we deploy IRT. Again, didn't get into the broad specifics. But certainly indicated that an element of the IRT deployment would be the high visibility patrolling to – in support of a respite intention. And – and I talked about the – the equipment that IRT would be taking, in terms of non-lethal munitions. AR15's and bean bag rounds and shot guns. So that was the total sum of the conversation with Assistant Commissioner Wurst. I had an appreciation that he had an awareness of the distinction between general support and high risk. And he was comfortable with the high-risk approval, not with – sorry, the general support approval, notwithstanding, he was an Assistant Commissioner.

Superintendent, in relation to that conversation, did you take any notes of it at the time?---No.

Would it be customary to take notes of it, or were you expected, in the course of your duty you would take notes of it?---Yes it would. I guess my notes are certainly not contemporaneous. They were taken and generated some days later. But I was off duty. At stages throughout that day I was gardening, I was bush walking, I was doing a manner of things that wasn't productive to taking notes at the time. So – but – but I certainly – the notes I've documented within my statement, were within days of the events - - -

We - - - ?---Whilst matters were still fresh in my mind.

What was the first document of the – of this conversation and others?---So what effectively occurred is after the incident occurred, I was then substantially involved in the response to that. The next day I was again substantially involved in the response to that. So I was on a rotation as the incident controller to a lot of the incidents that were occurring in – in the police stations across the southern region. But the third day, whilst doing my 12 hours of incident control in the day, I then started several hours each night, starting to pull together my notes. So this occurred on the Saturday night, I think maybe Monday night I started my statement which is contained on file, so I systematically worked my way through that after hours.

So we have your statement which is - which finishes with a typed not, it's some 93 paragraphs and it is currently an annexure to the interview that took place on 4 December 2019, I think it's one document that is referred to and then ultimately annexed to your statement. I just ask that you be provided with this document and then I will take it back from you. In relation to typing up your notes which ultimately became your statement, is that what you are referring to?---Yes. So I didn't type up notes, I typed up notes within that statement. That statement was my notes. I typed it up intending it to be my statement but I was advised that my statement needed to

be an electronic recorded statement so I sought to read that statement onto my electronic statement, so that forms the basis of my electronically recorded statement and then that was noted as an annexure, being notes at the time, notwithstanding it's in a statement format.

In relation to this conversation that you had, I think you initially timed the conversation with Assistant Commissioner Wurst at 11.45 am. Do you subsequently accept that it was later in the afternoon, is that right?---Yes.

Around that time - 11:45, you were, however, having conversations with other people like Sergeant Furness, for example, about actioning a plan?---Correct.

I acknowledge some of my times are off, but I am very adamant and comfortable with the sequence that's outlined within my statement terms of the sequence of conversations.

So after speaking with Sergeant Furness where you - we've seen Sergeant Furness where you briefly - where you briefed him about what was emerging in Yuendumu. You then contacted Assistant Commission Wurst and what you record in your statement is Wurst advised that the timings for the IRT would be through from - to Monday - through to Monday - the Saturday evening to provide general duties support to Yuendumu as a respite as priority for members who had worked considerable hours over the preceding 24 hours, correct?---Correct.

And advise them that the direction provided to the watch commander to ensure that there was coordination around deployment of the IRT and subsequent plans for Sergeant Frost?---Correct.

Advice that the watch commander is coordinating deployment of the IRT comprising four members and a dog unit, comprising the general dog and the handler, correct? ---The administrative deployment, yes.

And it included recommendation to Assistant Commissioner Wurst that members take non-lethal munitions, beanbag rounds and AR15 and this was approved? ---Correct, yes.

Assistant Commissioner Wust gave evidence yesterday that he has no memory of any discussion with you about what munitions would be taken. Is it possible that you didn't discuss with him specifically the weapons that would be taken?---I'm very comfortable with my recollection of the conversation.

Why?---Sorry?

Why are you so comfortable?---Again, I am extremely comfortable because that's - every deployment I've done of IRT in the past fits a sort of very narrow construct and it's IRT, dogs and drone and that's the tactical apparatus that they take with them, so - and every approval I seek I seek to reiterate that so it's a standard operating procedure for me.

So had you previously approved the IRT for this general duties capacity, given it - that is to support the community to police?---Well, I haven't approved it, it's with the commander but - but yes, certainly have deployed them many times, so yes, certainly.

You've deployed them many times outside the framework of a high-risk intervention, is that right?---I've never deployed them in a high-risk - within the high-risk intervention framework, it's always been in the general support framework.

How many times do you think you had been involved in their deployment in a general support?---Probably two hands. Less than ten but certainly there's a number that sort of stick in my head that I remember quite vividly but yes, probably - less than ten.

And on each of those occasions though, had the IRT gone out with their - taking all their non-lethal - I withdraw that - taking all their munitions and equipment?---It's my expectation that they take them every time because the unpredictability of the event that we're dealing with could easily require a general support to becoming a high-risk tactical action where the expectation on the IRT would be around containment whilst we wait for the TRG to deploy and establish the more fulsome plans around the containment piece.

But during the period that they were acting as general support when they were deployed for that purpose, when they were in the community doing general support, you wouldn't expect that they would carry with them an AR15 or a beanbag rifle, would you?---No, not at all.

That was only there in case there was an emerging serious complex which justified that?---That's correct. In recognition as far as my footprint is concerned, my footprint is a remote footprint over 400,000 square kilometres and you know, in the case of Yuendumu, 370 kilometres away from Alice Springs. It's not a simple case of "Oh, we've got to go back and get our AR15's because the circumstances now warrant it" so my expectation is that they deploy on every occasion with their full kit.

And do they always deploy with a dog and a dog handler?---Not necessarily but certainly as far as I am concerned, I always deploy them concurrently with a dog as a fulsome set of tactical options.

So in those less than or somewhere around 10 occasions they had - they deployed with a dog and the dog handler?---I can't say definitively every time. So as in the case of this one, a drone wasn't available. Perhaps some of the others dog wasn't available but every time I seek to deploy them I deploy them with drone, dog and IRT.

What is the purpose of the drone?---Well, again, the drone is an eye in the sky. It's an intelligence opportunity for us, it's something that we could swiftly deploy if someone evades our cordons and they're out in the bush, you know, the last thing we want is a tactical action or an attempted arrest then become a search and rescue

exercise that we have got to deal with so I want to make sure - and equally, the eye in the sky is an opportunity for us, if required, to assess what has occurred after the fact.

Was there a specific reason that the dog and dog handler attended on this occasion or was it - were you thinking that it was part of the general capabilities of the IRT?
---No, that's - it was quite deliberate in terms of the deployment of the dog, in terms of another opportunity for us to use the dog as, you know, exploiting both of its offensive and defensive elements, the dog unit, so yes, it's - it's part of the if then and - if then planning mandated that our actions would be the deployment of the dog, whether offensively or defensively, it was there, ready for utilisation if required.

But was it part of the general support deployment or a plan for arresting Kumanjayi?
---As part of the plan for the arrest the following day.

Were you aware that time that Kumanjayi had previously been bitten by a police dog after an escape?---No, I wasn't.

Would that have changed your advice in relation to the deployment of the dog?
---No, in fact it probably would've made me a little bit more resolute in terms of the use of the dog and threading that within the sort of negotiation narrative perhaps as exploiting the general deterrence elements of the dog, so, you know, the dog could be used both defensively and offensively, you know, around a presence, so the terms used are presentation or restraint, so the restraint is the dog being deployed and grabbing the subject and applying subject control but the presentation is the - what I generally use the dog for, it's the deterrent element, it's holding the dog and - and so that's - and what I can say in terms of all my deployments with the dog, I don't think all but maybe one, the dog was ultimately let off the leash, so I found it to have extreme effect and impact.

Do you agree that it is, in effect, a threat then, if the dog is being used like that?
---Every bit of kit that we have on us has both a defensive and offensive element. So every tool that we have at our disposal has that - if you want to say "threat", has that threat.

Or another way of looking at it is, it's a deterrence?---Correct. Threat is probably not a term I would ever use, but certainly, the deterrent benefit is - looms large every time that I deploy a dog.

Do you agree that a key mandate for Northern Territory Police in arrests in to use the minimum amount of force, which is appropriate in the circumstance?---Yeah, it may be an agency mandate, but it's a very strong mandate of mine as well from - you know, I apply a zero tolerance approach to sort of criminal offending, but I will always do that with the lowest possible level of force being applied, all the way from negotiating through empty-hand tactics/closed-hand tactics through to the deployment of whatever tactical options we've got generally in response to the conduct of the individual.

In this case with the arrest of Kumanjaya, I'm not talking about the general duties' component, but the actual arrest component was ultimately going to involve, on this plan to be formulated, members of the IRT, potentially the use of a dog, or the use of a dog at least as a deterrent and we know the element of surprise that was planned at 5:00 or 5:30. Why go down that route instead of waiting a period of time until you could get the ACPO who was then going to become available after the funeral and engage in a negotiation effort?---Yeah, look, I guess that's an option. It wasn't the option I took at the time. I considered the option that we took as being the one that elevated the broader safety of the community and was the most likely to result in the apprehension. As I said before, none of this sat easy with me in terms of the fact that he was at large as long as he was, notwithstanding his participation in the cultural matters. So, I felt at the time, strongly, that our success would have – was more likely to have occurred the following morning, as I've done a hundred times before, well maybe not a hundred, but many, many times before.

Did you actually give consideration to a less tactical response and a more negotiated response for Kumanjaya or not?---Well, I keep using the term "tactical", so it's probably my error, but I don't consider this an overtly tactical operation. This had - the foundation of this was the engagement elements that Alefaio was going to provide. It was something that we do almost every day in terms of establish and cordon around a location, knocking on the door, having a conversation and having the person come out. That was the intention. So, whilst there were tactical members that had tactical skillsets around close quarter tactics and things such as that, my expectations were that we weren't going to utilise those. But if they needed to be utilised, they were there to be utilised.

You were sent ultimately – I'm going to jump ahead, but at 4:49 pm, Sergeant Frost sent you what is the operation order or arrest plan. It's annexure D to your statement. I'm sure you're extremely familiar with it now?---Yes, I am.

And it notes the members of the IRT that are to go out. The plan on day one, was Saturday 9 November 2019, 11 pm, IRT commenced duty and conduct high visibility controls and respond to callouts. That's the general duties' aspect. Is that right?---Correct, yes.

And then 5 am on the Sunday, 10th, Donaldson and Alefaio were to commence duty along with the IRT members to effect the arrest of Kumanjaya. There are no further details about what that arrest would look like. What, in your head, did it look like?---So, that again – so, when I deploy IRT or I've got anything that has any sort of heightened sense of risk around it, I want to ensure that there's some structure applied to it. So, I always articulate what my commander's expectations are. I always – well, sorry, I won't say "always", but in most cases, I ask for a snap order. Ideally, we – you know, we generate operations orders. They take a long time to develop. They're a comprehensive document, you know, some 10 – 20 pages, depending on what the circumstances are. But a snap order for me is something that broadly follows the SMEAC principles that's within the operations order, but allows an opportunity to articulate what my intent is and then broadly, albeit conceptually, kind of map out the sort of broad framework that's going to be applied.

So, then from that, that is supposed to be the foundation for a more fulsome conversation at a station level. So, I assume the incident controller role where I say that these are my intentions as the incident controller. And then the forward commander's role is supposed to then work out the broader nuance of that framework. So, again applying a sort of if then-type methodology. So, you know, if we go to a particular house, what does the cordons look like, what will be the knock on the door, how does that look, where do we stand in support of that, what do we do at the next location that we have to go to, what do we do, what sort of actions on if the subject decides to run, what's the actions on if the subject decides to arm up, what's the actions on. So, that's the sort of – the nuance that is worked out at an operational level with the benefit of the tactical people in the room.

When did you think that conversation would take place?---To me, I assumed that conversation would take place when the members arrived in Yuendumu.

THE CORONER: So, the nuances are going to be nussed out at the station level?---That's my - - -

The basis understanding was for the arrest, establish a cordon, knock on the door and have the person come out. That was your basic understanding and you would have expected all your other officers to have had that basic understanding as well?---Yes, your Honour.

Where would they get that basic understanding from?---From the snap order, what is referred to in this forum as "the plan".

