

MR STRICKLAND: Your Honour, I call Adam Eberl.

ADAM CRAIG EBERL, affirmed:

HIS HONOUR: Could you please remove your mask while you are giving evidence. Thank you.

MR STRICKLAND: Can I just ask you to speak loudly and clearly. Everything you say is being transcribed?---Certainly.

If you would like me to repeat a question or you don't understand it, please just say so?---I will.

What is your full name?---Adam Craig Eberl.

And your rank?---Remote Sergeant.

And how long have you been a sergeant, or remote sergeant?---Approximately two years.

When did you join the Northern Territory Police Force?---I think it was June 2015.

And have you also – are you also a member of the Immediate Response Team?---Yes, that's correct.

And when did you join the Immediate Response Team?---I believe it was – could have been back in 2019.

Now you've received various training from the Northern Territory Police in relation to the use of force?---Correct.

I'll ask you about that a bit later. You've also got some martial arts experience?---Correct.

And what is that?---A variety of disciplines, but from Jujitsu to Kung Fu and Aikido and a couple of others.

Yes. And how many years have you practised martial arts?---About – at least 10.

Ten?---Years.

Years, all right. Before 9 November 2019, the day of the shooting, can you say approximately how many times you'd been deployed with the IRT?---Might have been a couple of deployments.

So the 9 November one was approximately your third deployment?---Approximately, yeah that's correct.

And when were the other two?---I can't specifically say the dates. Once was to Harts Range Police Station, and the other one was to Hermannsburg Community.

And how long before 9 November 2019 were those two?---Can't specifically say.

So on 9 November 2019, you deployed with the IRT to Yuendumu?---Correct.

And how did you come to be deployed on that day?---Well it was approximately 2 pm I received a call, while I was at home, off-duty, by Shane McCormack, and he asked if I'd like to come on a deployment to Yuendumu, as part of the IRT.

And you agreed?---Correct.

Did you go to the Alice Springs Police Station?---Correct, yeah that's where we met and had a brief discussion about what equipment, et cetera, we were going to take.

And when you say that's where "we" met, who did you meet there?---Yep, so on the deployment there was myself, Anthony Hawkings, Zach Rolfe, and James Kirstenfeldt, and Shane McCormack was the one who called us.

And do you remember what was said at that meeting, or whilst you met?---Yeah, basically it was what equipment we were to take, and basically we were also looking at a bit of a footage that happened three days prior, to get a bit of an idea who – who we were looking for, and from there, where to go from there.

And what was the footage you saw on that day?---Yeah it was involving an incident out at Yuendumu where Christopher Hand and Lanyon Smith were attempting to arrest an offender in a house where the offender picked up an axe, and charged at the officers to escape custody.

And were you told the name of the offender was Kumanjayi Walker?---Correct.

And were you told anything about him?---Other than that his propensity to violence, obviously what we saw, but didn't know much about him other than that, what I saw on that footage.

How many times did you watch the footage?---Just – just the one time. I believe Zach if we wanted to watch it again, because it was a split screen of both officers' body-worn playing simultaneously on the one computer there.

And when he asked that question, do you want to watch it again, what did you say?---I was happy with just watching it once.

Did you have a discussion about what you saw on the footage with Zach Rolfe?---Think basically all I discussed was what I said, basically, in that I was surprised that they didn't use a firearm in that incident.

What did Zach say to that?---I can't recall what he said.

What did he - - - ?---Only what I said.

Do you remember anything he said?---No, not exactly no. Can't – can't recall anything that he said.

Do you remember what any other officer in the IRT said, about that video?---No.

After you watched the axe incident, did you have any discussion with Zach Rolfe about what you would do, if you tried to arrest Kumanjaya Walker?---No it was just basically what I mentioned just previously, that was basically – basically all I said.

Did you discuss with Zach Rolfe, or did you discuss in his presence, what your reaction would be if Kumanjaya Walker did something similar to – when the IRT tried to arrest him?---No.

Do you know if Mr Rolfe did?---Not that I recall.

Do you know if anyone else did from the IRT?---No.

Were you told why you were going to Yuendumu when you were at Alice Springs?---To try and locate Mr Walker, and arrest him. And that was basically our mission. To locate and arrest.

Were you told there was any other part of your mission?---No.

And who told you that was part of your mission?---That's what we discussed among ourselves, that's why we were being deployed to Yuendumu.

But who told you that?---That was Shane McCormack.

Did Mr Rolfe say anything about what the mission was?---Basically sitting down in front of the computer, that was basically our – what he had mentioned, that this is the fellow we're going to be looking for, and this happened a few days earlier. Because he had set up the computers, from my understanding.

And did Mr Rolfe say anything else about Kumanjayi Walker?---Not that I recall.

Did you understand you were deployed to Yuendumu as general support for the officers at Yuendumu?---Yeah, after the fact.

What do you mean by after the fact?---Well afterwards, when I learned about an email that was sent from Julie – by Julie Frost. And the surroundings of our – what we were meant to do while we were out there, as general support.

I understand. When you say "After the fact", what's the fact you're referring to?---The incident.

I see, the shooting?---Correct.

Before you went to Yuendumu, did you understand you were to be deployed as general support?---No.

Do you know what the term – did you know then what the term general support meant?---I do.

No, I'm sorry, you say "I do", as at 9 November 2019, did you understand what the term general support deployment meant?---I – I would have, yes.

And what did you understand that to mean?---Basically to go there and patrol the community as doing general duties, yep.

When you went to Yuendumu, did you understand you would be under the command of the officer in charge of the station there?---Correct, if – if we're there deployed as general support, then that – that was the case, yes.

But in this particular case, before you went to Yuendumu, did you understand, in relation to the mission you were going there for, you'd be under the command of the officer in charge at Yuendumu?---Yes.

And that was Julie Frost?---Correct.

Had you ever met Kumanjayi Walker before?---No.

So after the briefing at Alice Springs Police Station, you travelled to Yuendumu?---Correct.

Who did you go there with?---I was in the vehicle with Anthony Hawkings.

And did you discuss your mission during that trip?---I can't recall.

Did you discuss during that trip, what you were going to do if you came across Kumanjayi Walker?---Not that I recall, no.

When you arrived at Yuendumu, where did you go?---Directly to the police station.

And did you see other IRT officers at the police station?---Yes, Zach and James Kirstenfeldt were already there.

Okay.

Can I ask the witness please to look at exhibit 2, tab 4? Now, I just want to take you to photograph 18, please?---18. Here we go.

Do you see yourself in that photograph?---I do.

Okay. Are you the first one there or the second person?---I would say at – by the looks – I'm the first one.

All right. And do you recognise that as being in the corridor at the Yuendumu Police Station?---Yes.

And you're heading towards the muster room?---Yeah, through that door to the left is the – into the muster room, yeah. That's correct.

So do you accept that you arrived at Yuendumu at about 6:56 pm on that day?---Correct.

Okay. When you arrived – yes, thanks. I've finished with that for the – just for the moment. I'm happy, just leave it there for the moment. Did you – when you arrived at Yuendumu Police Station, did you meet with Julie Frost?---Correct.

Did you meet any other local officers from Yuendumu there? Police officers?---Yeah, there was Christopher Hand, he was there. And also Alex Alefaio (sic).

Had you met either of those men before?---Sorry?

Had you met either of those officers before?---Felix, I had. But not Christopher Hand or Julie Frost.

Did you speak to Felix Alefaio about the mission that you had?---Not specifically, but I did speak to him.

And what did you say?---He had just mentioned that he'd dealt with Kumanjayi on a few occasions where he made arrest. And often, he just went in and grabbed him, yeah.

