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NORTHERN TERRITORY OF AUSTRALIA

CORONERS COURT

A 51 of 2019

AN INQUEST INTO THE DEATH

OF KUMANJAYI WALKER

ON 9 NOVEMBER 2019

AT YUENDUMU POLICE STATION

JUDGE ARMITAGE, Coroner

TRANSCRIPT OF PROCEEDINGS

AT ALICE SPRINGS ON 20 OCTOBER 2022

(Continued from 19/10/2022)

Transcribed by:
EPIQ

HIS HONOUR: Officer, you're on that same promise from yesterday to tell the truth?

THE WITNESS: Yes, your Honour.

Thank you.

JAMES KIRSTENFELDT, on former oath:

XN BY DR DWYER:

DR DWYER: Constable Kirstenfeldt, I want to take you back to the written document that you received from Sergeant Frost, when you first got to the Yuendumu Police Station, around 6.33 pm?---Yep.

You gave evidence yesterday that your recollection today, sitting in the witness box, is that Sergeant Frost gave you – did give you some document, correct?---Yes, we received - - -

You believe it was an email from Sergeant Frost to Sergeant McCormack?---Yes.

That's what's in your mind now?---Yes.

You believe it was a single A4 piece of paper, correct?---Yeah, I think there was two, there was a map as well. I think she printed off some maps for everyone. I'm not sure if that was at the same time, but.

All right. Can – I'm going to suggest to you, I mean you've given evidence yesterday I think, accepting that your memory can be distorted over time?---Yes.

Particularly in stressful circumstances, I'm going to suggest?---Yes.

And particularly when you're asked to go over things many months later, correct?---Correct.

I'm just going to ask you then to think carefully about what I'm going put to you, to see if you agree that it's reasonable. Officer Donaldson has given evidence, that when he got in to the police station in Yuendumu before you, Sergeant Frost gave him the three-page arrest plan, that had been emailed to you, and others, earlier. You accept that?---Yes.

And we can see in the CCTV footage, that when he leaves the station to go for a drive around the community, he has that document in his hand. When he comes back in, he doesn't a plan. Secondly, Constable Rolfe has given evidence previously, at trial, that he photographed part of that three-page arrest plan. And there are photographs of locations of interest from the plan, on his phone. You accept that?---Yes.

Thirdly, you knew, that Sergeant Frosts' plan included an arrest, after 5 am?---Yes.

Fourth, you knew that if Kumanjaya was arrested, the plan was for two officers to convey him back to Alice Springs and others to stay in the community in Yuendumu?---Yes.

I'm going to ask you to have a look at a still, which is taken from the CCTV footage after you arrived. Do you see there that we see from that still, you have a document in your hand?---Yes.

Do you agree that that document is folded over at the corner?---Maybe, I can't really see it.

Do you want to see the whole of the footage around that time?---No, I'll agree that that may be folded over.

I'm going to suggest to you that in those circumstances, putting all that information together, it is possible that you were actually provided by Sergeant Frost with the three page arrest plan. Do you accept that?---My recollection – pardon, my recollection of the event is that I have not seen that arrest plan. When I first saw that at the committal, it was a surprise to me.

Let me show you a page, this is annexure C to the statement of Jody Nobbs. It doesn't need to come on the screen. That is the email that Sergeant Frost sent to Superintendent – I withdraw that, to McCormack, to Sergeant McCormack?---Yes.

It's one page with some instructions, but turn over the page, there's no map there, is there?---No, I think she printed out the maps separately. I'm not sure if that was then or if it was later.

I'll just ask the court officer, could you actually play that footage, so we can see it, just in fairness?

DVD PLAYED

DR DWYER: You see yourself on the screen there, Constable?---Yes.

DVD PLAYED

DR DWYER: Constable, it's clear, isn't it. You're loosely holding a document, which is multiple pages, aren't you?---I'm not sure if it's multiple pages or - - -

Well, it's not one page, is it?---I didn't see that from that, sorry.

Sorry, you couldn't see that?---No, I didn't see that from here, sorry.

I just want to put this to you in fairness, because you need to understand what I'm going to subject to the Coroner. I'm going to be submitting to her Honour that it is

evident from the bulk of the evidence available to her that you are likely to have had this plan that was printed out by Sergeant Frost and that you are misremembering that now?---I understand that. However, this is the document that I remember seeing.

The McCormack email?---This email.

All right. I'm just going to show you two other documents. For the benefit of my friends, one is the email that Sergeant Frost sent to Superintendent Nobbs which sets out the written operations order. The other is the email sent by Sergeant Frost to yourself and others. Have a look at those two documents. Since Kumanjayi passed away, have you seen the email that Sergeant Frost sent to Superintendent Nobbs?---No, sorry which one is that, E or D?

Just have a look at them, you'll see for yourself in front of you, E was to everybody?---Yep.

Do you see that the first page of those documents is almost identical?---Yes.

Is it possible that what you saw when you went out there was a multiple page document which was an email to Superintendent Nobbs?---No, I think this is the first time I've ever seen – is this the same email just to different people?

That's exactly right. You say you've never seen it?---No. Sorry, well, at the committal. If that's the same email as that one, then - - -

Constable Kirstenfeldt, I'm going to suggest that it is obvious that if Sergeant Frost gave Donaldson the three-page arrest plan and if Constable Rolfe had it at some point to take photographs from it and if you're depicted there carrying a document that looks like it's folded over, it is likely that you were also given the three page arrest plan. Nobody else was given a single page email to Sergeant McCormack. Do you accept that it is possible that you were given a three-page arrest plan?---Anything is possible, however, my recollection of the entire event is that this email, there was no real plan outlined on it as the – Act C is my recollection of this.

And that's the evidence you gave at trial?---Yes, and - - -

Are you reluctant to step away from that because that's the evidence you gave at trial?---No, because that is my memory. I'm not prepared to lie if my – I honestly believe this is the document that I saw, not this one. I'm happy to say anything's possible, but I'm not willing to lie.

Are you happy to reflect on the information I've given you about Donaldson having the document, Rolfe having the document, you knowing essential parts of the plan beyond 5 am, which is that if Kumanjayi was arrested, two people would stay in Yuendumu and that was in the plan?---That was - - -

It just makes common-sense, doesn't it, that you had that document?---Sorry, that

was verbally spoken to us by Julie.

All right. Well, you understand what my submission will be to her Honour?---Yes, I understand.

You gave evidence yesterday when I asked you about Sergeant Frost's memory that you were challenging her, you understand that's her evidence?---Yep, I remember that.

And that she found it difficult because she wanted you to wait until the others arrived and you were peppering her with questions, in effect?---Yep.

Do you accept that you might have done that?---I did ask her a lot of questions. I never had any intention to make her feel negative or anything like that.

You might have asked her some questions in a way that was quite demanding. Can I put it that way?---Yeah, I'm not sure.

You're giving evidence today in the witness box in a very calm demeanour and that's appreciated. But you're not always calm like that when you want some information to act quickly?---No one's always calm.

But if you're on a – you went out to Yuendumu and you believed that your mission there was to arrest Kumanjayi. Correct?---Correct.

You wanted to get that done as quickly as possible, didn't you?---Usually you do want to get the job as quickly as possible.

And you were frustrated because there was a limited amount of information available. Is that fair?---I don't know if I was frustrated, but I was trying to find out information. I can't do my job without information.

Well, you're certainly capable of asking things in a way which is demanding and challenging. Do you agree?---I'm capable of that, yes. But I had absolutely no intention of – if Julie Frost thought that I was rude to her or demanding or anything like that, that was never my intention.

But you can be rude and demanding in the workplace, can't you?---I generally try not to be, no.

Well, I'll just show you this snippet. We've got some information from an arrest of Antonio Woods, which I think you received some instruction, managerial guidance in relation to.

DVD PLAYED

DR DWYER: On 28 June 2019, you and other officers were involved in the arrest of Antonio Woods(?). Do you recall that now?---The arrest of Antonia Woods?

Yes. He was an Indigenous male?---Yep.

Do you remember who that sergeant was there who was with you?---Sergeant Kirkby, I believe was our patrol sergeant at the time.

Kirkby was somebody that you worked regularly with. Correct?---Yes, he was on our patrol group.

All right. Was it his responsibility to review any use of force, if there was some?---That's who I'd send it to initially, yes.

At this point, as we see in this video that's available to everybody from the brief, Woods spoke over you while you were speaking to Sergeant Kirkby?---Yep.

I - - -

Do you recall that?---I remember this incident.

And do you remember that when he spoke over the top of you, you spoke to him in a way that was rude and aggressive?---I did, yes.

Do you accept that?---Yes.

Were you stressed at the time?---Yes, I'd just had quite a run and fallen over quite a few times. And the job can be stressful, sometimes you get frustrated and yell.

Okay. Can you play that please?

DVD PLAYED

DR DWYER: Okay, you can stop that now.

We hear you there talking in two particular ways. Even to the sergeant you are direct and quite loud and then to Mr Woods you are outright rude and aggressive. Do you agree with that characterisation?---Yes, I do, that very fell very short of how we should deal with people.

And you were given some guidance in relation to that, correct?---That's still ongoing.

So you accept, don't you, that in a workplace you can come across as challenging and demanding when you are stressed, correct?---I suppose.

And in this case with Sergeant Frost, when you were wanting information to her it's a possible isn't it, that you spoke over the top of her and were demanding?---I don't recall that as being how it went at all.

Do you accept, given her evidence as soon as she was interviewed, that you were challenging, that you might have come across in a way that interrupted her giving you information?---No.

You gave evidence yesterday that you're not sure in your mind now, how the plan changed from the arrest at 5 am which Sergeant Frost told you about, to "Let's go now to 577 and grab up Kumanjayi"?---Yep. As I said yesterday, I've thought about that and I have no idea how that has occurred.

Well, Officer Donaldson has given evidence in his first interview 7-29 at page 6:

"It wasn't until 7 o'clock when I got a phone call from Kirstenfeldt to tell me that they were here and they were going to go out and look for Kumanjayi and then I came back and we had a quick briefing and then went out to search."

Can I suggest to you that what is likely to have happened is that yourself and Constable Rolfe came up with a plan as to how to look for Kumanjayi as quickly as possible?---No.

Donaldson says:

"I went back. When I go there everyone was already in sort of middle of the station area I suppose, and just looking at a map. Zach was giving a brief on where we were going to go - we were going to go look for him - look for Kumanjayi".

Do you remember that?---Not really. I remember standing around the map, we were mucking about with radios.

