

Coronial Investigation Report

Death in Custody of [REDACTED] Walker at Yuendumu
on 9 November 2019

Confidential



Contents

| | |
|---|-----------|
| Introduction | 5 |
| The Fatal Shooting of Kumunjayi Walker | 5 |
| Focus of the Coronial Investigation | 6 |
| Scope of the Coronial Investigation..... | 6 |
| Preliminary Information | 7 |
| Reported When and by Whom: | 7 |
| Deceased's Details: | 7 |
| Date and Time of Death: | 7 |
| Location of Death: | 7 |
| Medical Assistance at the Scene/Death:..... | 7 |
| Identification: | 7 |
| Certification: | 7 |
| Next Of Kin:..... | 7 |
| Leanne Oldfield – Adoptive mother | 7 |
| Medical Practitioner/Hospital:..... | 8 |
| Autopsy: | 8 |
| P.C.O.D:..... | 8 |
| Toxicology: | 8 |
| Alcohol: | 8 |
| Drugs: | 8 |
| Medications Deceased Was Taking: | 8 |
| Witnesses:..... | 8 |
| Photographs:..... | 8 |
| Background and Context..... | 9 |
| ██████████ Walker – Background | 9 |
| Summary of Medical History: ██████████ Walker..... | 9 |
| Constable Zachary Rolfe - Background | 13 |
| Timeline of Events Surrounding the Death of Walker..... | 14 |
| Circumstances Surrounding the Death of Walker..... | 18 |
| Arrest for Property Offences at Yuendumu – March 2019 | 18 |
| Walker Absconds from CAAPU | 18 |
| Attempt to Arrest Walker – Yuendumu 6 November 2019 | 18 |
| Request for Assistance | 20 |

<Document title>

| | |
|---|-----------|
| Approval for Deployment of Alice Springs Immediate Response Team (IRT)..... | 20 |
| Arrival of IRT at Yuendumu..... | 23 |
| Movements of Walker during Saturday 9 November 2020..... | 24 |
| Actions of IRT..... | 24 |
| IRT attendance at House 511 Yuendumu – Confrontation with Walker..... | 26 |
| Immediate Actions at the Scene..... | 27 |
| Notification of Next of Kin..... | 30 |
| Injuries to Rolfe and Eberl..... | 30 |
| Police Command Actions | 31 |
| Establishment of a Police Command Structure..... | 31 |
| Appointment of Commissioner Officer in Overall Charge and Senior Investigator in Charge and commencement of Investigative Response..... | 32 |
| Appointment of Commissioner Officer in Charge of the Coronial Investigation..... | 33 |
| Advice from DPP and Arrest of Zachary Rolfe..... | 33 |
| The role of the IRT in the Death of Kumanjayi Walker | 33 |
| Background..... | 33 |
| Role of the IRT..... | 34 |
| IRT Deployments..... | 35 |
| Command & Control of IRT..... | 35 |
| Approval for Deployment of IRT to Yuendumu..... | 36 |
| Communication to Watch Commanders and IRT members..... | 36 |
| Adherence to the Immediate Response Team SOP..... | 37 |
| Training..... | 37 |
| Behaviour / Performance..... | 38 |
| Analysis, Conclusion and Recommendations..... | 39 |
| Care and Medical Treatment of Kumanjayi Walker Post Shooting | 40 |
| Analysis, Conclusion and Recommendations..... | 42 |
| Adherence to Previous Coronial or Royal Commission Recommendations | 43 |
| Dragging of persons in custody..... | 43 |
| Analysis, Conclusion and Recommendations..... | 44 |
| Separation and interviewing of (police) witnesses..... | 45 |
| Analysis, Conclusion and Recommendations..... | 47 |
| Use of Interpreters..... | 48 |
| Analysis, Conclusion and Recommendations..... | 48 |
| Crime Scene & Re-enactment..... | 49 |
| Analysis, Conclusion and Recommendation..... | 49 |



<Document title>

| | |
|---|-----------|
| Welfare..... | 49 |
| Analysis, Conclusion and Recommendation..... | 50 |
| Notification of Next of Kin..... | 50 |
| Analysis, conclusion, and recommendations..... | 52 |
| Deployment of para-military police into Aboriginal Communities..... | 53 |
| Analysis, Conclusion and Recommendation..... | 53 |
| Investigation - Recording of Critical Decisions..... | 54 |
| Analysis, Conclusion and Recommendation..... | 56 |
| Recruitment Procedures..... | 56 |
| Analysis, Conclusion and Recommendation..... | 57 |
| Mandatory Drug and Alcohol Testing for Police..... | 58 |
| Analysis, Conclusion and Recommendation..... | 59 |
| Adherence to Use of Force Guidelines & Policy..... | 59 |
| Command and Control..... | 59 |
| Initial Investigative Response..... | 59 |
| Militarisation of Policing..... | 59 |
| Influence and Bias..... | 59 |
| Ancillary Issues..... | 60 |
| Withdrawal of Yuendumu Health Staff..... | 60 |
| The use of Body Worn Video..... | 60 |
| Use of Personal Electronic Devices to Capture Evidence..... | 60 |
| Cultural Awareness Training..... | 60 |
| Use of Expert Witnesses..... | 60 |
| Awareness of Section 208E of the Criminal Code Act..... | 60 |
| Internal Disciplinary..... | 60 |



Northern Territory Police



memo

| | | |
|-----------------|---|---------------------------|
| | | PROMIS: 9129856 |
| | | |
| To: | CORONIAL INVESTIGATION UNIT | TRM File: |
| From: | | TRM Doc: |
| Subject: | ██████████ WALKER – DEATH IN CUSTODY - YUENDUMU – 9 NOVEMBER 2019 | Date: January 2021 |

Introduction

The Fatal Shooting of Kumunjaji Walker

On the 29th of October 2019, ██████████ Walker (Kumunjaji Walker) removed his electronic monitoring device and absconded from the Central Australian Aboriginal Alcohol Programmes Unit (CAAPU) where he was undertaking a residential rehabilitation program as part of a 12-month good behaviour bond he had entered in to on the 21st of October 2019.

Kumunjaji Walker returned to the Yuendumu community. On 6 November Police at Yuendumu attempted to arrest Walker on an outstanding warrant for breach of suspended sentence. Due to the actions of Walker, threats of violence and his absconding from police, this attempt was unsuccessful.

On the 9th of November 2019, Police Officers from the Alice Springs Immediate Response Team (IRT), who had been sent to Yuendumu to provide support to local officers, undertook patrols of the Yuendumu community with a view to locating and arresting Kumunjaji Walker.

Police inquiries lead them to House 511 where Kumunjaji Walker was sighted inside. Two Police Officers entered the house and attempted to arrest Kumunjaji Walker, a struggle then ensued between Kumunjaji Walker and the Police Officers, during which one of the officers (Constable Zachary Rolfe) was stabbed by Kumunjaji Walker, the officer responded by discharging his police issued firearm at Kumunjaji Walker. The injuries sustained by Kumunjaji Walker were fatal.

At the time when Walker received his fatal injuries police were attempting to effect his arrest and place him into custody. Accordingly, his death is a 'reportable death' under the provisions of S12(1) of the *Coroners Act* 1993 [NT]. As part of the subsequent Police response, a coronial investigation was commenced, this is the report of that investigation.

Focus of the Coronial Investigation

The coronial investigation arising from the death of Kumunjayi Walker is undertaken on behalf of and at the direction of the Coroner. The coronial investigation has two principal objectives:

- to investigate the circumstances surrounding the death of Kumunjayi Walker; and
- to investigate and report on the actions of police and other agencies in order to assess whether they could be improved.

Scope of the Coronial Investigation

In addition to the principal objectives detailed above, as part of the investigation into the origins, course, and outcome of the death of Kumunjayi Walker, at the direction of the Coroner the coronial investigation team were directed to look at a wide range of matters which included:

- Military firearms/ defence training v police firearms/defence training
- Senior Police actions in the lead up to and post the death of Walker.
- The involvement of the IRT in the death of Walker
- The life history, including military employment of Zachary Rolfe.
- The life and Criminal History of Walker including any likelihood of Walker potentially suffering from FASD
- The police disciplinary records of ROLFE including the case of alleged perjury currently under investigation
- All policies including standard operating procedures, instructions, general orders identified as relevant to this investigation (this includes adherence to or any disregard of previous coroners recommendations)
- Any issues arising as identified by the legal representatives of the Walker family,
- Recruitment records and interviews with all police who trained with Zachary Rolfe
- Recruitment policies of other Australian Policing Agencies specifically pertaining to ex-defence personnel
- Militarisation of policing in general
- Triaging of Serious injuries by police
- Institutionalised Racism within the NT Police

It should also be noted that as a result of Constable Zachary Rolfe being criminally charged with the offence of murder, and this matter currently being before the Court, matters that fall under the current criminal proceedings have not been **investigate** or reported on by coronial investigation in this report. It is anticipated that those matters will be reported on after the criminal proceedings are complete, which will also enable investigation of any matters that may arise from the criminal proceedings.

Preliminary Information

Reported When and by Whom:

Northern Territory Police - Sergeant Julie Frost at 2040 hours, 9 November 2019

Deceased's Details:

Name: [REDACTED] Walker

Address: House 577, Yuendumu

D.O.B: 13/10/2000

P.O.B: Alice Springs

Occupation: Unemployed

Employer: N/A

Date and Time of Death:

2036 Hours, 9 November 2019

Location of Death:

Yuendumu Police Station

Medical Assistance at the Scene/Death:

Yuelumu Medical Staff attended Yuendumu Police Station and confirmed Walker deceased. Police provided medical assistance, including administering cardio-pulmonary resuscitation (CPR) prior to death.

Identification:

The deceased was formally identified via fingerprint examination.

Certification:

Death was certified by the Yuelumu nurses (Lorraine Walcott & Heather Zanker)

Next Of Kin:

Rekeisha Robertson (Wife)

Leanne Oldfield – Adoptive mother

Selena Lee Lane – Mother (Deceased)

Frank Walker - Father – (Deceased)

Medical Practitioner/Hospital:

Alice Springs Hospital/Yuendumu Health Clinic

Autopsy:

Conducted by Forensic Pathologist, Dr Marianne Tiemensma

P.C.O.D:

1a) Gunshot injury to chest and abdomen

Toxicology:

Specimens sent for analysis – Yes

If yes – results for

Alcohol:

Refer toxicology report (Folio -

Drugs:

The deceased has traces of cannabis in his system.

Refer toxicology report (Folio -)

Medications Deceased Was Taking:

Nil

Witnesses:

Civilian – Folio

Police – Folio

Medical - Folio

Photographs:

Scene photographs and video recording of scene – Senior Constable Ian Spilsbury

Post-mortem photographs - <<>>

Reference for below

Background and Context



Walker – Background

WALKER was born on 13 October 2000, at Alice Springs Hospital. His biological parents, as recorded on his birth certificate, were Selena Nambajimba Lee LANE (born 13/2/1982) and Frank WALKER (born 1/10/1970). Both failed to care for Walker and by the time he was 12 months old he was taken into the care of a relative, Leanne OLDFIELD.

Between the age of 4 to 11 years old, Walker lived with Oldfield in Katherine. He was exposed to significant domestic violence between [REDACTED] and her partner Samson A [REDACTED] for much of this time. Both his biological parents were deceased by this time.

Walker returned to Yuendumu community when he was 12 years old. Shortly thereafter he [REDACTED] [REDACTED] 404 convictions in court. AW's family were unable to provide effective parental control over him, describing his behaviours as unmanageable and out of control.

Walker was enrolled at MacFarlane Primary School (Katherine) from 2007 to 2010, and Yuendumu School from 2013 to 2014. Both schools identified him as having special needs.

Walker disclosed varying degrees of alcohol, volatile substance and drug exposure from age 13 a [REDACTED] 17. He was referred to multiple youth diversionary and drug/alcohol rehabilitation programs including Mt Theo, BushMob, DASA and CAAAPU. All the interventions were largely unsuccessful, with most services reporting Walker's lack of enthusiasm and participation in the programs.

He commenced a domestic relationship with Rekeshia ROBERTSON around February 2016. Both lived Yuendumu during the period they were together.

On 2 May 2017, a Forensic Psychological Assessment was completed on Walker by Forensic Psychologist Kate CRAWLEY. He was diagnosed as suffering from an intellectual disability of mild-moderate severity.

On 21 October 2019, Walker absconded from CAAAPU in breach of his suspended sentence order and returned Yuendumu Community. On 5 November 2019 a warrant was issued for his arrest and on 9 November 2019 he was fatally shot by Constable Zachary Rolfe during an attempted arrest at House 511 Yuendumu Community.

Territory Families have an extensive Child Protection history for AW, receiving notifications of neglect and inadequate care/supervision by his carer/s over the course of his life.

Summary of Medical History: [REDACTED] Walker

- 13/10/2000 [REDACTED] WALKER (AW) was born on 13 October 2000, at Alice Springs Hospital. At birth, AW was assessed as being a "morphologically normal male infant. Discharged into care of Selena LANE on 17/10/2000 -
- 18/10/2000 – Selena LANE presented to Haasts Bluff Clinic with AW reporting breast feeding issues.

3. 29/10/2000 – medevacked to Alice Springs Hospital.
Diagnosis with “failure to Thrive”. LANE was assisted with bottle feeding education. Discharged into Selena LANE’s care on 20/11/2000.
4. 4/3/2001 – AW was admitted to Alice Springs Hospital in care of Selena LANE.
Diagnosis – Right herniotomy requiring corrective surgery.
Discharged into care of Selena LANE on 19/3/2001.
5. 1/4/2001, AW was taken to the Alice Springs Hospital Emergency Department by Leanne OLDFIELD for a temperature and cough. AW was not admitted into the hospital and released back into the custody of Leanne OLDFIELD.
6. 12/5/2001, AW (7 months old) was admitted to Alice Springs Hospital via Kintore Health Clinic with his maternal Grandmother Anne DIXON @ LANE.
A referral letter from Pintubi Homelands Health Services (Kintore Clinic) reported AW presented to the clinic with diarrhoea and vomiting from 10 May 2001. Many presentations at Kintore with diarrhoea, vomiting and being unwell.
Diagnosis: Gastroenteritis (Rotavirus), Pneumonia and deficiency anaemia.
Discharged on 6/6/2001 in to care of Anne LANE and Joseph LANE (Selena LANE’s parents).
7. 17/6/2001, AW (8 months old) was medi--vaced to Alice Springs Hospital via Haasts Bluff with Anne LANE (Grandmother).
Diagnosis: salmonella and pneumonia. Social issues (not meeting standard millstones sitting up / eating solid foods etc. Discharged on 29/6/2001 into the care of Leanne OLDFIELD at Warlpiri Camp, Alice Springs.
8. 6/9/2001, AW admitted to Alice Springs Hospital. Diagnosis: pneumonia, conjunctivitis, excoriated groin and buttocks (nappy rash) and meningitis. Discharged into the care of Leanne OLDFIELD of House 4 Warlpiri Camp on 18/9/2001.
9. 17/10/2001 – AW admitted to Alice Springs Hospital’ Diagnosis: pneumonia, conjunctivitis, meningitis and CSOM (Infection of ear drum). Discharged into care of Leanne OLDFIELD on 21/10/2001
10. 25/10/2001 - Tahnia EDWARDS (Registered Nurse) from Congress Medical Centre made contact with TF Case Worker HASSALL requesting assistance in locating Leanne OLDFIELD and keep her advised of the child’s whereabouts. AW flagged as “At Risk” and his weight and health required to be monitored.
11. 25/11/2001 - AW (13 months old) medevaced to Alice Springs Hospital from Ti Tree, with grandmother, Margaret BROWN. Diagnosis: lower respiratory tract infection, giardia, left CSOM (ear infection), chronic FTT and social issues - referred to FACS.
Discharged on 30/11/2001 into the care of Margaret BROWN.
12. 12/2/2002 - AW (17 months old), admitted into Alice Springs hospital from Ti Tree.
Diagnosis: Gastroenteritis (Giardia). Discharged on 17/2/2002 in care of Margaret BROWN.
13. 11/7/2002 – AW presented with Leanne OLDFIELD at Alice Springs Emergency Department. High temperature, mucky eyes and diarrhoea. Child not admitted.