Okay. Did he say anything else about Kumanjaya?---Not that I recall.

No, okay. What he – from what you understood – I withdraw that question. Do you recall having a discussion with Julie Frost when you arrived?---Not me personally. I think I was a general, sort of, discussion. Just about what we were going to do.

Yes? And doing the best you can, who said what at that discussion?---I don't – she mentioned something like, if we had arrested him, bring him back to the station and she would put him 137 and we'd – and then we'd – and then she'd deal with the paperwork.

And what's 137?---It's s 137 of the *Police Administration Act*. It's a period of time that we can hold a prisoner under the provisions of s 138 of the *Police Administration Act*.

So who was present during this discussion?---We all were. So all the IRT members that were there, including the two other local officers, other than Julie.

Okay. So she said that. Is there anything else you can recall her saying?---I think she provided a map of the local area and identified the incident where the – of the axe incident, which – House 577, I believe.

Yes?---And that's basically – because I wasn't familiar with the community, so I just needed to figure out where we were going from there, so.

Okay. And is there anything else she said that you can recall?---Not that I recall.

And what did anyone else say at that meeting?---Basically – no, just that we were – I believe Adam Donaldson was also there, briefly. Dog handler, sorry. Not that I recall. Just that – where we were going and, basically, a bit of a plan about cordoning off the house and ascertain who's there.

And who discussed about the bit of the plan to cordon off the house?---I believe Zach was one of the instigators in that conversation.

I'm not asking word-for-word, of course, but roughly – approximately, what did he say about that?---I can't specifically say. It was just a general conversation about what the plan was, just to go to the house and cordon it off and then we'll ascertain if Kumanjaya was at the house, or who was at the house.

And what did you understand was meant by cordoning the house off?---Yeah, so basically Anthony Hawkings and I were going to go to the back of the house. And Adam Donaldson was going to keep to the other side of the house. And then Zach and James, basically – well, there was someone raking some ground at the back of the place and they approached that person – the community member – to ascertain who was in the house.

Okay. I think when you said that last time, so you're talking about – you've already left?---Yeah, correct.

I'm just going to confine, just for the moment, to what was discussed in the police station and I'll get to that in a moment?---Sure.

Is there anything else you can remember about what was discussed during that meeting?---I cannot.

Okay. If you accept from me that CCTV shows you leaving Yuendumu Police Station at 7:06 pm? I can show you the CCTV if you like, but- - -?---That's fine.

- - -do you accept you were there for approximately 10 minutes?---Yeah, it would've been in short – yep, about 10 minutes.

Okay. You remember anything else that Mr Rolfe said in that time that you were there, at Yuendumu?---I can't recall.

Okay. Were you shown any – were you shown, or was there any emails discussed during that 10 minutes you were there?---No.

Can the witness please be shown exhibit 1, tab 14.

So when you were travelling to Yuendumu, was – did you have your mobile phone?---I did.

And were you able to access emails or text messages from your mobile phone as you approached Yuendumu?---Probably, yes.

Did you do so?---I would say yes.

Did you do so?---No.

Okay. Did you see this email sent by Julie Frost to you and others before the shooting?---No.

Do you remember Julie Frost discussing a plan to arrest Kumanjayi Walker at 5 am on thereabouts on the Sunday, 10 November?---No.

Do you remember Julie Frost discussing that she wished Mr Alefaio to accompany you to arrest Kumanjayi Walker at 5 am the following morning, or 5:30 am the following morning?---No.

Do you remember seeing an email at the muster room?---No.

Do you remember seeing any email at the muster room?---Not that I recall.

Okay. When you left the Yuendumu Police Station, what accoutrements did you have on you?---Firearm, OC spray, a baton, handcuffs, spare magazine.

You say a firearm: that was your Glock?---Correct.

Did you wear a ballistics vest?---I didn't wear one, no.

What is a ballistics vest?---It's a vest that protects the body – the upper torso. Has a plate – usually, a plate in it. And the outer, sort of, casing that holds the plate has a material known as Kevlar.

How do you spell that? Kevlar?---Kevlar, yeah. Correct.

So when you were in Alice Springs, do you normally wear a ballistics vest when you're going to arrest someone?---Usually in Alice Springs, at that time, I was involved in the Youth Community Engagement. So we were riding bicycles. So often, I didn't wear one.

Okay. Have you previously – so you brought your ballistics vest with you; is that right?---The one related to the IRT, yeah.

And why did you bring it with you, to Yuendumu?---The IRT one I bought with me, yeah.

Why did you bring it?---In case the – it escalated to a more serious type role.

So when you left the station, at about 7.06 pm, why were you not wearing your ballistics vest?---Because that's part of the IRT uniform, and we were instructed just to wear out usually police uniforms, and not the IRT uniform, but we were instructed that we could take one.

Who instructed you about the uniform?---Originally when I got the call from Shane McCormack, I asked if we were to wear our multicam(?) uniform, or our normal police uniform. And he reckon – he told us just take the normal police one, wear that one, but you can take your cams in case you need to change roles while we're out there.

And cams means?---Like the – the uniform. So it's like a multi – multi cam pattern on the uniform.

Is cam short for camouflage?---Basically, yeah, yep.

So you went to House 577?---Originally, yep, yep, correct.

And who did you go with when you left Yuendumu to go to House 577?---I stayed in the same vehicle as Anthony Hawkings.

And what did you do when you got there?---We went to our position, to the rear of the place. So basically cordoned off the premises, as previously stated, with Adam Donaldson on the other side of the house, the dog handler. And Zach and James approached the gentleman at the rear of the yard, who was raking the yard at the time.

And what happened then?---I believe they were having a conversation with him as to ascertain who was in the house - - -

You said "they", sorry who's they?---So Zach and James.

Yes?---He met – from – from what I gathered that afterwards, that he'd mentioned that no one was in the house. So there was someone than ran past the window. So there still – someone was in the house. And it turned out that was a 12-year old child.

Were you – did you turn your body-worn video on for this, at this time?---I believe it was running.

Did you speak to this – you said there was – an Indigenous man outside House 577?---Correct, a community member, yeah.

And what was his name?---I didn't speak to him personally.

So after – you saw Zach Rolfe speak to him?---I believe he was having a conversation with him, yeah.

And did you speak to Mr Rolfe after that?---We had a discussion afterwards about where we were going, as the community member pointed us to the direction of two houses across the oval.

And what was the discussion you had with Mr Rolfe about that?---Basically our next plan of – plan, to move across over to there, to the two houses, to continue our search for Mr Walker.

And did he name the house numbers?---One was 511, I can't recall the – that was the red house, where the incident happened. And the blue house next door, I can't recall the number.

And so did you drive to that area?---Correct.

In the same vehicle?---Correct.

Were you aware that there was a funeral going on that day?---After the fact I was, I had - - -

You mean, again after the fact, after the shooting?---After the incident.

You weren't told – you didn't know about that before you left Yuendumu Station?---I did not.

Were you told anything about whether Mr Walker was likely to attend the funeral?---I was not.

So you get to house – sorry, after you left 577, what – where did your vehicle go to?--Yeah we parked outside, approximately outside of House number 511, outside the fence.

And what happened then?---And then I walked into the yard, into House yard 511.

Okay, now I'm just going to play you some body-worn video of when you arrived at that location.

I'm going to play exhibit 24, which is called Eberl 2 of 4, the transcript is at exhibit 2, tab 9. If you just pause – just wait until you play it, just for a moment.

I'm sorry, I said – it should be exhibit – transcript's at exhibit 25, tab 9, I'm sorry, not two.

There's a problem with the volume, your Honour.