Well, Donaldson remembers that in the middle of the station you were looking at a map and Zach was giving a brief on where you were going to go. Can you just not remember that?---No.

Do you accept that that happened as officer Donaldson recalls it?---If - if he's recalled that then I can accept that occurred.

The plan morphed from Sergeant Frost telling you it was 5 am to going directly to collect Kumanjayi without any clear communication and dialogue with Sergeant Frost that the plan had changed. Do you agree with that?---No. Sergeant Frost was there at the station the entire time.

There was, when you got there, according to your evidence when you were first interviewed, a plan which was communicated to you by Sergeant Frost to detain Kumanjayi at 5 am. You've given that evidence?---Yes.

Initially it was just going to be an information-gathering session with a plan on hitting the house with some intel about 5 am in the morning - 5 o'clock in the morning. You recall that clearly?---Yes.

And then you just can't tell us how that changed to a plan to go straight to 577 and arrest Kumanjayi?---Yes, I have no idea. I have thought about it and thought about it and I - it's just not in my memory.

At some stage in the briefing with Sergeant Frost do you recall her saying something like, "Look, if you come across him by all means lock him up"?---Yeah, I remember that. That was just as we were going out.

And you and Constable Rolfe took that information and changed it to going directly to House 577. That's what happened, didn't it?---No, we were going to House 577, so she knew we were going to House 577.

You were going to House 577 to look for Kumanjayi to arrest him, correct?---To find any information on where he was and I believe that's when Julie said that "If you come across him, arrest him".

And did you interpret that to mean that the 5 am plan was abandoned?---I have no idea what I took it of.

You must have done, mustn't you? You and Constable Rolfe must have interpreted in your own mind what the next steps were as soon as you left the police station, correct?---Well, I knew we were going to House 577.

To arrest Kumanjayi?---To find information on where he was and if he was there, to arrest him. I don't know how we got to that.

You - we have information from officer Donaldson, who is the next witness, I anticipate he will give evidence that he was told by you that you were going to search the house to look for Kumanjayi?---(No audible response.)

Well, I will read it to you; "I went back" - this is officer Donaldson;

"I went back. When I got there everyone was in the middle of the station area I suppose, and just looking at a map. Zach was giving a brief on where we were going to go. We were going to go look for him - look for Kumanjayi".

I am being shown by Mr Coleridge that he give evidence that he was told by you, you were going to go out and search for Kumanjayi when you called him on the telephone. Do you accept that?---I don't recall that. I remember calling him and asking him to come back to the station.

Do you accept that it's possible that what you actually said was, "Come back to the station, we're going to go search for Kumanjayi"?---I have no idea, I don't - I remember being on the phone with him and calling him to come back. I don't really recall what was said on the phone.

You left the station, you yourself, carrying the bean bag shotgun, is that right?---Yes.

And also your Glock pistol?---Yes.

And your Taser, OC spray and Baton?---Correct.

Is that right? And you grabbed that shotgun because it was part of your - the bean bag shotgun because it was part of your general kit for IRT, correct?---Correct.

What did you do with it?---I put it on the back - in the back of the car.

So you could have it there, ready, if something - if you needed it, is that right?
---Correct.

Did you just grab it when you left the station because that's what you always do when you go into a community with IRT?---Generally most police, even in metropolitan areas, are going to have either a shotgun or a police patrol rifle in the car.

You weren't advised that there was any general unrest, correct?---No.

There was no rioting?---No.

You were going out, but the time you left the station, to arrest one young male, Kumanjayi, correct?---That's what I thought our mission was.

And you left it in the car for that reason, is that right?---No, I'd taken it from Alice Springs, it's now my responsibility, it stay with me where I go.

Did you lock it in the car?---That vehicle doesn't have a lock. Not all the vehicles have locks. But I ensured - I ensured the car was locked.

So just in the back? I'm sorry?---The care was locked but some vehicles have an actual extra locking device.

There was no gun safe in the - - -?---There was no gun safe in that vehicle.

So it was on the back seat of the car, is that right?---In - under the back well, I think, or the back seat, one of those.

If someone had smashed that window they could've grabbed that shotgun, is that right?---I suppose they could've.

Did you talk to any of the other IRT officers about any weapons that they would carry?---No.

Did you speak to officer Hawkings about him carrying the AR-15?---No.

I want to take you next to the House 577 and the search of that. I'll just read to you from your interview. You explained that you searched that house. You set it out clearly in your interview. I don't need to take you there. You then say,

"We came up with a similar plan of checking those houses and pulled up out the front" - this is at House 511. "Donaldson was out the side because he's got the dog so if he runs out that way we've got someone out that way and the other guys came around the other side. I stayed on the corner between House 518 and 511, was out the back of that, it was a red house and I was at the blue house and two people came out the front there on mattresses. I asked if I could speak to them. They came over and were talking to me. They said they didn't know Kumanjaya Walker. I showed them a photo and they said they hadn't seen that fella.

At that stage, a lot of younger people - not children - but around about 18-20, sort of, started flocking to that area and building up around us. The house next door to 518, they started banging on the fence. I went over to see what was going on. It seemed like they were trying to get attention - warn people - that sort of thing. There seemed to be a lot of yelling going on and banging on the fences."

That was before you heard the first gunshot, correct?---Yes.

It was obvious then, to you, that the presence of these new police, was evident to the community?---I – I'd had no idea what the noise or commotion was about.

Just reflect on it now. There were community members there. There were lots of young people, 18 to 20. When they saw police, they started banging on the fences, to attract the attention of the community?---I – looking back at it now, I can see that that is what was going on, but at the time, hearing noise, I had no idea what it was about.

Sure, I'm not asking you about the first gun shot, I'll come to that. The community were banging, it's evident to you, to warn anyone who was in the area, that police were there, correct?---Now reflecting back, yes.

Yes. And at that time, did you see Senior Constable Hawkings, carrying to AR-15 in that area?---No.

So, as far as you're aware, looking back, the community must have been banging just because they – it was obvious to them, police were in the area?---I – it could have been anything.

Well, it stands to reason, doesn't it, that - - - ?---Looking back now, yes, but I - - -

Can I suggest to - - - ?---It could have been anything at the time. I went around to see what was going on.

- - - can I suggest to you, drawing on your experience as an officer, it's a good reason why a 5 am arrest plan might be appropriate, where you don't have those crowds around, who are going to get agitated by the sight of police?---Yes.

I'm going to ask you to reflect on then your experience as an officer, and assist us, in terms of the lessons to be learnt from – Kumanjaya's death. I'm going to suggest to you, officer, that it was – and I appreciate you're not the one who was in that House 511 when that tragedy occurred. It's predictable that Kumanjaya might arm himself with a weapon, if he was cornered by police, in a house?---As – as per the axe incident, it did seem that that was a likely scenario.

And Constable Rolfe and Constable Eberl, when they entered House 511 were in a very confined space, is that right?---I – I haven't seen the inside of that house or – no.

Neither officer knew Kumanjaya, is that correct?---I don't think so, no.

Neither officer was able to immediately identify Kumanjaya, even though they'd seen the 6 November video, it was pretty – pretty dark lighting, wasn't it?---I – like I said, I haven't really seen too much of it. I didn't go inside that house.

Okay, just have a think about it now. I'm asking for your reflections on what might have been done differently - - - ?---Mm mm.

- - - in a way that would have minimised risk. You've agreed with me that it's predictable Kumanjaya might have armed himself with a weapon. You agree that house, in itself is confined, any house (inaudible) isn't it?---Most houses are.

And neither officer knew Kumanjaya, you understand that?---Yes.

And neither officer was able to immediately identify Kumanjaya, in that house, agreed?---Correct.

So Constable Rolfe, had to put himself within about a metre, holding up a phone with his left hand, against Kumanjaya's face for a while, to try and identify him, agreed?---Yes.

You've seen the video now?---Yeah, I saw that at the trial.

And that gave Kumanjaya the opportunity to grab a weapon when he was cornered like that, didn't it?---Yes.

And Kumanjaya then lashed out, and Constable Rolfe's given evidence he was stabbed in the shoulder. That is a failed arrest plan, isn't it?---Very much so, a young man died.

I'm sorry, I couldn't hear what you said?---I said very much failure, a young man died.

And I'm going to suggest to you, Constable Kirstenfeldt, a better plan, might have avoided that tragic result?---Yeah, better plan, better communication.

The lessons learnt – I'll just ask you in your – drawing on your experience. What do you think the lessons are from this?---I think we touched on quite a lot of those yesterday with clear – who the team leader is. Clear, what the mission is. What the orders are. Clear and concise formalised plan, delivered in an appropriate manner that everyone understands, and the leader of the plan, or the leader of the mission, understands that everyone understands.

And a risk assessment as part of that?---Definitely a risk assessment, yes sorry I - - -

And I think yesterday you said that formalised policies within the IRT to require those things, would mean that you avoid the risk, going into community?---It would help mitigate some risk. I don't know if it would avoid it entirely, but it would definitely head towards helping mitigate some of it.

Well if the IRT had a policy that all missions required an operations order, and everybody had to have a formal briefing on it, that would have helped enormously, wouldn't it?---Definitely.

Constable, on a different topic, it is clear from the materials, that after Kumanjaya was shot, you ran to the house, and you assisted in – when Kumanjaya was in the car, in terms of assessing what first aid you could give. A decision was made not to provide first aid at the scene. Is that right?---I – I think that was already happening by the time I got there. I didn't run straight to them. When I heard "Shots fired, shots fired," I ran to the car and grabbed the bean bag shot gun first. And then ran over, and I think he was already in the process of going - - -

Okay?---Or exiting the house and going towards to the car. I don't know.

Just tell us – I'll just read your evidence from the first interview, and then I'm going to ask you to explain it to us, because I know it's an issue that the family are very concerned about?---Mm mm.

You say, at page 13, "I don't think he had a shirt on. I'm not exactly entirely sure. They were dragging him out here, which is initially where we were going to do treatment, and all that sort of gear. But there were people everywhere. There were a million dogs around yapping and carrying on." And you'd explained that a dog actually bit Adam Eberl?---Correct.

When you arrived, you could see your fellow officers dragging Kumanjaya, is that right?---There they were bringing him out of the house. I think he was in handcuffs from memory. Yeah they were dragging him towards the vehicle.

Was there a discussion that you overheard about giving Kumanjaya first aid at the scene?---I don't recall.

Kumanjayi was put in a car. What was your role on the way to the police station?---I drove the other car. I saw – there was a couple of body-worns on the ground. I picked up a couple of those on the way. Hopped back in my car and drove back to the police station.