DR DWYER: I'll just ask that you be provided with a copy of it, unless Bec can easily put it up on the screen. It's annexure D to the statement of the superintendent, page 91.

THE CORONER: So, it just says, 5 am, you know, the local members along with the IRT to effect the arrest of Kumanjaya Walker. And you had an understanding that police officers in the IRT would understand that a 5 am arrest of Walker from that language would involve establish cordon, knock on door, have the person come out?---That's fundamental to the way we do our business. It's, as I've said, we've done that many, many times over. That's the sort of – it's not the most sophisticated, but it's a tried and tested blueprint that we've used.

I'm just putting that in front of you there - - -?---Thank you.

Superintendent, so you've got it. A tried and tested blueprint, you were up to?---Blueprint, yep, sorry.

I think you've also given evidence, Superintendent, that you expected some conversation to take place about it. Correct?---Sorry, could you elaborate further.

Yes. You expected a conversation around that plan to be developed further when the police officers arrived in Yuendumu. Is that right?---It's always an expectation in

terms of the – you say conversation, I'd say briefing.

Sure?---So, a briefing is paramount to what we do and how we do it. It's again how we then work out the sort of intricate aspects of the plan. The plan can't reasonably outline every eventuality, but there needs to be some broader consideration around sort of some of the main things that may occur.

Under the implementation of the plan, which appears at page 3 of the document, the locations of interest are listed as House 577, which was the primary residence, and then there were four houses underneath. Sergeant Frost has given evidence that she corrected that first house from House 512; it was noted to be 511. Given that there were five houses that were potentially of interest, how would the five – how did you anticipate the 5 am plan would work?---So, the 5 am plan to me, again, from my assessment of things and my history, we had relatively reasonable intelligence in place, not definitively saying what – where Kumanjaya Walker would be, but a strong influence in my mind, that would say that he would more likely be in his own bed asleep, in his own bed at 5:00 in the morning. So, I guess that's the premise in which we operated. But notwithstanding that, we have the other houses that he's associated with. So, I knew that there was a number of houses. So, typically, if I'm not looking at this incident in isolation, if I look at the sort of blue print, broadly speaking, what we have a tendency to do is 5 am, again, it's not the most sophisticated model. We can knock on the door. We cordon. We have a conversation with the residents. We clear the location, if necessary. And if he's not there, then we go to the next location. And then the next location, and the next location. And if we are unsuccessful in our endeavours on that day, well then we repeat that exercise the following day. And what my experience tells me, that over time, community are not overly happy with policing knocking on the door at five in the morning, and they bring the person to the police station and hand them in. That's sort of the – the broad framework in which we're operating.

And - - -

THE CORONER: And just – I – sorry, I just want to confirm, you understood this was effectively a blue print method of 5 am arrest?---Not necessarily 5 am, but an early morning arrest.

Okay?---As I've used with IRT many times before.

You've used it with IRT many, many times, and you expected your – any officers deployed, to understand that an early morning arrest followed a basic blue print, as you've outlined?---Correct, there's certain - - -

Thank you?---obviously some nuance around that, but as a broad blue print, that's the sort of framework.

So the blue print doesn't need to be spelled out, it is understood, and well understood?---That's my – my view, given my operational experience. Have used it many times before, both urban and remote. In fact, the deployment of IRT to Barrow

Creek some months earlier, was a 4 am in this case, arrest, for a highly volatile offender, who went and slashed his partner with a box cutter, here in Alice Springs. He'd been outstanding for a while. IRT were deployed. Arrested without incident. Conveyed back to Alice Springs, and congratulated by me for a job well done.

Do you know who the members were?---No, my involvement there was with Sergeant Bauwens, and I'm not quite sure who – who were deployed. I could find out, but I don't have that readily available, your Honour.

DR DWYER: Superintendent, in terms of – I've asked you a question about the equipment. You certainly would – I think you've answered this previously, you would not expect that in the course of the general duties, the high visibility patrols in response to call out, you wouldn't expect those four IRT members to be walking around with a bean bag shot gun, or an AR15, would you?---No.

Do you think that's counter-productive, in terms of liaising with the community?---Yes, it's – it's – the – the night activities was about reassurance. And the reassurance extends to the broader community, and so I find it counter-productive, yes.

And in terms of the arrest of Kumanjayi at 5 am in the morning, when he's asleep, you certainly wouldn't expect that to involve bean bag shot guns, or AR15's would you?---No the bean bag shot guns, and AR15's are there in case we have to go to a high risk – high risk situation.

When the police got – this has been – this evidence has been trawled over previously, but when the four members of the IRT arrived in sets of twos, after Officer Donaldson, to Yuendumu, there was some form of briefing. The evidence from Sergeant Frost is that Officer Kirstenfeldt suggested that they would go and gather intelligence, and then they were happy to in fact start working, soon after they arrived. So shortly after 7 pm, the four members of the IRT left Yuendumu Police Station, and went into the community. I'm going to ask that you are now shown a video of them – the first house that they attend. Superintendent, have you seen this video previously?---Extracts of it the other day when – yes.

THE CORONER: And before we go to that, the term used was "gather intelligence."

DR DWYER: Thank you, your Honour?---Yes, your Honour.

THE CORONER: We've had your understanding of the term arrest, used at 5 am, and a kind of blue print about what that might look like. Is there a blue print, that you understand, attaches to the term of "gathering intelligence"?---Well there's maybe not a blue print, but there's certainly a broad base definition of what is intelligence, and I'm happy to provide that.

DR DWYER: Please do?---So well look, intelligence is the acquisition of information, and then any assessment of that information to assess its probative value, and it's used to shape and inform things like risk assessments, or critical

decisions, or things such as that. So you can make an informed decision. Intelligence generally has a sort of three pronged sort of assessment – sorry, three prong classification. So there's a tactical intelligence. So that's the sort of here and now. That is where I say to someone, I need to go there right now, that house, tell me whose in there, is there any firearms, what's the antecedence of the people in there, are there any children, where's the exits, etcetera. That's tactical intelligence. Operational intelligence is more of a slower burn, but it's around target identification, and dealing with a target. And the last one is strategic intelligence. So that's your sort of crime tuned analysis, and sort of – to (inaudible) a strategic position. But each of those three are predicated on the gathering of information from relatively trusted sources, or as best you can. So there's no tendency to compromise the end objective. So it's a conversation you have with people, such as you know, Derek Williams, or the like, to try to shape – help shape the – the information you're seeking to again make some informed decisions, and support risk assessments and the like. So that's sort of my broad interpretation of intelligence, based on my experience.

So what – what would gathering intelligence look like, if the IRT were going to do that between 7 am and 5 am the next morning? 7 pm and 5 am the next morning?---Well there's – in my mind there's no need or necessity for intelligence gathering between – between those hours.

Next, I'm just going to show you that video.

DVD PLAYED

THE CORONER: Can I just stop that for one second.

I'm noticing a reaction from you Superintendent. What are you – what is your reaction?---Your Honour, it's – it's a difficult one for me. It's in so far as this – this event has a – or has had a deep impact – impact on everyone involved, but it certainly has on me as well, in terms of one of the critical aspects of any tactical matter, or any critical incident, is a post operation debrief. I was never afforded that opportunity in – in regards to this. So it's – a lot of the things I'm learning over the last few days, have been sort of bit informative to me, because, you know, I spent probably six months not sleeping, going how can something so simple in my mind have become what it ultimately became. So yeah, I guess it's – yeah, it's a bit informative.

What is informative of?---Well ultimately, I outlined the intention. Our intention is to do a certain thing, within a narrow set of parameters, and – and then all I know is that we have the death of a community member. I then spend many, many sleepless nights, trying to reconcile in my mind how we got to where we got to, with not having an appreciation of how we got there. So, yeah, I guess these are – it's just informative in terms of some of the things that I could see that was outside of the scope of what I considered to be what we were required to do.

We'll keep going, but the question I think ultimately, will be, how does this fit with your conception of intelligence gathering.

We'll keep going.

DVD PLAYED

DR DWYER: If we can stop that there. Sergeant, how did that fit with the implementation of the plan that was arranged?---Well, I guess the first point is that my expectations of Frost were clear and unequivocal in terms of the 11 pm commencement, so there was no elements around an intelligence gathering exercise, so that was outside of the scope of my clear instructions so had there been a discussion where there was a change in priority or focus based on some conversations on the ground at an operational level then I would have expected they were communicated to me and I would have then made an informed decision as to whether they should or shouldn't engage in an intelligence exercise.

You can hear those officers saying, immediately after they had left Yuendumu Police Station, this is shortly after 7 pm, they go straight to that house - 577 and you hear the words, that "That's Eddy's house" and constable Rolfe says, "We're here to grab" - I'll insert the word "Kumanjayi" - "We're here to grab Kumanjayi, okay, is he inside? Do you know where Kumanjayi is? I'm going to check this house real quick." That's not consistent with going there at 5 am is it, for any plan?---No.

And that's not consistent with intelligence gathering, is it?---No.

And that's not consistent with what you'd expect from a disciplined force that is following a plan?---No.

And you see there, officers outside the house who were carrying long arms. That's not consistent with a plan, is it?---No.

And going into the house like that, when there are two children sitting there watching television, what do you think about that?---Again, it's - it's not consistent with the plan, it's - it's counterproductive to what was ultimately seeking to achieve and as I expressed before, my firm view is that we had sufficient - not definitive but sufficient intelligence holdings that indicated a primary place of location, being his bed that I assumed he would sleep in each and every night, but then outside of that we had a number of other locations, so I guess if I accept the genuine notion that this was a genuine intelligence gathering exercise in support of a 5 am operation, if we gleaned at whatever time that was that Kumanjayi is at X location, then that would still only be as good as the information as it was at that point in time, it still would've had no immediate bearing or certainty around the next morning activity, so again, the next morning activity was the priority for me and that was my expectations, but - - -

Superintendent, that's not intelligence gathering, is it? The words that you hear from Constable Rolfe are, "We're here to grab a - grab Kumanjayi - hey". That - that it's clear, isn't it that what those officers did is leave the Yuendumu station, go straight to

the first house that they knew of - House 577, with a view to arresting Kumanjaya at that time?---It'd appear the case based on what you've just shown me, yes.

And then can I tell you that there's also a conversation which has been in evidence previously, with - where a community member, Elizabeth Snape, has a conversation with Constable Eberl where she says to him, "I'm just figuring out why you have a gun" and he says, "Why we have a gun?" And she says, "No, why he's got a gun" and she can see - it's obvious from the film, a police officer carrying a longarm, and he says, "Oh yeah, we all carry guns" and the community member says, "Yeah, I know, but he's like got it aimed to shoot someone" and the officer says, "No, he's not aiming to shoot anyone, is he?" And she says, "It's not right." And he says, "Okay", and she says, "Stop it", and he says, "We don't - we don't have a holster for that one so we have to carry it so someone probably shouldn't run at police with an axe, hey?" What do you think about that behaviour from a serving police officer under your command when they've been given an operation order to go in and detain - assist police with high visibility patrols and then participate in a disciplined arrest at 5 am?---Oh - it's extremely disappointing. It's provocative in nature and it wouldn't serve to address the first element of my plan, which was community reassurance and inherent in that respect and - yeah.

It's ill-disciplined, isn't it?---Yes.

And it has the potential, doesn't it, to not only destroy this plan, but also to affect the trust that community members have in police, going forward, which is important for subsequent activities?---Yes, I agree.

THE CORONER: Do you want to take the lunch adjournment?

DR DWYER: Certainly, your Honour. I won't be much longer.

WITNESS WITHDREW

ADJOURNED

RESUMED

THE CORONER: Yes, Dr Dwyer.

DR DWYER: Thank you, your Honour.

JODY NOBBS,

DR DWYER: Superintendent Nobbs, I showed you some video from body-worn video footage prior to the break. I'm going to show you some further footage, firstly, from the body-worn video of Constable Eberl. This covers the portion that I read to you earlier.

DVD PLAYED

DR DWYER: What we're about to see that's cut off there is the interaction then with Kumanjaya. Superintendent, that's not consistent with obtaining intelligence, is it?---No, it isn't.

And it's not consistent with a disciplined approach to the operational order that was planned for that night, is it?---It certainly didn't align with my expectations in terms of my unequivocal direction to Sergeant Frost.