DVD PLAYED

MR STRICKLAND: Do you recognise your voice there?---I do.

And at the time you spoke to a woman?---Correct.

A community – a woman from the community, and who are you walking with at that time?---I believe it was just myself that time.

She says, can you hear in the video say, "Why has he got a gun?"?---She's – she's referring to Anthony Hawkings, who was walking around to the other side of the house.

I see. And did you see Mr Hawkings carry a gun?---Correct.

Was that the AR15, the assault rifle?---Correct.

And she said – the woman said "I know but he's got it like aimed to shoot someone", and you said "No, he's not aiming to shoot anyone is he." Is that correct?---Yes, she is referring to how he was pointing the rifle, yeah.

Right, and she then says "It's not right." And you say – you said "We don't have a holster for that one, so we have to carry it." Were you referring to Mr Hawkings assault rifle?---Correct.

You then say, "Someone, probably shouldn't run at police with axe hey", or something like that?---Correct.

Had you ever discussed with Zach Rolfe what you thought about Kumanjayi Walker running at police with an axe?---No the only – the only discussion that I had was at the police station in Alice Springs when we were watching the footage, as I've previously stated.

But in that discussion, did you say what you thought, about Kumanjayi Walker running at police with an axe?---Nothing than what I've already said, no.

Which was what? Remind us?---I said "Wow, I'm surprised they didn't use the firearm."

Were you angry that - - - ?---No.

- - - Mr Walker ran at police with an axe?---I was surprised, but angry, no.

Did Mr Rolfe ever express to you how he felt, or what he thought about Kumanjayi Walker running at police with an axe?---Not that I recall.

Had you ever discussed with Zach Rolfe, what you would do, or what he would do, if he ran at any IRT member with an axe, while you were trying to arrest him?---Not that I recall, no.

Or with any edged weapon?---No I think it that it would just fall back to our training.

Is that what you discussed?---No.

Okay, I'll just continue on with this video.

DVD PLAYED

MR STRICKLAND: So before you entered House 511, did you suspect that Kumanjayi Walker was in the house?---Correct.

And why did you suspect that?---The gentleman at 577, the community member, he pointed out that he was in one of the two houses.

So before you entered House 511, had you ever had a discussion with Mr Rolfe what you would do, if you saw Mr Walker, and he presented with a weapon?---Not that I recall having a conversation around that.

What was the lighting like inside House 511?---Very poor.

You had a torch on you?---Correct.

Did you turn it on?---I did.

And where was it when you – where was Kumanjayi Walker when you first saw him?---In the back, not the first room, but the – must be a bit of a walkway between some bedrooms, beyond that – that first room.

Excuse me.

Now I'm just going to play for you another body-worn in relation to what happened after you entered House 511.

Your Honour, I'll be playing the exhibit 30. I'll be playing the Birdseye video, I'll find out an exhibit number, I think it's 30 – 36.

HIS HONOUR: Is there some – is there need for a warning to the members of the public gallery?

MR STRICKLAND: Yes thank you, your Honour, thanks for reminding me, yes.

HIS HONOUR: Yes.

The video which is now about to be played may contain confronting material, so that if anyone in the public gallery believes that it may have some effect upon them, they should leave now.

MR STRICKLAND: I'm just playing, for the record, your Honour, what's described as sequence 2, from the Birdseye video.

DVD PLAYED

MR STRICKLAND: When you saw Kumanjayi Walker coming towards you, did you see his hand in his pocket? Either hand in either pocket?---When I was there, no, not until watching the body-worn after the fact, I had noticed - - -

Sorry, I'm not asking about that, I'm asking while you were there?---No.

Did you notice him try to walk past you?---Yes.

You – did you believe at that time he was dangerous?---No.

You had previously seen the body-worn of what we call the axe incident?---Correct.

But you did not believe he was dangerous at that time?---That time in the footage, no.

Yes. At any – did you ask him to show his hand – I withdraw that. Did you consider asking him to show his hands, as he was approaching you?---No.

Have you ever trained to do that?---I've done it a few times, yep.

Did you consider at any time, as he was approaching you, withdrawing from the house and doing a cordon?---No.

Okay. Did you consider at any time as he was approaching you, grabbing both of his arms, or grabbing one of his arms?---Not initially, no.

By the way, how tall are you?---Six one and three quarters.

Do you know that in metrics?---184.

Right. And how much did you weigh back in November 2019?---Approximately 95 kilos.

Okay. Okay, if we just continue.

DVD PLAYED

MR STRICKLAND: So when he was standing up against the wall, did you see him put his hands in his pockets? Either hand in either pocket?---No.

You saw him – I'm not talking about the body-worn, but you saw him at the time taking his hat off and then putting it back on?---Correct.

You had been trained in defensive tactics; is that correct?---Correct.

Were you – have you been trained that suspects sometimes hid their weapons in their hats?---Correct.

All right. Did you consider at that time that you needed to gain control of Mr Walker?---Not at that time.

You were right next to do the door, is that right, of House 511?---It was, sort of, behind us. Sort of, off to my left.

About how far away was the front door at the time when you had him against – when you had Mr Walker against the wall?---Approximately two metres.

Okay. Did you consider withdrawing at that point in time?---No.

Did you consider trying to put distance between yourself and Mr Walker at that time?---No.

Your Honour, I note the time. I'm moving on to a different topic.

HIS HONOUR: Members of the jury, we'll now break for the day. So would you retire, please, and we'll start again tomorrow morning at – I believe we're starting a bit later tomorrow morning, is that correct, gentlemen?

ADAM CRAIG EBERL, under former oath:

HIS HONOUR: Now, those who are present in the body of the court, I am informed that the Crown intends to again play video today which has distressing content and if any member of the public in the gallery believes that this may adversely affect them then they should leave the court now.

Yes?

MR STRICKLAND: Yesterday, do you remember seeing some body-worn video of Mr Kumanjaya Walker against the wall and you and Mr Rolfe next to him?---Yes, I do.

Did you suspect at that time that that person was Kumanjaya Walker?---Not at that time, no.

I think you gave evidence yesterday that you suspected it was Kumanjaya Walker who was walking towards you?---I suspected Kumanjaya was in the house.

But the person walking towards you in House 511, did you suspect that person was Kumanjaya Walker?---Not at that time.

Just a moment please.

Excuse me just one moment, your Honour.

At what point in time did you suspect or believe that the person that you were dealing with in House 511 was Kumanjaji Walker?---When Constable Rolfe held up his phone with a comparison photo.

Did you see that there as a similarity between the comparison photo and Kumanjaji Walker?---Correct.

Thank you. Now, I just want to continue to play the body-worn video and I will just ask you some questions about that. I will now play exhibit 36. This is the bird's-eye footage which shows all the different body-worn videos playing at the same time.

DVD PLAYED

MR STRICKLAND: Just pausing, your Honour, there are some people leaving so I am just pausing for a moment.

HIS HONOUR: I am sorry?

MR STRICKLAND: I am pausing because there are some people leaving, your Honour.

HIS HONOUR: Yes, thank you.

DVD PLAYED

MR STRICKLAND: Did you hear yourself saying something there?---I did.

And what did you say?---I said, "Just leave your hat off."

But did you hear yourself speak into the radio? Did you have a radio at the time? ---I can't recall if I did or I did not.

Did you hear yourself speaking to Senior Constable Hawkings? In that body-worn we just played?---No

Okay, I will just replay it for you, just a little bit.

DVD PLAYED

MR STRICKLAND: Did you hear your voice there?---I did.

Okay, so Hawkings said, "Adam, you round the front of the red house"? Did you hear him say that?---Not specifically, but I did hear his voice, yes.