Was anybody else in your car - - - ?---No.

- - - when you drove to the police station?---No there were two officers in the back, providing first aid to Kumanjayi, and someone driving that vehicle. Adam Donaldson had his vehicle with the dog. And so I drove the other vehicle. And I drove back.

When you got to the police station, I'm not going to ask you to go through this in detail, and the family's lawyers may have specific questions that come to the family. But it's evident from looking at the material, that the training in first aid you had had in the military, was of assistance here to you, is that right?---It's the same training that we have in the police for yeah, basic first aid stuff, for that sort of injury. There was no advanced first aid training that could be applied. No trauma kits, or anything like that that were available. There was – we were very limited in what we could do.

In terms of your training in the military, is it right to say, that because of your experiences there, you were able to assess the seriousness of Kumanjayi's injury quickly?---I'm not really sure if it's to do with having been in the military, but - - -

Well you start to talk about pneumothorax, for example, and is that training that you get in the police in the Northern Territory?---I don't know if we – if that's on the first aid course. They change sort of every time you do them. But they do treat what's called a sucking chest wound, which is penetrating wound to the upper lung area, and the treatment for it is the same, in the first aid course, as to what I received in the military for that training.

What did you understand to be the treatment for it, knowing that Kumanjayi had bullet wounds?---You put a cover over the wound to stop air from getting inside. It depends on what side, or both sides, as to whether or not you lay them on that side. He – he had both sides. Had injuries to both sides. So we sit him up a little bit more. Sort of managing between keeping him comfortable, as well as giving him the best treatment as you can, because if someone's not comfortable, they're going to move around.

And you've got to try and stop them wriggling around, is that right?---As – as best you can to be able to provide treatment, but you also need to make them comfortable, so they don't panic and go into shock.

You want to try and keep them calm too, is that right?---As best you can.

Did you give any consideration to the idea of Kumanjayi's family coming into the police station, or one of them?---I didn't at the time, no.

Why not?---My focus was not on anything other than providing first aid to that man.

Who took the lead on first aid?---I don't think we had a lead first aid. It was – where initially, we got him out of the car, and we were going to start first aid there, the ground was hot, and rocky and rubbly, so we moved him inside. I'm not sure if there was a lead first aid, or anything like that.

I appreciate your – well, you and Constable Rolfe, we know from the CCTV footage of the police station, were trying to assist with first aid, is that right?---Correct, we did.

And other officers as well, where they could?---Hawkings and Eberl did as well.

I'll leave it for the family's lawyers to ask you any specific questions about that, but do I understand your evidence that from the time Kumanjayi was brought into the police station when he was wounded to the time when tragically he passed away, you didn't turn your mind to the idea of a family member being brought in to comfort him?---No.

And just tell us again why that was?---My focus is the young man that's been hurt.

And in terms of keeping him calm, you didn't turn your attention to the idea of bringing a family member in to assist with that?---No, but it does sound like a good idea, though.

Okay. So, in hindsight, do you think that would have been the right thing to do?---The right thing to do, yes, definitely.

Okay.

THE CORONER: Can I just ask, you said there were no trauma kits available, did you think that there would be a trauma kit at the police station?---No, I didn't, your Honour. In terms of a trauma kit, I mean something more advanced, something with instruments you could use to pierce a pneumothorax or things for traumatic injuries and all that, things that the ambulance would have. You need specialist training to use all that sort of stuff. I believe our TRG tactical groups and all that have that sort of training. I think that should be something that, especially police in remote areas, should have training in and should have access to. But I didn't expect that we would have that sort of thing there, no, your Honour.

And if it had been there, would you have been able to use it?---I do know how to use it. I haven't ever done it to anyone. I do know the process of how it works and I would have given it a go, yes.

And where did you get the training for that?---From a medical course I did several years ago.

Whilst you've been in the police?---No, whilst I was a civilian. It was medical training on treating severe injuries, blast gunshot trauma and all that sort of thing, amputation

in order to keep someone alive long enough to get them to a hospital or treatment.

Constable Kirstenfeldt, you left Alice Springs – I withdraw that. You left Yuendumu to return to Alice Springs on the Sunday, some time after you were interviewed in Yuendumu, obviously?---Correct.

Constable Rolfe, we know, left either late Saturday night or early Sunday morning prior to you. Is that right?---Correct.

Did you speak to Constable Rolfe about the events, about Kumanjayi's passing at any time prior to him leaving?---No.

Why was that?---Initially, for the first lot, there was obviously the treatment of Mr Walker. I was doing a mix between being inside and patrolling outside with Felix. I think Rolfe was on the phone for a fair bit of that.

You didn't say to him, what happened?---No, I did not.

After your interview, did any – that is. in Yuendumu, did any superior, anyone above your rank, tell you that you shouldn't speak to Constable Rolfe or any of the other IRT members?---No.

Were you aware, at the time that Kumanjayi died, of a general order that related to deaths in custody?---No.

When you did your training in the police force, did you do any training at all or get any instruction on what to do if you were involved in a death in custody, that you can recall?---Not that I can really recall.

So, is it right that you were not even aware of the existence of a general order that dealt with deaths in custody?---There's a general order for just about everything, so I would imagine, looking at that, there would have been a general order for it. It wasn't something I thought of at the time.

And no one brought it to your attention after Kumanjayi's passing?---No.

Did you think about the – you know, in principle, the importance of separating witnesses so they don't contaminate each other's account?---Correct.

You would do that when you're investigating a job and you wanted people in a house party to give you a version of events, would you?---Correct.

So, did you give any consideration to the fact that you should keep separate from other IRT members while an investigation was underway?---No, I gave my statement that night.

After you gave your statement, you understood, didn't you, that there would need to be further investigation in relation to the shooting?---Yes.

In your interview, your second interview at page 50, so this is your interview still in November, the date is 21 November, you say halfway down the page:

“I didn’t go -”, well, you were asked a question by Officer Wilson, “While we’re on that, conversations afterwards, has he spoken to you about what occurred -”, he’s referring to Constable Rolfe, of course. And you say - “He went back on the night on that plane and landed at 11:00. I didn’t go back until the next day and then I went home and went to bed.”

“So, was that Sunday then?” you were asked. And you said, “Yes”. And then you say, “And then the Monday, I gave him a couple of calls and said, ‘Are you all good?’ and he was talking to the lawyers and doing all his things with the lawyers and psychs and all that sort of shit, and I was like, ‘Are we going back to work?’ And he’s like, ‘Yeah, I think so’. And pretty sure it was a Tuesday – no, it would have been the Monday night, when got on the beers.”

Now, I appreciate you’re talking informally there, but when – and I’m not being critical of that - but when you say you “got on the beers with Constable Rolfe on the Monday night”, what did you do?---Pretty much exactly that.

Whereabouts did you go and have some beers?---It was at Rolfe’s place.

How did that come about that you were at his place?---Someone sent a text message asking to come have beers.

Who was the person who sent the text message?---I have no idea.

When they sent a text message, did they say to have beers or to have a debrief or - - -?---I think initially the text was something about a debrief and I was – I didn’t know anything about it. And I asked about it and then someone – I think it might have actually been Rolfe, said it was, “code for beers”. I was like, “All right cool.”

Okay. Was it McCormack who suggested the debrief?---I don’t think there was actually a debrief. Like I said, my interpretation of the term “debrief” was someone mucking about with the terminology of that.

Okay?---Just so that we could go and have some beers.

But in terms of when it was first suggested to you that there was a debrief, did you take that to be a proper debrief, a formal debrief?---Yes, I thought there was going to be a debrief.

And was that Sergeant McCormack who suggested that you have a debrief?---I have no idea.

I appreciate that was some time ago, but then you asked Constable Rolfe, “What’s going on”, and he said, “Debrief is code for beers”?---Yes.

And then it turned out that the beers were at his place. Is that right?---Yes.

Do you recall what time roughly you arrived?---No, no idea. Sometime in the evening/afternoon.

We've got some evidence as to some of the other officers who were there, and they include Constable Eberl and Hawkings were there for a short time. Do you recall that?---Yep.

Do you recall Breanna Bonney being there?---Yep.

Do you recall Mitch Hanson?---Yep.

McCormack?---Yep.

Who else was there?---I think Sergeant Kelly came for a little bit. I think, don't swear me in on that. It would have pretty much just been anyone that was associated with our patrol group, because we were the people that had that day off.

When you were there, do you recall a phone call being made by Constable Rolfe to Officer Kirkby?---No.

What about Sykes?---No, I don't think he was there, was there?

Do you recall any phone call being made to him and put on the speaker or anything like that?---No.

What discussion was there about what had happened in Yuendumu?---I don't think that we were sitting there discussing what happened at Yuendumu. I was drinking beers.

But Constable, it's perfectly obviously, isn't it, that if you didn't get a direction not to talk to Constable Rolfe and you'd already given your interview, so you thought you could speak about it, someone's going to say in front of you or you're going to say, mate what happened with that shooting?---If I'm not at work, I'm not talking about work. I don't – one of the worst things about hanging out with cops is that they want to talk about work.

Well, it's the same deal with lawyers, I can assure you?---I prefer to have – put myself in situations and around people that don't talk about work, or the crew I hand around now, my patrol group, if we're not at work, we are not talking about work, we're talking about fishing and things like that.

I totally accept that normally. But this was an absolutely abnormal circumstance, wasn't it, given - - -?---This was very different, yes.

It was shocking what happened in Yuendumu?---Yes.

And as you have said earlier, a young man had lost his life?---He did.

Shot dead by a police officer - shot three times. That does not happen very often in the Territory, thank goodness. You agree?---Yes.

And you were there to have beers, in part to comfort Constable Rolfe, is that right?
---Yes, I suppose.

And in part to informally debrief about what had gone down?---Not real - my - my - my part of drinking beers was drinking beers.

Someone at some stage at the barbecue I am going to suggest to you, asked Rolfe what had happened?---Yes, I think some - some people were talking about it, and - - -

Who?---I couldn't - I don't - like I said, I don't engage in conversation about work outside of work. I don't want to talk about work if I'm not at work.

Constable, I am not asking you to do on anybody but I am asking you to give really frank evidence about what you heard and just cast your mind back because I am going to put to you a conversation that somebody else says happened?---Mm mm.