And what do you have to say as a superintendent in relation to the conversation that took place between Constable Eberl and the community member that, in which he said, "Somebody probably shouldn't run at police with an axe." Well, that was clearly inappropriate, clearly inappropriate and the questioning from the community member was quite appropriate on the context of what was occurring at the time, based on what I could see.

I'll show you some footage at a similar time, around 7:19 pm, that comes from the footage of Constable Zach Rolfe.

DVD PLAYED

DR DWYER: Superintendent, have you seen that footage before?---No, your Honour.

Can I ask you to assume that that footage starts at around 7:18 pm and the police officers leave Yuendumu Police Station at approximately 7 pm. So, 18 minutes after they leave the police station, they're going first to House 577, the video we showed before lunch, and this house and conducting themselves in this manner, which includes Constable Rolfe saying, "We're here to grab up Kumanjaya, hey", using his first name, and "Where's Rakeisha?" Is that consistent with intelligence-gathering?--No, again, it appears to be more consistent with a searching or a tactical action, an attempt to, I guess, generate a chance discovery, not that "chance discovery" is the right term, but certainly, contrary to my explicit instruction to Sergeant Frost that this sort of activity, broadly speaking, was more preferable to be undertaken in the

morning. I note the existence of a number of people in the area, kids and otherwise, and it just increases the heightened sense of risk around ultimately identifying (inaudible) whether it's a chance at scullery, if that's what we're referring to it as or otherwise.

Well in terms of that evidence, the operations order specifically says, doesn't it, "11 pm IRT commenced duty and conducted high visibility patrols and respond to callouts". You wouldn't have any objection to them commencing or conducting the high visibility patrols and responding to callouts prior to 11 pm?---No. But again, in my mind, that period between arrival and 11 pm was about their own respite but it was also about building the frameworks that were going to provide, you know, the intricacies of the plan.

Of the plan to arrest at 5 am or thereafter?---Correct. So the actions on if then type discussions and establishing plan around that.

But Sergeant Cross has given evidence that she made it clear and Constable Alefaio was in the station, that Constable Alefaio was to arrive at the police station at 5 am and the arrest was to take place after that period of time. Her evidence is that there was some discussion along the lines of if you come across him, then by all means arrest him. That was not, in terms of what the officers were doing there, it did not look to you like they were gathering intelligence and then accidentally planning to - - -

A PERSON UNKNOWN: Your Honour, I object. Why not ask the witness what he perceives to be rather than you telling him.

THE CORONER: I'm happy for you to put a proposition.

DR DWYER: Thank you, your Honour.

Superintendent, do you accept the proposition that I'm putting to you that they don't appear to be conducting or gathering intelligence with a view to seeing if they come across him. They appear to be searching for him, don't they?---Yes, your Honour.

I anticipate that when Constable Rolfe gives evidence he may well say that he being polite, he used the term please. You hear him say, "Hey missus, is this Margaret's house" and is this – "where's Rakeisha". Is that culturally competent?---Sorry, can you repeat that question again.

Yes, sure. I anticipate that Constable Rolfe might say in this court, as his father has said in other forums, that he was very polite when he was dealing with the community. In the context of your operational – or the plan that was developed and approved by you where the IRT would commence duties and conduct visibility patrols and respond to callouts and arrest at 5 am, is it culturally competent, firstly, to use the term – just because you say hey missus and please and we're hear to grab

up Kumanjayi, does that somehow make that behaviour polite?---No, I don't believe so.

Why not?---I guess – well if you're talking about the language used in isolation, I'm not looking at it, I guess, broadly in isolation, I'm looking at it more broadly in terms of the language used coupled with the actions demonstrated, the existence of the children, the existence of the long arms, things such as that. So that makes my broader assessment that that is effectively not culturally sensitive or competent in that regard.

And not consistent with the operation plan, correct?---Correct.

It's not disciplined, is it?---No, your Honour.

Can I ask you to have a look again at the text messages that I took you to earlier. You see there on the first page the references to there being fuck all rules in Alice Springs. And then the second text is:

"I'm out at Borroloola, a random community on the coast because they're rioting but we came up last time they did this and smashed the whole community. So this time as soon as we arrived they started behaving".

And then over the page you see three up from the bottom, an officer who text Constable Rolfe:

"If your last name rhymes with olf you're allowed to towel up the locals". And Constable Rolfe saying, "I do have a licence to towel up" or "a licence to towel locals, I like it".

And then over the page you find the reference to an officer who texts Constable Rolfe:

"You've had a rough arvo yes, de grubby(?) fucks" and him saying, "Nah brah, just slightly annoying ha ha, coons man".

And then Constable Rolfe texts somebody saying – referring to Aboriginal people as Neanderthals. And then a police officer has an exchange with Constable Rolfe where the other officer referred – asked him:

"Who was the silly bitch" and he says, "Just some white bitch who thinks she's Aboriginal". And the other officer says, "Lying in the dirt pissed doing a fucking good impression".

And then over the page you have Constable Rolfe texting a sergeant saying:

"Yeah, bush cops would never have been able to get him, impossible for him. So it would be impossible for them. So it was good we went the bush cops

fucked up as usual. But that just meant we had a run instead of getting him cordoned properly, so it's all good. He was fair rapid".

And down the bottom of the page the sergeant, who is in a leadership role, texts:

"These bush coons aren't used to people going after him".

And then Constable Rolfe:

"Yeah, bush cops blow my mind. I'll tell you about these dudes when I see you". And Constable Rolfe to that, "Sergeant, we could just cut a few people and rejig the team. Nobbs should be loving us at the moment".

Superintendent, can you see a theme of ill discipline in those text messages?---I see a theme of contempt for the community and contempt for colleagues and from that clearly ill discipline.

And can I suggest to you – don't let me put words into your mouth. What do you want to say about the language there of coons and Neanderthals?---It's completely unacceptable and offensive and hurtful. No place at all for it.

And in terms of that ill discipline, would you have ever allowed members of the IRT to be involved in the execution of this operation plan if you had known that they'd demonstrated that level of contempt for community police and that level of contempt towards Aboriginal people?---No, certainly not.

Can you see the relevance of understanding the text exchanges between officers who are involved in the IRT in trying to understand why this operation plan was not executed in the way you had wanted it to be?---Yes, I can see that.

Would you like to just use your own words to talk about why those texts are significant?---Well if the starting point is a nil discipline workforce and a broad contempt for the colleagues in which they're going to actively operate with in the community in which they're operating in, the foundation of the plan is – has no – or there is no foundation to the plan in the first instance. So anything that will flow from that is destined to fail.

And a crucial part of this plan was, wasn't it, that there would be a briefing about the operation order when the members of the IRT arrived at the station in Yuendumu?---Yes. I've never had an operation where I don't have a robust briefing and further to that a robust debriefing after the vent. But they're critical in any operation. They're a most critical aspect.

And in this circumstance where you had a female sergeant of police who was a bush police officer or a community officer looking at attitudes that show contempt towards women and contempt towards bush cop are relevant, aren't they, to determine whether or not that briefing was given any regard?---Correct. Well – yes, your Honour.

THE CORONER: I think you've already agreed that what we saw on that footage in your mind did not amount to intelligence gathering?---Not from my assessment based on my experience, your Honour.

It did not amount to general duties, high visibility policing?---No, your Honour.

And it did not conform with your plan for an arrest, which would have involved, not only the morning, but cordon, knock, and call out?---In fact, counter-productive to that end.

And given that it didn't conform with any of those stated by a number of different people, plans for how the policing might be conducted that night, would you agree that it appears to be people doing cowboy stuff, with no rules?---Accept that descriptor.

DR DWYER: Superintendent, can I move on, to a period of time where you are informed, around 7. 30 pm, of the shocking news that someone has been shot. Where were you when you got the call?---Having dinner with my daughter, out.

And how would you – do you find out?---Got a call from Helen Gill(?) the Nurse Manager. She said that the Yuendumu Police shot someone. I said, "Oh I don't think so. I'll make a call and get back to you." I called Julie Frost. Very, very brief conversation, very vague recollection of it, but she confirmed that that was the case. I quickly hung up, called Helen Gill back and said mobilise – mobilise Yuelumu Clinic, and then from there, started the various things that occurred from that.

At 7.33 pm, you contacted Assistant Commissioner Wurst, and you provided him with advice about what you knew at that time. And you commenced then putting a plan into place, is that right?---Yes, so I notified Assistant Commissioner Wurst, just of the very, very broad information I had available to me at that point in time. Whilst concurrently going home, quickly throwing a uniform on, making my way into the police station. And then I established the – an Incident Management Team, in support of what was clearly going to be a protracted response.

Did you call in others to assist you, in terms of the Incident Management Team from Alice Springs?---Correct, I – one of the first priorities for me, is to establish a sustainable and scalable framework. So I went into the police station. The first thing I done was made an immediate declaration, or proclamation to those in the Muster Room that I was in charge, and any decision will come through me, going forward. I established the IMT, which is an Incident Management Team within our POC, that's our Police Operation Centre, which is immediately next door to the watch commander's office. So I had proximity in terms of some of the decision making that was already ongoing. So there was a seamless handover. I – inherent with an IMT, is it's again, a scalable – a scalable - - -

(Inaudible) - - - ?---A scalable structure that has various elements attached to it. So whilst I assumed the Incident Controller role, I had an Operations Officer, I had a

Logistics Officer. That obviously built over time, given that it was so immediate. But yeah, so that's what I established in the first instance.

I'm just going to show you a document –

which is at 5-3 for the benefit of my learned friends.

It's termed "Scribe notes for Superintendent Nobbs." What is that document? It's attached as an annexure to one of your statements, or to your interview?---Yeah it's notes – so when we have a critical incident, or any sort of major protracted incident, that's clearly going to be the subject of some enquiry or scrutiny, or lessons learned, or whatever we want to refer to, one of the critical parts is making a running sheet of what's occurring. When it's occurring. Trying to capture critical – critical decision making. So I bought in Sergeant McCormack to fulfil that role. And these are the notes I believe he took, as part of his scribe duties. And they're certainly far from complete, I would think. But they, I guess, reflect some of the early conversation pieces.

And they start – I'm obviously not going to – her Honour will have access to these, and has read them. But they start at 20.20, 8.20 pm. Which says, "Superintendent Nobbs taking – or talking over." Should that be taking over?---Correct, taking over.

And then they finish there at 1.10 am the next morning, where "The TRG will be on the ground in 10 minutes"?---Yes, so – yes, correct.

Any time prior to that, were you taking notes, or was someone taking notes for you, or is the first opportunity - - - ?---Well these were the notes taken for me, but I – early – or identified quite early – sorry, your Honour. I identified quite early in the response that we just couldn't keep up with the – the rapid flow of information. So I actually thought that we sort of stopped with the running sheet, and I then electronically recorded the Police Operation Centre, to capture all the decisions and conversations within that room for the duration of my command within there. So that was effectively what I used as my notes, I guess, to shape my statement.

So I'll – I'll just – I'll just take you to a couple of these entries. But there is one particular timeframe that I want to take you to. At 8.39 pm, so it's 20.39 on that first sheet. There's a note there that Sergeant Frost was speaking to you via phone, and Kumanjaya is noted to have passed away?---Correct, yes.

Prior to that time, did you have responsibility, while Kumanjaya was still alive, for trying to get medical attention - - - ?---Yes.

- - - out to him?---So one of the first engagements I had upon taking charge within the station was I had a conversation with Damien Mildes(?) from RFDS, in fact, upon arriving at the station, he – Mr Mildes was talking to the Watch Commander around – so there had clearly been some discussions preparatory to an RFDS deployment.

I then took over – excuse me, those conversations, going forward. So that was the – and then also coupled with the earlier conversation with Ms Gill, around deployment of Yuelumu. So they're the two sort of medical responses, or elements that I involved myself in.

And just establishing the chain of command in the POC, you were the most senior officer obviously in Alice Springs, at that time, correct?---Correct.