You heard his voice. Did you hear you saying, "Just inside the front door mate, stand by"?---Correct.

And is there any - did you say to Hawkings that you were with someone?---I didn't hear that.

Would there be any reason why you wouldn't tell him that you'd located someone in the house?---I think because we were dealing with someone and our concentration was more on what we were doing.

Will just continue playing it.

DVD PLAYED

MR STRICKLAND: Now, what did you do when Kumanjaya began to struggle? ---Basically took hold of his arm and I used a distraction strike to try and change his mindset and to give me a position so I could grab him to try and restrain him.

Which arm did you take hold of?---His left arm.

What is a "distraction strike"?---It's just a short strike, just to change his brain to thinking about that and not about resisting for that split second.

Could you demonstrate what you did with the distraction strike? Perhaps if you could stand up and demonstrate - if you can recall? And so shoulder - fist to the chest level?---No, it's to the side of the face.

To the side of the face. Did you hit him?---I did.

Now, I just want to play this part again, but I'm going play it in slow motion?---Okay.

And ask you some questions. I just need 30 seconds to change the disc.

And your Honour, in the meantime, could the witness please be given exhibit – and perhaps the jury might want to have a look at it – exhibit 25 tab 8.

I'm just going to play this to you in slow motion, then I'll ask you some questions. Can you just have a look on the screen?

DVD PLAYED

MR STRICKLAND: Just pause there, thanks.

So we're at frame 166 and it's Zulu time 9:51:55. Can you see yourself there in that- -?---I can.

And are you – is that your elbow? Your left elbow?---Yes, it is.

You can see Mr Rolfe's hand?---Yes.

And what are you – at that point in time, what are you doing?---So I've – I've grabbed hold of his left arm, by the looks.

Okay, thank you.

If we can continue on?

DVD PLAYED

MR STRICKLAND: Pause there. Just perhaps – you can do three frames back? Can't go back? Okay. Just pause it 254 – no you can't? Okay, we'll – yes. I'm going to pause you at frame 254. And you can see that in exhibit 8 at tab – exhibit 25 tab 8. There's a frame there. Thank you. Just there, that will do, of frame 255.

Can you see yourself there?---I can.

You're behind Mr Walker?---Correct.

What are you doing there?---I'm trying to move in behind him.

All right. And what are you doing with each of your arms?---Looks like I've trapped his left arm with my left arm and my right arm's across his shoulder here.

Is that called something? A particular hold?---It's a – similar to the seatbelt hold that's taught in Defensive Tactics.

And what's a seatbelt hold?---It's a particular hold that's taught that's used to take down the person to the ground.

A seatbelt like a seatbelt of a car?---Similar to that, correct.

And did you have – can you see – you're holding something in your hand? In your left hand?---Probably a torch.

Did you – did you let go of that torch at some stage?---I do.

When did you let go of it?---Not sure.

Do remember saying something like, "Stop it," or something like that?---Yes.

And what was Mr Walker doing at the time you said, "Stop it"?---Resisting.

Okay.

Okay, if you could just continue on a bit, please.

DVD PLAYED

MR STRICKLAND: Pause there, thank you. Pause there. No – can you go back just a – no, you can't go back. I'm just going to stop it at frame 304.

So your torch – is your torch still in your hand during this time?---Looking at the footage, I believe it is.

Okay. So do you see yourself there?---Yes, still there, holding Mr Walker.

Is that the seatbelt or the modified seatbelt hold?---Well, part of it is. My right arm would be, but not the left arm.

Whilst you were standing up and holding Mr Walker, did you see if he had something in his hand?---At one stage I did, yes.

And which hand did you see it in?---In his right hand.

And what did you see?---Some sort of pointed object.

All right. What did it look like, at the time?---It was fairly dark, so – to me, it could've been a stick or anything. I wasn't too sure, but I knew it was sharp.

Thank you. Did you shout out anything to Rolfe when you saw that? Mr Rolfe?---No, I do not.

Why is that?---Because I was concentrating on what I was doing with Mr Walker.

I'll just continue playing.

DVD PLAYED

MR STRICKLAND: Pause.

Do you see the flash of a gun in that slow motion?---No, I do not.

I'll just play it – replay it once more.

DVD PLAYED

MR STRICKLAND: You see that?---Yeah, I saw a light. Yeah.

You heard a bang; is that right?---Yeah. A dull – a dull thud, yeah.

I didn't hear that, sorry?---A dull thud.

A dull thud. When you heard the dull thud, were you standing up or were you falling or do you recall?---I was standing.

Okay. And what did you think that noise was?---I thought, potentially, it might've been James Kirstenfeldt at the doorway with a beanbag shotgun, because it was not the usual sound of a firearm that I'm used to.

What were you thinking, when you were standing up and struggling with Mr Walker?---It's hard to determine at what stage what I was thinking, other than to try and take defendant down.

I'll just continue playing.

DVD PLAYED

MR STRICKLAND: Just pause it there.

Frame number 391, Zulu 9.52.02, that's 7.22.02. So did you take Mr Walker to the ground?---I did.

Was your – did your body-worn video get dislodged at some point?---It did.

Do you know when it did?---Sometime during the struggle.

When you were on the mattress, or before?---I can't recall.

Do you remember whether you were still holding a torch when you went onto the mattress?---To be honest, I wasn't sure when I dropped the torch.

I'll just keep playing the –

I'm sorry, I wanted to ask the – you can see, we're pausing at frame 366, did you – you can see the mattress there?---Yes.

Was the mattress hard or soft?---Not sure, I can't remember what it felt like to be honest.

And I'll just keep playing through until – from there until 443, that – another couple of seconds.

DVD PLAYED

MR STRICKLAND: Pause there.

So around about frame 417, can you see the flash of the gun?---I could.

And just continue on.

DVD PLAYED

MR STRICKLAND: And can you see – could you see a second flash?---I could.

About frame 433.

Just continue on please –

Sorry, I beg your pardon, 443 to 443, thank you, if you could pause there. At frame 447.

So I played you a bit over two seconds of real time, two and a half seconds, something like that. I just wanted to ask you some questions about the time when you – between when you fell on the mattress and just at the time of – or immediately after the third shot. Do you understand? I'm just asking about those two and a half seconds?---Okay.

So what were you doing to Kumanjayi Walker at that time?---I was trying to restrain him on the ground.

And how were you doing that?---I was holding his left arm.

With – and what were you holding his left arm with?---With my arms.

With both of them?---Correct.

And why were you doing that? Why were you holding his left arm?---Yep, so he couldn't turn on me, to prevent him to try – to try and get me with the – the weapon that he had in his hand.

Did you see the weapon when you were on the mattress?---Not at that time.

You saw it before you were saying?---I said I saw something that was sharp, but couldn't identify what it was until afterwards.

Were you putting your weight on Kumanjayi Walker's body?---On his body, no, on his arm, yes.

What about the upper part of his body?---No I believe it was his arm, from my memory.

How would you describe Mr Walker's position? You don't – from your – what you can recall?---Yeah it looks like he's on his side facing my direction.

Okay, and you say you were holding his left arm to prevent him from turning, is that right?---Correct.

And turning which way?---Any further towards me.

Could you see where his right arm was?---I believe it was sort of underneath his body.

Now were you, what's described as ground stabilising him?---In a sense, correct.

And what is – what does that term mean to you?---Usually ground stabilise is if someone's on their – on their stomach and you put their arm completely on the ground to stop them from getting up from that position.

Were you seeking to do that?---That's what I was attempting to do.

Is that something you're trained to do?---Correct.

Is that part of your defensive tactics training?---Correct.