14. 26/9/2002 - AW (23 months old) medi-vaced to Alice Springs Hospital via Ti Tree with Leanne OLDFIELD. Diagnosis: upper respiratory infection, gastroenteritis and weight loss (Failure to Thrive). Discharged into care of Leanne OLDFIELD on 9/10/2002.
15. 5/11/2003 - Katherine Emergency department. AW presented with mum (Leanne OLDFIELD). Multiple lacerations on right and left leg. History provided by mum, apparently caused by glass from broken window during attempted break-in.
16. 24/1/2006, AW (5 ½ years old) admitted to Alice Springs Hospital in the care of Margaret BROWN. Diagnosis: pneumonia. Discharged on 26/1/2006.
17. Wurli Wurlingjang Health Service – Katherine
24/9/2007 – AW brought in by carer – issues with hearing – Right TM – Healing perforation visible.
 - 17.1. 25/10/2007 – AW failed to attend for follow-up (hearing test)
 - 17.2. 1/11/2007 – AW failed to attend for follow-up (hearing test)
 - 17.3. 2/11/2007 – AW failed to attend for follow-up (hearing test)
 - 17.4. 9/11/2007 – AW failed to attend for follow-up (hearing test)
18. Wurli Wurlingjang Health Service – Katherine
 - 18.1. 15/1/2008 – AW brought in by mother (Leanne OLDFIELD) for NT Intervention Child Health Check.
 - 18.2. 16/1/2008 – AW at clinic for:
 1. Dry preformation right ear and concerns re hearing
 2. Dental referral
 - 18.3. 15/2/2008 – AW failed to attend for follow-up appointment
 - 18.4. 21/2/2008 - AW failed to attend for follow-up appointment
 - 18.5. 31/3/2008 - AW failed to attend for follow-up appointment
19. Wurli Wurlingjang Health Service – Katherine
1/5/2008 – AW presented with mum for a toothache.
20. Wurli Wurlingjang Health Service – Katherine
14/5/2008 – AW presented with mum. Mum requesting for son's ears to be checked. Concerned that he may be deaf, has trouble listening. On examination Perforation left ear. Foreign body in right ear. Looks like a rock in ear. Discharge from left nostril.
21. Wurli Wurlingjang Health Service – Katherine
20/10/2008 – AW brought in for treatment of boils.
22. Wurli Wurlingjang Health Service – Katherine
28/10/2008 – AW – home visit for trachoma.
23. Wurli Wurlingjang Health Service – Katherine
29/10/2008 – Health check via school – eye check / ear check – Hearing test follow-up required.
24. Wurli Wurlingjang Health Service – Katherine
5/1/2009 – AW presented to the clinic with infected toe on right foot requiring lancing.
12/1/2009 – AW attended for follow-up re toe infection. Dressings changed.

Constable Zachary Rolfe - Background

Expand on
more detail
use Life of Rolfe doc

Zachary Brian ROLFE (ROLFE) was born at in Canberra on [REDACTED] 1991. Rolfe lived in Canberra as a child and attended Canberra Grammar School between 2004 and 2009. On completing his schooling Rolfe was employed at his father's automotive business before he joined the Australian Defence Force (ADF) on 26 October 2010.

Whilst in the ADF, Rolfe faced disciplinary action for a stealing offence where he subsequently was issued with a show cause notice. Rolfe was not dismissed from the ADF and was subsequently deployed to Afghanistan for the period 9 July 2014 and 17 January 2015. It is not believed that Rolfe was engaged in combat during this period. Rolfe resigned from fulltime ADF service on 4 May, 2015.

Between 2 October 2015 and 23 November 2015 Rolfe participated in a training course run by Trojan Securities International in Arkansas, USA. The course focused on advanced tactical and firearms familiarisation, close personal protection, risk management, urban warfare and driving in hostile environments.

On 1 February 2016, Rolfe applied to join the Queensland Police Service (QPS). The following day he applied to join the Northern Territory Police Force (NTPF). On 7 March 2016, Rolfe received an email from the QPS that his application would not progress any further and he had been excluded from applying for the QPS for 10 years due to his failure to disclose his involvement in a violent incident.

Rolfe progressed through the NTPF recruitment process and commenced training with the NTPF on 30 May 2016. Upon graduating from his recruit training on Rolfe was posted to Alice Springs Police Station on 8 December 2016¹.

Between 8 and 19 May 2017 Rolfe completed training to become part of the Alice Springs 'Immediate Response Team' (IRT). Rolfe was well regarded by his supervisors for having a high work ethic.

Rolfe successfully completed his Tactical Response Group assessment between July 2018 (2 day assessment) and August 2018 (5 day assessment).

On 9 November 2019 Rolfe was rostered to commence duty at 1500hrs however he was called out earlier in the day and subsequently travelled to Yuendumu with three other IRT members. At 1922hrs on 9 November Rolfe discharged his firearm, killing [REDACTED] Walker. On 13 November 2019 he was charged with the 'murder' of [REDACTED] Walker and is currently on bail awaiting trial. He has been suspended from duty on full pay.

9 February 2016 – Zachary Rolfe applies to join the Northern Territory Police (also Queensland Police, Victorian Police and Western Australia Police).

30 May 2016 – Constable Zachary Rolfe commences service with the Northern Territory Police

7 December 2016 – Constable Zachary Rolfe graduates as the 'Dux' of his training course

8 December 2016 - Constable Rolfe is transferred to Alice Springs as a Probationary Constable.

Rolfe graduated from the Police, Fire and Emergency Services College as 'Dux' of Recruit Squad 126 ???

8 May 2017 – Constable Rolfe undertakes initial Immediate Response Team training

16 – 23 August 2017 - Constable Rolfe undertakes Tactical Response Team selection training

15 March 2018 – Constable Rolfe completes Australian Army Special Forces entry test

1 August 2018 – Constable Rolfe completes his probation and is confirmed as a Constable of the Northern Territory Police²

A comprehensive report detailing the background of Constable Rolfe is contained in folio <<>> of the coronial file.

Timeline of Events Surrounding the Death of Walker

11 March 2019 – A █████ Walker commits unlawful entry at Yuendumu Store (PROMIS 8907172 refers)

18 March 2019 – Walker arrested at Yuendumu for unlawful entry and breach of suspended sentence. Imprisoned for 16 months to serve 8 months. Sentence to commence from 22 February 2019.

22 June 2019 – Judge Birch confirms suspended sentence for Walker to commence 21 October 2019 subject to conditions - attend CAAAPU and electronic monitoring.

21 October 2019 – Walker released from custody into care of CAAPU with electronic monitoring.

29 October 2019 – Walker absconds from CAAAPU. Alice Springs Police commence local inquiries as to his whereabouts.

6 November 2019 – Yuendumu Police receive information that Walker is at House 577 Yuendumu. Walker assaults police during attempted arrest. PROMIS 9126603

7 November 2019 – Sgt Frost attends House 577 and requests assistance from Robertson family to have Walker surrender. Agreement reached that Walker could attend upcoming funeral and they will then try and get him to come to the police station.

8 November 2019 – Funeral moved to Saturday 9 November 2019.

9 November 2019

1100 Hours - Health Clinic staff inform Yuendumu Police that they intend to leave Yuendumu immediately due to concerns about their ongoing safety.

1135 Hours – Sgt Frost notifies her supervisor, Superintendent Jody Nobbs, that Health Staff have left community after overnight crime series. Walker is still at large in community and suspected of being involved. Sgt Frost requests 'specialist support' and the Dog Operations Unit from Alice Springs to assist in arrest of Walker. Nobbs informs Frost to prepare a brief Operational Order.

1200 Hours – Supt Nobbs contacts Alice Springs Watch Commander Senior Sergeant Shaun Furniss requesting he investigate staffing situation with a view of deploying IRT to Yuendumu for possibly the weekend.

1351 Hours – Supt Nobbs contacts Acting Assistant Commissioner Travis Wurst seeking approval for IRT deployment. Approval provided for 'general support' for Yuendumu Police and to arrest Walker.

1400 Hours – Supt Nobbs calls Furniss and advises IRT deployment approved. IRT member to take 'full kit' to Yuendumu but to wear 'blues' (police uniform). S/Sgt Furniss tasks call-out to A/Sgt Shane McCormack. McCormack calls trained IRT members, Constables HAWKINGS, EBERL, ROLFE and KIRSTENFELDT on duty.

1430 – 1500 Hours – IRT members arrive at Alice Springs Police Station. Constable Rolfe looks up profile of Walker on PROMIS and shows BWV footage of Yuendumu incident from 6 November to other IRT members.

1600 Hours – IRT members deploy to Yuendumu in 2 separate vehicles. 'Ops Order' not yet prepared by Sgt Frost/A/Sgt McCormack.

1624 Hours – A/Sgt McCormack sends Sgt Frost draft Arrest Plan

1659 Hours – Arrest Plan/Ops Order finalised by Sgt Frost and forwarded to Supt Nobbs/Watch Commanders, IRT members (who are in transit and who do not have access to email), Yuendumu Police members and various other supervisors (including Territory Duty Superintendents).

1730 Hours – DOU member Donaldson arrives in Yuendumu.

1830 Hours – IRT members Rolfe/Kirstenfeldt arrive in Yuendumu.

1850 Hours – IRT members Hawkings/Eberl arrive in Yuendumu

1900 Hours – IRT and DOU member hold short briefing and depart Yuendumu Police Station for House 577.

1902 Hours – IRT members and DOU arrive at House 577. IRT members informed Walker not present. House 577 searched by Rolfe/Kirstenfeldt. Ethan Robertson informs IRT that Walker has gone to his 'mother's house – House 511.

1918 Hours – IRT and DOU attend Houses 511 & 518. Rolfe and Eberl enter yard of House 511.

1920 Hours – Eberl informs Rolfe someone is inside House 511. Rolfe asks residents in yard if they have seen Walker.

1920 Hours – Eberl enters House 511 followed by Rolfe. Walker located in living room and provides members with false name (Vernon Dickson³).

1921 Hours – Rolfe uses an image on his mobile telephone to positively identify Walker. Tells Walker to put hands behind his back. Walker immediately commences to struggle.

³ Vernon Dickson, dob 26/11/2001, is an actual resident of Yuendumu/Alice Springs and, similar to Walker, is recorded in PROMIS (ID 1360392) as cared for by Leanne Oldfield.

1921 Hours – Walker removes a pair of scissors from his pocket and stabs Rolfe once to left shoulder.

1922 Hours – Rolfe responds by removing Glock pistol from holster and firing once into Walker's back while Walker wrestles with Eberl. Walker and Eberl fall to ground and Rolfe moves forward and discharges firearm 2 times in quick succession (double tap) into chest of Walker. Walker restrained and scissors removed from hand. Walker handcuffed and removed from House 511.

1926 Hours – Walker conveyed back to Yuendumu Police Station. Sgt Frost requests immediately assistance from Yuelemu Health staff and assistance from RFDS.

1930 Hours – Yuelemu Health staff notified of shooting.

1931 Hours – Supt Nobbs calls Sgt Frost after receiving a call from Health (Gill). Frost confirms that Walker has been shot by IRT.

2014 Hours – CPR commenced on Walker

2015 Hours – Yuendumu Police (S/C Hand) call St. Johns. Advice provided to members performing CPR.

2025 Hours – Supt Nobbs briefs RFDS pilot. Pilot (Damien Myles) holds safety concerns around travel to Yuendumu. Nobbs to provide contingency (safety) plan. Nobbs contacts Police Airwing pilot who advises he is on night flying exercise. Pilot directed to return to Alice Springs immediately.

2036 Hours – IRT members declare Walker deceased

2039 Hours – Divisional Superintendent Nobbs advised of Walker's death. A/DCOP White declares 'Critical Incident/Major Crime'. Southern Crime tasked to investigation.

2039 Hours – Supt Nobbs directs all police staff to evacuate police station and leave Yuendumu

2045 Hours – Supt Nobbs contacts RFDS to advise that patient is deceased. RFDS stood down.

2102 Hours – Direction received from A/DCOP Beer for all members to remain at Yuendumu Police Station

2109 Hours – Yuelumu Health staff arrive and confirm Walker as deceased

2245 Hours – Alice Springs Police Airwing (Polair) arrive with Alice Springs police members

2305 Hours – NOK (Eddie Robertson) contact Yuendumu police requesting update on Walker's condition. No information provided.

2357 Hours – Constable Rolfe returns via Polair to Alice Springs. NISK authority obtained. Rolfe conveyed to Alice Springs Hospital. No statement obtained from Rolfe.

Sunday 10 November 2019

0007 Hours – Sgt Zhang, Police Forward Commander now at Yuendumu, rings NOK advising Walker is still receiving medical treatment.

0038 Hours – Rolfe conveyed to Alice Springs Hospital. Treated for minor wound to left shoulder.

0117 Hours – TRG members arrive at Yuendumu from Darwin

0450 Hours – Eddie Robertson is contacted by Police at Yuendumu and requested to attend Yuendumu Police Station. On arrival he is told Walker is deceased and is asked to identify body which he declines to do.

0644 Hours – Yuendumu Police and TRG inform NOK (Rekeisha Robertson).

0724 Hours – Crime Scene established at House 511

0738 Hours – Major Crime (D/A/Supt Pennuto) appointed as lead (senior) investigator in charge replacing Southern Crime (Supt Foley) after intervention and direction from Coroner.

0808 Hours – NAAJA notified of death by Supt Vicary

0951 Hours – Incident Management Team (IMT) meeting (No.1) – Chaired by Assistant Commissioner Beer

1409 Hours – Alice Springs Investigation team view body worn video of Rolfe

1403 Hours – IMT meeting No. 3 – *'No conversation with Rolfe prior to 1800 hours'*

1501 Hours – Body worn video of Rolfe viewed by D/A/Supt Pennuto & D/S/Sgt Malogorski. Concerns held over lawfulness of Rolfe's actions.

1701 Hours – First 'Investigation Management Committee' (IMC) meeting held in Darwin. Chaired by A/DCOP White. Critical decision reached to interview Rolfe under caution.

Monday 11 November 2019

1209 Hours – D/A/Supt Pennuto, Commander Dole (Crime) and Assistant Commissioner Anticich (Crime & Integrity) meet with DPP Director Jack Karczewski. BWV viewed by DPP and criminal offence suggested. DPP request a 'short file' by Wednesday 13/11/2019 to consider and confirm opinion in relation to possible charges. ✎

Tuesday 12 November 2019

0848 – IMC (No.2)

1355 Hours – Supt Pollock appointed as Commissioned Officer In Charge of Coronial Investigation by A/DCOP White.

1524 Hours – Rolfe formally invited by Investigation Team (D/Sgt Wells/DSC Ralph) to partake in Electronic Record of Interview. Rolfe declines.

1700 Hours – Rolfe travels to Darwin accompanied by his mother ✎

Wednesday 13 November 2019

1024 Hours - IMC (No.3) – Assistant Commissioner Anticich requests 'short file' be prepared for pending arrest of Rolfe by 1300 hours.

1352 Hours – Follow up meeting between D/A/Supt Pennuto, Commander Dole, AC Anticich and DPP (Karczewski and his Deputy Matthew Nathan). DPP recommend charge of murder (verbally).

1547 Hours – IMC (No.4) – Decision to proceed with arrest of Rolfe confirmed.

1414 Hours - 2nd statement obtained from Eberl where he indicates he received an injury during arrest of Walker. Injury photographed.

1705 Hours – Zachary Rolfe arrested by A/Supt Pennuto in Darwin.

1847 Hours - Rolfe charged with murder. Granted conditional Bailed by Local Court Judge (Birch).

Circumstances Surrounding the Death of Walker

Arrest for Property Offences at Yuendumu – March 2019

On 18 March 2019 Walker was arrested by Yuendumu Police and then sentenced to 16 months imprisonment in the Alice Springs Local Court for a range of property related offences and a breach of a suspended sentence. On 26 June 2019 Walker appeared in Alice Springs Local Court and his sentence was suspended subject to a conditional release.

He remained in custody to complete his minimum sentence (8 months – backdated to commence from 22 February 2019) and for suitable conditions pertaining to his pending release to be arranged. On 21 October 2019 Walker was released into the custody of Northern Territory Department of Corrections (Probation and Parole) and ordered to attend the Central Australian Aboriginal Alcohol Programmes Unit (CAAAPU) Residential Rehabilitation Program.

This required Walker to enter a 12-month good behaviour bond and to live in the residential units at CAAAPU in Alice Springs. He was also required to abide by a curfew whilst wearing an electronic monitoring device (EMD) attached to his ankle.

Walker Absconds from CAAPU

At around 0040 hours on 29 October 2019 Walker removed his electronic monitor and left CAAAPU without authority. Police were notified by Community Corrections (PROMIS 9118468 refers). Later on, the same day Alice Springs Police attended a previous address of Walker at 27/8 Erumba Street, Alice Springs before attending Warlpiri Camp making further attempts to locate Walker without success. Sergeant Michael Hickey added an 'Alert' to the PROMIS identity of Walker as an 'Active Target' for Breach of Suspended Sentence.