What did you hear being discussed?---I don't know - I remember there was someone talking about the incident. I think someone told them to be quiet about it. I remember sending Rolfe a text message even though he was in the same room as me - sending him a text message, "Don't talk about it - lawyer - lawyer - lawyer" as in "just deal with your lawyer - do not talk about anything" and I think that was the end of it and then it was just the night talking about, you know, how much money I can spend on my four wheel drive and.

I am going to read to you what Bree Bonney says happened. She says,

"There was no real specific discussion specifically about the Yuendumu incident. I don't recall the specific conversation. I guess the context of some of the conversation, not all of it. We were there for a few hours. Part of the conversation - the context would've been use of force, the training that we all receive in terms of use of force."

Do you recall that?---No.

She says that;

"Some of the discussion were similar incidents that we've had in the past and we were all having that conversation under the premise that Zach, on the face of it, had adhered to our training, the edged weapon equals gun and we all thought he'd be back at work within the week."

Do you recall that being said?---No.

You accept that it was said, given that that's officer Bonney's recollection?---Yes.
Yep.

And that that was totally inappropriate to be speaking at a session with beers, in front of Constable Rolfe about the fact that what he'd done was in line with his training, an edged weapon equals gun. You agree that was completely inappropriate wasn't it?
---Yeah, like I said, my - my involvement in the barbecue and drinking - or any of that sort of conversation was a text to Rolfe saying not to talk and to just deal with your lawyer and then drinking beers.

Just reflect on your role as a police officer though, in terms of what actually went down there. Having that conversation in front of Rolfe - it wasn't you, I appreciate it - but the fact that conversation occurred had the real possibility of contaminating a witness' evidence?---Possibly.

I am going to read you that message that you just referred to. We've got these messages in the brief of evidence, Constable. On 11 November - so this is the Sunday night at - the Monday night I'm sorry, at 6:07:58 you sent a message to Constable Rolfe even though you were in the same room and it says this:

"Stop talking to these cunts. Lawyer - lawyer - lawyer. They are covering their own arse."

And you go on to say, at 6:08:

"You left and didn't get to see the aftermath of the arse-covering. Stop talking to them. They are fucking covering their own arse".

What did you mean by that?---I have no idea about that second one. I have no idea.

Do you want to have a look at the text messages?---I - I'll believe you.

Who was covering their own arse?---I have no idea.

Can you offer up a suggestion as to what you meant?---I - I don't know who was saying what at that stage.

But somebody must've been saying something in your earshot for you to give Constable Rolfe that warning, do you agree?---I agree, yes.

And you didn't want that somebody to know that you were messaging Rolfe?---I suppose.

Does it suggest that maybe it was someone senior to you?---Everyone was senior to me, your Honour.

Rolfe replies to you at 6:09 and he says:

"Got it, bro". And you reply at 6:10, "Don't trust these snake fucks." And then at 6:21, "Lawyer told you not to comment". And at 6:22, "If you check - "

I won't read that?---I know what that one says.

Okay. And just for the - just - everybody's listening, it's a remark that's not relevant to this conversation. So, "Don't trust these snake fucks, lawyer told you not to comment." Who were the snake fucks not to trust?---I have no idea who I'd be referring to but - I don't know.

Who was the lawyer who told you not - or who is the lawyer you were referring to there?---Whoever Constable Rolfe's lawyer was at the time.

So you know that Constable Rolfe's lawyer had told him not to comment?---I'd assume that that would be the case.

Well, it must be because you just wrote to him - - -?---Yeah.

"Lawyer told you not to comment"?---That's what lawyers always say.

Well, what did - the lawyer told him not to comment to who?---I have no idea.

Just think, these are very significant events for you, Constable Kirstenfeldt and you need to make sure that you are acquitting yourself as best as possible in the witness box because it's your credibility. You understand that?---I understand that, I - - -

Just think about it now. "Lawyer told you not to comment". What had the lawyer told - what had you been told by Constable Rolfe?---I'd imagine that he'd said that he'd spoke to a lawyer and that his lawyer said not to - not to talk to people - not to comment on it.

Who was covering their own arse?---I have no idea. My sentiment of this was being of the lowest rank at the whole incident and all that is the - the old expression of if it rolls downhill that it's probably going to be - you know, all the people of lower ranks getting thrown under the bus. So I think there was a bit of a sentiment of that was gong to occur - I don't know who I'd be - who I'm referring to in this. Like I said, I was drinking beers.

Was it somebody more senior to you who was talking about what Breanna Bonney told us was "edge weapon equals gun"?---Like I said, everyone was senior to me. I was the new person on the patrol group. Sorry, I think another squad had come in but I was - everyone there was more senior to me.

That conversation that Bree Bonney is talking about occurred in the presence of sergeants, didn't it?---I don't - I don't know. We weren't always all together in the same room. There was outside, inside.

Her Honour asked you a question about why you texted, effectively. You were texting Constable Rolfe because you wanted to say something to him that you didn't want the others to hear?---I'd imagine so.

Must be - you'd agree?---Must be.

Did you think at the time, if the lawyers told Constable Rolfe not to say anything, not to comment, it's totally inappropriate that he's sitting here having beers where there are sergeants and other officers talking about what happened?---In hindsight?

Or had the real potential to contaminate any evidence that he might give later on in any forum. Do you agree?---In - in hindsight, yes, that does seem the case. My focus on what was going to happen and what was going on was drinking beers.

All right, and our focus in terms of sending him the text was concern for him and concern for other officers who were there on the ground in Yuendumu, is that right? ---I think so.

In – at page 50 of that second interview, when you explain about Monday night we got on the beers. You say:

“Just with the boys, but you know what the town's like, there's lefty's everywhere looking over your shoulder, so you can't really talk shop or anything like that.”

What do you mean by that?---I said police officers love to talk about work, and it's – it's not very good to be sitting around, drinking in town, if people are talking about work, or mentioning jobs, or anyone or anything like that.

In front of lefties. Who did you think the lefties were?---Referring to like hippy type people.

Referring to people who might be questioning why a young man was shot in a community?---No more – we tend to get attacked a lot by out – out on the town by people that have a very anti-police sentiment.

Let me just read these two paragraphs together to you at page 50. You say:

“I gave him a couple of calls and said are you all good”, this is on the Monday. “He was talking to lawyers, and doing all these things with lawyers, and sites, and all that sort of shit.”

It was during one of those conversations, when you were talking to Rolfe, he must have said to you, look I've been told not to say anything. Not to make any comment about what happened, do you agree?---Who – sorry I?

You put the text – put this together - - - ?---Yep.

- - - with a text that you sent him that night?---Yep.

Where you say, “Lawyers, lawyers, lawyers, talk to your lawyers, don’t say anything. Watch your back, these other people are snakes.” He must – Rolfe must have told you in one of these phone calls that he’d been told not to say anything?---Yes. Sorry.

And then you say:

“I was – we were going back to work and I said – I was like ‘Are we going back to work?’ and he’s like “Yeah, I think so.’ I’m pretty sure it was Tuesday, no, it would have been the Monday, we got on the beers, just with the boys. But you know what the town’s like, there’s lefty’s everywhere looking over your shoulder, so you can’t really talk shop or anything like that.”

Doesn’t that suggest that in fact you went to Constable Rolfe’s place for some beers, so you could talk about what happened, and you could talk shop?---I can see how that’s interpreted that way. That’s not the way it’s intended.

Wednesday you went to work. That night you found out that five detectives had gone in and arrested Constable Rolfe in front of his mum there in Darwin, and you say, “I haven’t spoken to him since. I was aware of his bail conditions, ‘cause the lawyer that did his bail is my lawyer. So he rang me up and told me that I couldn’t have any contact with Zach”?---Correct.

Did you have the same officer – I withdraw that. Did you have the same lawyer as Zach had at that time?---No.

At what point in time were you told by a lawyer that you couldn’t have any contact with Zach?---The night that he was arrested, my lawyer rang me up and said that Rolfe had just been arrested, and that he was trying to organise bail, because his lawyer was unavailable at the time of the arrest. And that one of his conditions is going to be that we have no contact with him, and am I able to adhere to that, and I said “Yes, what do I do?” He said, most likely expect to be arrested yourself, and just wait at home for that to occur.

There was never any suggestion of you being arrested in relation to anything that happened with Kumanjaji though was there? From anybody else, other than that lawyer you spoke to?---I have no idea. I sat at home for a month waiting for that to occur, or to hear from it, or to be told no, or anything.

In relation to Constable Rolfe, initially he had assumed that, in terms of his conversations with you, that he’d be back to work straight away, is that right?---I thought we were all going back to work straight away.

So it came as a shock to you that an officer had been charged with a criminal offence in relation to what had occurred?---I thought so.

You understand, don't you, that when a police officer is given a gun, that comes with a huge responsibility?---Yes I do.

And that when that gun is discharged, wounding somebody, an officer needs to be accountable for the use of force?---Yes.

Do you resent the fact that you – an officer has to be accountable for the use of force?---Not at all.

I asked you yesterday about whether or not you had heard any negative attitudes expressed towards community police. Do you recall those questions?---Yep.

And you said that you hadn't heard anybody express negative views, is that right?---Not to my knowledge.

What about after Kumanjayi died, did you hear any officers express negative views?---I – like I said, I – shortly after that occurred, I was at home. I was at home for almost a month.

At some point, you were critical, weren't you, at that time, around that time, as to what had happened on 6 November, with Lanyon Smith?---No.

And Chris Hand? Before 9 November, were you critical, in front of anybody else, about the way that Chris Hand and Lanyon Smith had handled?---I'd highly doubt that - - -

That axe incident?---No, I – I don't comment on other peoples jobs. I wasn't there.

Do you know Leilani Weathers, a police officer?---I do.

She's given evidence of a conversation that she had with you, after Kumanjayi passed away, where you were criticising the way that Hand and Smith dealt with 6 November. She's given evidence that – well we've got some evidence, that she was talking about – you were talking about Hand and Smith in a way that was not positive, referring to them as cowboys. That they should have used more force against Kumanjayi. They should have shot him on the sixth. Words to that effect?---I doubt that very highly that I would have said that. I don't think that in that situation that they were in, that that's - - -

Are you critical in any way of the way that Hand and Smith dealt with 6 November?---I – like I said, I wasn't there. I didn't feel what they felt. I didn't see what they saw. It wasn't my job. It's not my place to comment about other people's jobs, or how they do them. I'm not in that position. I don't go around talking poorly of other people, as best I can, especially behind someone's back. I don't like – like if I wanted to say something negative about either of those two, I'll say it to their face.