Now at this time, around frame 447, do you remember, was your head touching the wall, or near the wall?---It looks like it's near the wall.

And can you see your body-worn video in that – where is it please?---Looks like it's above Kumanjaya – on the ground.

That's the body-worn camera, is that right?---Correct.

And is it glowing red?---Correct.

Can you see your OS spray there?---I can.

And can you – just for the jury's sake, indicate where – where that is, or – and what it is?---It's a – it's attached to my accoutrement belt, and it's at the rear there, it looks like – you can see just a little bit of a white part of the spray there at the back of – on my right side.

So what was your right arm doing?---It was also on Kumanjaya's left arm.

Was it around his neck?---No, not at that stage.

Or upper body?---I believe it was on his arm.

From the time that you were on top of Kumanjaya Walker, on the mattress, until the time you heard that third shot, did you see Kumanjaya's right arm move?---Not that I remember, looking at his right arm.

Did you feel it move?---I can't say for sure.

From that time, that is the time you were on top of Kumanjaya Walker on the mattress until the time you heard that third shot, did you see or feel Kumanjaya Walker's upper body move?---I can't recall whether it – I believe he was trying to move the whole time.

But did you see or feel it actually move?---I don't remember.

Were you trying to stop it from moving?---My main focus was on his arm.

I'm just going to play you another part of a body-worn video. This is from Mr Hawkings. Before I do, do you remember you were at the – you were at the police – after the shooting you went to the police station?---Yeah, I do, yeah.

And before you went into the police station, you had some discussions with Mr Hawkings and Mr Rolfe?---Yeah I don't recall those discussions, but I believe yeah, we was talking while we were out the back, yep.

Okay. I'm just going to play you that part –

I'm sorry, your Honour, before I do, I tender what I'll describe as the Sorell body-worn video.

MS CALLAN: Your Honour, I can indicate, it's on a USB. The file name – it's the only file on this USB, is Rolfe, R-O-L-F-E, 10X, and the numbers 095150-095323Z.

HIS HONOUR: That'll be exhibit 59.

EXHIBIT P59: USB Rolfe 10X 095150-095323Z.

MR STRICKLAND: I'm just going to play another body-worn, it just – we have to – it takes 30 seconds to go from one to the other.

HIS HONOUR: All right.

MR STRICKLAND: Pardon the delay.

HIS HONOUR: Very well.

DVD PLAYED

MR STRICKLAND: Did you hear yourself saying anything there?---It was hard in the group hearing specifically what I said.

Did you - do you recall saying anything to Mr Rolfe about whether you could or could not see the scissors?---I could see myself speaking to him but I don't recall what I said.

I will just play it one more time and see - yes please. I am just going to play you a different version of which - whether the sound may be enhanced?---Sure.

When I say - I'm sorry, it may be better?---Okay.

DVD PLAYED

MR STRICKLAND: So we're now playing the same version from the different body-worn perspective. It's the third one that is probably the clearest?---Okay.

So we've heard the first, this is now the second.

DVD PLAYED

MR STRICKLAND: So you can see yourself speaking to Mr Rolfe briefly?
---Correct.

And you're smiling at him?---Correct.

And did you - do you remember saying anything to him at that point in time?
---No, I do not recall.

Could you hear yourself in that body-worn saying anything to him?---I could hear that I was saying something but it's not clear to me what I said.

At the time you spoke to Mr Rolfe - I withdraw that. Do you recall speaking to Mr Rolfe about whether you could see the scissors or not?---I do not recall that conversation, no.

Now I just want to for the final time just play you another part of the body-worn. This Rolfe 2 of 4?---Yep.

I bed your pardon, the birds-eye, exhibit 36, from the time after the shooting for about 20 seconds, okay?---Okay.

So it's from 9 - okay.

DVD PLAYED

MR STRICKLAND: Did you hear yourself say, "Did you fuck"?---I did.

And what were you asking Mr Rolfe at that time?---Mr Rolfe?

I'm sorry. You said, "Did you - fuck" Did you hear yourself say that?---Yes.

What is "Did you" refer to - what were you referring to?---I think in relation to the shooting.

And what were you asking him?---Whether he shot him.

Why did you ask that?---Because I didn't realise that he had shot him.

During the struggle on the mattress or while you were struggling with him standing up, did you see or feel whether Kumanjayi Walker struck you with a pointy object?
---No, I did not.

So I just now want to ask you some questions about your training.

Your Honour, I tender the body-worn video of Hawkings relating to the conversation between Mr Eberl and Mr Rolfe.

HIS HONOUR: Be exhibit 60.

MS CALLAN: Your Honour, the file name is 1001 conversation Eberl/Rolfe and for the record and the court's appreciation, it is a synchronisation of videos which equates to Exhibit 29, which was the Hawkings 3 of 10 part 2 and the transcript is at exhibit 25, tab 11.

EXHIBIT 60 DVD, file name 1001 conversation Eberl/Rolfe.

MR STRICKLAND: I want to ask you about your general training. So when you joined the NT Police Force did you receive some training?---I did.

And can you just describe how long that training went for?---I think the training up in Darwin went for approximately 16 weeks.

And when did you do that?---In 2016.

In that 15 weeks of training did you receive training about the use of force?---I did.

Do you know how long that occupied - that training?---I can't recall.

You received training in operational safety?---We do, yes.

Defensive tactics?---Correct.

And what is defensive tactics?---It's a whole range of training in relation to the use of your tactical options as well as empty hand tactics.

Does it teach you about non-lethal options in terms of the use of force?---Correct.

Such as what?---OC spray, baton, Taser.

Okay. And you're also taught about handling firearms?---Correct.

Both the circumstances in which you should draw your firearm; is that right?---Correct.

You're also taught about de-escalation techniques?---Not so much as a part of the ARP course, but when you initially start your policing you are, yeah.

You said ARP course?---Yep. Accelerated Recruit Program.

Right. Is that when you did your initial training?---With the NT Police, that's right.

That's the 15 weeks of training?---Correct.

So when did you do the de-escalation technique training?---In 2012 with the South Australian Police.

I see. And what were you – what was the essence of what you were trained in terms of de-escalation techniques?---Good tactical communication.

And what does that mean?---Communicating with the suspect- - -

Yes- - -?---in trying to achieve a more peaceful resolution.

What other de-escalation techniques were you taught about?---Tactically withdraw.

And what does that mean?---To move back from the situation and assess and reassess the risks.

When you did you Accelerated – what the full term, please?---Accelerated Recruit Program.

You did you Accelerated Recruit Program, you taught about the 10 operational safety principles?---Correct.

That is, avoiding violent confrontation where possible?---That's one of them.

Using force – or avoid using force wherever reasonably possible?---Yes.

And where force can't be avoided, use the minimum reasonable, necessary force. Is that right?---Correct.

And you were in the NT, you were also taught about the importance of assessing and reassessing risk?---Correct.

This is all part of the operational safety principles?---Correct.

In defensive tactics, were you taught where, to the extent possible, maintain a safe distance from the subject?---Correct.

Now, in your training, did you receive training where an offender presents an edged weapon?---Correct.

And you've heard the expression – were you taught about the expression, knife or edged weapon equals gun?---Correct.

Were you taught that when presented with an edged weapon, you have the option to draw your firearm?---Depending on the circumstances, but potentially, yes.

Depends on the level of threat?---Depends on the situation.

Yes?---Distance, et cetera.

Where you decided to draw – and I’m talking about your training – were you taught that where you had decided to draw your firearm, that presentation gives you various options?---Yes, we will run through different scenarios in relation to that, yes.

Right. I mean, one option may be to fire the weapon?---Correct.