At around 0800 hours on Wednesday 30 October 2019 Sergeant Robert Kent and members of his patrol group attended the Warlpiri Camp after information was relayed to them by Sergeant Julie Frost at Yuendumu indicating that Walker had been sighted at the Camp. Walker was not present when police attended.

Northern Territory Corrections applied for a 'Warrant for Breach of Order Suspending Sentence' and a warrant for Walker's arrest was then approved on 5 November 2019.

Attempt to Arrest Walker – Yuendumu 6 November 2019

On Wednesday 6 November 2019 Yuendumu Police received information from a community source that Walker had returned to the community and could be located at House 577. Yuendumu Police were aware that Walker had an outstanding warrant for breaching his suspended sentence.

Statements to Review

Honor Lanyon Smith

Frost
Rekeisha Robertson

Inquest into the death of Kumanjyi Walker
PROCTOR - Consultative DRAFT

Who else
Eddie Robertson

Explosive Two Police Officers, Senior Constable Chris Hand, and Senior Constable Lanyon Smith attended House 577 and located Walker inside a bedroom together with his wife, Rekeisha Robertson. Upon being told that he was arrested Walker responded by arming himself with a tomahawk and threatened both police members with the weapon. Walker then ran from the house before he absconded into nearby bushland. This incident was captured on the Body Worn Video (BWV) cameras worn by both Smith and Hand.

The Officer in Charge (OIC) of Yuendumu, Sergeant Julie Frost, viewed the footage and reported the assault on her members to her Divisional Superintendent, Jody Nobbs. In acknowledging the seriousness of the assault Nobbs then instructed Frost to notify the Watch Commander in Alice Springs to have the Watch Commander broadcast the incident (Assault -Aggravated) to all senior police management via a WebEOC entry. Despite considering the matter to constitute a 'critical incident' Superintendent Nobbs left the follow up arrest of Walker with the Yuendumu Police members. A PROMIS Case 9126603 was entered into the Police database relating to the incident.

Following the assault on police Sergeant Frost attended the scene of the incident (House 577) and spoke to the grandparents of Rekeisha Robertson, Eddy and Lottie Robertson. Eddy Robertson is a recognised senior elder in the Yuendumu Community. Frost informed him that the assault on her members was a serious matter and that Walker had two hours to hand himself in to police. Eddy Robertson stated he would try to get Walker to surrender himself stating 'we can't make him'. Despite returning to House 577 later that night Walker failed to surrender himself to police.

Sergeant Frost proceeded to add an 'Alert' to the Police Information database (PROMIS) formally indicating that Walker was now an arrest target for the recent assault on Police. She added an additional PROMIS 'Alert' added to his name warning 'May be Violent towards Police'. Walker, who was already listed in the Alice Springs Police Intelligence 'Tactical Co-ordination Group' (TCG) document as having a warrant for his arrest, was upgraded as a priority 'Arrest Target' This intelligence document was electronically distributed to all Alice Springs Police Patrol Groups who then endeavoured to locate nominated outstanding offenders, including Walker, when duties allowed.

Statements
Rekeisha
Williams
The following day, Thursday 7 November 2019, Sergeant Frost, accompanied by Aboriginal Community Police Officer Derek Williams, re-attended House 577 and attempted to negotiate the arrest of Walker with the Robertson family.

The family advised that Walker was due to attend a funeral in Yuendumu on Friday and that if he were permitted to attend the funeral then family would endeavour to bring him into the (Yuendumu) Police Station following the funeral.

Sergeant Frost agreed to this request but warned the family that if Walker did not surrender himself then additional forces from Alice Springs would be called in to assist in apprehending Walker, including the Police Dog Unit⁴.

Later on the evening of Thursday 7 November 2019, Alice Springs Police Sergeant, Evan Kelly, took his patrol group to the Warlpiri Camp and endeavoured to locate Walker, again without success. Constable Zachary Rolfe and Constable James Kirstenfeldt were part of the police contingent who attended the Warlpiri Camp.

The funeral at Yuendumu did not go ahead on Friday as originally planned but was re-scheduled for Saturday 9 November 2019. It is believed Walker remained in the community

According to Eddie Robertson Sergeant Frost warned that she was going to get a 'Task force'.

following the assault upon Yuendumu Police on 6 November up until 9 November 2019. Yuendumu Police were made aware of the change in funeral arrangements and, in accordance with the agreement with family, made no effort to locate and arrest Walker between 7 – 9 November 2019.

Request for Assistance

Check statements
NOBBS / Frost

Health staff
Springer Grill etc.

During this time there were several property crimes committed in Yuendumu and, due to his prior criminal history, Walker was suspected by local Police to have had some involvement⁵. These crimes were committed on properties occupied by the Yuendumu Health staff (PROMIS 9129313 – Trespass – 9/11/19, PROMIS 9129310 – Criminal Damage – 9/11/19, PROMIS 9128959 – Criminal Damage/Attempt Unlawful Entry – 9/11/19, PROMIS 9126489 – Unlawful Entry/Stealing - 6/11/19 refers).

The Health staff expressed concerns over their safety to their management in Alice Springs. At around 1100 hours the order was then given to evacuate the Yuendumu Health Clinic leaving the community without health staff. The nearest clinic to Yuendumu is Yuelumu (Mount Allen) Health Clinic, some 50 kilometres away. Yuelumu Health Clinic remained open with the expectation, in the advent of a medical emergency, they would service the community of Yuendumu.

During the morning of Saturday 9 November 2019, the OIC at Yuendumu, Sergeant Frost contacted her Divisional Supervisor, Superintendent Jody Nobbs, to advise that local Police resources were physically exhausted due to having to constantly deal with ongoing offending at all hours. She further briefed Nobbs about the pending departure of local Health staff.

She informed him that there was now an expectation by Yuelumu Health staff that Yuendumu Police would accompany them on any future call-out at Yuendumu with Yuendumu Police themselves having insufficient staff to accommodate this request.

In her contact with Superintendent Nobbs, Sergeant Frost requested the services of 'specialist' police members from Alice Springs to supplement local police resources. This would in turn enable Yuendumu Police members to gain some respite after working continuous long hours. Superintendent Nobbs was supportive of the request and was cognisant of the fact that Walker remained at large within the community following on from the assault of the two police officers the previous Wednesday (6 November 2019).

Approval for Deployment of Alice Springs Immediate Response Team (IRT)

Given Sergeant's Frost's (mistaken) belief that Walker was also likely to be involved in the recent overnight unlawful entries Superintendent Nobbs sought the approval of his Acting Assistant Commissioner, Travis Wurst, to sanction the use of the Immediate Response Team (IRT)⁶. Acting Assistant Commissioner Wurst was aware of the incident that occurred at Yuendumu on the Wednesday (6 November 2019) and readily approved the deployment of the IRT noting the time of approval as 1351 hours.

Check statements
NOBBS / WURST

⁵ A 12 year old male was later identified as the offender for an unlawful entry at Yuendumu. PROMIS #9126489 refers.

⁶ A requirement under the Immediate Response Team policy.

What specific action was recorded by NOBBS

↓ From PP -

With this approval granted Superintendent Nobbs arranged, through the Alice Springs Watch Commander, Senior Sergeant Shaun Furniss, for four members of the Alice Springs Police IRT to be called on duty on order to provide relief to Yuendumu members and to arrest Walker. In formulating a loose plan for the arrest of Walker and, in considering that Walker had the propensity to run from police, Sergeant Frost also requested the services of a Police Dog Operations Unit (DOU) member in addition to the IRT.

This (verbal) request was also approved by Acting Assistant Commissioner Wurst. Superintendent Nobbs then instructed Senior Sergeant Furniss to proceed with the call out and deployment of an IRT and a DOU member to Yuendumu.

No request for a trained negotiator to accompany the IRT was made or considered at this time.

Senior Constable First Class Adam Donaldson (35 years), Registered Number 2775, Dog Operations Unit, and his canine, Drax, was called on duty and sent to Yuendumu to assist Yuendumu members and the IRT.

The Alice Springs Watch Commander, Senior Sergeant Furniss, delegated the responsibility for the IRT call-out and any briefing to the IRT to Acting Sergeant Shane McCormack. With the usual Sergeant in charge of the IRT capability (Sergeant Lee Bauwens) on recreation leave it was left to Acting Sergeant McCormack to complete this task. At the time Acting Sergeant McCormack was on duty at Alice Springs Police Station performing duties as the supervisor of the Auxiliary members tasked to Point of Sale Inspection (POSI) duties. Acting Sergeant McCormack was also considered a suitably qualified and experienced senior member of the IRT.

Following a further brief conversation between Superintendent Nobbs (telephone) and Senior Sergeant Furniss and himself, McCormack formed the abbreviated view that the IRT were to be dispatched to Yuendumu primarily to arrest Walker. According to Senior Sergeant Furniss;

'...the whole overarching thing as to um, was to effect the arrest of Walker...'

The request from Superintendent Nobbs clearly indicated that the IRT were to take their swags as it was likely they would remain in Yuendumu for a number of days. The instruction from Superintendent Nobbs mandated that the IRT were to wear 'blues' (regular police uniform) while in Yuendumu instead of wearing their alternate camouflage apparel. Superintendent Nobbs further instructed that the IRT were to take their 'full kit' to Yuendumu. In addition to aerosol subject restraint (ASR) (oleo capsicum spray), Glock pistols and electro-muscular control device (ECD) this included shotguns capable of discharging 'bean bag' rounds and AR15 rifles.

Acting Sergeant McCormack proceeded to randomly call out IRT qualified members, subject to their availability. McCormack worked down the list of IRT members until he had 4 members willing to attend the call-out.

The IRT members called on duty were;

Constable First Class Anthony Hawkings (49 years), Registered Number 3496

Hawkings is a former New Zealand police officer who served between 2005 and 2014 before being recruited to the NT Police on 10 February 2014. Hawkings was posted to Alice Springs on 25 April 2014 and remained in that location for the duration of his career.

He has served on relief postings to Alpurrurulam, Haasts Bluff, Apatula and Lyente Apurte police stations prior to joining the IRT on 26 November 2018 and since that time, according to IRT records, has deployed on 6 general support operations. He passed his last IRT weapons qualification on 7 August 2019. Hawkings had some previous experience of approximately 6 months service in remote communities in 2014 - 2015.

Constable First Class Anthony Eberl (39 years), Registered Number 3552

Eberl is a former South Australian police officer who served between 2012 and 2015 before being recruited to the NT Police on 15 June 2015. Eberl was posted to Alice Springs on 2 October 2015. He served a month in Apatula in January 2017 before returning to Alice Springs. Eberl joined the IRT on 26 November 2018 and since that time, according to IRT records, has deployed on 2 general support operations. He passed his last IRT weapons qualification on 7 August 2019. Eberl had 6 weeks remote service experience in 2017.

Constable Zachary Rolfe (28 years), Registered Number 3638

Rolfe is a former Australian Defence Force (ADF) member who, after transferring from the regular Army to Reserve Forces, attended paramilitary training in weapons handling, close personal protection and urban warfare with Trojan Securities International in the United States of America. He was posted to Alice Springs on 14 December 2016 where he remained working in a General Duties Capacity. During his time in Alice Springs, he did not undertake any relief work in remote communities. He has deployed on 7 IRT callouts since completing his IRT training in May 2018. He passed his last weapons qualification on 13 July 2019. Rolfe had no remote service experience.

Constable James Kirstenfeldt (35 years), Registered Number 3658

Kirstenfeldt is a former ADF member who, similar to ROLFE, conducted paramilitary type close protection training with Ronin International in the United Kingdom in 2010. He joined NT Police in November 2016. He was posted to Alice Springs on 9 June 2017, where he has remained. He has not served in remote aboriginal communities. He joined the IRT on 26 November 2018 and since that time, according to IRT records, has deployed on 4 general support operations. He passed his last IRT weapons qualification on 7 August 2019. Kirstenfeldt had no remote service experience.

The Dog Operations Unit member called out was;

Senior Constable First Class Adam Donaldson (35 years), Registered Number 2775

Donaldson is a former ADF member who joined the NT Police on 26 February 2007. Donaldson has served in Alice Springs, Nyirripi and Darwin prior to joining the Dog Operations unit in 2015. Donaldson is not a member of the IRT, and is deployed in response to the request from Sergeant Frost and approval from Acting Assistant Commissioner Travis Wurst.

Senior Sergeant Furniss called out the DOU member Donaldson around 2.00 p.m. and Donaldson immediately departed from his home residence to Yuendumu.

Unfortunately and just prior to the IRT members arriving at Alice Springs Police Station, a bus rollover occurred south of Alice Springs with multiple casualties reported. In addition to their usual designated duties both Senior Sergeant Furniss and Sergeant McCormack were involved in prioritising an emergency response for that event. It left little time to properly brief the on-coming IRT members.

What
Brody

Arrival of IRT at Yuendumu

At around 2.30 p.m. on Saturday 9 November 2019, the 4 IRT members began arriving at the Alice Springs Police Station. The message from Superintendent Nobbs to take their 'full kit', seemingly was not passed on to the IRT members. As a result the IRT decided themselves on what equipment to take with them to Yuendumu. — *is the the normal practice.*

Between the four members, no specific IRT 'team leader' was appointed and no briefing documents or written risk assessment on Walker had been prepared by the time they departed the Police Station. According to one of the IRT members called on duty, Constable James Kirstenfeldt;

'...like I said we weren't there as IRT, we were there as a force multiplier⁷.'

In the absence of any prepared written brief (Operation Order/Arrest Plan) the four IRT members were informed by Sergeant McCormack that their 'mission' was primarily to 'arrest Walker'.
Alice Springs & Yuendumu.

Prior to leaving the Police Station the 4 IRT members did take the opportunity to view the BWV footage recorded by members involved in the attempted arrest of Walker at Yuendumu on Wednesday 6 November 2019. The IRT member, Constable Zachary Rolfe, was the member who presented the footage to the other 3 IRT members.

Donaldson, the Dog Unit member, travelling on his own, left well in advance of the IRT members and arrived at Yuendumu around 5.45 p.m. The 4 IRT members were travelling in 2 vehicles arriving in Yuendumu 15 – 20 minutes apart between 6.40 p.m. – 7.00 p.m.

Due, in part, to having been told to wear their police uniforms the IRT members elected not to take their full kit (including camouflage uniform) but instead randomly armed themselves with the following equipment/weapons;

Eberl – Glock pistol, AR15 rifle, ASR, Baton, 10 Calibre Ballistic Vest (, no ECD)

Hawkings – Glock pistol, AR15 Rifle, ECD, ASR, Baton, 10 Calibre Ballistic Vest (no load bearing vest)

Kirstenfeldt – Bean Bag Shotgun, Glock pistol, ECD, ASR, Baton (no load bearing vest)

Rolfe – Glock pistol, ECD, ASR, Baton

Earlier that day Acting Sergeant McCormack had been requested by Sergeant Frost to assist with the development of an Operation Order. Sergeant Frost had been instructed by Superintendent Nobbs to contact McCormack as;

'...he's done an Ops Order for it before⁸.'

Acting Sergeant McCormack, who had never before completed an Operations Order, compiled some detail around the arrest target (Walker) and then forwarded the information

⁷ 'Force Multiplier' is a military term defined as 'A capability that, when added to and employed by a combat force, significantly increases the combat potential of that force and thus enhances the probability of successful mission accomplishment'.

⁸ Statutory Declaration (1) of Sergeant Julie Frost, P.35

by email to Sergeant Frost at 4.24 p.m. Sergeant Frost added detail and then emailed the final plan to the (in-transit) IRT members and various supervisors at 4.59 p.m.

Of critical importance this plan had not been compiled prior to the IRT members leaving for Yuendumu. Even so, Sergeant Frost later conceded.

'...ah, the Ops Order that I put together had locations of interest but they were incorrect, however I knew I was going to correct the locations of interest when they got there'.⁹

After arriving in Yuendumu Sergeant Frost handed the completed arrest plan for Walker (the 'plan') to the IRT members. There was no mention in the plan of waiting until the family of Walker were afforded the opportunity to assist with Walker's proposed surrender post funeral.

The IRT members were instructed by Sergeant Frost that they were to commence general patrols of Yuendumu at 2300 hours (11.00 p.m.) that night and, if Walker failed to surrender himself prior to then, they would attempt to locate and arrest him the following morning at 0500 hours (Sunday 10 November 2019). This would involve the assistance of a local Police member, Constable Felix Alefaio, who previously had extensive dealings with Walker and knew him well by sight¹⁰.