Did Chris Hand send an email to Assistant Commissioner Wurst, after 6 November, before Kumanjayi passes away, where Assistant Commissioner Wurst asks him how he is. And Chris Hand says words to the effect of “From my perspective, it was a good day, nobody got hurt. Kumanjayi didn’t hurt. Police didn’t get hurt. That was a good outcome”?---Yep.

It’s a much better outcome than anybody being shot in – in hurt in those circumstances, do you agree?---A 100 percent.

HIS HONOUR: But you were willing to refer to other police as “Snakes” in your text message?---Not sure who I was referring to in that one, your Honour.

Well there were only police there when - - - ?---Yeah, I understand that, but I’m not sure who I would have been referring to.

DR DWYER: I’m going to ask you some questions about the culture of the IRT in Alice Springs, and I’ll finish on this. You’ve heard in this inquest, evidence being called about a number of text messages which are very disturbing, you agree?---Yes.

Included in those text messages are messages from Sergeant Bauwens, to and from Constable Rolfe, about bush cops. Just have a read of page four if you will. You see Constable Rolfe, in his text messages to Sergeant Bauwens says things like:

“The bush cops wouldn’t have been able to get him”, when he’s talking about running after someone. “So it was good we went. The bush cops fucked up as usual.”

“The bush cops blow my mind. I’ll tell you about these dudes when I see you.”

What do you think about that in terms of an exchange of views between Constable Rolfe, who you know, and Sergeant Bauwens, who was the leader of the IRT?---I – they never spoke with me like that, I – I don’t know how to – how to comment on this.

It’s completely unprofessional isn’t it, for them to be referring to fellow police officers, in community, as hopeless, or lazy, or fucking up?---Yes.

And it’s a lack of leadership from Sergeant Bauwens, who was your sergeant in the IRT, to be speaking to Constable Rolfe like that?---I agree.

Included in these text messages are a number of racist remarks. I’m not suggesting that you sent or received a racist text message, but please have a look at them, so I don’t have to read those words out again?---Thank you. Which page?

Page 4, you’ll see third line up?---Yep.

Page 5 from Mitch Hanson, a member of your patrol group to Constable

Rolfe?---Yep.

Disgraceful and racist. Do you agree?---Yes.

Have you ever heard those terms being used by members of the police force in Alice Springs?---No, I haven't.

Have you heard members of the IRT use those terms about Aboriginal people?---No.

Do you agree that those terms are dehumanising?---I think – I'm not really sure what that means.

All right. Well, let me just stick with racist?---Yes.

Do you understand that the use of racist language can be dehumanising?---I understand, yep. I get you now, yep, agree.

And that using that language has a negative impact on the culture of a team in the police?---It could do, yes.

Your Honour, I only have just one more topic and it would be appropriate if we deal with that just while the livestream is off briefly.

THE CORONER: All right. So, we'll have just that topic and then we'll break for morning tea.

DR DWYER: Thank you, your Honour.

THE CORONER: All right. But we'll cut the livestream now and this is to do with a non-publication order that - - -

DR DWYER: It is.

THE CORONER: - - - is currently in force.

DR DWYER: It is, thank you.

THE CORONER: Thank you.

LIVESTREAM CUT NON-PUBLICATION ORDER

RESUMED

LIVESTREAM BACK

JAMES KIRSTENFELDT:

HIS HONOUR: I understand we're going to come back to that issue later.

MR BOE: As your Honour pleases, thank you.

HIS HONOUR: Yes, Dr Dwyer.

DR DWYER: I have finished asking questions, thank you, your Honour.

HIS HONOUR: Yes, Mr Boe.

MR BOE: Thank you.

XXN BY MR BOE:

MR BOE: Constable, my surname is Boe, and I counsel for the Walker, Lane and Robertson families, and you know who they are?---Yes I do.

Yes. As you can appreciate, Dr Dwyer has, if I might say, carefully covered quite a lot of the issues that the family are interested in. But there is – there are some further matters I want to take you through. Before that, I just want to cherry pick some things that came from some of the matters that you've given answers to already. You understand?---Yes.

I'm going to go straight to the questions, and if you need context, please let me know, and I'll try and provide that to you?---No worries.

I think I heard you say, in your evidence, that you did not think that your military service had much to contribute to how you had become a police officer. Did you say something like that?---Correct.

You did, I take it, learn how to shoot in the army?---Yes.

And that – that also, not just shooting with hand guns, but with long arms?---Correct.

And utilising other lethal weapons?---Correct.

Those matters came into some – some advantage when seeking deployment with an IRT, surely? They gave you some advantage?---They're different weapon systems entirely.

All right. The second thing you may have picked up from being in the ADF, would have been an understanding of command structure?---Yep.

And a willingness to abide, sometimes difficult directions for duties for you to perform?---Yes, I understand that, yeah.

And one of those matters is that rank is everything. That is, if somebody of a higher rank is directing you on a matter, that's something you must comply with, correct?---Unless it's unlawful, yes.

And if it is unlawful, or you've got a query about that, you've got means by which to at least raise your concerns about any such directions?---Yes.

Is that fair? The second thing I wanted to ask you from this morning is that you – you spoke about getting some sort of trauma, first aid experience, when you were a civilian?---Yes.

Was that through the Ronin Program?---I believe it was a side business to them, not from them directly.

Sorry, I've just got a medical condition, I just can't hear as well - - - ?---Sorry - - -

- - - can you just say that again?---I'll put this a bit closer. I think it was a side business. It wasn't actually them, themselves, I think it was a side business that they did some medical training through and all that.

But the nature of that course was for you to acquire further skills to use weapons in a civilian context, is that fair?---It was – the course itself, for the weapons part, was just a weapons familiarisation thing.

Right?---For – in case anyone hadn't of used weapons before.

So it's familiarisation with particular weapons, is that right?---Yes.

And what particular weapons were you seeking – or did you get familiarisation with?---I can't remember what the rifle was called. And I think it was a Glock, I think.

A Glock, that's a short gun, and a rifle, a semi-automatic gun?---Yes.

Now just – you spoke about – this morning, about a conversation you had a with a lawyer concerning a proposed bail condition concerning Constable Rolfe, you recall that?---Yes.

I picked up from that, that you said that the lawyer told you to wait to be arrested, or something like that?---Yes, he said it's likely that you'll be arrested as well, and to wait – wait at home for that to occur, or for any further – anyone to tell you any different.

I don't wish to go anywhere near the advice that you were given. What did you think you might be waiting to be arrested for?---I have no idea. I believe the lawyer said

the – the last time there was a shooting in Western Australia, I think it was the same fellow running this investigation that - - -

I really don't want you to waive your privilege, unless you're doing it knowingly?---Okay, sorry. But yeah, I don't know – that was just advice I had that I was waiting to be arrested, possibly, and to wait and hear otherwise from investigators or anyone else.

But specifically, it was a concern in relation to the shooting, I take it?---Yes.

Now just going back to the days following 6 November. You have said in your statement, page 32, that you'd been researching this target two or three days beforehand, do you recall that?---Sorry, researching him?

You said you were constantly checking the target list that comes out on the emails - - - ?---Yes.

- - - (inaudible) "He was an arrest target in that said for assault police I believe"?---Yes that was a document that came out all the time, I checked at the start of every shift.

That's what I want to get to. So as a matter of routine, you would look at emails that identified arrest targets for police generally, across the Northern Territory, is that right?---They were localised – it was a localised document. So it wasn't across the Northern Territory, it was – I believe the document's done up here at Alice Springs, for Alice Springs and like for the general - - -

For southern command around Alice Springs, I take it?---No I don't think it had any of the bush areas, any of the bush stations. I don't know if it covered that. It was more a document for us on how to do our job, and who to look out for, and who was on what bail conditions, areas – the – to patrol area hot spots, and areas where high crime had been attributed, or areas where people wanted more patrols and that sort of thing. It was just a – just a document to help us do our job.

Yes, I think you mentioned that you had a sense, that you, as a member of the IRT would likely to be called apart to – called upon, to pursue this particular arrest, is that fair?---Not me, personally, but I thought the IRT would be involved in the arrest after the axe incident.

All right. And just turning to Constable Rolfe. I won't essay all the things you've said so far about it, but can I just give you six point, to see whether or not you agree. Firstly, he had become a member of your patrol group, correct?---Correct.

And you had, in that capacity, worked closely together?---Sometimes, yes.

And you – you got to observe the way in which he conducted himself, as a police officer?---Sometimes, yes.

And including in arrest situations?---Yes.

From that, you learned to trust his instincts, is that fair?---Not really sure - - -

What I mean is, I mean, I don't know, but I imagine, if you're going into a hostile situation with another officer, one of the things you want to do, is develop a trust in the way that person conducts themselves when they are with you?---Definitely.

And if you had concerns about that, you'd raise it with them, or someone else, correct?---Definitely, I trust everyone I work with.

Until proven wrong, I take it?---Well anyone I jump in a car with to go out on the street, I'd trust that person.

Yes, that's why I asked you, you trusted his instincts, as a police officer?---Yes, well in that context, yes.

And his capacity as a police officer?---Yes.

And is it fair to say, he, to your mind, had good leadership qualities?---I don't know about that.

Well what deficiencies do you say that he had, such that he does not have good leadership qualities?---Well I don't – I'm not saying he didn't have leadership qualities, but he didn't have any rank - - -

No, no - - - ?---Or anything like that.

- - - I'm talking about natural leadership qualities?---There's no such thing as a natural leadership. Leadership's taught.

Well I won't disagree with you. I won't enter into that debate. But what I'm asking is that from you watching him, he – he was a natural leader amongst men, in the way he conducted and held himself?---He was confident.

That may be one aspect of it. He is confident, he was capable, he was good at what he did?---Mm mm.

Correct?---Correct.

And he was brave? You found him to be a brave police officer?---I suppose.

Now, the last thing is, you've mentioned a couple of times that you were of the lowest rank within the service?---At - not in the entire service but at the time in reference to our patrol group or the IRT or anyone that was at Yuendumu was.

And from that position you are one that would ordinarily just follow the orders that you are given, correct?---Correct.

And follow the lead taken by other police officers in your patrol?---Correct.

Now, just leaving aside the substantial discussion we've had about the documents at the Yuendumu police station and the emails, right? Highly important. I am not saying they are not. May I just get to the issue that no matter what documentation you've seen, no matter what conversations you had, your acknowledge with Dr Dwyer that your - in your first interview, if nothing else, there had been a plan on gathering some information and some intel on Kumanjaji's whereabouts, correct? ---Correct.