Another option is to de-escalate the situation in some way?---Correct.

Depends on the precise scenario?---Correct.

Have you ever had a scenario in training equivalent to what happened in the situation on 9 November?---Correct.

Sorry, you have?---Yes, yes.

Okay. And when was – when did you receive that?---In Alice Springs during a re-qualification over a period of several years.

Okay. You’ve given evidence about the de-escalation techniques you were trained in. Were you taught, if presented with an edged weapon, to give tactical commands?---Yes, that’s one of the – one of the methods.

And what kind of tactical commands? What are the words that are used?---“Police, drop the weapon.”

Okay. Were you trained when you fired the weapon, where to fire it towards?---Correct.

And where was that?---The centre of seen mass.

What does that mean?---Where you can see the – any of the subject’s body, the centre of that – the middle of that body part that you can see. For example, if it’s the torso, then the middle of the torso.

And why were you taught to fire there?---To gain subject control via immediate incapacitation.

And were you taught what was likely to happen if you fired at someone’s seen body mass?---Can you repeat that question, please?

Were you taught whether the central body mass contained vital organs, or did you know that?---Yes, I knew what.

Were you taught or did you know that firing into the central body mass was likely to result in serious harm?---Yes.

Or death?---Yes.

Were you – when you were trained to fire your weapon, were you trained to only fire it if it wouldn't endanger your colleague?---You're taught four firearm safety principles around firing at the – at your target. Know what it is, what it's in line with and what is behind it.

And what does that mean in terms of if your colleague is close by?---It's all about making sure that you're not hitting anything other than the target.

Including your colleague?---Correct.

Now, you also received training as an IRT member; is that right?---Correct.

And what – that was extra training on top of your normal training as a general duties officer?---Correct.

I meant to ask, as a general duties officer, did you receive annual training?---Correct.

In the matters we've been discussing, operational safety principles?---Yeah, both Defensive Tactics and also Firearms.

And did you attend all those annual trainings?---Correct.

You have to; is that right?---Correct.

And how long are those annual trainings? How many days per year?---It's changed over the years. Usually, Defensive Tactics used to run over two days and Firearms is a one-day requalification, every – annually.

Now, with the IRT, you received extra training; is that right?---Correct.

And how often did you receive the extra training?---We used to go to the range at least once every roster period.

Which is what, every five weeks?---Correct.

Did you also attend that roster training or did you sometimes miss it?---Depending on what you were rostered on to work. So sometimes, you missed it.

I'm talking about you, yourself. Did you miss it sometimes?---I can't recall specifically.

Okay. So when you did that rostered training, what kind of things did you – were you trained in?---It might be going to a vacant house and practicing clearing the house,

going through, searching for offenders in the different areas of the house. Cordoning off the house, for example. Yeah.

Were you given any different training in terms of – from what your general training, about operational safety principles? Were you told anything different?---No, the training's a little bit different but the principles, always, are the same.

Okay.

Would your Honour excuse me just for 30 seconds?

HIS HONOUR: Yes, certainly.

MR STRICKLAND: Your Honour, I have a very brief application, if it's convenient.

HIS HONOUR: Members of the jury, would you retire please.

JURY OUT

HIS HONOUR: The witness will need to be recalled.

ADAM CRAIG EBERL:

HIS HONOUR: Yes.

MR STRICKLAND: So I will just show you a transcript of some committal evidence you gave in September 2020. Do you remember giving some evidence at Alice Springs Local Court in relation to this matter in September 2020?---Correct, yes.

If that transcript could be marked please?

HIS HONOUR: Yes, that will be marked for identification with the letter V.

MFI V Transcript of committal in September 2020.

MR STRICKLAND: If you go to page 170, I think it is marked or tabbed, I ask you the same question I asked just a few moments ago - a few minutes ago. "Have you ever had a scenario in training equivalent to what happened to you in this situation on 9 November?" And your answer was "No". Do you recall giving that answer back then?---Not from back then, no.

Do you accept you did give that answer?---Yes.

You said today that there was a scenario in training equivalent to what happened on 9 November?---Correct.

Which is the correct answer?---So, the whole scenario is still "No" but a specific part of the scenario is "Yes".

Okay. And what is the specific scenario that is the "Yes"?---So - - -

I'm sorry - the part of the scenario which is the "Yes"?---Okay, so in standing in close proximity with an offender or when they are presented with a knife and coming down in a stabbing motion that particular part of the scenario.

I see, and so that refers to the part of the shooting incident where you're standing up next to Kumanjayi Walker, is that right?---The initial - where we're trying to identify and then for that moment as Zach was stabbed in the shoulder.

That's before shot 1?---Correct.

That's the scenario - that's the part of the scenario that was - was similar to your training, is that correct?---Correct.

And the part of the scenario that was not equivalent to your training or not similar to your training was when you were on the mattress, is that right?---Correct.

You hadn't received training similar to that scenario?---Well, the ground stabilisation part of it, yes, but not a specific scenario.

Involving the presentation of a weapon?---No.

And the training in relation to stabilisation is, as you said before, trying to force the person to lie flat, is that right?---Could you repeat that question please?

You said that from your training on the - and the scenario on the mattress and you said that one thing that the training did receive was ground stabilisation?---Correct.

Which is - is that forcing, or pressing the person you're grappling with so he is lying on his back?---On his - on his stomach.

On his stomach, I'm sorry?---Correct.

Now, I just want to show you finally some photographs. If the witness could be shown exhibit 1. If you go to tab 21 and if you go to the last photograph, which is photograph 11, you can see when those photographs were taken, which was 13 November 2019?---Yes.

Four days after the shooting and you can see in those photos there is a scratch on your left axilla - or arm - left arm?---Near my left arm it is, yeah.

When did you first notice that scratch?---It would've been a day or so later.

Do you mean after - a day or so after the shooting?---Correct.

They are my questions, your Honour.

XXN BY MR EDWARDSON:

MR EDWARDSON: Senior Constable - it is Senior Constable isn't it?---Remote Sergeant.

Remote Sergeant - my apologies, sorry. Remote Sergeant, can I ask you some questions firstly about that scenario that had, in part at least, some similarities of what confronted you on 9 November 2019?---Yes.

In answer to Mr Strickland's question you said there was a scenario that was part of training which involved an offender standing up in close proximity to you as the police officer?---Yes.

Armed with a knife and seeking to stab that police officer from above and striking down?---Correct.

What Mr Strickland didn't ask - and I would like you to tell this jury, is what was your training as to how you should respond to that sort of threat?---So, the initial response was to raise up your left arm if you are right-handed.

Can you just stand up and just indicate that please?---So as the person was to come down with a knife the training was as you raised up your arm you drew your firearm from your holster - - -

Yes?---Rotated it up at a 45 degree angle and fired into the subject, again immediate incapacitation.

And how many times did that require?---As many times until the threat was no longer there.

Thank you. Now, I will come to specifics about your training shortly, but can you just tell the jury please what is "My adapt"?---It's a record of all the training that you've received within the Northern Territory Police.

So any police officer who has received some sort of formal training can access this "My adapt" model is it?---Correct yes, it's an application, yes.

It's an application, is it? And did you, at my request, enter "My adapt" for the purposes of printing out your training since you've been in a Northern Territory Police Officer?---I did.

Could you have a look at the document which is now produced to you please? Firstly, can you confirm that that is the printout that you obtained?---It is.

And is that a printout of all of the courses that - all the training that you've actually received?---It is.

I tender that, your Honour, and we've got copies for the jury.

HIS HONOUR: Exhibit 61.

EXHIBIT 61 "My adapt" printout record of training undertaken by Remote Sergeant Eberl.