The IRT members were also informed by Frost that the local Health staff had left the community and the Community Health Clinic was closed. Despite Walker being regarded as a 'high risk' offender there was no plan to attempt to utilise a Police negotiator.¹¹

Movements of Walker during Saturday 9 November 2020

Walker and Rekeisha Robertson spent the night together at House 577 waking late on Saturday morning. They walked down to the local sports oval. Walker admitted to smoking cannabis at some time during the day. Walker and Robertson separated during the afternoon with Rekeisha visiting an Auntie's house. Walker walked back to House 577 before informing Ethan Robertson that he was going to the Red House (511). Walker walked to this residence where he conversed with Leanne Oldfield and Noel Dixon in the yard of the premises. When Police drove towards the house Walker went inside.

Actions of IRT

Instead of adhering to the 'Operation Order' that had been prepared by Sergeant Frost (and supported by Superintendent Nobbs) the IRT members disregarded the plan in preference to completing the 'mission' as assigned to them by the stand-in Officer In Charge of the IRT - Acting Sergeant McCormack. That 'mission' involved an immediate attempt to locate and arrest Walker within the Yuendumu Community¹².

As stated by the IRT member HAWKINGS during his (second) interview.

WOOD: *So, I think you just stated before that you got to Yuendumu roughly about 7 o'clock?*

⁹ Statutory Declaration (1) of Sergeant Julie Frost, P. 16

¹⁰ The IRT members were not familiar with Walker other than their observations of him on the BWV recorded by Yuendumu Police on 6 November 2019.

¹¹ Senior ACPO Derek Williams was available to assist in this regard if required. No consideration was given to deploying any one of at least 6 trained negotiators available at Alice Springs.

¹² Details of any IRT proposed, if any, arrest plan were never formalised

HAWKINGS: *Roughly, yes –*

WOOD: *Yep.*

HAWKINGS: *- roughly, from thinking, I'm pretty sure it was about 7 o'clock we had that Briefing.*

WOOD: *Yep*

WOOD: *And how long after you (sic) arrival did that, this Brief occur?*

HAWKINGS: *Pretty much immediately upon our arrival.*

WOOD: *Yep.*

HAWKINGS: *Um, it was, 'lets get in there and let's pretty much get out there and locate him'*

WOOD: *Yep.*

HAWKINGS: *I think the idea was to get back to the Station, hopefully I, identify him, locate him quickly and then return back to the Station and come back to Alice Springs.*

Hawking's admitted that Sergeant Frost was not party to this brief held between the IRT members and DOU member at Yuendumu. It was apparent they were not expected any brief or direction from Sergeant Frost other than requesting advice as to where they may be likely to locate Walker.

The evolving situation was well summarised by Professor Alexander McFarlane AO, in his report "Operation Chartwell (sic) re: Constable Zachary Rolfe as follows;

'It also appears that at the briefing held by Sergeant Frost after the IRT members had arrived at Yuendumu, there had been no direct consensus reached as to their individual roles....this was an ambiguous situation where despite the high level of risk associated with attempting an arrest of Mr Walker no strategy appears to have been discussed for how this was to occur....Constable Rolfe was deployed into an ambiguous environment that had little structure and direction with no apparent supervisor or team leader defined.'

The IRT members, who were all of rank junior to Sergeant Frost, clearly intended to proceed with their own 'arrest' agenda despite being told that an agreement had been set in place between Sergeant Frost and Walker's family - which was to attempt to have Walker surrender following the funeral of his uncle, [REDACTED] Brown.

That funeral was still in progress when the IRT and the DOU member left the Station in search of Walker¹³. Despite his availability the IRT did not consider or attempt to take Constable Alefaio with them¹⁴.

Sergeant Frost described her interactions with the IRT members as follows;

'....the members really wanted to take over the conversation...and it was sort of um kind of said to me that you know "This is how we do it"..."This is what we do when we come to job,

¹³ The funeral service commenced with a ceremony held at the Yuendumu Basketball Sports precinct followed by a burial service at the Yuendumu Cemetery.

¹⁴ Constable Alefaio was included in the 'Arrest Plan' prepared by Sgt Frost for this very reason.

this is how"....I got the impression that they didn't really want me to tell them how to do their job...'¹⁵

It must be highlighted that the IRT members were not expecting to receive any orders from Sergeant Frost when they arrived in Yuendumu. They were aware of the 'mission' assigned to them by Acting Sergeant McCormack and remained focussed on quickly locating and arresting Walker. Despite a suggestion by Sergeant Frost that the IRT members left the station on an intelligence gathering exercise it was clear they were going to attempt to locate and arrest Walker.

After a short briefing outside the Yuendumu Police Station the IRT armed themselves with the following weapons¹⁶;

Constable Hawkings – AR15 rifle¹⁷, Glock pistol, Taser, OC Spray, baton

Constable Eberl – Glock pistol (no taser), OC Spray, baton (his AR15 rifle was left at the Yuendumu Police Station)

Constable Rolfe – Glock pistol, Taser, OC spray?, baton

Constable Kirstenfeldt – Shotgun (beanbag rounds)¹⁸, Glock pistol, Taser, OC Spray, baton

Constable Donaldson, the Dog Operation Unit member, carried his Glock pistol, ASR, ECD and Baton (in addition to his Police dog).

At around 7.00 p.m., with daylight fading, the IRT and DOU member drove directly to House 577, the residence of Eddie Robertson where Walker usually stayed with his girlfriend, Rekeisha Robertson. Rekeisha's father, Ethan Robertson, was located sitting in the yard of House 577 and informed the IRT members that Walker had left the residence only minutes earlier.

Despite being told this, Constable Rolfe and Constable Kirstenfeldt decided to search the house in any case. Ethan Robertson then informed Constable Rolfe that Walker had most likely gone to his grandmother's house. He identified House 511 to Constable Rolfe as the location where Walker's grandmother, Margaret Nabanunga Brown, lived. All IRT members had their BWV cameras operating at this time and all actions and conversations were recorded.

IRT attendance at House 511 Yuendumu – Confrontation with Walker

At around 7:19pm, the five (5) police members attended the location identified by Robertson. Police then made various enquiries with persons in the vicinity of House 511. Constable Eberl made his way to the front open doorway of House 511 and sighted a male inside the House. He then quickly walked over to Constable Rolfe and informed him that he had sighted a male inside the house. Rolfe and Eberl then walked back around the front of the house and Rolfe briefly spoke to a female, Leanne Oldfield outside the house. He requested permission from her to enter the house but was informed by Oldfield that it was not her house and was told to ask the owner of the house (Margaret).

¹⁵ Statutory Declaration (1) of Sergeant Julie Frost. P.33

¹⁶ The IRT members did not take their 'full kit' as requested by Superintendent Nobbs and instead chose to randomly select lethal and non-lethal weapons of their preference.

¹⁷ Constable Hawkings carried this weapon exposed when in the Community

¹⁸ Constable Kirstenfeldt did not carry this weapon in the Community, and it remained in his Police vehicle.

Rolfe disregarded this and passed a brief message on the police radio to the other IRT members and Donaldson stating;

ROLFE: "Me and Adam are just going to clear this red house".

Instead of waiting for the other IRT members to establish a cordon around this house Constable Eberl, followed by Constable Rolfe, entered the residence where they immediately located Walker within the main living area. When asked his name by Rolfe, Walker initially gave a false name ('Vernon Dickson') and attempts were then made to positively identify Walker using dated images of Walker contained on Constable Rolfe's iPhone recorded from previous arrest episodes.

After satisfying himself that Walker was the person standing before him Rolfe ordered Walker to put his hands behind his back. Walker reacted immediately by removing a pair of scissors from his pocket. A struggle then ensued during which time Walker stabbed Rolfe once to his left shoulder causing a minor penetrating injury to his collarbone. Rolfe responded by stepping back, removing his Glock 40 Calibre pistol from his holster and, without warning, fired one round into Walker's back.

At this point in time Walker was wrestling with Constable Eberl and both fell to the ground. At some time during the struggle Eberl also received a superficial wound and bruising to his upper left arm. His police shirt also was slightly damaged.¹⁹

Rolfe has then moved forward and fired two more rounds into the chest of Walker at close range while Walker was on the ground beneath Eberl. Walker continued to struggle for a brief period. He was then handcuffed after the scissors were removed from his right hand. During this time Rolfe stated to Eberl;

'He was stabbing me, he was stabbing me, it's all good, he's got scissors in his hand, he was stabbing me, he was stabbing you...he's got scissors right here, he's got scissors right here...let go of the scissors...'

The entire incident, including audio, was captured on the body worn video of the involved members²⁰. The first shot was fired at 7.22.01 p.m. The second at 7.22.03 p.m. and the third at 7.22.04 p.m. At no time did Constable Rolfe issue a standard warning to Walker prior to shooting him. The wounds sustained by Walker were soon to become fatal.

Immediate Actions at the Scene

Walker was quickly handcuffed and evacuated from the scene by the IRT members and placed in the rear of the Police Vehicle. Within minutes of Walker being shot IRT member, Constable Kirstenfeldt, attempted to notify Sergeant Frost of the occurrence by mobile phone²¹.

¹⁹ Report of AFP Textile Expert, Timothy Simpson, 'Small hole measuring 2mm in diameter, and had associated upwards and downwards laddering. This damage had features indicative of puncture type damage with associated laddering that could have been caused by a pointed object with a blunt tip used in a stabbing or thrusting action with subsequent stretching or distortion of the fabric surrounding the puncture area'. P.4

²⁰ Eberl's BWV camera dislodged from his uniform during the struggle with Walker but continued to record.

²¹ This was captured on BWV but neither Kirstenfeldt nor Frost can recall making/receiving a phone call at the time.

Sergeant Frost, Senior Constable Hand and Constable Alefaio were still at the Yuendumu Police Station when they heard a transmission over the police radio '*shots fired, shots fired*'.

The IRT members were contacted by police radio and initially advised Sergeant Frost that they were intended to conveying Walker to the Yuendumu Health Clinic. Sergeant Frost reminded them that the clinic had been closed and directed them to return to the Yuendumu Police Station. They then immediately drove to the police compound.

Walker initially remained conscious and members endeavoured to treat his wounds as best as possible. The Health staff from Yuelumu were contacted for assistance and the Royal Flying Doctor Air Service were put on notice to undertake an urgent medical evacuation from Yuendumu.

The internal injuries suffered by Walker were severe and Police attempted to control bleeding as best they could with the limited first aid equipment available to them. Once he ceased breathing Police commenced CPR and applied a defibrillator with Walker succumbing to his injuries soon after.

Efforts at resuscitation ceased at 2036 hours once Rolfe himself declared Walker deceased. On arrival at Yuendumu, the Yuelumu Health Staff examined Walker then formally declared him deceased at 2109 hours²².

The actions of Police over this time at Yuendumu Police Station, including their efforts to resuscitate Walker, were recorded on BWV.

An estimated 200 community members gathered around outside the Yuendumu Police Station after the shooting. The Police Station had been locked and was not open to members of the public at this time. The Yuendumu ACPO, Derek Williams, remained outside the Police Station and attempted to control a volatile situation with community residents obviously upset with what had occurred.

The IRT members and the DOU member remained inside the Police Station together with Yuendumu members until such time as Police re-enforcements arrived from Alice Springs and later the next morning, Territory Response Group (TRG) members from Darwin. The front double glass entrance door to the Station remained locked.²³

By this time there were 8 police officers inside Yuendumu Police Station;

Sergeant Julie Frost (OIC)

Senior Constable Christopher Hand (Alice Springs relief member)

Constable Felix Alefaio (Nyriippi relief member)

Constable First Class Anthony Hawkings, IRT Alice Springs

Constable First Class Anthony Eberl, IRT Springs

²² Police members at Yuendumu deemed Walker to be deceased at 2036 hours prior to Yuelumu Health Staff arriving at Yuendumu.

²³ The glass entrance doors were covered from inside the Station to prevent anyone from outside looking into the Station. The lights inside the Station remained on but, to those congregating outside, appeared as if they had been turned off.

Constable Zachary Rolfe, IRT Alice Springs

Constable James Kirstenfeldt, IRT Alice Springs

Senior Constable Adam Donaldson, Dog Operations Unit, Alice Springs

The Yuendumu Police Station remain locked and not accessible to the public.

The Senior Yuendumu Aboriginal Community Police Officer, Derek Williams, who had been attending the funeral, came to the front of the Police Station with family but elected to remain outside the Police Station and attempt to placate the gathering crowd. Williams and Frost were able to communicate covertly by mobile phone with Williams electing to remain by choice outside the Police Station.

Establishing a crime scene at the scene of the shooting (House 511) was not considered at this time due to safety concerns of all police members at Yuendumu.

Yuelumu Health Clinic members, Lorraine Walcott and Heather Zanker were notified of the shooting at 7.25 p.m.

Walker was removed from the rear of the Police vehicle and then carried into the Police Station cells with IRT members then attempting to control Walker's bleeding.

Sergeant Frost then contacted her Divisional Superintendent, Jody Nobbs and directed Senior Constable Hand to commence a 'running sheet' at Yuendumu. Superintendent Nobbs then contacted Acting Assistant Commissioner Travis Wurst.

At 8.12 p.m. Walker stopped breathing and CPR was commenced at Yuendumu Police Station.

At 8.15 p.m. Superintendent Nobbs attended the Alice Springs Police Station and assumed the responsibility of Incident Controller. Decisions made by him were recorded on WebEOC.

At 8.36 p.m. police efforts at resuscitation on Walker ceased. Yuelumu health staff arrived at Yuendumu Police Station at 9.08 p.m. and certified Walker as deceased.

A contingent of Alice Springs members were dispatched by aircraft to Yuendumu with a further contingent of Tactical Response Group members flown to Yuendumu from Darwin.

A roadblock was established at the Stuart Highway/Tanami Highway intersection in order to prevent alcohol from entering the Yuendumu Community.

The Yuendumu members and the IRT and DOU members continued to remain inside the Yuendumu Police Station during this time. Aboriginal Community Police Officer (ACPO), Derek Williams, remained outside the front of the Yuendumu Police Station, demonstrating enormous personal courage, by continuing to make valiant efforts to appease the estimated 200 community members who had gathered at the front of the Police Station seeking an update on the shooting. Throughout this time, he continued his communication with Sergeant Frost via mobile telephone.

During the assembly at the front of the Police Station some community members began to throw rocks on the roof of the Police Station. The situation outside the Police Station remained quite volatile to the extent that at one stage the police members inside the Yuendumu Police Station were given the order to evacuate by Superintendent Nobbs.

They then assembled in their vehicles inside the police compound, placing the body of Walker, in the rear of one of the police vans, before the decision to evacuate was overturned by Acting Deputy Commissioner Beer. Despite being directed to leave ACPO Williams refused to consider leaving the community and remained at the front of the Police Station.

Notification of Next of Kin

Shortly before mid-night Eddie Robertson rang the Police Station seeking an update as to the condition of Walker. He spoke to Sergeant Frost who notified him that she could not provide him with an update but would do so later.

When the Forward Commander, Sergeant Terry Zhang, arrived from Alice Springs soon after he contacted the Incident Commander (Superintendent Nobbs) seeking advice as to what information he could relay to Robertson. Zhang was advised to inform Robertson that Walker was still receiving medical treatment when, in fact, he was already deceased. Zhang completed this task stating that the decision to ring Robertson at 1207 a.m. was;

*"...a way of mitigating risk of the Community sort of, not jeopardising the safety of the members in the Station."*²⁴

Next of kin (Rekeisha and Eddie Robertson) were not notified of Walker's death until later that morning. Eddie Robertson was contacted after the arrival of TRG and requested to attend the Station around 4.50 a.m. He was then advised of Walker's death and requested to formally identify the deceased. Robertson stated this was not necessary as Walker's identity was not in question. At 6.44 a.m. Sergeant Frost, Sergeant Zhang and TRG members attended the residence of Rekeisha Robertson and informed her of Walker's death.

Injuries to Rolfe and Eberl

Once community hostilities ceased, Constable Zachary Rolfe surrendered his weapon, body worn video camera, utility belt and clothing for forensic examination²⁵. During this time he informed Constable Hawkins of the injury to his left shoulder received during the attempted arrest of Walker. Constable Hawkins took photographs on his mobile telephone of the injury and of damage to the shirt and under vest of Constable Rolfe.

Eberl did not initially report receiving any injury at the time although he later stated in his second interview²⁶.

- WOOD: *Um, did you receive any injuries?*
- EBERL: *Not that I know of, but I would like to have a look at my shirt because I have a scratch here which could have been from the scissors, I don't know.*
- WOOD: *Yeah.*
- EBERL: *But I never – never mentioned it to anyone other than the other day, but um –*

²⁴ Statutory Declaration of Sergeant Terry Zhang, P.9

²⁵ Constable Rolfe had already washed his hands upon return to Yuendumu Police Station as observed on BWV.