And there was a plan about hitting the house at 5 o'clock in the morning to affect the arrest?---Initially is my understanding.

Yes, so forgetting whatever other detail, that as the plan, as you understood it, as you stepped out of the Yuendumu police station?---No.

Sorry, I will take one step back. That was the plan, as you understood it, following whatever conversations you'd had with Julie Frost?---Initially there Julie was involved in all of our conversations prior to us leaving the station.

All right. Now, what you have said to us candidly yesterday and today is that the change from that plan into something, going straight to House 577 is something you just don't know how that has occurred, in your mind as you sit here now, correct? ---Correct.

Now, as you know, submissions will be made that challenge that concept, and I am not going to that territory, do you understand?---Yep.

Now, assuming that your evidence now is that you have no knowledge of how it occurred is to be accepted may I suggest that there is three, possibly four possible explanations for this and I would like you to comment on that as I put them to you, okay? The first is that there was a conversation in which you were a part about which you just simply can't recall - that's one possibility, correct?---Possibly.

Secondly, there may have been a conversation which informed the change but you were not part of it. That's another possibility?---Also possible.

On that issue you, however, would discount that because you believe you were there for all the conversations concerning the plan?---No, there was periods of time where I wasn't - I wasn't with everyone.

So at this critical part when this issue might have been discussed, you may not have been there. That is one possibility?---Possibly.

The third is that there was a conversation in the direct terms as been put to you by Dr Dwyer and you are just deliberately not telling us about your recollection - that's a possibility?---No.

I know you reject that but in terms of objectively, that's one possibility is it not?---It is unlikely.

You reject that?---I do.

And the last possibility, if I may say, is that after the debriefing, which ended with what you had said in your first interview, namely a 5 o'clock arrest, that there was, in fact, no direct conversation about what you would do instead, but things just unfolded that way?---Sorry, can you - can you say that again for me please?

What happened was the change at which yourself and the other IRT members took a different course to the idea of a 5 o'clock arrest, you accept that? When you stepped out?---Yep.

Right, you accept that there was a change in the timing at the very least - if not the context of what you were going to do. Fair?---Fair.

And that could possibly have happened, could it not, even with no conversation, if you were just following the lead of what somebody else was doing?---It - it is possible, however it seemed very clear when we were leaving Yuendumu station that that is exactly where we were going and what we were doing.

I understand that. I understand that and that's why, if I may so, such focus had been placed upon the fact that you might be being a bit disingenuous about what, in fact, happened in the station - but I am not going into that territory for the moment - I am trying to explore the fourth possibility, that Constable Rolfe went about his duties because he is a capable goal-orientated police officer, that he was in the car with you and he just drop up to House 577 and the rest of you just went lock step behind him in the conduct that he was undertaking. Is that one possibility?---I think I was driving.

But he directed you where to drive?---Yes, he had a - - -

So take that issue out, that's a bit of a distraction. He took you to 577?---Yes.

And I suggest that there's one possibility, that he thought he could just simply go find Kumanjayi and arrest him because he had such confidence in his capacity as a police officer and that you followed lock step behind him. Is that one possibility? ---That sounds more like his evidence than mine.

No, no, we're talking about your evidence because you are saying that you don't recall a conversation but you in fact acted lock step with him. Do you understand? ---Yes.

And that's why I took you to your respect for his intuition and his capacity and his instincts, do you understand?---Yes.

And you would respect that, if he thought the right way to go about what to do, you would just follow him in what he was doing, is that fair?---Fair.

That's a possibility here?---A possibility.

A reasonable possibility, correct?---Yes.

Thank you. The second issue is that it is well understood that you had been told that there was a community funeral in the community, around this time. Is that fair? ---Yes.

Now, on that issue, did you take on board that information simply to give you intelligence to assist you that it's likely Kumanjaji would be there?---I - the funeral – I didn't realise until a long time after, that it was actually a relative of Kumanjaji Walker, his grandfather, in fact. I - when I found that information out I - I felt ashamed.

Why did you feel ashamed?---I don't - that's - it just seems very insensitive to arrest someone at their grandfather's funeral but I didn't know it was his grandfather's funeral at the time. I found out about the - there was funeral in town, I think when we got to Yuendumu. I didn't see a risk assessment so I don't know if there was an urgency - or what urgency there could have been to arrest him at his grandfather's funeral but I didn't - definitely did not have any good feelings about finding out that it was his grandfather's funeral.

Okay, thank you for that, but can I ask you this more practically, your sense of shame and respect, does that come from an understanding of a cultural reason to perhaps defer an arrest - a non-urgent arrest - or is that simply a sense of human recognition that it seems such a tragic - - - ?---I think more human recognition. I don't think that that should be done to anyone, unless there's a valid risk assessment and that I'm - I very much regret that.

Does it highlight the fact that you did not know, in fact, that the reason for the arrest plan that Julie Frost had prepared talked about a 5 o'clock arrest, was to give due deference to that issue, that is to not arrest him during his grandfather's funeral? ---No, it wasn't.

Well, you didn't know that, but isn't that a breathtaking omission in terms of your knowledge, given that had you, in fact, understood that the arrest plan had been devised to take into account that very thing that you were ashamed about?---Likely however, I know those funerals can - can last for quite some time. They're not a - go to a funeral, go to a wake and then continue on; they can go for quite some time.

Well, if it's not very urgent, it doesn't much matter, does it?---No.

So, I'm not sure why you added that?---Because – well, 5 am, the funeral had – 5 am the next day or even the day after, the funeral may still be going on.

Yes, but the point being here is that, even though you knew there was a funeral, you didn't sit there and calibrate what impact it may have on the timing of the arrest?---No, I thought that information was provided in terms of there was more people in community now because of that.

No, but what about it being at 5 o'clock the next day and not that night?---I didn't associate the two.

One of the things you said in your first statement at page 7 was that you told them, which I assume were the other IRT people, "not to expect too much an outcome, a double (inaudible) shot, he isn't going to survive." You were taken to that briefly by Dr Dwyer earlier. Correct?---Correct

And that was an assessment that you made because of the location of the bullet wounds and that in fact there was more than one?---Correct.

And does that come from just academic research or from physically having seen that sort of injury before?---I used by common-sense and at the time, it wasn't until days later that I found out he was actually shot three times. At the time, I thought he was only shot twice and that once had exited on the other side. And from where they – the bullets appeared to have entered, it appeared that both lungs or that area are going to be damaged from that.

I know that. But I'm asking you the source of your knowledge. Does that come from academic readings or does it come from actually being in a real life situation, seeing that sort of injury before?---I think it just came from common-sense that you need both lungs to breathe.

Have you not seen a person with that sort of injury before?---I've seen people with injuries like that before.

Yes, so were they – were there fatal results to those situations?---Yes.

So, surely that informed part of your knowledge?---Some, yes, I suppose.

And I'm not going to go into any great detail in these matters, I will touch on these things later, but so seeing that sort of situation was during your military service?---Yes.

And was that in terms of combatants or of colleagues?---Not of colleagues.

Okay. So, which would – does that mean combatant?---Look, I've signed nondisclosures in terms of operations and things like that, so I'm - - -

I'm not sure the nondisclosure would go to identifying whether in fact it was somebody that had been shot by your forces as opposed to one of your colleagues?---I'm not - - -

THE CORONER: But anyway, if you're not aware of what his nondisclosure is, unless it's specifically relevant and you want to make those enquiries, I will move on?---Thank you, your Honour.

MR BOE: Now, just going to another subject matter. In your statement at page 15, you said:

“They started pulling out phones and filming us, yelling that we had no respect.” And then you added, “Just, it wasn't a safe situation to be in for us. We had to get out of there.”

Do you remember that?---Yes.

And that was moments after the shots had been fired. Correct?---Correct.

Now, I just want to ask you six things about this. The issue of “a safe situation for us” was – you were only referring to the IRT and Donaldson. Correct? The “us” in that concern?---Correct.

As to “get out of there”, you were referring to get away from the people who were taking photos and yelling that you had no respect. Is that fair?---There was a lot of people coming. In referring to the people that had the phones and taking photos, that was just in the immediate vicinity. There was people coming from everywhere.

And the people coming from everywhere, none of them made any threats to you?---Not that I saw.

And none to any of the other IRT people?---Not that I saw.

Nor to Senior Constable Donaldson?---Not that I saw.

Now, do you accept that this action had no regard to the health needs of Kumanjayi?---No.

You don't accept that?---No.

Do you know accept that someone who had suffered that sort of injury would be best supported by staying still, immobilised and receiving treatment in situ?---Possibly.

Well, not just possibly, that surely from your knowledge, that's the best way to preserve or attempt to preserve life, that is to keep them immobilised and give them medical attention in situ?---I'm not a doctor.

All right. Secondly, it would have been more comfortable for him, given the seriousness of the injury, for him to be in his mother's house with his family around him, given the dire state of his health. You would accept that?---Definitely.

The real question was, how he could quickly get medical support. Correct?---Correct.

And in that sense, you already knew when you went out to Yuendumu that the nurses were not going to be there when you were conducting your policing duties. Correct?---Correct.

Did it occur to you that, given that you were brandishing or using or bringing with you serious weaponry, that there may be a possibility that the guns may be used?---Maybe.

Well, you don't pull out a gun unless you're going to use it, do you?---Sometimes you do.

I understood part of your training was, you don't pull out your gun unless you're willing to shoot?---Unless you're willing to?

Yes?---Correct.

And in these circumstances, there was a risk, was there not, of somebody being injured, given that you were going as armed as you were and given that you had a dog that was potentially going to be used to chase down somebody?---Correct.

Didn't think that that might involve some deferral until you knew what medical support is available?---That's above me.

Above your rank?---Yeah, I don't make those decisions.

I know you don't make those decisions, but is that not a matter of concern that being sent out to use your guns, potentially, knowing that there's no medical support in that community?---Yes.

Do you think you might have raised that with those giving you the direction to go?---Sorry, that I might have raised those?

Yes?---No, I did not.

Your basic mantra is that you follow the directions that you are given and just do those things?---No.

It's not for you to question anything?---Not to not question anything. However, that wasn't something that I had questioned.

Do you think you might in the future, if you're in that same situation?---I think that is something I would definitely question in the future.

Have you – that fear of retaliation that you were expressing in that sentence, “safe situation for us”, et cetera, have you ever been involved in a situation where there was a violent reaction from bystanders to what you were doing?---Yes.

And in those circumstances, was it – I think you said earlier, that was not in an Indigenous community?---Sorry, I don't recall that.