Are you effectively reporting up to somebody as well?---Yes I would still maintain our general chain of command. But in the context of a protracted, complex incident management framework, so I established the POC, as an operational response. So the POC IMT as to inform the operation decision making. But although it wasn't established immediately, what was established in Northern, where Mr Wurst was, was a broader – their own POC, so Police Operation Centre, and a JMC, so it's a Joint Management Committee, or an IMT, whatever you want to refer to it as. But within that framework, that's when he has the multi-faceted sort of representation across. So investigations, media, so him assuming overall control and command, so the elements – I'm not quite sure of all the elements he had within the JMC, but I then reported – it has a direct line of communication, straight into the – the overarching JMC. So I drove the operational response. And the JMC influenced the strategic response.

I'm going to – we heard from Assistant Commissioner Wurst yesterday, and he took responsibility for particular decision making. I'll just ask you about your role in this decision making. At any time prior to Kumanjayi passing away, who was your – within the station at Yuendumu, who were you speaking to?---Again, so I neglected to talk to that. So under me, was again, a structure within the Yuendumu Police Station. So Sergeant Frost was the Forward Commander. And then obviously she had a work force under her. So I would then articulate my priorities and expectations through my communication down, and then she would then – that would then be executed by her at a local level - - -

Did you – I beg your pardon, please continue?---No, that's all, sorry, I didn't go to the answer though.

Did you speak to any of the other officers who were there on the ground, prior to the new Forward Commander, Terry Zang, arriving, did you speak to, for example, Chris Hand, or Constable Rolfe, or any of the other officers there, or just Frost?---Only if – so what I said to Sergeant Frost in the first instance is, we will maintain ongoing communication. Your communication will go through me only. We will have 15-minute sit reps and they will be on the 15-minute, or whatever the case may be. So, there was some structure around the communication strategy or the flow of information strategy between my IMT and the forward command. I'm sure, I can't say definitively, but I'm sure that there might have been times when Sergeant Frost's phoned rang and someone else might have picked it up, but certainly, it wasn't my intention, or certainly I didn't engage anyone at a local level outside of Sergeant Frost for any substantive matters.

In your original statement which is attached to your interview, you set out a number of different critical decisions, and I'm not going to ask you to read each of those onto the record, I will just take you to specific points. Did you, at any stage prior to Kumanjaya passing away, discuss with Sergeant Frost allowing family to be with him while he was suffering like that?---No, I didn't. And I guess, quite the contrary. My position relatively early was that we were going to maintain the – what I refer to as a “safety plan” and that was elevated over the cultural sensitivities, but I certainly painstakingly was acutely aware of what I was doing in that regard from a cultural context.

Did you actually, so just drilling down on that, did you actually turn your mind to it or was it just that the other operational needs were driving you at that time?---I don't know if I've created this in my head since, but I'm pretty confident I turned my mind to it and was aware of it. But again, I can't say definitively, but I'm very, very much aware of culture and the imperatives around that. So, every decision I made was a decision made through the lens of four things. You know, one was the status of Kumanjaya Walker. The next one was the safety of the police. The next one was the sentiment of the community and community safety. And then the last one was the sort of policy and legal landscaping which I operated on. So, those things were running around my head every time I made a decision and yes, I don't know if that answered your question, but - - -

Unfortunately, Kumanjaya was only alive for a short period of time. He came – I'm approximating, but if he came into the police station at around 7:30 pm, by 8:40, that's less than an hour and a half, that he had passed away. If he had stayed alive for a longer period of time, would the police on the ground and yourself have to re-evaluate and see who could come in to comfort him?---We operate in a constant state of re-evaluation. So, you know, it's – I was rapidly digesting all the information that was coming to me constantly. But as a broad proposition, my plan was that the notification as to the condition of Kumanjaya Walker was not going to be made to the next of kin, and then subsequently the community, until such time as the TRG had secured the police station and we had sufficient capability within the police station to maintain broad-based community safety.

There was an initial thought that you could deploy civilian personnel, the Royal Flying Doctor Service, on a plane and additional police officers into Yuendumu. Correct?---Correct, yes.

At 8:40 when you were advised that Kumanjaya had passed away, what happened with respect to the deployment of the RFDS?---I stood them down.

And why was that?---Well, we still hadn't actually got to a deployment. So, the conversations I had with Mr Mills were starting to put in principal frameworks and plans that would result in the safe arrival of the RFDS either into Yuendumu, or into Yuelamu, discussing the opportunity for me to send additional resources to RFDS to help facilitate in the safe arrival of RFDS into community. So, there were a lot of preparatory conversations in principal conversations, but it was, in principle, based on Mr Mills going to his supervisor and getting the release of RFDS to be able to

actually come. So, I never got a determination from them on that, but considered it no longer necessary after the passing of Kumanjayi Walker.

If Kumanjayi had stayed alive for a longer period of time, would further efforts have been made to get the Royal Flying Doctors Service in there?---It was a constant effort. We were in constant dialogue around how do we achieve the deployment of RFDS and whatever additional police I could muster to accompany the flight. But the flight wouldn't have been delayed to facilitate the police, it was – it still would have been sent as a priority, but we didn't – we just didn't get to that stage.

At some point after Kumanjayi passed away, a critical decision was made. It's recorded in your statement at page 23 as "Critical decision of OIC Number 6. Yuendumu Police Station to be evacuated with Kumanjayi". And Sergeant Frost provided the following taskings predatory to the same, "Prepare to move, establish an evacuation plan at the station, should it be required. Kumanjayi was to be placed in a police vehicle to preserve his body and the evidence. All ammunition and weapons were to be secured in case the station was breached. Establish a coordination within the station and give consistent advice to members in relation to the evacuation." Was that a decision you supported?---That was the decision I made.

Why was that?---Well, it's a decision based on, again, the prevailing information at the time, coupled with my lived experience within the Northern Territory and in particular, Central Australia. There was a strong apprehension that the police station would be breached and there was some concern and risk around that. So, I gave a direction to prepare to move and start doing the things necessary to support an evacuation of the police station.

What was – you mentioned there your own experiences that you were, in part, relying on, but what was the information on the ground that was concerning you, such that it would justify an evacuation order?---Okay, so the first and foremost is the fact that police had been involved a critical incident, namely, a community member being shot by police. I know the term "unprecedented" is bantered about very frequently these days, but certainly, this was an unprecedented matter, certainly in the context of my career. So, that was the starting point. There was a large swelling of crowd that were demonstrating varying degrees of hostility and aggression out the front of the police station. There's my knowledge of the Yuendumu Community and come of the challenges that are associated with that community. So, I guess a whole lot of things influenced my decision, not limited to Sergeant Frost's assertions that it was necessary based on her communications to the people, the police officers, within the station including ACPO Derek Williams.

At some – you gave a direction, am I right, that Derek Williams should evacuate as well, with local police?---Yes, I did.

And you were then informed by Sergeant Frost that he wished to remain with the community and his family. Correct?---Yes, I did – correct, yes, your Honour.

In terms of the work that Derek Williams did on that evening with the community and family members outside the police station, what do you want to say about that?--- Look, it was exceptional. I'll be deeply indebted to ACPO Williams. The leadership he demonstrated on that night was exceptional and I struggle with the ultimate deception that involved ACPO Williams and clearly, the impacts that would have on relationships with me and the police service going forward. But the work he'd done that night was remarkable, in my mind, and the difference between us ultimately having the outcome that we had and what was highly, in my respectful submission, a highly probable volatile outcome that we didn't ultimately have.

Assistant Commissioner Wurst gave evidence yesterday that he had thought that it was part of the plan for a member of the police team that was inside Yuendumu Station at that time to go out and stand with Derek and talk to the community, so that there was a line of communication, even if the community were not told the truth about Kumanjayi passing. Was that your understanding?---Yeah, I understand that was the direction and that's noted as being received by me and noted with my statement to that effect. So yes, acknowledge the direction provided.

And did that happen?---No, it didn't.

Why was that?---The – that was – that was the direction provided by Assistant Commissioner Wurst but I applied a, I guess, a broader assessment of what that actually meant in being the person that was ultimately in charge of interpreting that direction and then applying that at an operational level. So - - -

I'll just go back a step. What was the direction?---So the direction was that there needs to be assistance to Williams in respect to the engagement going forward. So what I attempted to – what I gleaned from that and what I attempted to establish was a broader engagement strategy and that engagement strategy was going to be predicted on identifying respectful elders – sorry, respected elders within the community to be part of the engagement plan. But the execution of that engagement plan, to me, was still going to be something that was undertaken after we rendered the police station safe and we were in a sufficient place to commence the next of kin notification and broader community notification. The notion in my mind that Sergeant Frost would go outside and stand shoulder to shoulder, or for that matter any other police officer within the police station, offended by assessment of what was necessary and safe in the context of what was occurring at the time. And certainly it couldn't have been Sergeant Frost given the Forward commander role that she had within the station and the broader expectations that was inherent within that position.

What about someone like Constable Alefaio?---Again, acknowledging the relationship that Alefaio had with the community, but still that was something that was outside of what I considered part of the broader overarching and more prevalent safety plan that I had in place.

Were you concerned for his safety if he went and stood beside Derek, was that part of your rationale?---100 percent. That was the whole total sum of my concern.

Did you give any consideration to Constable Alefaio going and standing beside Derek and effectively acting as a conduit, so that even if the full information couldn't have been passed on at that stage the community may have felt that they at least were getting something from police, not being ignored?---I don't believe that I really got that far into the nuance of that. I was of the understanding that Sergeant Frost and ACPO Williams had maintained – were maintaining contact but again, there was no – no opportunity or it was certainly not appropriate, in my mind, that Alefaio would be outside as a conduit or otherwise with ACPO Williams.

Did you turn your mind to the fact that Derek was in an extremely difficult position as a family and community member and also a police officer?---Very much so. Very, very much so.

How – did you give consideration to how you balance that in those circumstances when you're so heavily reliant on him?---I balanced it in favour of public safety and put greater weight on the public safety imperative over the cultural sensitivities as it relates to ACPO Williams.

And I'll come back to that, superintendent. But at 2134 - - -

THE CORONER: Can I just try and understand something. Did you think there was a different risk to ACPO Williams as compared to any other police officer who might be standing out the front?---Yes, a less risk. Depends on the lens that you're looking at in terms of risk. So risk in terms of harm, less risk as relates to ACPO Williams. But risk in terms of compromising the whole safety framework I had in place, my theory was that ACPO Williams is a highly respected elder within the community, a cultural man, a man that does – and I know this intimately – struggle with the working and walking in both worlds. And I knew or suspected and highly suspected that if I had made a notification to Williams that he would have then put his cultural obligations in front of the community safety – and I mean no disrespect by saying that – and then the stop gap, the safety mechanism I had in place would have no longer been available to me.

DR DWYER: Did you – I'm going to come to what's been termed a rouse. But at 21:34 there's a notification on the log which is "speaking to Frost. 200 people out front. We are not going to be safe. Plan to take Kumanjayi in ambo and make that we are taking him to" and there's "???" from the scribe. Sergeant Frost has explained that the plan was and it was executed, to have a police car then an ambulance following behind and then a police car driving out to the airstrip. Police were picked up but that would make the community think that they were taking Kumanjayi out to the airport. And then there was confusion at the airport because those vehicles then came back loaded up with police and the community didn't know what was going on. We know that a rock was thrown by a community member, it hit the ambulance and in fact Lorraine Walcott was injured. And we've heard some evidence to suggest that it was likely to be thrown because of the frustration of the community at not knowing what was going on at that time. Asking you to accept that, was that plan, the rouse, explained to you?---Well the rouse was my insistence. It was – I expressed that this is the sort of broad plan and then Senior Sergeant

Potts working with Sergeant Frost, again established the nuances of that plan. But I was very much one of the decisionmakers or part of the group, so it wasn't Sergeant Frost arbitrarily making this plan, it was a discussion that we had together and one that I endorsed. So it was deliberate in its deceit and it was about, again, giving the perception that Kumanjaya Walker was being conveyed. So the police plane that came in was a leased RFDS plane, so it was badged as a RFDS plane, which further supported that the ambulance's involvement was obviously an ambulance and that – the use of the ambulance though, also had a utility value in terms of assisting in bringing a lot of the things back, the member's equipment and then I also had conscious in my mind at the time that we still had a prepare to move type order in place and a number of our police vehicles were prepared for an evacuation that may or may not have been required. But the plan was about a swift and decisive exit from the compound to the airstrip, make sure the plane landed and departed safely without rocks being thrown at it and then a return to the station with reinforcements.