²⁶ Statement of Constable Adam Eberl (2), P.59

Once the Alice Springs relief members arrived Constable Rolfe was then conveyed back to Alice Springs via police aircraft. He provided his consent to a voluntary 'non-intimate sample kit' (NISK) allowing his injury to be further photographed and he was then treated at Alice Springs Hospital for a minor puncture wound to the region of the left collar bone²⁷.

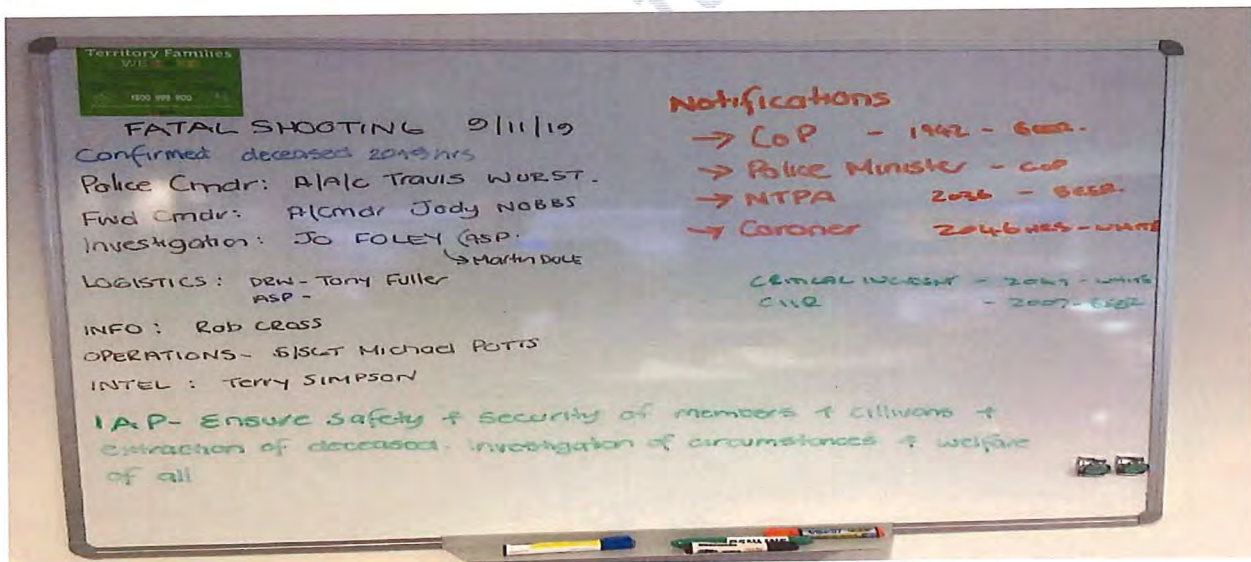
Members of his Alice Springs patrol group were allowed to visit him and speak with him while he was waiting at the hospital. He was not questioned by investigators at this time and was allowed to rest with the intention of obtaining an account of events later on in the day (Sunday 10 November 2019).

Police Command Actions

Establishment of a Police Command Structure

At the time of receiving the notification from Superintendent Nobbs, Acting Assistant Commissioner Wurst was attending a social function in Darwin together with other senior Police executives²⁸. These Police executives included Acting Commissioner Michael Murphy APM, Acting Deputy Commissioner Michael White APM, Acting Deputy Commissioner Narelle Beer, Commander Tony Fuller APM and Police Media Director, Rob Cross.

After briefing other Police executives Acting Assistant Commissioner Wurst then commenced a planned 'critical incident' response. An initial decision was made to appoint Detective Superintendent Joanne Foley, Southern Crime, Alice Springs, to the position of Senior Investigator in Charge (SIC) with Wurst assuming the position of Police Operations Commander.



Initial management structure and notifications made at the Territory Intelligence and Co-ordination Centre on night of 9/11/2019.

²⁷ The voluntary 'NISK' application stated that the offence under investigation was that of 'manslaughter'.

²⁸ Northern Territory Police Legacy Ball.

Appointment of Commissioner Officer in Overall Charge and Senior Investigator in Charge and commencement of Investigative Response

During the morning of Sunday 10 November 2019, a 'critical decision' was made to appoint Detective Acting Superintendent Kirk Pennuto, Crime Division, Darwin, to the position of senior investigator in charge in place of Detective Superintendent Foley. Acting Commander

Martin Dole was appointed as the Commissioned Officer in overall charge of the investigation subsequently named '**Operation Charwell**'²⁹.

A Major Crime investigation team and members of the Professional Standards Command were dispatched to Alice Springs to commence a 'Coronial and Critical Incident' investigation.

At 7.24 a.m. a 'crime scene' was established by Police at House 511, Yuendumu. The crime scene had not been declared earlier due to concerns about the safety and welfare of any police officer assigned to guard the scene. The house had been secured and locked by family overnight and police forensic member examined the scene with the scene being closed by the investigation team at 9.40 p.m. 10 November 2019.³⁰

The Northern Australia Aboriginal Justice Agency (NAAJA) were notified of Walker's death by Police at 0808 hours 10 November 2019.³¹

The interview previously arranged with Rolfe was delayed until investigators had the opportunity to view his BWV³². Once this occurred the senior investigator postponed the interview and a 'critical decision' was made to take the BWV footage to the Director of Public Prosecutions (DPP) for an initial (informal) opinion³³.

This occurred on Monday 11 November 2019 when Detective Acting Superintendent Kirk Pennuto, Commander Martin Dole and Assistant Commissioner Crime and Integrity Nick Anticich met with the Director of the DPP. An indication was received from the Director that a serious offence had occurred and DPP requested a 'short' prosecution brief of evidence to be provided to them by Wednesday 13 November 2019 at which time a considered opinion would be provided to police.

On Tuesday 12 November 2019 investigators attempted to obtain a statement from Rolfe but, after receiving advice from his legal representative, Rolfe formally declined to provide an account beyond what the BWV already revealed. Rolfe had made notes of the incident in his official police notebook but investigators were not aware that it existed.³⁴ The whereabouts of this notebook remains unknown.

²⁹ The name 'Operation Charwell' was applied to both the Criminal and Coronial Investigations.

³⁰ Recorded in PROMIS 9129856 as a 'Critical Decision' – Case log #88 refers.

³¹ PROMIS 9129856 Case log #43

³² Rolfe's BWV was uploaded to Evidence.Com at 1229 hours, 10 November 2019 and viewing access was restricted by investigators at 1353 hours. Operation Charwell investigators first viewed the footage in Alice Springs at 1409 hours.

³³ This 'Critical Decision' was not recorded on the Investigation log as required by the Instruction – '*Major Crime, Major Investigation and Critical Incident Response*'

³⁴ Investigators seized the police notebook of Rolfe when he returned from Yuendumu to Alice Springs. He obtained a new notebook from Alice Springs Police Station on 10 November 2019 and he then recorded notes of the incident in this notebook.

Appointment of Commissioner Officer in Charge of the Coronial Investigation

On 12 November 2019, in consultation with the Deputy Coroner and with the likely arrest of Rolfe pending, a decision was made to appoint a Commissioned Officer In Charge of the Coronial Investigation separate to the senior investigating officer³⁵.

This was brought about due to the somewhat unique circumstances that required two streams of investigation with one reporting to the Coroner in accordance with the Police General Orders – ‘*Coronial Investigations and Inquests*’ and ‘*Deaths in Custody and Investigation of Serious Incidents and/or Fatal Incidents resulting from Police contact with the Public*’. The other, being the criminal investigation, focussed on the requirements of Police General Orders – ‘*Major Crime, Major Investigation and Critical Incident Response*’ and ‘*Northern Territory Incident Control System*’.

Advice from DPP and Arrest of Zachary Rolfe

On Wednesday 13 November 2019, the senior investigator provided the DPP with a prosecution brief and approval was received to proceed with a charge of ‘murder’ pursuant to s156 *Criminal Code Act 1983* [NT].

Zachary Rolfe was arrested by the senior investigator at 1705 hours Wednesday 13 November 2019. Bail was refused by Police, but conditional bail was granted by the on call Local Court Judge. Rolfe was immediately served with a notice suspending him from further duty as a Police Officer while remaining on full pay.

A committal hearing was held at Alice Springs Local Court between 1 – 4 September 2020 before Judge John Birch. On 25 September 2020 Rolfe’s defence team made a ‘no case to answer’ submission. On 26 October 2020 Judge Birch committed Zachary Rolfe to stand trial on the charge of Murder.

The role of the IRT in the Death of Kumanjayi Walker

Background

The operations of the Alice Springs Immediate Response Team are prescribed in a local instruction (Standard Operating Procedure) (SOP)³⁶. These SOP’s were formulated in 2017 to upgrade the initial response capabilities and enhance the skills of select general duty members serving in the Southern Region.

Prior to 2017 the Alice Springs Police relied on a ‘Cordon and Containment’ team (ASPCCT). The leader of this team, Alice Springs Sergeant Lee Bauwens, sought to enhance the skills and capability of the Cordon and Containment team and in 2017 the IRT SOP was ratified, subject to conditions, by the then Deputy Commissioner, Grant Nicholls. It was noted at the time;

³⁵ Superintendent Scott Pollock was initially nominated to fill this role on 12 November 2019 with Commander Proctor later officially delegated the role on 10 August 2020.

³⁶ Refer Folio <<>> IRT SOP

“The ASPCCT are not part of the validated and accredited Australia New Zealand Counter Terrorism Committee (ANZCTC PTG). Their deployments should not be governed by the TRG on-call Tactical Commander. The Tactical Commander is a position designated within the PTG and can only offer advice on what is essentially a local-level capability. For all planned significant high risk incidents, and unplanned high risk incidents that become protracted, the ASPCCT are not the appropriate force to resolve a situation that is significant-high risk”³⁷.

In 2017 the naming convention of the ASPCCT was changed to better reflect the nature of the duties the ASPCCT were expected to perform – hence the title ‘Immediate Response Team’ (IRT).

The IRT members are comprised of general duty police officers who volunteer ‘as required’ on a part time basis to form a contingent of members capable of responding to critical incidents in the absence of the immediate availability of Tactical Response Group (TRG) members.

The IRT members are recruited from the pool of Alice Springs General Duties members with a preference for members with military experience. A cadre of 15 – 16 trained members is preferred.

Training (usually firearms) is provided to selected and available IRT members one day a month. With the type of skill set required preference for selection for IRT duties is heavily weighted in favour of ex-military members. Yearly training assessments of IRT were to be undertaken by TRG members.

Selection for the IRT is conducted at a local level in Alice Springs. A selection panel, chaired by the Commander in Alice Springs, usually includes the Alice Springs Divisional Superintendent, Officer-In-Charge of the IRT and a Northern Territory Police Association (NTPA) local delegate.

Role of the IRT

The primary role of the IRT is clearly described in their SOP which states³⁸:

The Alice Springs Immediate Response Team (IRT) has been established in recognition of the need for Alice Springs and Southern Command to have a capability that is able to respond to critical incidents where accepted tactics of cordon, contain and negotiate have failed or been unsuccessful, the Territory Response Group are not able to respond within a suitable time frame to resolve an incident and the nature of the incident is such that an urgent police response is required to prevent loss of life or serious injury.

The IRT is a part time capability comprised of officers who have been provided skills enhancement training above that of a front-line general duties officer to enable them to respond to critical incidents. The IRT are not trained to the level of a Police Tactical Group (PTG) nor are they expected to fulfil this role, they will however when circumstances (as highlighted above) dictate be required to utilize the skills and training they have been provided³⁹.

³⁷ Refer Folio <<>>

³⁸ Refer Folio <<>> IRT SOP

³⁹ Refer Folio <<>> IRT SOP

The SOP's also provide for the IRT to be available to assist other units in general support role with

- *Expedient search warrant entry*
- *Assistance in the arrest of violent offenders*
- *Assistance in the arrest of persons evading police or who have escaped lawful custody*
- *Assistance to Southern Command in targeted operations*
- *Assistance in the arrest of armed offenders*
- *Re-establishing order following civil unrest*
- *Southern Command support at large scale community unrest.*
- *Assistance with Search and Rescue Operations*

IRT Deployments

Since 2017 there have been 39 deployments of IRT members⁴⁰ comprising of;

- 3 search and rescue episodes
- 6 responses to community disturbances/riots
- 9 targeted arrests
- 21 others matters (general – rock throwing episodes/surveillance requirements/close personal protection)

Of note is that a team leader was appointed on 9 of those 39 occasions (either Sergeant Bauwens or Constable 1/C Vivian)⁴¹. It is also noted that the type of operations to which the IRT have been deployed appears to have expanded considerably from the original role detailed in the SOP and has led to what can only be described as 'mission creep'.⁴²

Command & Control of IRT

The IRT is maintained as a part-time capability and while there is mention of an OIC, 2OIC and Team Leaders in the SOP there is no requirement for these positions to be maintained in the absence of the IRT member/s who are usually nominated to one or all of these 'part-time' positions. At the time of Walker's death, the IRT OIC (Sergeant Lee Bauwens) and IRT 2OIC (Cameron Vivian) were on leave and no stand-in replacement had been allocated the role.

Any IRT call-out does not stipulate a mandatory requirement for the nomination of a suitably experienced team leader. Ordinarily the most senior member of the group would assume this responsibility by virtue of seniority of rank.

⁴⁰ (ROLFE is recorded on 4 of the CNE's in 2019 and 2 in 2018 – one of which was stood down prior to deployment)

⁴¹ PROMIS 8905514 (2018) & 8854742 (2019) refer.

⁴² 'Mission Creep' – 'The gradual addition of new tasks or activities to a project so that the original purpose or idea begins to be lost' (Definition – Cambridge Business English Dictionary)

The IRT are a 'Command Asset' within Alice Springs and therefore the Commander, Alice Springs, must authorise the deployment of the IRT. This is mandated in the IRT SOP. The SOP's are a localised instruction with the local Alice Springs Commander responsible for their content and administration.

Approval for Deployment of IRT to Yuendumu

The accountability for approving the IRT to deploy to critical incidents or in a general support role rests with the Assistant Commissioner Regional and Remote Operations and the Commander Southern Command, respectively. On the 9th of November 2011 this was Acting Assistant Commissioner Travis Wurst and Commander Bradley Currie (who was on approved absence and out of Alice Springs at the time).

After receiving the request from Sergeant Frost for 'specialist resources' on the Saturday morning 9 November 2019 Superintendent Nobbs determined that the IRT were to be deployed for the following reasons;

- Yuendumu police needed respite and accordingly a relief general duty response was required out at Yuendumu. Property crimes had increased, and Walker was suspected of being involved.
- Health staff at Yuendumu had left the community and extra police resources would be required to assist Yuendumu health staff if they were required to attend Yuendumu.
- Walker was still outstanding (noting a funeral was planned for Saturday and Walker had been permitted to attend without intervention as arranged between Yuendumu Police and family).

On the afternoon of the 9th of November⁴³ Superintendent Nobbs contacted Acting Assistant Commissioner Wurst and requested approval to deploy IRT members to Yuendumu, the request based on the rationale detailed above Acting Assistant Commissioner Wurst approved the deployment of four IRT staff and a dog handler in a general support role only to give respite to those members who were based at Yuendumu⁴⁴

Communication to Watch Commanders and IRT members.

Having received approval from Acting Assistant Commissioner Wurst communication then took place between Superintendent Nobbs and Senior Sergeant Furniss and Acting Sergeant McCormack around sending a contingent of IRT members and the DOU to Yuendumu in their standard police uniform (instead of the IRT camouflage uniform), but with 'full kit' to provide support to the officers at Yuendumu and arrest Walker⁴⁵.

⁴³ The general term afternoon has been used due to a discrepancy in the timing of phone calls which cannot be reconciled. Superintendent Nobbs reported that he contacted Acting Assistant Commissioner Wurst at 11.45 a.m. on Saturday 9 November 2019 to obtain approval for the IRT and DOU deployment. A/Assistant Commissioner Wurst reported receiving the (same) phone call from Superintendent Nobbs at 1.51 p.m. Phone records confirm time as being 1.51 pm.

⁴⁴ Refer Folio <<>> Interview Welfair and Wurst

⁴⁵ Refer Folios <<>> Statement of Nobbs, Folio <<>> Statement of McCormack, Folio <<>> Statement of Furniss

Acting Sergeant McCormack advises that he provided a briefing to the IRT members (the DOU member left Alice Springs for Yuendumu with no briefing whatsoever) and during this briefing he was asked by Constable Rolfe "*what their mission was?*" to which McCormack replied "to arrest Walker"⁴⁶. The preparation and approval of the Operation Order/Arrest Plan had not been completed and made available to the IRT members.