MR EDWARDSON: What firearms instructor qualifications do you have?---I'm instructed to give qualifications on the Glock, the shotgun, the 308, the AR15.

And do yourself have any specific training for defensive tactics, beyond becoming a police officer?---I have the defensive tactics that they've taught me, but I'm not an instructor with the police.

Thank you. I want to focus, if I can, a little bit on defensive tactics.

And I wonder if exhibit 37 could be presented to the witness please.

Just while that's being sought, I'll just ask you some preliminary questions. When you received your initial training, you received a specific part of that training, which covered the topic of edged and blunt weapon awareness?---Correct.

And was that a PowerPoint presentation?---I can't recall if that was a PowerPoint or not.

All right, but you certainly did receive specific instruction in relation to edged and blunt weapon awareness?---Correct.

And I want you to look at the document which is now produced to you, which is exhibit 37. And I want to ask you to see if you could – can remember whether the topics that are identified in this particular document were covered in part, or whole, as part of your training. And I want to start if I can with this. You'll see under the heading "Introduction", in the second paragraph it reads

"Members should not assume that they will be given warning of an impending edged weapon attack, allowing for time and room to prepare. A person carrying a small easily concealed weapon, with a very limited range, is unlikely to reveal it, until they are within range. Members facing edged weapons can have fractions of a second to respond, if the weapons are employed at very short range. People who are attacked with edged weapons often don't see it coming until it is too late."

Is that consistent with the training that you received?---Correct, it is.

And indeed, if you reflect on that passage, and consider what's been put to you by the prosecution, as you've observed the body-worn video from various angles, would you agree with this proposition. Firstly, this happened in a matter of seconds?---Correct.

Kumanjaji Walker had a concealed, edged weapon?---Correct.

At the time you knew he was – well, at some – one stage, whilst you were both standing up, you knew that he had a sharp object in his right hand, but you didn't know precisely what that object was?---Correct.

You now know that the object was a pair of scissors?---Correct.

And that is properly described, as an edged weapon, consistent with your training?---Correct.

Once the identification was completed by Zachary Rolfe, by holding up that phone next to his face, at that point in time, that was the first time that you realised that he was in fact Kumanjaji Walker?---Correct.

You had no idea at that stage that he was actually armed, and that he had secreted, no doubt in his pocket, this pair of scissors?---Correct.

We now know that he deployed those scissors, and he stabbed Zachary Rolfe?---Correct.

You've told us that when you finally got to the ground, and you were trying to restrain him, you've told us that you were not aware that he had been shot?---Correct.

You knew that he had something – some weapon of some sort, but you didn't know what it was?---Correct.

And you were trying to control him, so that he could not stab you?---Correct.

Mr Strickland spent something like, I think on my calculations, about 20 minutes or more, taking you through, question by question, frame by frame, each individual action that occurred, as we've seen on the video?---Correct.

And he's asked you questions about, if I go to frame say 407, what were you thinking at that time?---Correct.

How realistic is that, given what actually happened, and what we know happened in real time?

MR STRICKLAND: I object.

HIS HONOUR: On grounds?

MR STRICKLAND: Well your Honour, I object on the basis that how – what's the – how realistic are the questions, in my submission, it's – the relevance of it is - - -

HIS HONOUR: You could simply ask the witness whether he had an opportunity to turn his mind to any of those.

MR EDWARDSON: I'm grateful to your Honour.

You understand where I'm going with this, obviously?---Yes.

Did you have an opportunity – sorry, I'll just – I'll just start by doing this. Can you assume this, on the evidence, that the first shot – sorry, the time lapse between the first shot and the second shot, is 2.06 seconds, and the third shot is .53 seconds thereafter. Taking up what his Honour's just suggested, which I embrace, did you realistically, have any opportunity to try and think about the sorts of things that were put to you by Mr Strickland, as he did, frame by frame?---No.

In your mind, what was your primary focus?---To get Walker on the ground, to then arrest him.

And to protect yourself from being stabbed?---Correct.

Back to this document if I may:

“By definition, an edged weapon is any weapon, purpose designed or improvised, that has potential to cause injury by cutting, slashing or penetrating. Any object capable of penetrating the skin, or of cutting, slashing or drawing blood, it does not have to be sharp.”

That’s the training that you received?---Correct.

And if you turn to page, what is 66 of an 83 module, which describes amongst a whole host of different things that might be properly described as edged weapons, you’ll see that it also includes what are described as stationary scissors?---Correct.

We now know, of course, that Kumanjayi Walker had secreted, and did in fact deploy, a pair of scissors from his pocket?---Correct.

That would fall within the definition, as trained by – your training indicated, could potentially cause damage?---Correct.

Fatal damage?---Correct.

Now I want to move if I can to – if I can, briefly to tactics and training. Obviously, there are a whole host of topics that Mr Strickland traversed, about your training. For example, de-escalation, alternatives such as distancing. Removing yourself from the target. Stepping back. All of those sorts of things are part and parcel of your teaching, as you’ve told us?---Correct.

But they all depend upon the situation that confronts the police officer on the occasion that presents itself?---Correct.

In other words, if somebody’s 20 or 30 feet away, you’ve got a lot more time to think about other alternatives, than for example, pulling your firearm and discharging it?---Correct.

You can, for example, say, put your weapon down. You can keep your distance. You can do all those sorts of things that are part of tactics, that are taught, depending upon the situation that confronts the police officer?---Correct.

What time did either you, or Constable Rolfe, have in this instance - - -

MR STRICKLAND: I object. It’s the word “Or Constable Rolfe”, he can’t speak for Constable Rolfe.

MR EDWARDSON: From your –

Quite right.

From your perspective, did you have any opportunity, for example, to say put the knife down, or put the scissors down?---I could have said that, but that's not what happened, no.

You could have said that, but you didn't even know, as I understand it, a) that they were scissors?---Correct.

All you knew was that he had a sharp object?---Correct.

We know that it's only a matter of seconds between the first shot, the second and third. One of which is while you're both standing upright?---Correct.

But you didn't even know that the shot had been fired?---Correct.

You're trying to control this man, who is resisting police?---Correct.

He's completely and utterly non-compliant?---Correct.

And indeed, it's the case is it not now, that as we saw on the video when Zachary Rolfe said, "He was stabbing me, he was stabbing you," and he takes hold of the scissors – he's got scissors in his hand and we saw that on the video footage- -?---Correct.

- - -he was still non-compliant then, wasn't he?---Correct.

Despite the fact that he'd been shot three times?---Correct.

In other words, even then from the way in which he presented, he did not appear to be totally incapacitated?---Correct.

Your training is, is it not, that you don't render first aid or do anything of that nature until that person is secure?---Correct.

So once the handcuffs were in place and that lethal – potentially lethal weapon was removed from his right hand, first aid is immediately started as soon as he's moved from that dangerous situation that we see on the footage?---Correct.

Can you turn to the last page of the exhibit 37? I'm sorry, not the last page, but page 68 of 83. And you'll see that there's what called, heading, Timetable of Death. And it indicates different parts of the body which, if cut – arteries, things of that nature – if severed by an edged weapon, the potential time for how long it will take for a person to die. Was that part of your training as well?---I can't recall whether that was specifically, yeah.

Thank you. But you'll certainly remember this much, don't you: you were told that an edged weapon can be very dangerous and fatal to a police officer?---Correct.

In fact, you are also taught, are you not, that sometimes an edged weapon – particularly in close proximity – is more dangerous than a gun?---Correct.

Is there a distance that you're taught about – what I'll call a safe distance or a danger zone, if somebody's presenting with an edged weapon?---Yeah. Originally, it was 21 feet or approximately seven metres, originally.