How did you feel about the plan at the time?---Again, I'm not sure if I've made this up in my mind since, but I truly believe that I did have an appreciation of the cultural deceit that was inherent in the plan, but again, elevated the placing greater weight on the – what I considered the broad community safety over that of the cultural sensitivities.

Superintendent, I appreciate your candour in assuming responsibility for that decision-making and explaining what your thinking was at the time. Given that it involved a deceit of those community members and what you've told us about the importance of trust, did it weigh on your mind at the time that your plan involved a deception of the community?---Certainly. But I still based on my extensive experience, still considered it necessary. In fact it's weighed on my mind ever since, so it's – yeah.

There are likely to be some community members listening either now or in the future and this evidence will be summarised in Walpiri and available to community members. Do you accept that that plan, appreciating your intentions at the time to keep the community and police safe, that may well have eroded trust, going forward, for police in the community?---Inevitably, there's not a doubt in my mind.

Is there anything you want to say about that, particularly to the community listening?--Oh look it's – it's – it has deeply troubled me. I acknowledge it's deeply troubled the community ever since. Notwithstanding the challenges for the NT Police, and the challenges for the Yuendumu Community, we're a – we're broadly people that respect each other. There's – there's, you know, the utmost respect that the Yuendumu Community have for police, and conversely, police have the utmost respect for Yuendumu Community. So the fact that I felt it necessary at the time to deceive the community, weighs heavily on me, and I sincerely apologise to the Yuendumu Community for that. You know, as a consequence, I'm a different police officer today. I don't know if I'll ever be the same police officer again, but it – yeah, it certainly has weighed heavily on me, ever since, so.

Do you mean to say to her Honour, that the fact that you had to engage in that deceit has made you a different police officer, effectively?---I think the fact that the inherent conflict and the differences between our system and the cultural system, is – and the fact that – I’ve always known that to be the case, but the fact that I feel that I was forced to make such a call, yes, it’s – it’s a difficult one, so yeah.

This is may be an opportunity for a communication with Derek around this. What did you think about Derek Williams, the ACPO before this event, on 9 November?---I’ve always had the utmost respect for – for Derek, but my, you know, respect for him, has grown expeditiously since that night. And the leadership he demonstrated was remarkable. And I still maintain was the difference between where we ended up, and where we could have ended up, so.

And in terms of the leadership demonstrated on that night by community members, do you agree that it was also his father, Warren, demonstrated exceptional leadership on that evening?---Yeah look I didn’t have an appreciation of Mr Williams’ involvement at the time, but certainly I’ve been told since, that he had some involvement in that, so I commend him, and acknowledge his involvement as well.

And are you aware of other leaders, like the sadly now departed Kumanjayi Nelson, are you aware that he was there?---No I wasn’t aware.

And is he somebody that you came to know about through your work in Yuendumu?--Yes, correct.

He was somebody who was an exceptional Elder in the community?---He certainly was, yes.

THE CORONER: Those (inaudible) had the police back that night standing out the front?---Yeah, potentially, your Honour. Acknowledged.

DR DWYER: Were you participating in the plans as to how the community would eventually learn of the news about Kumanjayi?---The communication plan was it was always – once we, again in a broad sense, once we established the safety of the police station, and we had sufficient resources there to maintain its safety going forward, then – then we were going to start with the next of kin. And then that was going to then be broadly communicated from there.

At some point in the evening, the decision to evacuate the station was overridden by Assistant Commissioner Wurst, is that right?---Correct, yes.

Did you participate in any sort of discussion with him about that?---Yeah, so whilst I had 15 minute sit reps with Sergeant Frost, I’m not quite sure if they were 15 minutes, but certainly had periodic sit reps provided up into the JMC. So within that – the first JMC, immediately after me making the – the determination that we would evacuate, and gave a prepare to move order, I provided that advice to Assistant Commissioner Wurst, and he override my determination, and said, we can’t lost the station. We have to maintain broader community safety, and – and his

position was, we would not evacuate, unless the station was breached. So we still continued to maintain our assets at the ready to support an evacuation if – if the station was breached.

At approximately 10.11 pm, I'm reading at par 60 of your statement, the telephone conversation update is this. This is the situation report. "Kumanjaya remained at the station", I'll just read to you parts of it. "The recourses through Yuendumu IRT and the dog were in situation. Williams engagement was ongoing. There was seven police in transit in the air, who would be on the ground in 20 minutes. There was a task there of Sergeant Frost – tasked Sergeant Frost and Derek to establish engagement strategy with a cohort of Elders, accepting this may be difficult, as the main Elder, Eddy Robertson, was Kumanjaya's grandfather. Concern continues to be expressed by Sergeant Frost in relation to personal safety, and probable breach of station. Between 20 to 200 have approached the station numbers, and aggression fluctuated. No overt acts of violence, other than rocks being thrown on the station roof. Calm predicted" - - -

THE CORONER: Predicated.

DR DWYER: I – thank you, your Honour.

"Calm predicated on community belief that aircraft coming to the community for the purpose of the treatment of Kumanjaya." Given that there was – it's accepted that the note there is between 20 to 200 having approached the station numbers, and aggression was fluctuating. Was there still a belief at 10.11 pm that there was no ability to communicate the decision about Kumanjaya being deceased?---That – still maintain my position, yes.

Did that change in any way, prior to the arrival of the IRT, or other members of police?---TRG, no.

TRG, I'm sorry?---No it didn't.

At approximately 11.30 pm, there was a phone conversation recorded with Susanna, who was then the WYDAC manager. And a decision was made not to give WYDAC any update on the condition of Kumanjaya - - - ?---Correct, yes.

- - - can you explain that?---For the same reason. There was no – in my mind, the – the security and safety of the police station, and the safety plan, was predicated on the community not knowing the – the status of Kumanjaya Walker.

At some point, police received some intelligence that the – or at least a notification, that the clinic was on fire, or there was a fire at the clinic, do you recall that?---Yes I do.

What was the information that came to you initially?---So one of my sit reps with Sergeant Frost, there was a notification that the clinic was on fire. I said, well – we made an assessment – well I made an assessment that it was an NTG asset. I knew

the building to be standalone. I knew the building to be unoccupied, and I said we won't be responding to that. In my mind, I had a fear that that was a decoy to bring about police having to leave the police station, to respond to the fire. As it turned out later, and it was some time later, that I was advised that the fire was a grass fire set immediately approximate to the – to the clinic, and not the clinic structure itself.

So there's a note at 11.30 that advice came in from Susanna that the clinic was not on fire, contrary to reports. There was only a small fire out the front which has been extinguished?---Correct, yes.

Superintendent, it's difficult – must have been difficult for you to get an accurate assessment yourself on the threat level, because of your position in Alice Springs, is that right?---Yes, agreed, yes.

Is there – did it occur to you that some of the anxiety might be exaggerated?---Not at all. And furthermore, I was in Alice Springs, and I had similar anxiety around the safety of the police station, based on my lived experience and operational experience within Central Australia.

What time did you leave the Command Centre that – the next day I think?---I think about 4 am, or thereabouts.

At the time that you left the Forward Commander was then Officer Zang, is that right?---Yes. Sergeant Frost was relieved of her command upon the surge resources arriving within the community.

Did you give any advice to Sergeant Zang as to how he should conduct the high visibility briefing the next day – high visibility policing, I'm sorry, the next day?---No – oh sorry, can you repeat that question?

Yes, certainly. And I'll just tell you where – what the relevance of it is. There are some photographs that were shown to Assistant Commissioner Wurst yesterday, which reveal that a number of members of police, who were in the community on the 10th, were guarding the crime scene, standing outside the front of the house, carrying long arm firearms, or long arms. Is that consistent with how you understand that policing should have been conducted after this tragedy?---No.

Why not?---Well again, it's one, not necessary; and too provocative, so certainly not necessary in the context of crime scene guarding. No, not at all.

Is that anything that you found out about prior to the evidence in this inquest?---Only yesterday.

Do you agree that it's important to have a look at what happened in the lead up to Kumanjayi's tragic death and what happened afterwards and see what the lessons are for police in relation to how this occurred?---Most certainly. I welcome any assessments that brings about meaningful change. It's imperative, so yes.

You gave evidence previously that you haven't had the – or you haven't looked at some of these videos and you haven't had the opportunity to debrief what happened yourself. Why is that?---Well clearly this was clearly the most tragic of circumstances, the subject of two, at least two separate processes, the criminal process and now the Coronial process. Obviously the debrief is an immediate deep dive as to what occurred and how those things occurred and acknowledging within that process is the potential to corrupt or compromise both those matters, the Coronial and criminal matter. But this still notwithstanding that acknowledgment doesn't sit well with me in terms of the welfare of people and three years on to – yeah, so, I'm not quite sure. I respectfully ask that the Coroner considers these matters and what processes might be adopted around that.

In the wake of the Lindt inquest that looked at the (inaudible) siege in New South Wales there was developed a lessons learnt unit which after versions of events were obtained the police were involved then, broadly speaking, can get together and discuss what recommendations might follow internally. Do you think that might be a good idea rather than having to wait for the inquest?---Yes, certainly.

I'll finish shortly. I just wanted to finish, again unfortunately, by going back to those texts. So officer, if you've still got them in front of you. So for the benefit of my friends, if you're looking at them, they're 3-161. This one is not on that list so I'll just read it to you. At page 6361 there's an exchange in July 2019 between Constable Rolfe and yourself which is short. It just has Constable Rolfe sending a message at 9 July 2019, sending something at that time and you reply, "Roger mate, stay safe". 9 July 2019. Do you have any recollection of anything – of an operation that occurred at that time?---Again, I'm afraid I don't. I certainly acknowledge that it's highly probable and more than likely that I did have an IRT deployment but I'm not quite sure what that would have been.

If you have a look at page 4, this is the exchange I've taken you to previously where a sergeant and Constable Rolfe are saying from the top of that page at 7:52 pm:

"Cool, as long as we've got him. Had a run, hey". And Constable Rolfe says, "Yeah, the bush cops would never have been able to get him, impossible for him".

And that exchange finishes with Constable Rolfe saying to the sergeant:

"Yeah, bush cops blow my mind. I'll tell you about these dudes when I see you".

And then a couple of days after Constable Rolfe is texting that sergeant saying:

"We could just cut a few people and rejig the team. Nobbs should be loving us at the moment".

Can we draw an inference that there was some sort of engagement that the IRT were involved in that you had sanctioned around July 2019?---Based on what you're showing me I agree that that was highly likely to be the case.

And do you recall now meeting Constable Rolfe at any time prior to 9 November 2019?---Most of my involvements were with Sergeant Bauwens but certainly the interactions I've had with Sergeant Rolfe – sorry, my apologies, Constable Rolfe, albeit limited, were respectful extending to more than likely an acknowledgment of a job well done and an appreciation of the flexibility and the reliability that the IRT provided me. I've expressed before and a strong supporter of the IRT concept.

Would you have considered at that stage – you said I think most of your work or your relations with the IRT were through Sergeant Bauwens, is that right?---Correct, yes.

Would you have expected him to be someone who was expressing racist attitudes to members of his team?---No.

Would you have expected him to be expressing views that were disparaging of community police?---No.

And would you have expected him to allow for ill discipline within that team?---Certainly not. The IRT wanted, in my mind, to really establish themselves as a meaningful option for us. And as I've said, to me, the IRT concept is a national best practice. So anything that would bring about criticism or concern or compromise in what they were trying to achieve, to me, defies any logic. So no, short answer.

We know that the IRT has since this tragedy been disbanded. If you are going to have a TRG or a second tier TRG like the IRT, it's imperative, isn't it, that the leaders of those organisations are highly disciplined, do you agree?---Agreed.

Respectful?---Agree.

Show respect for each other in terms of the members of the police force. Agree?---Agree.

Show respect for management?---Agree.

And show respect for members of the community?---Agree.

Were you aware at any time prior to 9 November of whether or not Constable Rolfe had a reputation for the use, excessive use of force?---No. He didn't sit under my command. That said, I do sit in a, what we refer to as a CMT, that's our Complaints Management Team, so part of the broader command. So that comprises, chaired by the Commander with representatives from PSC and each of the divisional superintendents. So as you go through the matters there, nothing more than superficially noting the existence of matters. So I did have cause to see that there were some matters that Sergeant Rolfe – sorry, Constable Rolfe was associated with

within that CMT framework. But they were matters that were being assessed and monitored by PSC in conjunction with the Alice Springs Superintendent.