I might be getting you confused with Hawkings. Have you given – have you been asked about this before by Dr Dwyer?---I don't think so.

Okay. Well, let me just detail it out. Have you been in a situation where you've been arresting somebody and others have intervened violently?---Yes.

And has that happened in a community or in another setting?---In Alice Springs.

Finally, insofar – did you think about or was there some discussion about the notion of a fear of payback?---I don't know if any of that was discussed at the time.

All right. That certainly wasn't part of your thinking?---My only goal at that point in time was to try and provide what first aid I could.

I can understand that. Just the last topic I want to cover is – it goes to your military service. We've heard a bit of detail already of that from Dr Dwyer. In the documents that we've been provided, there's some information about matters you said at various points in your military service. I want to just ask you some questions about that?---Yep.

At one stage, you were asked in your application to resign in 2015, what you enjoyed most about serving in the army. Do you recall that question?---No.

And your answer that's attributed to you is "Being a sniper." Now firstly, you may not recall that, but is that in fact true?---Sorry when – when was this?

2015, page 22 of this application?---The year?

HIS HONOUR: So this is his application to the police force?

MR BOE: Application to resign from the - - -

HIS HONOUR: To resign.

MR BOE: - - - from the ADF.

HIS HONOUR: Okay?---I don't recall saying that.

MR BOE: But is that in fact true?---It is.

You enjoyed being a sniper?---I did.

What was it specifically about that?---I'm not sure I can answer that.

I'm just a bit confused at that answer. I mean, you accept that when asked what you enjoyed most about being in the army - - - ?---Mm mm.

- - - you nominated a particular skill, sniper. But you can't explain why that is the case?---That was the job I did the longest.

I see. So it's the one you had most experience in?---Yes.

And therefore, that's why you enjoyed it the most, is that your answer?---Probably.

Okay. Now in terms of your military service. I take it that it involved, at least on the first occasion, a degree of military training?---Yes.

And how long did that training program work before you were deployed?---I think it was 14 weeks of basic training. Another 12 weeks of job specific training.

I'm sorry, I just didn't hear that sentence - - - ?---Another - - -

HIS HONOUR: Job specific?---Job specific. So depending on what area of the military you're going into.

MR BOE: And the area that you went into, and stayed in for the entire time, was being an infantry man?---Correct.

Is that correct? And that by way of design, is in the unfortunate circumstance as Australia deploys infantry into war zones?---Correct.

And I take it that appealed to you?---It was one of the things of the job that you have to do.

You have choices I take it, and you chose that?---No you did not have a choice once you joined.

So you just trained to be an infantry man?---Correct.

And then from that, you can have other choices following on from that, is that correct?---From – from then, once you sign the dotted line, the defence force own you. And you do what they say, and go where they tell you to go.

Okay, well in so far as that training –

And for those who might be curious, I'm referring to information from the declaration of Ned Doboss(?), which is brief item 10-29. It doesn't need to be bought up, but this is the basis for the questioning.

Did the training include strategies to desensitise you to violence through repetitive training?---No.

For example, I think we've all seen the old war movies, involving bayonetting a burlap sack for example?---Yes.

That is, that's what I mean by – that's a violent act, stabbing someone with bayonet, isn't it?---Yes it is.

And you would have been repeatedly being taught how to do that effectively to – to harm or kill the person you'd be stabbing, correct?---Yes.

And in addition to that, were there instances where people putting enemy uniforms on balloons filled with fake blood, or using heads of cabbage, covered in tomato sauce, as targets, instead of real humans?---I've never seen that before.

Was there some process of using computer simulations to recreate the experience of combat?---I don't think so. There was a – there's an electronic range, but not – I don't know if there's any program that recreates combat.

Do you accept that to be an effective soldier, you must be willing to kill when ordered?---You have to follow orders, that' an unfortunate part of the job.

Yes, but I'm not making a value judgement about war, all right. I'm just talking about what the training was?---Mm mm.

One of the things that you were being taught to train, is to make sure when commanded, you take steps which have fatal outcome, without hesitation, when necessary, correct?---I haven't really gone into the psychology of what they teach or why, but I'd imagine so.

But you, yourself, would have had to move from civilian, to being somebody that was capable of following a command to kill, correct?---Yes.

And in the task of doing that, did you become confident, after this training, that you could discharge your duties, as a soldier in combat warfare?---I'd like to think I could.

And you were – you felt capable of using weapons to kill?---I suppose.

Rifles, pistols, correct?---Correct.

Hand grenades?---Correct.

Knives?---I – we – the defence force don't do any knife fighting.

And hand to hand combat, to in fact be able to use lethal force?---I don't think they do that either.

Okay, but certainly you became comfortable with your training, that you could use those weapons, if and when ordered?---Yeah I suppose.

And was part of it, so that you would not think about the person you were killing?---I – I don't know. I don't think so.

Did you think about the consequences of what you're doing, if you were going to shoot somebody?---It was just a job and service to the country, I didn't sit there and dwell and think about any outcomes or possibilities.

You've expressed empathy several times in your evidence, in a reasonable way, about various things in this case. Did you have a sense that you would have any empathy about the people you were ordered to kill?---I – I don't believe I was ordered to kill anyone.

You may not have been. Did you not do any actual military service where you had to use weapons?---I've got a non-disclosure for operations and - - -

I'll stay away from that for the moment. But in so far as your training, per say, that involved you being able to do those things without too much hesitation. Is that fair?---Correct.

And it – the mark of a good soldier, was to perform those sorts of very difficult actions, without hesitation, as you say, to protect your country?---I'm not sure if that is that is the mark of a good soldier, but that sounds like part of the job.

Yes. In your training, were there – those who trained you in these area, were – was there the usage of referring to, in the combat in a way that didn't regard them as humans, as men and women? For example, you refer to the – in the training schedules, to refer to the target with racial attributes. Like "gooks", or "sand monkeys", or "commies", or things like that?---No.

You never, ever heard that at all, in the army?---No, the – any training that the defence force do around enemy forces is made up entirely of a false country that doesn't exist, and populated by a false people that don't exist.

In – in that way, the – to regard them as "the other", that is, "not us"?---Like a separate armed force, depending on what their tactics or capability referencing off whatever thing the defence force is doing at the time. I don't know as to the reasons why and all that. I'm – that's not my area of expertise.

Okay, and that reference to foreign – mythical foreign countries, did that have shorthand references to the people when you're shooting at people at all?---Not really, no.

Was there language – for example, instead of saying you are ordered to kill someone, did you hear language such as "To service targets", for example?---Yes I've – I've heard things - - -

The term "Service targets" is meant to mean to go and kill them, is that fair?---Service targets?

Service targets?---I don't think I've heard that expression.

Which expression did you agree to when I - - - ?---Sorry I thought – I thought you said have I heard a combat on called a target.

I see. Well you certainly have heard that, "target"?---Yes.

And what about "servicing a target"?---I've never heard that expression.

What about "checking", have you heard that word used in the way in which your duties should be exercised?---Checking?

Yes?---In reference to shooting someone or as in - - -

Checking?---I've heard checking a lot, as in like checking your equipment, checking on your mates, checking - - -

Sure?---Do you mean it in terms of like saying checking in that I to shoot someone?

Checking the target, meaning "killing the wounded"?---God, no.

No? Now when you – sorry, without going in the detail, were you in fact involved in active combat?---I said I've got a non-disclosure and - - -

I just need to know the bounds of what you can't answer, I don't know. Because there's some reference in your material that you were asked about the possibility of making a claim for compensation. Do you recall that? And your answer was along the lines of "No but I may in the future"?---For?

It may have been for lost money or - - -?---Sorry, what is this - who is asking me this?

When you were in the ADF?---Yes.

Do you recall what I am talking about ?---Yes.

What was that all about?---Any injuries occurred during my time in the military.

Yes, and "injury" both physical and psychological?---Yes, any - any - I spent 14 years running around with kit that was sometimes heavier than me. Obviously that take a strain on your joints and everything and - - -

Physical strain?---Yes.

Were you also thinking about the mental strain that stems from either the training or the service?---No.

Your answer was, "Not as of yet, however, will be. Do you recall giving that answer?
---No, I don't, but I haven't made any compensation claims from it.

Now, upon your - I've got two more questions. Upon your discharge from - the last time - from the ADF did you get any information that might help you to deal with any mental health issues that arise from that service?---I highly doubt it.

I just didn't hear you?---I highly doubt that.

You highly doubt it, does that mean you did not get - - -?---I don't think so, no.

Did you feel as if you needed some counselling and support, given what you've been through?---The period of time when I got out is very different to how it operates now. I believe there's even a Royal Commission into how all that operates and veterans and all that sort of stuff.

(inaudible) right now isn't there? But insofar as when you were there?
---But there was pretty much no - no help from the defence force with - or DVA with anything, once you - once you say you're leaving they cut ties and don't care.

So firstly, none offered - correct?---I don't think so.

And certainly none provided?---No.

And then from your point of view, whether speaking from back then - I guess both - did you feel as if you needed some support when you left the army?---Not in that manner.

But thinking back do you think you needed some support when you left the army in terms of mental health issues?---No.

Thank you, your Honour, I have no further questions.

THE CORONER: Mr Mullins?

MR MULLINS: Thank you, your Honour.

XXN BY MR MULLINS:

MR MULLINS: Constable Kirstenfeldt, my name is Mullins. I appear on behalf of the Brown family?---Good morning.

Now, your military career ran from 2001 to 2016?---With some breaks in between, yes.

Yes, and you are justifiably proud of your successful career in the military?---Yes and no.

My learned friend, Mr Boe, was just asking you some questions about the - some questions that you answered in some of your military application forms where you said - or suggested - you might be making claims in the future for some sort of injuries?---Perhaps, yes.

But then it's the case, isn't it, that the - I know there are different views about the generosity of the DVA but one can claim for things like an injury in a rugby match whilst you are playing for the military and you can claim for that 20 years later? ---I am not aware of that.

You don't know that, okay. All right then. In any case the service that you gave was over an extended period of time and part of that involved some medical training? ---Some, yes.

Can I just ask that document 7080 which is the second statement of Mr Kirstenfeldt of 21 November 2019 be put up on the screen, and we go to PDF page 26, if we just scroll down a little please? We might have the wrong page. I apologise your Honour. Could I just have one moment?

THE CORONER: Maybe 36 or 37 there's a conversation about injures, treatment?

MR MULLINS: Yes, that's it, that's the page. I apologise, it was statement one.

THE CORONER: One, okay.