Unfortunately, the IRT members departed Alice Springs at around 4 pm, with little if any briefing on their duties, who was in charge or any formalised plan⁴⁷.

As previously mentioned in this report, the IRT are a part time unit and where officers who are identified as the OIC or 2OIC are not available, members who have seniority of rank are expected to take charge and control. In the context of the deployment of IRT to Yuendumu the most senior member by rank of the IRT members was Constable First Class Anthony Hawkings.

Hawkings stated in interview that while no-one was specifically appointed as team leader, due to the fact that Rolfe was the most experienced IRT member he was considered by him to be leading the IRT deployment to Yuendumu.

Rolfe provided the briefing around the arrest of Walker stating to the team;

'there's not much intel that we've been given'.

Rolfe also showed the Body Worn Video footage of the incident involving Walker and the Yuendumu Police from the previous Wednesday to the other IRT members prior to leaving for Yuendumu. Ironically Hawkings accepted the role of team leader once Walker and the IRT members returned to the Yuendumu Police Station post shooting.

Adherence to the Immediate Response Team SOP

Once the IRT SOP was ratified in 2017 it is apparent that strict adherence to the SOP was not maintained in several critical areas.

Training

The IRT SOP requires all IRT members to undergo a validation training block (conducted over 5 days) each year. This training is conducted by the Tactical Response Group (TRG).⁴⁸

3.1.1 IRT members qualifications

Each IRT member must requalify in the following every 12 months:

- Less lethal Shotgun

Each IRT member must requalify in the following every 6 months:

- IRT range shoot

⁴⁶ Refer Folio <<>> Statement McCormack

⁴⁷ The IRT SOP do not stipulate that Operation Orders or arrest plans are required prior to deployment nor is a detailed written risk assessment required for an arrest target. The lack of formal intelligence documentation and planning in IRT operations often appears minimal. This requirement should be standard practice and is an oversight in the IRT SOP.

⁴⁸ Refer Folio <<>> IRT SOP

- IRT Close Quarter Tactics (CQT) 5 room test

These skills are considered the basic drills needed to remain proficient in the core functions of the IRT.

All training carried out is to be directed towards achieving the Performance Objectives applicable to the IRT. To achieve this, it is intended to formalise the recording of all training, results, and faults, with the view of improving operational efficiency of members of the IRT.

TRG will provide an annual validation of equipment, training and tactics, and IRT members will be tested and evaluated to ensure a proficient standard is maintained. IRT members must pass the annual assessment to remain on the unit.

The IRT SOP states that OIC of the IRT is responsible for ensuring training standards and records are maintained as required. A review of the training records for IRT members as recorded in the SPECTR system indicates that training records for IRT member have been poorly recorded and maintained.

A review of the training records of the IRT members as recorded in the SPECTR system indicates that the annual training and validation requirement was conducted once in April 2018 and not at all in 2019.⁴⁹ If this is the case then no IRT member in Alice Springs would have been qualified under the requirements of SOP and therefore all would have been unavailable for selection for IRT duties at the time when the IRT were deployed to Yuendumu in November 2019.

A review of training records in the SPECTR system specifically relating to Constable Rolfe show that he had only 5 training attendance dates recorded from 2017 - 2019 when he was rostered to attend IRT training every 5 weeks. According to the SPECTR records Rolfe did complete an 'IRT Qualification shoot' on 13 July 2019, however TRG did not conduct that validation/assessment⁵⁰.

Behaviour / Performance

The IRT SOP contains several stipulations in relation to the behaviour and performance of IRT members, as detailed below⁵¹

It is expected that IRT members display a high standard of professionalism and behaviour fitting their role

Members who are subject of a performance improvement plan in their primary role will be stood down from IRT for the duration of the plan, until they have demonstrated they can perform to an acceptable standard.

Members who are the subject of disciplinary action will be stood down during the investigation or subsequent penalty period at the discretion of the Commander Southern Command, and in consultation with the OIC IRT and Alice Springs Divisional Superintendent

⁴⁹ TRG conducted annual training on 8 IRT members in Alice Springs 23 – 27 April 2018.

⁵⁰ No request was made to TRG in 2019 for annual validation training to occur – Email – TRG A/Superintendent James Gray-Spence to Operation Charwell member (Kingston) dated 24/9/2020.

⁵¹ Refer Folio <<>> IRT SOP

At the time of being called out and deployed to Yuendumu on 9 November 2019, Constable Zachary Rolfe had several internal matters (complaints against police) under investigation⁵².

Assistant Commissioner Dr Narelle Beer authored an extremely critical report on the IRT SOP's, post shooting, to Deputy Commissioner Michael Murphy in her memorandum (dated 27 November 2019)⁵³.

'There is no overarching policy that establishes the functionality, objectives or scope of the IRT...Based on the lack of apparent governance, consultation and promulgation of these procedures (and in the absence of any specialist skills, abilities or expertise by the author – Williams) I cannot evidence base appropriate rigour around the development of these SOP's.

The operations of the IRT were suspended by the Northern Territory Police following the death of Walker and are now subject to review.

Analysis, Conclusion and Recommendations

The deployment of the IRT had a critical role in the death of Kumanjayi Walker. On examining the response to this incident and more broadly the policies, procedures, management, deployment and operational practices of the IRT the coronial investigation team has identified several areas of improvement.

The SOP developed in 2017 and then approved by Deputy Commissioner Nicholls, clearly states the primary and secondary roles of the IRT, and in addition details requirements in relation to training, mandatory independent training evaluations to be undertaken by the Territory Response Group, and deployment of members who are subject to disciplinary matters.

It is clear that since its inception in 2017, the primary role for which the IRT was established has become blurred. Unfortunately, there is no single systemic failure that can be attributed to this situation. Staffing changes, management changes, differing perspectives on operational priority and deployment have all contributed to a situation where the primary role of the IRT has expanded and the governance requirements under the SOP have lapsed.

IRT officers were not deployed with a 'Senior Member', those who did deploy to Yuendumu were not provided with a briefing as to exactly what their role and responsibilities were in deploying. They were advised that this was a general support role, yet at the same time advised to 'take all their kit'.

Prior to departure they were not with the arrest plan prepared by Sergeant Frost, prior to their departure to Yuendumu, nor on arrival at Yuendumu were they provided with clear and concise direction about the role they were to undertake or the approved plan to effect the arrest of Walker.

The manner in which the IRT members equipped themselves, and then commenced their efforts to locate Kumanjayi Walker indicates a lack of planning on their part (especially since they were all highly aware of the recent encounter between Police and Kumanjayi Walker) in terms of effecting an arrest, and an apparent lack of understanding of ICENCIR and other use of force principles.

⁵² PSC Career Review dated 20 November 2019 – Rolfe had 2 Complaint Against Police (CAP) and 1 Internal Investigation matter on 9 November 2019

⁵³ Refer Folio <<>> Review of IRT SOPS – AC BEER

All of these factors culminated in the tragic situation where Officers Eberl and Rolfe entered the premises of house 511 and attempted to effect the arrest of Kumunjayi Walker, which resulted in the use of lethal force by Constable Zachary Rolfe.

As previously indicated in this report the operations of the IRT have been suspended pending a review.

An area for improvement in relation to the IRT, is that pending review include the systemic issues highlighted above, in particular the efficacy of the policy, clarity of the role of IRT, compliance with training requirements.

Care and Medical Treatment of Kumunjayi Walker Post Shooting

As highlighted earlier in this report, immediately after Walker was shot by police he was quickly handcuffed and evacuated from the scene by the IRT members and placed in the rear of the Police Vehicle.

With no Yuendumu Health clinic staff available the IRT members were directed to return to Yuendumu Police Station by Sergeant Frost. Walker initially remained conscious and members endeavoured to treat his wounds as best as possible.

The internal injuries suffered by Walker were severe and Police attempted to control bleeding as best they could with the limited first aid equipment available to them. Once he ceased breathing Police commenced CPR and applied a defibrillator with Walker succumbing to his injuries soon after.

Efforts at resuscitation ceased at 2036 hours once Rolfe himself declared Walker deceased. On arrival at Yuendumu, the Yuendumu Health Staff examined Walker then formally declared him deceased at 2109 hours⁵⁴.

The police response to the first aid efforts applied to Walker by Police after he was shot have been reviewed by Professor Michael C Reade AM. Professor Reade is a medical practitioner who holds general and speciality registration in the clinical specialities of anaesthetics and intensive care medicine.

He has been the Director of Clinical Services for the Australian Regular Army and holds formal qualifications in prehospital care of ballistic casualties. He is one of Australia's most prominent medical authorities in the treatment of major trauma, including gunshot injuries⁵⁵.

Professor Reade summarised his review as follows.

'In summary, I believe that from the moment that the bullet that caused wound B reached the end of its wound path, in the circumstances present at the time, Mr Walker was going to die regardless of any efforts made by the police officers present. The police officers present rendered first aid largely consistent with their NT Police and, where relevant, Australian Defence Force training. In part, this training and its associated protocols inappropriately prioritised "medical" causes of cardiac arrest, such as myocardial infarction from ischaemic heart disease, that would be treated effectively with an Automated External Defibrillator (AED), and deprioritised causes of cardiac arrest due to trauma, such as maintenance of an

⁵⁴ Police members at Yuendumu deemed Walker to be deceased at 2036 hours prior to Yuendumu Health Staff arriving at Yuendumu.

⁵⁵ Refer Folio <<>> Report by Dr Michael Reade

open airway, relief of haemopneumothorax, and maintenance of the circulating blood volume with the minimum possible amount of intravenous fluid. This represents an opportunity for improved training in situations when penetrating trauma due to firearms is possible, but it does not reflect on the actions of the police involved at Yuendumu in any way.

Mr Walker might have survived his wounds had the clinic been open and staffed with its usual complement of Remote Area Nurses and had an aeromedical retrieval team from Alice Springs arrived in the fastest possible time. However, this is not certain, and in any case such speculation is of questionable value as the clinic staff had been withdrawn some hours before Mr Walker was shot.

I observed the treatment provided to Mr Walker by the police officers in Yuendumu to be focussed, attentive, and that it displayed an appropriate sense of urgency and appreciation of the gravity of the situation. I believe the police officers would have rendered similar treatment, with the possible addition of expired air resuscitation and more prolonged resuscitation attempts, neither of which would have altered the outcome, had it been one of their own colleagues that had been shot.'

Once Walker stopped breathing and cardio-pulmonary resuscitation (CPR) efforts were commenced a call to the St. Johns operator in the Joint Emergency Services Call Centre (JESCC) was made by Senior Constable Hand at Yuendumu. The St. Johns operator (Lana Harman) offered advice around performing CPR, Expired Air Resuscitation (EAR) and using the AED.

It may have been prudent for this call to have been made sooner as it may have assisted with identifying and assessing the haemopneumothorax injury but ultimately, without specialist medical care and facilities at hand, this would have not prolonged Walker's life to the extent that such treatment could have been provided.

When the St. Johns operator mentioned EAR to the police officer at Yuendumu the following conversation occurred.

AMBULANCE: Okay, now I'm just gonna tell you to, how to give mouth to mouth just to make sure we're doing it correctly, so if someone there can place their hand on his forehead, their other hand on under his neck and then tilt the head back.

HAWKINGS: Yeah, ah this point we are not gonna do mouth to mouth. Anybody gonna do mouth to mouth?

POLICE OFFICER (HAWKINGS): No.

HAWKINGS: Just ah due to the fact that he's ah one of our Prisoners and –

AMBULANCE: Okay, yeah, no that's fine.

HAWKINGS: – health and safety reasons for us, we're not going to be doing mouth to mouth.

AMBULANCE: Yeah, okay, no, that's fine.

HAWKINGS: We don't have a (inaudible).

AMBULANCE: That's completely fine. Alright now –

HAWKINGS: We're waiting, we're waiting our medical, our medical staff to get here

At the time of Walker's death all IRT members at Yuendumu held current Emergency Care Management Program (First Aid) qualifications. Given the additional level of first aid training Kirstenfeldt claimed to have received during his military career and in considering the injuries suffered by Walker, EAR could have been provided. Appropriate mouth to mouth kits were in the police vehicles at Yuendumu and available to the members if required. However, the IRT members were more focussed around obtaining a defibrillator and applying that when required.

Despite Health Staff being 30 - 40 minutes away CPR efforts were abandoned by the IRT/DOU member. This is contentious. The Australian Resuscitation Council state that;

"CPR should only cease when:

The patient is responsive and their breathing normal

Qualified help arrives

It is impossible to continue through exhaustion

An authorised person pronounces death (ONLY a medical Doctor/fully qualified Paramedic can announce death and stop CPR)"

This advice is consistent with the First Aid training provided to NT Police; however, Professor Reade concludes in his report;

'Termination of attempts at resuscitation 24 min 14 secs after it commenced without meeting any of the four criteria.... However, these guidelines are written without regard to circumstances...in which Mr Walker has deteriorated despite all the interventions the police officers were able to provide...I believe the decision to terminate resuscitation at this point was correct'⁵⁶

Despite speaking with the St. Johns operator at around 8.31 p.m. and being told to call St. Johns back if efforts at CPR were to cease Constable Zachary Rolfe and the IRT members made that decision themselves. This decision was made at 8.36 p.m. No call was made back to the St. Johns operator as requested.

The Yuelumu Health staff were able to officially confirm that Walker was deceased when they arrived at Yuendumu Police Station at 9.08 p.m.

There was some criticism levelled at the Royal Flying Doctor Service (RFDS) regarding the delay leaving Alice Springs. The RDFS response was to firstly ensure that their safety was guaranteed at Yuendumu. This could not be immediately provided. By the time supporting mechanisms were put in place Walker had passed and the intention to fly to Yuendumu was then cancelled.

Analysis, Conclusion and Recommendations

<<>> To be completed (Awaiting clarification of some elements of report and timings)

⁵⁶ Para 41, P25 Professor Michael C Reade AM, 'Expert Witness report regarding death of Arnold Walker on 09 November 2019'. Reade is also a member of the National Committee on the Australian Resuscitation Council.

Adherence to Previous Coronial or Royal Commission Recommendations

The coronial investigation as part of its remit has undertaken a review of the previous Royal Commission and Coronial recommendations, the following identifies those recommendations that are relevant to the death of Kumunjayi Walker and adherence or otherwise by the Northern Territory Police

Dragging of persons in custody

Concerns were raised by the family of Kumunjayi Walker in relation to the actions of police immediately after the fatal shooting, in particular the issue of Kumunjayi Walker being dragged to and placed in the rear of the police vehicle.

The Coroner has clearly expressed his disapproval of any form of police dragging a person in custody in previous 'death in custody inquests'.⁵⁷ The concerns raised by the family and dragging of Walker after he had been shot and handcuffed by police again raised the question as to why this practice still continues.

Prior to 31 January 2013, there was no specific instruction or policy that articulated the requirements of Police in relation to the dragging of prisoners in custody. Instructions around the dragging of prisoners were first disseminated by way of gazette notice on 31 January 2013.

This instruction would appear to have been in response to the Coroners findings from the Terence Daniel Briscoe Inquest that were published on 17 September 2012 where the NT Coroner, Mr Greg Cavanagh made recommendation to the NT Police Force:

'That police be directed that the practise of dragging detainees or prisoners on the ground in the Watch House is unacceptable and should not occur, save for the most exceptional circumstances. Where prisoners are unable or unwilling to walk, they should be assisted to their feet and helped to walk. When this is not possible, more than one officer should assist and carry them wherever that is practicable'.

After 31 January 2013, the following instruction applied:

Dragging of Persons in Custody

338 – Unless under emergent circumstance, a person in custody who is unable or unwilling to walk shall not be dragged by their limbs to move them from place to place. Where a wheelchair is available, it shall be utilised for this purpose. Where a wheelchair is not available, where practicable more than one member will assist the person to move and in any case alternatives to dragging by the limbs will be utilised.

The most current *Custody and Transport* Instruction now states:

Managing a Person Who is Unable to Walk

S299 – A person in custody who is unable to walk should be placed in a wheelchair if available. Where a wheelchair is not available members will utilise an appropriate carry

⁵⁷ Refer to Northern Territory Coronial Inquest into death of Terrence Briscoe (2012) and Cedric Trigger (2010)

technique. There are **no circumstances** which justify a person being dragged to move them while in custody.

Note: Serious consideration must be given to any medical conditions impacting the person's ability to walk.

The above paragraph first appeared in this instruction on 20 September 2018 and has remained ever since. It changed the policy of the dragging of prisoners from "Unless under emergent circumstance" to "There are no circumstances".

By contrast, the NT Police requires officers to complete the Custodial Care online course in the first instance and every 12 months thereafter. This course is compulsory. This course has not been updated to educate members that there are now 'no circumstances' that justify a person being dragged and still reflects and assesses participants against the superseded policy.