Did any members of your team raise concerns about Constable Rolfe was using excess force?---Never and that extends to the broader IRT.

Well at that stage you thought the broader IRT was highly disciplined, didn't you?---Correct, yes.

And it didn't occur to you that other members of the IRT might be using racist language in communications with each other?---No.

And it didn't occur to you that they'd be using language like "bush cops fucking up as usual", showing that level of contempt for their colleagues?---No.

In relation to any dealings with Constable Rolfe, did you speak with him at all after the events of 9 November prior to him being charged?---No. Not that I'm aware of, no.

Did you watch the body-worn video at any stage prior to Constable Rolfe being charged?---I still haven't seen the body-worn video.

Do you have any recollection – I withdraw that. Do you know an officer with the surname Zendelli(?)?---Yes.

Who is that person?---I'm not sure where she operates these days, but certainly, at that time, she was a constable within Alice Springs. She was a constable that did relieve for me from time to time at some locations, I think Papunya maybe on one occasion, but yeah, so I have a general duties constable within Alice Springs.

At page 9936 for the benefit of my friends looking this up, 3-161.

There's a text message for that officer to you saying this, I beg your pardon, I withdraw that. It is a text message from that officer to Constable Rolfe on 10 November 2019, so after the shooting where the officer says, "Superintendent Nobbs just commended you and said your conduct was justified." Did you ever say anything like that to Officer Zendelli?---I certainly don't recall saying that. I could even say, no I didn't say that. I had no appreciation of what occurred, so I don't know how I could make such a bold statement and assertion.

Do you recall any discussion with Officer Zendelli prior to 11 November about what had occurred with Constable Rolfe?---No.

You watched the videos in the lead up to what occurred. You don't commend that action, do you?---No, your Honour.

I've asked you about the text exchanges and you've only just learnt about them. What is the way forward for the Northern Territory Police in having uncovered that, at

least in terms of a number of – and I'll tell you there's five, members of the Alice Springs Police Force, there are text exchanges, including ones involving a sergeant, that show contempt for community police, racist language and boasting out-touring up the locals. How should that be dealt with?---Well, that's a really difficult one to answer. I guess that it's again a multifaceted response to that. So, if you look through the lens of the conduct, well then the conduct is clearly conduct that breaches the threshold, by anyone's measure, of breaches of discipline and there is a breach of discipline framework that deals with that. But I'm more interested in the broader, how we've got to the state that we've got to. I still maintain, as I said before, every police officer who joins this job is about genuinely caring about their community and wanting to make a difference. So, at some stage, that changes and I'm not quite sure how or why that occurs. Clearly, to me, there's a leadership deficit somewhere and I often apply the sort of analogy, if you've got a box of apples and you put a bad apple in the box, the whole box spoils and you've got a box of bad apples. But I'm certainly not saying that's the case here, but clearly, the conduct has been walked past many times by many people and it's become a perpetuated situation, so – and accepted as being part of how we do our business. And I guess we've got to re-educate in terms of those things. And as I said before, you know, we are going in the right direction. We've got the highest representation of Indigenous and Torres Strait Islander police officers within our service, far exceeding the other jurisdictions. So, you know, we are better reflective of the community in which we operate in now and it's having a police service that reflects the community which it operates, working with the rest of the police service which, you know, attitudes permeate then across that. So, it starts with leadership and it starts, I guess, with having the courage to hold people accountable and going, hey that's not the values that we hold and correcting that behaviour swiftly and decisively. Again, that's a bit of rambling there, but it's not an easy answer.

We've heard now from a number of police officers who worked in community, Officer Hand, Constable Jolley, Sergeant Frost, Lanyon Smith and yourself that they don't use that language. It's not used in front of them and I'm paraphrasing, that is not consistent with the values of the Northern Territory Police. What impact does it have on police who don't approve of that language or those attitudes when you find out about it?---Well, look, I guess we are all tarred with the same brush and the broad community perspective is, if you've got a cross-section in the community that has those views that the whole police service has those views, it's a systemic issue. And I'm a proud police officer who, you know, proudly puts my uniform on each day. I'm blessed by doing the job that I do. But it just doesn't make me feel very good that the community's perception of me, as part of a broader cohort, is that I'm potentially racist on that basis. So, we have a tough job as it is, and the job needs to have the confidence of the community. If we don't have the confidence of the community, we might as well give up and do something else. But if those sorts of things seek to erode the confidence of the community, well then it makes our job even more difficult, but - - -

Final set of – well final topic. And particularly, because you haven't had the opportunity to reflect on this evidence, can I just ask you to turn to the last page of those text messages, or the second-last page, 8 of 9 of the bundle that you have.

There is an officer I won't name who texts Constable Rolfe. Do you see that this is at 10 – on 10 November at 11 am. You will see there a disparaging remark made about Assistant Commissioner Michael White. I can see you're grinding your jaw again, Superintendent?---Correct, your Honour.

I'm going to ask you a couple of questions about that exchange. Firstly, that talk about the assistant commissioner, who has given a press conference about a tragic event the night before where a young man died and he's trying to explain what the process is going forward, it's prior to Constable Rolfe ever being charged, to describe him then as:

“Assistant Commissioner White's press conference. It's a constable, it's not Constable Rolfe, but it's to him, 'Fuckin' woeful. Idiot is just replying to every question with 'That will be a matter for the Coroner', fuckin' clown. He should just say the body-worn video will show the true story and exonerate the police from any other option. And as hard as it is to read the fuckhead's comments, don't coast anything. We know that members will be fine, but comments don't matter.”

I'll stop there. What do you think it says about discipline of a police force when you've got a young officer using those expressions to describe an assistant commissioner who is trying to explain to the public was the process is?---Yeah, look, that's – I'm not sure what to say. It's - yeah, it's not justified in any circumstance, not appropriate, not necessary, ill-informed and disappointing.

And it reveals a lack of discipline, doesn't it, from that young officer?---It would appear to be, yes.

And then, if you – you're aware, aren't you, of the general order that requires that following a death in custody, the involved police officers should be separated until they can give a version of events so that their version of events is not contaminated. Do you agree?---Correct, yes.

In this circumstance, Constable Rolfe has not yet given a version of events as at 10 November 2019 and there's a suggestion in that text message, “The member has to answer his critics with 'IAMOP'.” Are you familiar with that acronym?---No.

He goes onto say, or the police officer goes onto say, “Intent”, I'm not going to read that language, because it's about Kumanjaya and it's offensive, “was telling him that he was going to stab the police, A ability. He had the ability to do so because he'd both said it and was a young fit male who, looking at Rolfe, would have had a size disparity. 'M' means he had an edged weapon and told the police he more than like said was going to kill. And an 'O' opportunity -”, and then over the page, “The members let him get close enough to be afforded the opportunity to stab one of them and coupled with all of the above, IAMO plus P equals preclusion. I was precluded from all other options available to me, being distance, time, cover, taser, baton, spray, et cetera. So I had no other option but to protect myself and those with me by shooting to offender, to gain immediate subject control and incapacitation. That what

I did, taught by some very experienced dog members, in 1995, never forget it” – he says to Constable Rolfe, “IAMO plus P.” What do you think about that, in terms of the potential contamination of Constable Rolfe’s evidence?---Certainly, certainly, that’s a real risk. You know, the – the explicit and prescribed expectations within that General Order, are about making sure that we’re above reproach, and any assessment that is undertaken after the fact, is – maintains community confidence. So that’s – that’s the whole premise of separating witnesses. I’ve never heard that term. It certainly doesn’t align with my assessment of ss 28 and 29 of the *Criminal Code*. And it hasn’t been – formed any part of my training in my career. So it’s a term I haven’t heard before. But I see – so there’s two separate questions here. I see the premise in what is trying to be established there. But certainly I acknowledge the inappropriate nature of the – of the communication, and the likelihood that it could potentially be seen as comprising the investigation going forward.

And do you agree that when that evidence comes to light, it is important to firstly, discipline, or sanction, or at least speak to those officers – the officers involved, including the one who potentially contaminated the evidence?---Correct.

It demonstrates a lack of understanding, or at least respect, for the General Order, that requires you not contaminate evidence?---One of the other, or potentially both. But certainly, any disciplinary framework, or disciplinary action that we take in the first instance, generally looks at it through the lens of remedial training, and if it was a situation that there was an appreciation of the potential risk inherent in the communication, well then, you know, that’s potentially an option there. But certainly, I quite clearly see the – the risks.

And while we’re on that subject, on 11 November, that night – that day, so just – so 11 November, just a day and a half after the shooting, there was a barbeque at Constable Rolfe’s house, where a number of officers attended. Did you know about that?---No.

Do you know now who attended that barbeque?---It’s first I’ve heard of the barbeque.

If I told you that at that barbeque were some of the members of the IRT, who were involved in this incident, as well as other officers, and Constable Rolfe, prior to Constable Rolfe giving any version of events, what do you say about that?---I’d say that’s inappropriate, but I also say that that is some culpability on us as an agency there, in terms of – in terms of that as well. It’s – well again, actually I withdraw that. I’m not sure if that is the case. I’m not sure whether there was explicit instructions that they weren’t to – to communicate, but clearly that offends any principles that we have around the investigation that’s required, post a critical incident, such as this.

And there is a potential to contaminate the evidence that is available to her Honour, in terms of working out what happened?---Correct, yes.

Excuse me. Would you have an expectation that officer – that constables would understand the General Orders, following a death in custody? That they are to be separated, before versions of events can be given?---That's a yes, short answer.

And was it also encumbered on the shifts – on the Patrol Sergeant, to advise those officers?---Yes, amongst others, but yes.

THE CORONER: Might be appropriate for the afternoon adjournment - - -

DR DWYER: Your Honour, those are – those are my questions.

THE CORONER: We'll take the afternoon adjournment.

WITNESS WITHDREW

ADJOURNED

RESUMED

JODY NOBBS:

THE CORONER: Dr Dwyer?

DR DWYER: Thank you. Superintendent, I misled you in suggesting that I had finished but I will not be long. I am just going to ask that photo come up on the screen for you. I will just ask for your assistance to help clarify something. Yesterday we heard some evidence, Mr Boe took Assistant Commissioner Wurst to a text exchange with a particular officer - well, an officer I won't name for the moment - but he said this, and for the benefit of my friends, it's in the text messages at 6406. It's to Constable Rolfe and he says;

"Well, fuck me, I'm having to answer more questions about an incident over a year ago. Some turd claimed I knocked him off his pushbike with 301 and then roughed him up. The only person to get roughed up was me as I got dragged on my face as he was trying to run away. All seems well but they now have a hard on over the fact that I used 301 to try and block him in. They're now asking a fourth lot of questions. I think they pick someone and then just pick on them, finding my breaking point maybe".

And then the reply from Constable Rolfe was;

"Over a year ago? Fuck they're gay cunts. Yeah, they just find a name and go for you, eh, over and over. Fucken just let them waste time and then if they ever have enough evidence just stress leave until they let go seems what everyone else does."

Can I ask firstly for your clarification to see if you can assist us. "301" that's a photo of a vehicle which has been taken by the officer-in-charge of this investigation, Superintendent Morgan, are you familiar with that vehicle?---Yes, I am.

And "301" is a call sign of a police car, is that right?---Correct, so that's a marked general duties police vehicle. It's 301, that's allocated to the shift sergeant as part of the operational - Alice Springs Operational Fleet.

That can come down now. Are you aware of an officer in the Alice Springs command who had a complaint made against him for pushing somebody off their pushbike with a police car - 301?---No, no awareness at all.

If a complaint of that nature was made, it would be entirely legitimate that it be looked at by PSC. Is that right?---Yes, certainly. It would form part of that CMT process that we talked about before and looked at either by PSC in their right or by the command oversight by PSC and the ombudsman's officer.

THE CORONER: Even without a complaint, given that information that's contained, would it be appropriate now for there to be some investigation around what was

happening at about the time of that text message or preceding that text message?---Your Honour, good question. I'm certainly not aware of the facts within this matter. But certainly – so an internal – sorry, a disciplinary investigation is one of two things. It's – one's either a complaint against police; or an internal investigation. So, an internal investigation are investigations that could be undertaken at the own motion of the police service by a prescribed officer operating within a command or by PSC.