In what context?---Both in South Australian Police and originally with the Northern Territory Police.

Thank you. Now, I want to just do a little bit of repetition, I'm sorry. When you first get the call, it was mid-afternoon. And I think it was Paddy McCormack that contacted you?---Correct.

And at that time, you were off-duty, you've told us?---Correct.

And that's the first time that you were asked – or you were asked whether you would be part of this deployment?---Correct.

And you understood, at that stage, that the deployment would include four IRT members plus a dog handler, Mr Donaldson?---Correct.

And the four members, as we've heard, are Hawkings, yourself, Rolfe and Kirstenfeldt?---Correct.

And you all meet up at the Adelaide Police Station (sic)?---The Alice Springs- - -

Alice Springs, sorry. Apologies. Alice Springs Police Station?---Correct.

And at the Alice Springs Police Station that's where, for the first time – I think, was it the first time that you saw what we called the axe incident video?---It was.

And that's the events which occurred with Officer Smith and Hand on 6 November, three days before?---Correct.

And others were present when it was played?---There was the four of us.

Yes?---And Shane was alternating between his office and where we were.

And I think it was your evidence that it was a split screen?---Correct.

So you had, effectively, Hand and Smith's body-worn video playing at the same time?---Correct.

So you could see it – a bit like what's been called the – whatever it's called?---Correct.

The three – right. So when you saw that – and I want you to think about your training again, not only back in the day when you started, but also as an IRT member and the like – clearly, an axe is, potentially, a lethal weapon?---Correct.

It's an edged weapon?---It is.

And he had – certainly, as anybody could see on that video – had he chosen to, Kumanjaya Walker could've deployed it against either one of those police officers?---Correct.

And he got very close to both of them, didn't he, with that raised axe?---He did.

Would you accept that that's an incredibly confronting piece of footage?---It is, definitely.

And had they pulled their weapon – as you said before, "Wow," I think your remark was, "Wow, I'm surprised they didn't" - - -?---"Use the firearm."

- - -"Use the firearm." Because a firearm would've been perfectly consistent with your training, had it been deployed in those circumstances?---Correct.

And so that informed you a little bit about the potential threat that Kumanjaya Walker might pose to police officers when and if you found him and you attempted to arrest him?---It did.

So obviously, when he approached you – as we saw on the footage – he emerges from the darkness. The lighting's not good. But you've got a torch on him?---Correct.

He certainly didn't appear to have any form of weapon on him as he approached?---Correct.

And the way in which he presented to you – although you didn't know it was Kumanjaya Walker at that stage – was very different from the Kumanjaya Walker that's seen when he decamps the bedroom and then, ultimately, the house on 6 November?---Correct.

So when you initially – that's you and Zachary Rolfe – approach him and speak to him and he's moved I think, sort of, slightly towards the wall?---Yes.

Is there a reason for that?---Basically, to contain him until we could identify who he was.

Right. And he, first of all, gives a false identify by saying, "My name's Vernon Dixon." And he repeats that on multiple occasions?---Correct.

And so you address him as Vernon, as we saw on the video?---Correct.

And he says, "She's my aunty," and he points somewhere that we can't see on the camera?---Yes.

Do you know who he was pointing to?---I think it was the lady out the front of the house.

Was there a lady at the front of the house?---Initially, yes. When I arrived.

Same one that you – when you arrived?---Correct.

All right. But it's not until he's formally identified that you knew it was Kumanjaya Walker?---Correct.

And you certainly didn't see that weapon coming?---No, I did not.

You didn't know that he had it secreted?---No.

And you had no chance to stop what he was doing at that stage?---No, I did not.

Now, after – and please accept this in terms of the timing and what everyone's seen on the video, rather – I can play it again, if you need to. But certainly, we hear you say: "Stop fucking around or I'll smash you"?---Correct.

That is after the third shot has already been discharged?---Correct.

And that's because he was still, "Fucking around," he was not incapacitated?---Correct.

Indeed, it's quite some time after that that, eventually, the handcuffs are placed on his wrists and he's then secure?---Correct.

Now, before that happened, you've told us already that you'd seen, at least, Kumanjaya Walker with a – with something in his right hand and that was when you were both standing upright?---Correct.

You didn't know they were scissors. You've told us that?---Correct.

But you certainly knew that it was some sort of sharp object?---Correct.

So you knew that he was armed at that stage?---Yes.

And he certainly was not complying, as you've told us, in any way with your attempts to restrain him?---Correct.

He was resisting at all times?---Correct.

And you never actually got control of his right arm, did you?---No, I did not.

And your control and focus, as we've heard, was on the left arm. And whilst you rolled him – I think you said – on the ground, you tried to roll him over but you were never able to actually get hold of his right arm?---Correct.

You mentioned in passing, I think, in response to one question that was put by Mr Strickland, that you were taught four firearm principles?---Correct.

Can you just do this a bit slower for me, because I couldn't get it down. What were those four firearm principles, please?---You treat every firearm as if it is loaded.

Yes?---Never assume it's empty. Be sure of your target, know what it is, what it's in line with an what is behind it. Never shoot at anything you're not positively – you have not positively identified. Never let the muzzle cover or point at anything you're not willing to destroy. And - - -

That's more than four but anyway - - -?---Yeah, keep your finger off the trigger - - -

That is four?--- - - - and outside the trigger guard until your sites are on target and you've decided to fire.

Thank you. And the expression that you used when edge equals gun, sorry, the area that you shoot for, is what?---The centre of seen mass.

The centre of seen mass. So in other words if the torso presents itself in close proximity to the gun, you would firstly try and ensure if somebody was next to that torso, such as yourself, you would ensure that that person is not in line of sight?---Correct.

And you would aim for the torso that being the largest area of the body that presents itself closest to the muzzle?---Correct.

Was there any training about how many shots you need to fire - or should fire - in any given scenario, or does it depend on the circumstances but your goal is to gain subject control by immediate incapacitation.

And so by gaining subject control by immediate incapacitation it might require one - it might require two - three - or even more?---Correct.

One thing that you are trained - in coming back to exhibit 37, is that it may be, for example, that particularly offenders who are on some form of drugs such as ice or whatever it might be, might require considerably more shots than the average person?---Correct.

And, of course, much depends on where the shots actually land as to whether that person is or is not incapacitated?---Correct.

Regardless of whether it is the central body mass?---Correct.

I think I have finished, your Honour. Nothing further, thank you, your Honour.

HIS HONOUR: Yes.

REXN BY MR STRICKLAND:

MR STRICKLAND: You were asked some questions from my learned friend about a training scenario where you are presented with an edged weapon, you're standing up and then you draw your firearm and fire it. Do you recall those questions?
---Correct.

Why didn't you draw your gun at House 511?---Because at that time when I was first restraining him, I wasn't aware of any such weapon.

When you were - when you did become aware of it, why didn't you draw it?
---Because his right arm was out and it wasn't in front of me trying to stab me at that time.

You were asked some questions about training in relation to safe distance?
---Correct.

I think you said 21 feet?---Correct.

Did that scenario involve an assailant running or walking quickly towards you with a knife?---No.

What scenario was that?---Could you rephrase the question?

Yes, of course. Your evidence was about the safe training in relation to distance?
---Correct.

And I think you said, a safe distance was 21 foot or thereabouts?---Correct, yes.

Was that in - did that training involve a scenario if someone with an edged weapon approach - running at you with an edged weapon?---Yes, correct.

Thank you. They are my questions, thank you, your Honour.

HIS HONOUR: Thank you, you may go.

WITNESS WITHDREW