In the case of Walker members were obviously concerned with the immediate anger of family and community members in proximity and elected to take the action they did in dragging Walker to the parked Police vehicle, as indicated by Constable Eberl in his statement to investigating officers⁵⁸.

EBERL: *He was – he was um, he was in our care, so I mean normally um, you wouldn't carry a patient or even a prisoner necessarily, you get told you know? Put him in a wheelchair and that sort of stuff.*

WOOD: *Mm-hm.*

EBERL: *But we didn't have that luxury.*

WOOD: *Yep.*

EBERL: *And we were in a hurry so –*

Analysis, Conclusion and Recommendations

It is evident that policies and procedures relating to the dragging of prisoners were not followed by the IRT members in their dealing with Kumanjayi Walker. The wording of the instruction as detailed above, states that there are no circumstances that justify a person being dragged.

As detailed above, in the information provided by Constable Eberl the intention of the policy is acknowledged in his *statement 'normally you wouldn't carry a patient or a prisoner, necessarily, you get told you know, put him in a wheelchair and that sort of stuff.*

In the statements provided by Kirstenfeldt and Eberl they both refer to the actions of community members, concerns for their safety and rendering assistance to Kumanjayi Walker, in relation to the decision to getting away from house 511. It does not appear that consideration was given by the members to moving the police vehicle closer to remove the need to drag Kumanjayi Walker, or that this could have been a possibility in the circumstances.

Policies and Procedures relating to the dragging of prisoners were not followed. The policy is clear in its statement that there are no circumstances that justify a person being dragged.

⁵⁸ Refer Folio <<>> Transcript of Eberl

The situation at Yuendumu however was not a normal situation, in fact the situation was an extremely complex one. Police had shot Kumunjayi Walker, who had sustained significant injuries. The health staff at Yuendumu had left the community, removing the option of an ambulance attending the scene to attend to transport Kumunjayi Walker. Compounding these factors were the reactions of community members to the actions of police.

It is regretful that in addition to realising Kumunjayi Walker had been shot by police, community and family members observed him being 'dragged' to the police vehicle. Given the volatile situation that was developing, the injuries to Kumunjayi Walker, and the need to render assistance it is difficult to see what other options were available to the officers.

There are no recommendations in relation to this issue.

Separation and interviewing of (police) witnesses

The general order '*Death In Custody and Investigation of Serious Incidents and/or Fatal Incidents Resulting from Police Contact with the Public*' directs;

'All members directly involved in a death in custody or serious incident will be interviewed before the completion of their shift where possible. The interview of members directly involved in the incident will take the form of an audio and video record of interview. If not practicable to video, the interview must be audio-recorded'.

The general order goes on to advise:

All members will be given the opportunity to seek legal advice. Where legal advice is sought by a member and it is not possible to obtain that advice before the end of a members shift, the member should be interviewed as soon as practicable thereafter. Where this is the case, members involved in the incident must remain segregated and are to be instructed not to confer with or consult with any other member involved in the investigation'.

Due to obvious circumstances, it was not possible to segregate police witnesses immediately after the shooting incident or while they remained at Yuendumu. Investigators did their best once they arrived at Yuendumu to ensure the IRT members and the DOU member were interviewed as soon as practicable in the early hours of Sunday 10 November 2019.

Unlike his fellow IRT members, however, investigators did not subject Constable Rolfe to an immediate 'field' interview upon his return to Alice Springs. Instead, he was allowed to communicate with the NTPA legal representative and receive medical treatment. This was permissible under the advice detailed above and contained in the '*Death In Custody and Investigation of Serious Incidents and/or Fatal Incidents Resulting from Police Contact with the Public*'.

Constable Rolfe was then visited at the Alice Springs Hospital while he waited as an outpatient by members of his patrol group. Despite an investigator being present there was no attempt to stop this from occurring.

He was also in contact with friends and family who offered support. Further, the same investigator was told by his superior, Detective Acting Senior Sergeant Leith Phillips, to ensure Rolfe did not return to the Alice Springs Police Station that night/morning.

Rolfe, in company with NTPA representatives, then attended Alice Springs Police Station, entering the Station before then communicating with D/A/S/Sgt Phillips⁵⁹. Phillips advised Rolfe to then go home and rest and that a statement would be obtained from him later the same day (Sunday 10 November 2019). Rolfe then left the station before returning to the Station later that (Sunday) morning.

He then communicated with other police officers before leaving the Station. He did not make a statement at that time while investigators deliberated over the timing of his statement.

Upon viewing the BWV of Rolfe at 1501 hours, Sunday 10 November 2019, the Senior Investigator, Acting Superintendent Pennuto, held concerns over the actions of Rolfe. Any intended interview with Rolfe was then postponed while investigators decided whether the interview with Rolfe would then be held under caution instead of a voluntary statement.

The interview with Rolfe was further delayed until the Assistant Commissioner, Crime, and Integrity⁶⁰, the Commander Crime⁶¹ and Pennuto liaised with the Director of the D.P.P. on Monday 11 November 2019. Advice was then provided by the D.P.P. that Rolfe should be interviewed under caution.

On Monday evening a social gathering occurred at Rolfe's residence. The gathering included members of Rolfe's patrol group, police friends and fellow IRT members who had been at Yuendumu with Rolfe when the shooting occurred.

This is a clear breach of police and procedure, however, was not unexpected when considering it appears Rolfe or other involved officers had not been given any directive by the Senior Investigator or other Senior Officers regarding not associating with any other police witnesses prior to being interviewed.

On Tuesday 12 November 2019 Rolfe, in company with his legal representative, read a statement to investigators in Alice Springs indicating he would not be discussing the matter further.

Rolfe was not directed to answer questions in accordance with 'directed interview' provisions of Section 79A, *Police Administration Act 1978* 'Member to answer questions or give information in relation to breach of discipline'.

Assistant Commissioner Anticich summarised the reasons why a directed interview, or any other form of coerced interview, did not take place as follows.

'Based on early assessment, the actions of Zac Rolfe (ROLFE) were questionable and possibly criminal. It was decided, in accordance with normal practice that the investigation of possible criminal acts would take precedent. Matters concerning discipline or misconduct were not forgotten but rather deferred until the criminal investigation could establish any criminality. A disciplinary interview is compelled, the officer must answer questions put to him or face disciplinary sanction. Nationally we have seen police officers refuse to answer questions in compelled interviews on the basis of incrimination in criminal conduct. This has resulted in the practice of criminal investigations taking primacy, and/or disciplinary matters

⁵⁹ Rolfe had his personal vehicle parked at the Alice Springs Police Station.

⁶⁰ Assistant Commissioner Nick Anticich APM

⁶¹ Commander Martin Dole

*being considered later or separately, depending on the jurisdiction. Criminal interviews need to occur where the suspect is under no coercion and makes it of their own free will.*⁶²

A directed interview did not occur for the reasons mentioned above by Assistant Commissioner Anticich. A similar sentiment was highlighted by the Northern Territory Coroner in the *Robert Jongmin Inquest* regarding the perils of interviewing a (police) witness too early into an investigation without having sufficient fact to put to the witness⁶³.

Analysis, Conclusion and Recommendations

As previously stated, the situation at Yuendumu post shooting was an extremely complex one, further compounded by operational issues occurring on the ground and the time taken for investigators to arrive.

These circumstances resulted in a delay in officers being directly involved in the incident being segregated from one another and then being interviewed by the attending investigators. In these circumstances, the efforts of Police to meet requirements of the General Order seem appropriate.

In considering the interviewing of Constable Rolfe and the issues arising in this case, it was prudent for the Senior Investigator to delay the interview until he at least had time to view Constable Rolfe's BMW.

After that time Constable Rolfe was considered a potential suspect in a homicide and the initial concerns held by the Senior Investigator that an offence may have been committed were later confirmed when he met with the D.P.P.

It would be imprudent to suggest the Senior Investigator erred or did not abide by the General Order *'Death In Custody and Investigation of Serious Incidents and/or Fatal Incidents Resulting from Police Contact with the Public'* by failing to interview Constable Rolfe at the earliest opportunity. In this regard Constable Rolfe did not receive any preferential treatment.

The actions of Constable Rolf and other officers in attending a social gathering while Constable Rolfe was still yet to be subject to an interview is obvious non-compliance with the General Order. In hindsight, the Senior Investigator should have instructed that Rolfe and other involved officers, at least, not meet with, or discuss the case with any other (police) witness involved in the investigation.

It is noted that once Rolfe was arrested his bail conditions included not to associate with various critical police witnesses. Police, other than those mentioned in the bail conditions, remained in contact with Rolfe offering support and advice.

An area for improvement in relation to the interviewing and segregation of witnesses, could be, that where incidents of this nature occur in the future, officers subject to investigation are personally given a direction by a Senior Officer not to meet with or discuss the incident with any other (police) witness involved in the investigation, to further reinforce the provisions and requirements of the General Order.

⁶² Statement of Assistant Commissioner Nick Anticich, P.2, Para. 8

⁶³ Northern Territory Coronial Inquest into the death of Robert Jongmin [2007] NTMC 080 – Para. 96

Use of Interpreters

The General Order 'Death In Custody and Investigation of Serious Incidents and/or Fatal Incidents Resulting from Police Contact with the Public' states;

25.6 *Interpreters should be used wherever necessary (refer General Order – Interpreters and Translators).*

The General Order – *Interpreters and Translators* further state:

15. *Members should also be aware that a failure or refusal to provide an interpreter may, in certain circumstances, contravene the Anti-Discrimination Act. Members shall not dissuade a person from requesting an interpreter in any way. It is a person's right to be able to communicate freely and fully with police.*

16. *Likewise, in any situation where evidence is obtained from a victim or witness by interview, and English is not the first language of the victim or witness, the use of an interpreter is likely to enhance the quality and accuracy of that evidence.*

Investigators need to remain aware that the provision of interpreters and support persons are a fundamental right for any aboriginal person where English is not their first language.

The investigators who attended Yuendumu from Alice Springs on 10 November 2019 immediately obtained 5 audio statements from Aboriginal witnesses at Yuendumu⁶⁴. None of these witnesses were interviewed in the presence of an interpreter. Only one was offered a support person when being interviewed. None were offered counselling.

During questioning it was not established if any of the witnesses spoke English as their primary language. While all seemed to have a reasonable interpretation of English it was not established by the investigators if the witness required any form of assistance (with the provision of either an interpreter, support person or counsellor).

Interpreters were utilised by investigators after the 10 November 2019.

Analysis, Conclusion and Recommendations

The obtaining of statements from Aboriginal witnesses by investigators demonstrates a lack of compliance with the General Orders detailed above. It is acknowledged that the witnesses spoken to have a reasonable interpretation of English, the oversight of investigators in establishing if any of the witnesses required any form of assistance, further demonstrates the lack of compliance or awareness.

The situation at Yuendumu on the 10th of November may well have been one where the availability of and accessibility to interpreters was not able to be achieved. However, in an investigation of this nature, the importance of obtaining quality and accurate evidence as contemporaneously as possible cannot be understated.

A recommendation in relation to the improvement of procedures relating to the use of interpreters is that consideration be given to an assessment of the need for and use of interpreters, forms part of the initial planning of an investigation.

⁶⁴ Yuendumu witnesses included Ayetta DICKSON, Leanne OLDFIELD, Elizabeth SNAPE, Jerome JURRAH & Nathan COULTHARD.

Crime Scene & Re-enactment

Following the shooting of Walker no crime scene was established at House 511. Questions and concerns from the family of Kumanjaya Walker were also raised as to why no crime scene was established at the house.

There are no critical decisions recorded as to why there was no crime scene established. An explanation for a crime scene is provided by Constable Eberl in his interview⁶⁵:

WOOD:Yep. Um, why was a crime scene not established at that house?

EBERL: For safety reasons. We needed to get out of there because um, it's – you can only see how things would have unfolded. I know being what community members are like, if we were there rendering first aid, whether they would have attacked us there while we were trying, but if he would have passed away there in the house, then they would have wanted payback then and there.

WOOD: Mm-hm.

EBERL: And potentially one or maybe more people could have died or got seriously injured etcetera.

A crime scene was established once the TRG members arrived in Yuendumu and at a time when next of kin were notified. By that time the crime scene had already been entered by family members and contaminated, Walker's hat, which had fallen off when he was dragged to the police vehicle, had been placed back inside House 511.

Analysis, Conclusion and Recommendation

A similar occurrence was reported in a previous 'death in custody' investigation involving a police shooting at Wadeye. It was reported by the Coroner at the time;

"Some criticism was levelled at the police for failing to require Whittington to participate in a reconstruction at the scene of the shooting. I accept the explanation given by Hofer that such a reconstruction was impractical in the circumstances where there was considerable unrest in the community and Whittington's safety was endangered if he remained in the community (transcript p.357 & 366). I also accept the explanation given by Hofer that it was very difficult to secure the crime scene for similar reasons (transcript p.354)".

For the same concerns held by police as outlined in the above case (Jongmin) no crime scene was immediately secured or a re-enactment contemplated. No recommendations are made in relation to this issue.

Welfare

'Death In Custody' protocols regarding 'welfare' are contained within the General Order *Death In Custody and Investigation of Serious Incidents and/or Fatal Incidents Resulting from Police Contact with the Public* state;

30. *It is essential that the duty of care and welfare obligations to members involved in incidents and their families be appropriately addressed.*

⁶⁵ Refer Folio <<>> Transcript of Interview with Eberl

30.1 Any member involved in such an incident will be provided welfare services after appropriate initial enquiries are conducted. (eg - Employee Support Service).

30.2 A member will be given an opportunity to contact their family.

30.3 Where necessary a member directly involved in the incident is to be offered an examination by a medical practitioner.

30.4 The NTPFES Chaplain should be advised of such incidents and should where practical be permitted to attend scenes of fatal incidents and deaths in custody/care in order to provide appropriate support.

30.5 The Commissioned Officer in overall charge of the investigation shall ensure that immediate welfare assistance is offered to those members of the public directly involved in the incident or at the incident scene (i.e. witnesses). However, long term arrangements of welfare support will not be the responsibility of the NTPF.

All welfare obligations regarding police members were met except for the NTPFES Chaplain visiting the incident scene.

Following the shooting senior police executives flew to Yuendumu on Sunday 10 November 2019, including Acting Assistant Commissioner Wurst and Acting Commissioner Michael Murphy.

Police met with family and senior community elders and addressed immediate concerns over the actions of police and the investigation that was to follow. Cultural considerations were respected including allowing the community to walk through the police station to the scene (police cells) where Walker died. No family counselling services were specifically arranged by police, but senior police management were in constant dialogue with family and senior community elders over the days following the shooting.

Analysis, Conclusion and Recommendation

The protocols outlined in the General Order *Death In Custody and Investigation of Serious Incidents and/or Fatal Incidents Resulting from Police Contact with the Public* were followed and all obligations regarding police were met (except as stated the police chaplain visiting the scene).

As detailed above, in a demonstration of the welfare concerns for the Yuendumu Community, Acting Commissioner Michael Murphy APM and Acting Assistant Commissioner Travis Wurst travelled to Yuendumu and met with family members and senior elders to discuss and address immediate concerns.

No recommendation is made in relation to this issue.

Notification of Next of Kin

The Royal Commission into Aboriginal Deaths in Custody, adopted by both the NT Government and NT Police states:

Recommendation 19. That immediate notification of death of an Aboriginal person be given to the family of the deceased and, if others were nominated by the deceased as persons to be contacted in the event of emergency, to such persons so nominated. Notification should be the responsibility of the custodial institution in which the death occurred; notification, wherever possible, should be made in person, preferably by an Aboriginal person known to

those being so notified. At all times notification should be given in a sensitive manner respecting the culture and interests of the persons being notified and the entitlement of such persons to full and frank reporting of such circumstances of the death as are known

In 1994/1995 The NT Government gave qualified support to this recommendation. In the NT Government implementation report, it stated:

“The relevant Police General Order Coroners and Inquests – Code C9 has also been amended to include the words “as soon as possible” and “a family representative”, thus achieving the intent of the Recommendation”.

In Police General Orders now (Coronial Investigations and Inquests) and as back as far as they exist on the intranet (2008), the term “as soon as practicable” is used, not “as soon as possible”.

In the Deloitte Review (released in August 2018) into the implementation of the recommendations, NT Police responded with:

NT Police General Order – Deaths in Custody and Investigation of Serious and/or Fatal Incidents Resulting from Police Contact with the Public (OP-C1)

25.10 If the deceased is an Aborigine, a family representative of the deceased (where appropriate) and the relevant Aboriginal Legal Service or other appropriate Aboriginal community organisation is to be notified of the death as soon as practicable.