DR DWYER: How - what's the relevance of that complaint process and internal investigation process in terms of maintaining confidence in the police force?---Again, it's critical. It's the notion, I guess, that police investigating police brings with that a degree of suspicion by the community, but the checks and balances that are inherent within the process, namely the oversight by the ombudsman's officer, the independence of the procession standards command is the checks and balances necessary to make sure that there's confidence in both complaint investigation and any internal investigations.

It's critical to the confidence the public can have in a police force isn't it, that they know that there is an effective and functioning complaint process?---Yes.

And one that has integrity. Do you agree?---Yes.

And do you think it's important in terms of the discipline of the force that officers respect that process?---Yes.

Have you ever heard of officers going off on stress leave until the command or the PSC let an investigation go?---That's a difficult question for me to answer. It's – we have a system whereby a medical system, whereby we have, well generous is probably not the right term, but it's all I can think of at the moment, generous sick leave provisions. They're applied by many people around PTSD and mental health related issues, generally speaking, it's those injuries that you can't see that bring about substantial periods of absence from the workforce. I suspect, given my role and experience, that there is a degree of exploitation of that across the service and I suspect that some people that are the subject of disciplinary matters, notwithstanding that I acknowledge that inherent within that, that is a degree of stress associated with that process, but I do accept or suspect that there is some abuse of that.

And it jeopardises the whole system, doesn't it, if you have officers who are willing to abuse it like that?---Yes.

Do you know the – I'll withdraw that. Can I ask you to have a look at that photograph of the exchange of text messages that I just read to you, and Superintendent, without revealing the identity of the person who messages Constable Rolfe about the complaint made against him knocking somebody off their bike, do you know the rank of that person?---Either sergeant or substantive sergeant. I don't think higher than that.

It's extremely disappointing thought, isn't it, to have a sergeant or – either acting or substantive, in a message exchange with a constable who is complaining about having had a complaint made or having to answer a complaint?---Agreed.

And then that sergeant knowing that the response from a young officer is to the effect, if they've got enough evidence, just stress leave until they let it go. It's extremely disappointing, isn't it, that you've got a sergeant participating in that exchange?---That's the leadership deficit that I was talking about before, but yes.

Can just, if you've got the text messages' bundle that I showed you, could you have a look, please, at page 6? Do you see there that that same sergeant, either acting or substantive, is involved in a text exchange with Constable Rolfe on 3 September 2019, so less than a month before Kumanjaya's death, where he says:

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

And we don't know what he meant by that. No doubt, we'll be informed when that person comes to explain it in their evidence. Constable Rolfe replies:

“Bro, there was literally no stress about it. I'm all for that shit. I've done the same thing to you more than once before. I'm always ready to make my camera face the other way and be a dramatic cunt for the film, ha ha.”

And then that sergeant replies, “And the Oscar goes to –” and Constable Rolfe replies, “Ha ha”.

Do you agree with me that the clear inference to be drawn from that exchange is joking about the misuse of body-worn video evidence?---Correct, coupled with excessive force.

And what do you have to say about that in terms of, firstly, the leadership deficit that you were talking about?---Well, clearly, it demonstrates quite clearly a leadership deficit, but also has a tendency to compromise the integrity of our framework and the integrity of our agency and the regard that we're held in by the community.

And to undermine the evidence that is then available to the Coroner, for example?---Certainly, yes.

And available to other judges in the Northern Territory who are called on to determine whether or not there has been an excessive use of force in some instances?---Agreed.

And it undermines a public competence in the police force or has the tendency – that possibility. Do you agree?---Agreed.

Finally, just in relation to what I was asking you before the break, I was referring you

to evidence that – and I’m reading from the Proctor report at page 97:

“On Monday evening -”, so that’s 11 November, “a social gathering occurred at Constable Rolfe’s residence. The gathering included members of Rolfe’s patrol group, police friends and fellow IRT members who had been at Yuendumu with Constable Rolfe when the shooting occurred.”

The next morning, on Tuesday 12 November, Constable Rolfe in the company of his legal representative, read a statement to investigators in Alice Springs indicating he would not be discussing the matter further. So, we know that a social gathering occurred the night before involving his patrol group, police friends and fellow IRT members who had been in Yuendumu with Constable Rolfe when the shooting occurred. With all that information, I’ll just repeat my question to you earlier. What do you say about that in terms of the breach of the general order?---Well, it’s clearly made out and the consequence, the real consequence of that is, again, eroding community confidence, bringing the agency into disrepute and compromising any assessment of these matters, whether it’s through the Coronial or criminal lens.

Those are my questions, your Honour.

THE CORONER: Ms Morreau, just before we come to you, Officer, can I ask this? Before being exposed to those text messages, would you have imagined that there were police who held those views or spoke in that way to each other?---Yes, your Honour. I’m surprised and disappointed that some of the people I know there and respect were engaged in such dialogue.

You wouldn’t have expected that before you saw those text messages?---No.

So, they surprised you?---Yes.

And that was happening under your nose, so to speak?---Correct, your Honour.

All right. Given that you were not aware of that and it was reasonably closely connected to you, are you concerned that there might be other similar views being expressed by other police officers that the hierarchy are not aware of?---I’m not sure what to think, your Honour, in that regard. I’m surprised by this and I still strongly believe that – that we are a professional agency, not withstanding, and I like to hope that this is isolated, but – I don’t know what (inaudible) - - -

So I suppose that says that you hope that it’s isolated, but you can’t be certain?---Certainly not. I can’t definitely say anything in that regard.

And would you encourage other police, if they’re aware of this kind of views being exchanged, to come forward, so that these matters can be dealt with?---Certainly and when you say dealing with it, it’s not only just dealing with it, it’s changing the culture. It’s reasserting what it is that we should be doing, and the manner in which we engage respectfully with our community. It’s the cornerstone of everything we do. So yes, certainly.

So do you think there's been any reaching out, or communication, to the broader police force, that they are encouraged to come forward if there are these kinds of issues, and that they will be supported if they do that?---Yeah I'd like to think that that is the case. That the membership are aware that – that if they come forward they would be supported. I do acknowledge though, the inherent difficulties in that as a constable – by constable level, particularly if we're talking about the disparity in rank. So a junior member reporting the conduct of a senior member. So the inherent in the rank structure makes it difficult in that regard. So – but I'd like to think that again, we're a police service that take an oath to serve and protect. Inherent in that, is maintain the confidence of the community and we, irrespective of what rank we have, have the courage to go I'm happy to call out what I've seen, and it's not acceptable or condoned by me, and that sort of attitude that's thrown around in terms of the conduct you walk past, and the conduct you condone. So you know, I'd like to think that broadly speaking, there is that degree of courage across the membership to – to call it out, and hold people accountable.

If there's a message going out that this behaviour – the belief is that this behaviour is isolated, do you think that's encouraging people to think that they could come forward safely?---Sorry, I didn't understand your question, your Honour, sorry.

If there's a message going out that there's a belief that this behaviour is in fact isolated, do you think that expressing that belief is encouraging people to come forward, if they don't agree with that belief, or do you think that might have the effect of perhaps suppressing people willingly coming forward, if they're aware of other examples of this kind of behaviour?---Yes sure. So I interpret your question to say if the prevailing finding is that it's – it's not systemic or widespread, that that gives people an out in terms of reporting it, is that the interpretation of the question?

No. It's more about the – the messages that are going out to the police. And I'm just wondering if the messaging that's going out is a belief that this is in fact isolated, I'm wondering if that perhaps has the effect of stifling people, police, from coming forward, if in fact they are able to provide information of other examples of this kind of behaviour?---Again, I'd like to say no. I'd like to say that broadly speaking, the courage of the work force is – is – and the values that are held by the large proportion of the work force is that, is challenge, and not walk past unacceptable behaviour, and call it out for what it is.

Now that you've seen these text messages, whilst you might previously have hoped and believed that these views were not held among certain police officers, are you now finding that that belief might be challenged?---Yes, your Honour.

Yes, Ms Morreau.

MR FRECKELTON: Before that occurs, your Honour, I'd like to ask an indulgence. Would you stand the matter down for five minutes? There's a matter that is important that I speak with counsel assisting about?

THE CORONER: Sure.

ADJOURNED

RESUMED

JODY NOBBS:

THE CORONER: Ms Morreau?

XXN BY MS MORREAU:

MS MORREAU: Thank you, your Honour.

Superintendent, my name is Paula Morreau and I act for the Brown Family in this proceeding. You are welcome to face me. I would find it easier to communicate as long as that's okay with your Honour?

THE CORONER: That's absolutely yes, I am happy for you to - - -?---Thank you, your Honour.

MS MORREAU: If you spoke in one direction and it will be a little more seamless hopefully?---Thank you.

I wanted to pick up just on the last questions that her Honour asked you before the break and ask a few of my own. Would you agree, given the proportion of people that you interact with as a police officer in the Northern Territory, being a very high proportion of Aboriginal people, I think it's more than 90 percent at least?---Yes.

And the nature of the work that you're engaged in, that there's always the potential for officers to develop negative attitudes towards Aboriginal people. Would you agree that the potential is there, given those features?---Certainly, yes.

And of course, we know that these sorts of negative attitudes can be quite overt and expressed in the way that the text messages that you have been taken to and when it's overt it's easier to call it out, as it is. You'd agree with that?---Yes.

But these sorts of negative attitudes which I call "racism" can also exist at a subconscious or even an unconscious level at times, you appreciate that?---Yes.

From your training with the police force, don't you?---Correct, yes.

You've received unconscious bias training haven't you?---Yes.

And in what form did you receive that - and at what time in your career?
---A number of times over the course of my career. I think the most recent was in probably three or four years ago, I think after this event, but certainly yes, I've received a number of times in my career.

So it's recurrent form of training?---Yes.

And is it on line do you remember?---The most recent one was by an external service provider.

And so given that these things exist in society but also specifically within the Northern Territory Police Force, in your experience what measure are taken by the NT Police Force and available, to guard against the development of these kinds of attitudes?---Well, the existence of a training regime such as unconscious bias. The existence of monthly training days that we undertake. I high representation of an Indigenous work force, and a more multi-cultural work force within our police service. Access sessions – executive access sessions. Which is not just the executive asserting to the rank and file, it's a two-way dialogue around expectations and opportunity for a question/answer opportunity. Those executive access sessions extend to you know, at a unit level. So you know, the – our Aboriginal and Torres Strait Islander work force. So conversations there. So as a – a cross pollination of ideas and priorities. So there's a whole lot of things going on around it.

Educational opportunities, I think, training opportunities - - - ?---Yes.

- - - and also discussion. Do they give – does that give you the opportunity to also detect, or get responses from, those who are within your area of command, in terms of their perspectives on these matters?---My participation in those sorts of training forums are generally done with my work force, and I must admit, when participating in those, there's some things that I – I find quite informative. And I could see the light bulb for some of my members as well, across all ranks. So you know, I participate with the rank and file in these sorts of programs. So yeah, so there's an opportunity for us to robustly discuss things within these sorts of training activities.

I see. And in terms of your command region, the Southern Region, Southern Command, or even the Desert Region, if I can put it more broadly, are there approaches that are sometimes taken region by region to address, and to sort of pick up and make sure that these are not going under the radar within your police force?---It's relatively uniform across the board. So if we have a training framework, the training framework is rolled out across the whole agency. So there's those sort of in-class – sorry, in-course training being delivered. Then we've all got the same sort of online training framework. So your respect equity and diversity and things such as that, that have sort of some cultural matters that permeate through those. And that extends to custody, and a whole raft of other on-line training frameworks. There may be - - -

So it's more of a general - - - ?---There is, but there might be some nuance at sort of a local level. But that nuance I guess is applied by you know, the participants within the room reflecting the environment in which they're operating, and then the different sort of - - -

Do - - - ?---Yeah, varying changes and nuance within sort of you know, Top End versus down here, for instance, if that makes sense.

Sure. Do we take it from the reflections that you've already given evidence about that this is something that you are much more aware of, and you know, I suppose aware of, and – and willing to engage with, within your command responsibilities now - - - ?---Yes, certainly.