25.11 Information regarding the progress of the investigation that is being sought by the deceased’s family, the Aboriginal Legal Service, or Lawyers representing the family should only be released through the Coroners Office.

At 2305 hrs on Saturday the 9th of November 2019, Eddie Robertson a family member of Kumunjayi Walker contacted Yuendumu Police requesting an update on Kumunjayi Walkers condition. No information was provided in response to this request which was made some 2 hours after Kumunjayi Walker had been confirmed as deceased by the Yuelumu health staff.

At 0007 hrs on Sunday the 10th of November 2019, Sgt Zhang, now the Police Forward Commander at Yuendumu contacted Eddie Robertson by phone advising that Kumunjayi Walker was still receiving medical treatment, this advice was some three hours after Kumunjayi Walker had been confirmed as deceased by the Yuelumu health staff.

The notification to family of Walker’s passing by police was delayed, primarily over concerns for both community and police safety. The decision to delay notifying family of Walker’s passing was made by Acting Assistant Commissioner Wurst. He justified the rationale behind this decision as follows⁶⁶.

WURST: He had passed away some ten minutes or so earlier. Um, one of the other critical decisions that flow from that at this point in time was, with the knowledge that he had passed away, ah, I don’t know whether the health staff were at the police station by this stage or not, um, I’m unsure. But one of the decisions the required – required to be made at this time was when and how we informed the community that this person had passed away.

We had an absolute need to inform the community. Um, so that they could respectfully commence their um, cultural grieving process, a process that I’ve, have knowledge of. Um,

⁶⁶ Refer Folio <<>> Transcript of interview with A/AC Wurst

and it's a very important process for the Warlpiri people and the Warlpiri family, particularly those closely related to the person who passed away.

I however, made the decision that we would not at that point in time inform the family. For all the reasons I've previously stated, I was not comfortable that they, and when I say they, the community members who were out the front of the police station and those that, there was only um, there was a lot more people in the community that were out the front of the police station. They themselves could have also come to the station and it placed – would have placed the station under greater threat of um, and risk of harm to the station itself and the officers, people within.

Ah, as I say, you had the um, the scenario, that if we had two health staff in there as well, we have other people in that station that are not police, but we have a duty of care to them because we've called them to our um, to our aid.

So I made the decision at that time ah, that we would not inform the family that the young person – or the person had passed away. However, um, I was already developing a plan for how we would do that, and do that as soon as possible, for the community.

At 0450 hrs on Sunday the 10th of November (some 8 hours after Kumunjayi Walker was confirmed deceased), Eddie Robertson was contacted by Police at Yuendumu and requested to attend the Yuendumu Police Station. On arrival he is told that Kumunjayi Walker is deceased and is asked to identify the body. Robertson declines this request.

At 0644 hrs on Sunday the 10th of November, Yuendumu Police and TRG informed Rekeisha Robertson that Kumunjayi Walker was deceased.

At 0808 hrs on Sunday the 10th of November NAAJA were notified that Kumunjayi Walker was deceased

Analysis, conclusion, and recommendations

Recommendation 19 of the *Royal Commission in to Aboriginal Deaths in Custody* and NT Police General Order – *Deaths in Custody and Investigation of Serious and / or Fatal Incidents Resulting from Police Contact with the Public* are both quite specific in relation to the requirements where an aborigine person is deceased, of the notification to a family representative of the deceased (where appropriate) and the relevant Aboriginal Legal Service or other appropriate community organisation as soon as practicable.

Some 8 hours passed between Kumunjayi Walker being confirmed deceased and advice being provided to a family member (Eddie Robertson) that Kumunjayi Walker was deceased. In normal circumstances, this delay could not be considered to be as soon as practicable, and to meet the requirements of the Royal Commission recommendation or the Police General Order.

As has previously been highlighted in this report, this situation was not a normal situation. As detailed above, the decision to delay the notification of family was made by Acting Assistant Commissioner Travis Wurst and was made in relation to concerns for public safety and the safety of Police and Health staff who were inside the Yuendumu Police station, given the large number of persons gathering out the front of the police station.

Whether the decision to delay the notification to family was right or wrong is difficult to reconcile given the competing interests of public safety and obligation to advise the family. The rationale provided by AC Wurst is one that indicates he had considered both factors and

made the decision that he believed was best to prevent any further harm to members of the community or the persons inside the police station.

Unfortunately, the way this decision was then executed, can only be described as appalling. The failure to provide any response to inquiries made by family members at 2305 hrs, followed by Police contact and advice to family members that Kumanjayi Walker was still receiving medical treatment at 0007 hrs, followed by Police contact to a family member who is requested to attend the police station and on arrival is advised Kumanjayi Walker is deceased and is then asked to identify the body, demonstrates little consideration and compassion for the relatives of Kumanjayi Walker.

A recommendation in relation to the improvement of procedures relating to the notification of next of kin is that the unfortunate learnings from this situation are used by NTPF to develop practice, procedures and strategies that can be used should similar occurrences occur in the future.

Deployment of para-military police into Aboriginal Communities

The Royal Commission into Aboriginal Death in Custody (RCIADIC) recommendations included the following recommendation (61);

RCIADIC 61. That all Police Services review their use of para-military forces such as the New South Wales SWOS and TRG units to ensure that there is no avoidable use of such units in circumstances affecting Aboriginal communities.

This recommendation was accepted by the Northern Territory Government with the 'Review of the implementation of the recommendations of the Royal Commission into Aboriginal deaths in custody' reporting;⁶⁷

The Northern Territory Government's Territory Response Group has operational procedures and guidelines in place to ensure that there is no unavoidable use of the Territory Response Group.

The Northern Territory Government has implemented Recommendation 61 through operational procedures and guidelines in place to ensure that there is no unavoidable use of the Territory Response Group.

Unfortunately, this recommendation (61) was not incorporated into the regulations (SOP's) relating to the IRT. The Alice Springs IRT did not exist when the recommendations were made between 1987-1991. The TRG has strict procedural controls that require Assistant Commissioner approval prior to any deployment into an Aboriginal community.⁶⁸

Analysis, Conclusion and Recommendation

The RCIADIC recommendations were made between 1987 and 1991 and were made to ensure that there was no avoidable use of police tactical teams in circumstances affecting Aboriginal Communities. The recommendations pre-dates the formation of the Alice Springs IRT.

⁶⁷ Deloitte Access Economics 'Review of the implementation of the recommendations of the Royal Commission into Aboriginal deaths in custody' Department of the Prime Minister and Cabinet August 2018

⁶⁸ General Order – Tactical Response Group – Para 24.

It is recommended that the review of the IRT and its Standard Operating Procedures include strict procedural protocols that require Assistant Commissioner approval prior to any deployment to an Aboriginal Community, in line with those governing deployment of the TRG.

Investigation - Recording of Critical Decisions

The requirement to record 'critical decisions' is contained in the NTPOL – Instruction – *Major Crime, Major Investigation and Critical Incident Response*. This instruction was recently updated and released to members on 15 November 2018⁶⁹.

The Coroner has previously criticised police for their failure to record 'critical decisions' in major investigations⁷⁰. To ensure critical decisions are recorded in a manner consistent with the proper conduct of an investigation and in line with the Coroner's expectations the Instruction provides clear direction to members.

One of the most important aspects of the management of any investigation is the systematic recording of decisions made for the advancement of that investigation. Detailed recording of all critical decisions including the rationale is to be maintained on the investigation Critical Decision Log.

The Coronial Investigation could only locate 2 'Critical Decisions' recorded on the Investigation Log in PROMIS.

These two decisions were made on 10 November 2019. No other critical decisions were recorded in the investigation log for the duration of the investigation. Part of these critical decisions related to the closure of the crime scene with the second critical decision contradicting the first critical decision.

A Case Note Entry was submitted on 20 November 2019 by Senior Sergeant Grieve, Major Crime Section;

GRIEVE reports the below is required to provide an accurate record of investigative decisions pursuant to decision making structure:

- 1. Identify times, dates and make up of Crime Investigation Management Committee (IMC) meetings.*
- 2. Obtain a list of Critical Decisions made by the IMC during meetings held.*
- 3. Obtain minutes (sic) of such meeting and/or sufficient detail to allow for accurate representation of same.*

In response to the concerns raised the Senior Investigator In Charge of Operation Charwell responded through his proxy;

10/02/2020 Morrissey reports in conversation with Pennuto and Newell this information not required for the criminal investigation. Follow up to be finalised.

⁶⁹ Northern Territory Police Gazette (N96/G23/15 Nov 2018)

⁷⁰ Paragraph 80 - Inquest into the Death of Kieffen Raggett [2011] NTMC 011

On review the instruction by Senior Sergeant Grieve appears to have been ignored throughout the investigation with many critical decisions recorded in various notes and meetings but not recorded in accordance with policy, as evidenced by the following extract from a Senior Officers statement.

We established the use of WebEOC as the primary records management and information sharing platform for the ongoing operational response to this incident. Staff within the POC were tasked to establish WebEOC (Sergeant Jason Rothe) and maintain all records and decisions within the system moving forward.⁷¹

A review of the entries in WebEOC do not support the claim that initial critical decisions were recorded in this platform.

In response to the death of Walker an Investigations Management Committee (IMC) was constituted. Some of the critical decisions emanating from the first IMC meeting held at 1700 hours, Sunday 10 November 2019, were logged in PROMIS however not in a format that allows for examination as to exactly who made the decision and the rationale behind the decision⁷². Of note, one of the entries logged as a 'critical decision' notes;

'No Coroner's Authority to be enacted'

It was unable to be determined exactly who made that decision or in what context it was made. The meeting was neither audio recorded or minuted by any of the persons present. The format and structure of an IMC during a response to a declared critical incident has no precedence in the NTPOL⁷³. The Instruction – *Major Crime, Major Investigation and Critical Incident Response* mandates the requirement for a Joint Management Committee (JMC) to oversee an investigative response but makes no mention of the requirement for any type of IMC intervention⁷⁴.

There were at least 3 further IMC meetings that again were not recorded or minuted. Any critical decisions decided during those meetings are contained to notes from the few members who elected to record details of those meetings. It was not until 22 November 2019 that a JMC was established. All minutes emanating from those minutes were documented however any critical decision made were not recorded on the PROMIS Investigative Case Log.

During the first IMC meeting it was reported

'AC Anticich provided a direction at this initial meeting that all Decisions emanating from the IMT (sic) were to be recorded for the purpose of uploading to the PROMIS job'⁷⁵

Clearly this did not occur.

In summary the recording of critical decisions, of which there were many, was ad-hoc and not in adherence with the Instruction – *Major Crime, Major Investigation and Critical Incident Response*.

⁷¹ Paragraph 55 – Statement of Commander Travis Wurst, Police Operations Commander, Operation Charwell.

⁷² The 'Critical Decision' to refer the matter to the DPP on Monday 11 November 2019 was not recorded.

⁷³ Commander Dole stated there was confusion around the naming conventions of the meeting due to Assistant Commissioner Anticich being new to the jurisdiction – Statutory Declaration – Commander Martin Dole – Para.8, Page 3.

⁷⁴ A JMC is required within 24 hours of a Major Crime/Critical Incident being declared.

⁷⁵ Statutory Declaration of Commander Martin Dole – Para 9, P.3

Analysis, Conclusion and Recommendation

It is recommended that in future a common platform is selected for the recording of critical decisions (eg Promis, WebEOC or Serpro) and that all critical decisions including IMC/JMC meetings for a declared 'Major Crime/Critical Incident be recorded and critical decisions logged as prescribed by the Instruction – *Major Crime, Major Investigation and Critical Incident Response*.

Recruitment Procedures

The Coronial Investigation exposed flaws in the recruitment process and integrity checks currently conducted by NTPOL.

The recruitment of Zachary Rolfe into the NTPOL highlighted issues around the lack of probity checks for persons aspiring to become a police officer. In all cases where the applicant has identified integrity issues (either admitted in their written application or disclosed at interview) the recruitment of that person is usually referred to the Police Integrity Committee for a determination as to their eligibility to join the NTPOL. The recruitment of Zachary Rolfe highlighted an issue when applicants fail to disclose an adverse workplace history. Recruitment staff currently have a limited ability to identify integrity issues that otherwise would impact on persons being recruited into the NTPOL.

Zachary Rolfe initially provided false information on his written application to join the Northern Territory Police. He indicated that he had not applied to join any other Police Force (completing his NTPOL application the day after applying to join the Queensland Police Force). He did not initially disclose an incident in which he was involved in at Townsville where he was fined by Queensland Police. Further he did not self-disclose his adverse military history – a mandatory requirement in the application form for ex-ADF members. In doing so Rolfe was selected for a face-to-face interview with the recruiting panel. Had he completed his application form in all honesty it would have unlikely that he would have been selected for interview.⁷⁶

During interview Rolfe conceded that he had applied for other policing jurisdictions (QPOL had rejected his application by that time) and mentioned the incident in Townsville. The recruiting staff assessed him as

*'...well presented and confident during interview. Was forthcoming and honest throughout...'*⁷⁷

Rolfe was not entirely forthcoming during interview failing to disclose his adverse military history, which including a charge of stealing (dishonesty) while serving in the ADF. Had he disclosed this matter his application would have been referred to the NTPOL Integrity Committee who could have in all likelihood rejected his application.

The Northern Territory Police Recruit Constable Information Booklet provides specific advice to prospective police applicants regarding their background;

Applicants who are currently excluded from applying to other policing jurisdictions will have their applications and reasons for exclusion reviewed by the Superintendent with

⁷⁶ Following his failure to disclose the incident in Townsville to the Queensland Police he was prohibited for 10 years from re-applying in that jurisdiction

⁷⁷ Interview Panel Recommendation – Bruce Van Haeften (NTPOL Psychologist) – Applicant Zachary Rolfe

responsibility for recruitment for a determination as to whether the applicant proceed to testing or be referred to the Integrity Panel.

Applicants must make full disclosure in their application including all criminal and civil proceedings, all spent convictions, all traffic offences including traffic tickets and court appearances, all juvenile offences including police cautions, all Domestic Violence Order History and any bankruptcy proceedings.

If an applicant declares any of these matters their application may be taken before the Integrity Committee. Applicants will be advised and given the opportunity to provide a written response to the Integrity Committee. The Integrity Committee will make a determination about the applicants suitability to proceed in line with the Integrity Guidelines as detailed in the information booklet.

If an applicant fails to declare or disclose any matters, their application will be taken before the Integrity Committee and it will be assumed that the failure to disclose was deliberate, unless the applicant can prove otherwise. Applicants who fail to disclose are likely to be permanently excluded from applying to the Northern Territory Police Force.

It is an offence of False Representation under s154 Police Administration Act 1978 for a person to knowingly make a false representation in connection with an application for appointment to the Police Force.

Despite Zachary Rolfe appearing to do so the Commissioner of Police has elected not to prosecute. This decision was based on an opinion and advice received from the Department of Public Prosecutions indicating there was insufficient evidence to proceed and it was not in the public interest to do so⁷⁸.

Since it was discovered that Rolfe did not disclose his adverse military disciplinary history the Northern Territory Police have tightened recruitment processes and probity checks for ex-ADF members. If this had occurred prior to Rolfe applying for the NTPOL it is likely he would never have been recruited into the NTPOL.

Analysis, Conclusion and Recommendation

The coronial investigation identified a flaw in the recruitment procedures used by NT Police, relating to integrity checks and the obtaining of the prior service history of former Australian Defence Force members and Australian Law Enforcement members.

The inability to obtain prior service records meant that recruit applicants with an adverse history who had not self-declared their adverse history were getting through the probity checks and selection process, often unchallenged.

In the case of Constable Zachary Rolfe, the nature of his adverse history (being a dishonesty offence), there is a possibility that had this been known to the selection panel, he may not have been recruited by the NT Police.

NT Police have now addressed the identified flaw, and obtain the prior service history of former Australian Defence Force members and Law Enforcement members who submit recruit applications.

⁷⁸ Statutory Declaration of Assistant Commissioner Michael White, Para 36, p4.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Analysis, Conclusion and Recommendation

Unfortunately, it cannot be determined whether Constable Zach Rolfe was under the influence of prescription medicine at the time of his deployment to Yuendumu or at the time of the fatal shooting of Kumunjayi Walker.

At the time of submitting this report, the reporting member is aware that the Northern Territory Police have drafted legislative provisions to introduce the requirement for Northern Territory Police Officers to be subjected to alcohol and drug testing. No recommendations are made in relation to this issue.

Adherence to Use of Force Guidelines & Policy

<<>>

Command and Control

<<>>

Initial Investigative Response

<<>>

Militarisation of Policing

<<>>

Influence and Bias

<<>>