- - - post this tragic death?---Look, I've always been aware of it. And obviously over the evolution of my career, it's sort of my perspective on it has changed, and I've become a little bit more – as there's more experiences that I've encountered, have a greater understanding of some of the complexities. And potentially looking at it through a different lenses. Whereas a constable, I might have looked at it through an operational lenses, and now I look as some of the challenges through a strategic lenses. So – so I've constantly evolved. But I've always had a sort of broad base appreciation of sort of cultural sensitivities and sort of the cultural connection to land, custom and – and ceremony, and the things that underpin that.

And respect for them, from police officers. Can I ask you then, you mentioned of course that matters such as the material that's been read out to you from the text messages, and particularly the racist comments, have a tendency to bring disrepute to the force, and breach community's expectations. Can I ask you also to consider whether it, in your view, also has the potential, if those views exist, to affect officers behaviour and conduct towards Aboriginal people whilst policing?---Correct, yes.

And that's the – it's a serious ill here, is it not?---Sorry can you explain that?

That that is the serious ill, that is the harm that can be caused by such negative attitudes?---Yes.

In terms of reporting and calling it out, as a supervisor, at your level, you can deal with people who are below you, clearly?---Yes.

If someone's at a more junior level, is it expected that they report up to their supervisor, or what are the methods of reporting racist conduct amongst colleagues?---Well we operate within a paramilitary commander control framework. So they'll primarily – the constable would report to their either senior partner, or their sergeant. The sergeant report to a senior sergeant, and so on and so forth. That's as it goes along. If you had no confidence in your direct line manager, or senior partner, well then there's always the mechanism to subvert that, and go over top and make a notification to the next in line.

Would that be easy for a junior - - - ?---No.

- - - constable to do, no. Is there an external process that exists, to be able to report it, if they don't feel comfortable going up above a supervisor? For instance, if they've had no response (inaudible)?---Yes, we have the Professional Standards Command. So there's mechanisms to – for reporting in there.

What do you say about the possibility of a mandatory reporting system in relation to when an officer sees racism being – hears of, or observes there being racist conduct

or comments being made?---We have a mandatory reporting framework. It's inherent within our Code of Conduct. So we're obliged to report instances of breaches of discipline.

I see. And you'd consider that racist conduct towards people that a police officer's dealing with, or racist statements about policing – about people that are being policed, would fall within that?---Certainly, 76 of the active – you know, if it has tendency to bring disrepute to the agency and compromise the police service, then it's a – you know, obviously I'm generalising here, but it's potentially and more than likely, a serious breach of discipline.

Thank you. Now I want to go back to something you spoke about this morning. The Yuendumu – Yuendumu Family Safety Framework?---Yes.

You spoke about the pre-release interview that didn't occur here, but is intended to operate. Is that always a police officer that conducts that interview and not a psychologist or a social worker or someone like that?---No, it's generally the police, from an intel perspective, or, you know, occasionally, it might be undertaken by Correctional Services.

I see. Other aspects of that framework committee, if I can call it that, you indicated was telling a putative aggrieved that the – that their partner, or former partner is – has been released. That's one of the matters that we saw per here, yes?---Correct.

Another might be applying for a domestic violence order, if that's considered appropriate, or if the person requires that, correct?---Correct, yes.

It's also – it also occurred here, by your comment on whether it's part of this framework, as you understand it, that the secretariat from that framework committee would request police to arrest a person who is within the framework, who's been released, or has escaped, as occurred in this case?---No.

No?---It's not for the – the civilian secretariat function within that framework to give that direction.

I'm not indicating – I'm not suggesting it's a direction, and I'll use words carefully, the email –

Which for the benefit of the parties, is – and I won't put it on the screen unless you need it, but it's in exhibit 8-1.

Is an email from Ms Bonnanai, who we've heard from before, on 30 October 2019, at 3.48 pm, to Alice Springs Intel Police, asking "Could Arnold Walker please be added to the arrest target list"?---Yes.

Is that an ordinary part of the framework - - - ?---Yes.

- - - that someone would do that?---Yes.

And why is that a different answer to what you gave me before?---I thought your question was that she's given an explicit instruction that he must be arrested. She acts as a delegate, or acting on my authority, in terms of we as a standard, as a matter of course, if we've got an arrest target, they're added on the arrest target list.

And then - - - ?---And then she facilitates that from an administrative perspective.

I appreciate that, thank you. Can you see, just taking a step back from those parts of the framework that we've just gone through, that that process could further stigmatise or ostracise a young Aboriginal man like we have here, Kumanjaji Walker. Rather than the preventative aims that you speaking of as being the overall aim of such a framework?---Potentially. When we look at – you know, and again, acknowledging it's extremely complex, but we look at it through an end-to-end lens. So, it's not wholly and solely arbitrarily that the course of action is an arrest. It's looked at it through a more fulsome lens. So, it's – you know, there are other things that we potentially would do with Kumanjaji Walker, but acknowledging in this case the nondiscretionary aspects associated with the court order, meant that he must be arrested.

I guess I'm talking a little bit more broadly than just the notification or arrest purposes, but those features that I took you through in terms of a risk assessment before, being an interview with the police officer, being notification to a spouse and the possibility of an order; all of those things are in a sense protective of one person, but they have the effect, I'm suggesting to you, at least potentially of ostracising in sort of – and isolating a person from taking on the supports that a framework like that might have for him?---I see what you're saying, but again, I think that's an overly simplistic assessment of that. It's – there's also, in my mind, respectfully, that there's a supportive element to that as well. It's how – and if we're not talking about the arrest of Kumanjaji Walker relative to the court order, if we're just talking about it in the ordinary sense; that is, he's being released from Corrections and we have the prisoner debrief, that it's about integrating him back into the community to make sure that the safety frameworks are in place to ensure that he's supported and the victim's supported as they reunite. So, I note that there is a - potentially a punitive element to it, but there is also a supportive element to it as well.

Now, a breach of suspended sentence, per se, is not a priority arrest as I understand it? That term has a specific meaning within the Northern Territory Police Force, doesn't it?---I'm not sure where we have a definition of a priority arrest at all.

Okay. You don't see a scaling of arrests being, you know - - -?---Certainly.

- - - more or less of a priority?---There's a subjective assessment of these things. There's not a hard and fast definition saying what is or isn't a priority arrest, but - - -

Would you agree then that a breach of a suspended sentence without any other offending, by itself, not a priority arrest?---Agreed.

All right?---Acknowledging, however, the absence of discretion.

Yes. Now, in this case, police attended Warlpiri Camp very soon after those notifications went out on 29 October, 30 October; 1 November - Corrective Services on 1 November and then police again on 8 November. That's quite a significant amount of resources dedicated to effecting this arrest. You'd agree with that?---I would agree that what you're saying – I'm not aware of that - - -

I see?--- - - - in terms of the facts that you've just outlined, but I accept what you're saying prima facie.

Is it common that police resources to that degree would be dedicated to seeking to apprehend a youth escapee from a rehabilitation centre?---Again, I'm not too sure, other than to say it wasn't the arrest of a youth detainee relative to a breach of court order in isolation. There was the other elements that were associated with that as well.

And by "other elements", you're referring to the matters - - -?---Correct.

- - - that you've already talked about in terms of safety concerns for - - -?---Correct.

- - - Rakeisha Robertson. And that was the primary factor, I think you said - - -?---Yes.

- - - in your mind and we'll with later some decisions that you made. But that of itself, if there wasn't a warrant, doesn't provide grounds for the issue of an arrest - for an arrest, does it?---The - - -

The safety concerns that you had for Rakeisha?---No. The – you know, the arrest would be predicated on some conduct unfortunately or the breach of an order. So, if there was no conduct or a breach of an order, well then there's no powers to arrest.

Now, that was a factor I think you spoke to in terms of considering whether or not – and in the discussions you had with Sergeant Frost, about whether or not to arrest Kumanjayi at the funeral. Now, you were saying that in the context, as I understand it, that you appreciate of course that to arrest him at the funeral would breach Warlpiri cultural protocols?---Correct, yes.

And indeed breach the agreement that had been reached with Eddy and Lottie Robertson in terms of waiting until after the funeral?---Agreed, yes.

You mentioned that you had adopted an idea of funeral that was a more narrower view that Warlpiri might consider a funeral and the sorry business that is associated with it?---Agreed.

And yet, that was not something that was explained, to your knowledge at least, to Eddy and Lottie with whom that agreement had been reached, that that narrow idea of what the funeral might mean?---I can't comment, other than to say the

conversations I'd had with Sergeant Frost gave me the tendency to believe that there was a clear understanding of what those parameters were, but I wasn't a party to those conversations, so I can't definitively say.

And looking to the future, you'd agree, wouldn't you, that there is importance in having some clarity in communications made with, whether it be family members or Elders of the community, about facilitating a voluntary return to custody or a voluntary taking into custody that here's some clarity around what that arrangement is?---Agreed, yeah, communication is perennial issue. It's – you know, that's not just in the context of, you know, an engagement with cultural awareness of Warlpiri people, it's a broader issue, so yes.

Yes. You spoke about, in making a risk assessment in your statement and you've also mentioned it in evidence, that there was a framework that you applied of the status of Kumanjaji Walker, safety police, safety of community and relevant police doctrine and statute. Can I ask you where the safety of Kumanjaji Walker fits within that – those factors?---Well, that's inherent in the status of Walker.

Do you know think the safety of the individual who's the subject of the police interaction should have its own consideration in that framework?---Agreed, but I guess those considerations were noted after the critical incident.

I think, in this statement, you indicated that those considerations also applied to the request or the consideration of sending in the IRT as well?---Okay, yes, agreed.

And of course, it would be relevant to that?---Certainly.

Would you consider an additional relevant factor in that assessment would be cultural factors and protocols applicable to the particular community that someone is dealing with?---Yes. And I could have potentially and conceivably had that as a separate, but it permeated all those other matters in my mind.

All right. Did you give any consideration to the safety implications of the arrest plan that was put into place which could potentially, albeit hopefully not, involve physical force, that there was no medical clinic in Yuendumu at the time?---Yes, it was clearly a factor that I considered at the time, that there was the absence of the clinic. Noted the redundancies, adjacent redundancies, but yes, short answer.

The absence of the clinic obviously was relevant for two factors. Not just that it was going to call on additional police resources, but it did have safety implications for any policing activity that would occur in Yuendumu. You would agree with that?---Agreed, yes.

And there's particular safety implications in this case where there's the potential use of a dog unit - - -?---Yes.

- - - in apprehension.

Your Honour, I note the time. I haven't – I'm about halfway through my questioning. I was – firstly, I would seek your Honour's leave to be able to question for longer, but should that best be adjourned until tomorrow or should I try to finish it now?

THE CORONER: We will adjourn until tomorrow and I'll just make sure there's some communication with the counsel assisting to make sure that we get through cross-examination in an appropriate timeframe tomorrow and how that's going to be shared out.

DR DWYER: So, tomorrow, your Honour, the witnesses are to finish Superintendent Nobbs and to hear from Sergeant Shaun Furniss. And we will have those discussions with my learned friends now. I note then that Thursday, there has been change in the timetable. Constable Rolfe's legal representatives have provided supplementary written submissions relating to his objections to evidence that falls into a number of categories relevant to the witnesses who are going to be called over the next few days and that includes previous allegations of excessive use of force prior to Kumanjayi's death and what was done about those use of force reports.

In those circumstances, while we will hear from Superintendent Nobbs and Sergeant Shaun Furniss tomorrow, the witnesses on Thursday have to be re-timetabled. On Thursday your Honour has agreed to hear oral submissions from parties who wish to be heard on those objections.

THE CORONER: Thank you.

Officer, I know that you had hoped to have completed your evidence today. Obviously we haven't been able to achieve that. Thank you for making yourself available to come back tomorrow to continue providing some important evidence to this inquest.

I just wanted to make it clear - and I am going to do this in court and if anyone has anything that they wish to say about it they can do so. But, in my view, if you would like to access any welfare services you should feel very free to do so this evening before we come back and give evidence. I don't have any issue with that if you want to talk to any support services that might be available.

THE WITNESS: Thank you, your Honour.

Does anyone wish to say anything about that? No? Okay then.

WITNESS WITHDREW

ADJOURNED