MR MULLINS: Which is document 7079 I am told. Page 26. Yes, thank you.

THE CORONER: 7-79.

MR MULLINS: Thank you. Now, if we just scroll down we see there you make reference to your three operational tours overseas to East Timor, Iraq and Afghanistan?---Yep.

And then you say:

"I spent 30 years in the Australian Army, I've done extensive medical training and treating of gunshot wounds and traumatic wounds and all that was the main thing that we do. I've also done private courses - private military contractor courses, bodyguard international and so on".

And you've done a Cert III Diploma in first aid, first aid manager, which is mainly treating traumatic blast injuries and gunshot wounds?---Correct.

And then we scroll down to the next paragraph and you describe there that you identified what you thought is a pneumo - that - - -?---Pneumothorax.

Yes, Kumanjaji had suffered a pneumothorax?---Correct.

Now, can I just say for the record and for the family that I am going to discuss an issue that may be distressing at this point in time. You talk about in the next paragraph a "tension pneumothorax" and a "haemopneumothorax" and the tension pneumothorax - correct me if I am wrong - is air that is trapped in the pleural space between the lung and the chest - or inside the chest cavity?---Correct.

And the - a haemothorax is blood in the same cavity?---Yes, or in the lung.

Yes, so a haemopneumothorax is a combination is a combination of two of those?
---A what - sorry?

You talk about - see in the last paragraph? A haemopneumothorax is a combination of a haemothorax and - - -?---A haemopneumothorax is the blood one - a tension pneumothorax is air.

So in this situation you identified when you were at the police station that Kumanjayi had or was developing a haemopneumothorax?---I didn't know which type or anything but a pneumothorax is what occurs when a penetrating injury occurs into what is the lung space and cavity, that's what you try and prevent with the patches over the top, but it's impossible to treat on a first aid basis, it's only manageable until you can get them to first aid.

Sorry, I didn't hear that last sentence?---It's only – I can't treat that. You can only do first aid to try and limit and manage that. But a pneumothorax is what occurs when a penetrating wound goes through the lung space and trying to delay that and prevent it for as long as possible is the idea of the first aid.

The training that you have done helped you to understand that it is possible to treat a hemopneumothorax. It's possible to treat that if you've got the appropriate equipment?---Correct.

And the appropriate personnel?---Correct.

Now, you can't conduct a surgery on the spot, can you? And you're not qualified to do that?---No.

But you can stabilise the patient for long enough to get them potentially to surgical treatment?---If you have the right equipment.

That's right. Well, it's a combination of things, isn't it; it's the right personnel and the right equipment?---Correct.

Now, in this situation, you did your very best to stabilise Kumanjayi?---Yeah, I wish I could have done more, but I tried - - -

But you simply didn't have - - -?-- - - - with what limited – limited everything I had as – I tried.

But you simply didn't have the equipment or the trauma kit there - - -?---No.

- - - to be able to do that?---Correct.

There was another person who was a nurse who also had not dissimilar skills to you, and I'm just going to read to you the skills that she had for treatment of these sorts of injuries. This is from the evidence of Cassandra Holland. It's at transcript 1411. She said, "I've always chosen to work on-call. I love working on-call. I deal with medical emergencies, heart attacks, respiratory problems, extremely ill children. I've worked on children who have been near death. I've worked on adults who have been near death. I've worked very well with surgical emergencies. I've worked with stabbings. I've worked with, you know, severe limb trauma. There's not much that I haven't worked with in either a remote area or in a major hospital." Now, if you were able to have her there to assist you, with your skills and a full trauma kit, do you think you could have stabilised this patient, Kumanjayi, to have him moved on at least for treatment elsewhere?---I don't – I'm not privy to what his internal injuries were, but from my first aid point of view and my perspective of what I saw, I may have been able to stabilise him a little bit longer. But without knowing the details and all that, I could have given it more of a try with better equipment.

I mean, you're in no position, you don't have the qualifications to say whether he would have survived or not, obviously?---No.

But in terms of moving him from that emergency response situation to getting further treatment, having another person onboard with very good skills and a proper trauma kit would have been of great assistance?---Yep, I would never say no to that.

Now, you were asked some questions about the moments before the shooting or around that time and you observed some people banging on the fence?---Correct.

And you said to counsel assisting, or it was suggested to you that that might have been those people alerting the community to the presence of police?---Correct.

But that didn't occur to you at the time?---No, I heard the commotion and the banging around the side. And like in hindsight, I thought – I went around and saw that that's what was going on and where they were directing their focus towards, so that that's how it appeared then at that stage. But initially when I heard the banging, I was wondering what it was.

Well, but agree with the suggestion that what those people might have been doing is notifying the community of the presence of police, but the reality is, it could have been a range of different things. It might have been just their expression of their own angst that the police were there?---Perhaps.

It might have been trying to tell the person inside the house, if there was someone inside the house, that the police were there?---Perhaps.

It might have been trying to distract the police from what they were doing in order to

give the person notice of what was happening?---Perhaps that one would have been a good one, it did distract him to it.

Right. It did distract you?---Well, I went over to it.

Yes, okay. Now, you've been asked some questions by Mr Boe about your departure from the house after the shooting and this time, I hope I'm right, document 79-808, page 33, please. After the shooting, you went and got your bean bag rifle?---Correct.

Why was that?---I'd heard, "Shots fired, shots fired" over the radio. And I'd heard two gunshots, so I went to the car, got the bean bag shotgun. I had absolutely no idea what had occurred. So, for more force protection and then I grabbed the bean bag shotgun and went to where the shots were fired from.

And did you actually know those two officers had gone inside the house?---I think so. I think there was a radio communication from one of them that said they were going to clear the house. And I said I was going to stay where I was.

All right. So, this is the second – thank you, this is the second interview of 21 November 2019. I just want to take you through some of these passages. And you were asked:

"After the incident happened, 'Shots fired' being called, how did the community - then sort of what happened?" And you say, "So, I was around with the big lady banging on the fence."

And if we can just scroll down a little, we can see the in the next paragraph:

"You were thinking, 'shut up' et cetera, and you heard 'bang, bang, bang' like they're doing it everywhere, they're banging all over the place trying to get his attention."

Does that suggest to you, when you said, "They get his attention", as in get the person who was inside the house's attention?---Yes, as I said, that all happened a lot quicker than what is sort of written there. It was all sort of very instant and the thought of that going on all happened at the one time, if that makes sense.

It does, yes?---Yep.

And then you say in the last four lines, "Shots fired and at that moment, I'm still running towards my car, ripped the shotty off the back seat and then – um – ran over to that house. There's just people and dogs just swamping us." Now, the next paragraph – just before you go on, the people swamping you at that point in time were mainly women and children?---I don't think I saw any children. I didn't really pay too much attention. My main focus was the people closest to me.

Yes?---And like what – the person that I would represent as the most threat to me

would be the person closest to me, so my focus would be on that person. And then, obviously, is they're no threats, then the next. But the people around me that I saw were mostly women.

Okay, then - - -?---I think from the best of my memory.

Can we just scroll down a little further?

Now, you were asked, "I know, I know, it was all going down. Happened pretty quick, do you sort of recall how many people at this stage were sort of getting around youse?" Answer, "I only was concerned about people that were in our immediate vicinity or within like spear-throwing distance"?---Yes.

Have you been speared?---No, I've not been speared.

Are you aware of any police officer who's been speared?---No, I don't know any person that has been speared, or that have told me that anyway.

Did you use a spear at all in the near vicinity?---No.

Why was it that you had a fear of being speared?---Used the terminology of spear-throwing distance as like that's the most - what I would perceive as the most threat at that stage, that sort of distance. I'm not saying that there's spears and they're going to throw spears at me, but that sort of distance is the sort of distance I'm - I guess I'm referring to. I guess a most likely weapon in a community would be something like a traditional weapon, being a spear or something like that.

I was just curious, we're talking about something within a few minutes of the event happening and you were worried about getting speared?---Not so much worried about getting speared, as I said, that distance.

All right. If we just continue on then. Onto the next page, please, "But they were generally young females with their mobile phones out. They weren't overly - they were yelling and aggressively yelling out - - -?---Yes.

- - - that we didn't have respect. There was probably more dogs there attacking poor old Adam Eberl than - ah - there was people. But, yeah, we were in the process of not being murdered ourselves." Two things out of that paragraph. The first is, the young females were holding their mobile phones and recording you?---Yes, there was a lot of people just running all towards all of us.

So, if they're holding up their mobile phones, did you see anybody holding their mobile phone up and some sort of weapon?---Not that I recall.

The second thing is they are saying to you, you didn't have respect. Can you remember the words they were actually using?---That is the exact words that - that I remember.

Well it wouldn't be "We didn't have respect"?---"You don't have respect."

Okay. When you reflect on that, do you think you were acting respectfully?---At that point in time, my – my focus wasn't being sensitive or anything like that. My focus was what's happening. Someone's been shot and injured. My focus changed from that to we need to get some help for this young man.

The next line, "There was people – yeah we were in the process of not being murdered ourselves." Now you used that word "murdered." Did you expect you were going to be murdered?---No I don't think so. We – we were leaving that area for our own safety and concern. I don't think that I was going to be murdered, and so leave there.

But does the word "murdered" mean anything other than killed? I should say there's probably another component to that, but for the purposes, it includes a component of killing. Not just injuring, killing, doesn't it?---Yes. Yes it can mean, you know, just being attacked and injured and all that.

Now, do you understand that when members of the community, and the women who had their phone up, taking pictures of you, and making the point, that from their perspective, that you weren't showing respect. Do you think, on reflection, that saying that you thought you were going to be murdered by them is offensive to them?---I can see that, yes.

Now was there any previous knowledge that you had that led you to believe that you were in danger? Or you're relying upon everything – just what was happening there and then?---Just what was happening in the immediate vicinity around me.

All right. Now shortly afterwards, you came back to the station. Do you recollect Derek Williams and Warren Williams attending at the station at all?---No I do not.

You did your best to assist in the care of Kumanjayi, as you've described?---Yes.

Can we just quickly go through to page 45 to 48. Your Honour, I realise I've run a little over time, I apologise, but I will just be a few more minutes.

And just go down – so – sorry, that's good.

So you say, there's – the person asks you questions about the people outside. And you – you say, you thought they were going to start jumping the fence, and that they might smash into the station, and so on. What was your foundation for believing that the people outside would start jumping the fence or smash into the station?---I'm just sort of relaying what my concerns of what the safety possibilities could be. I don't know if that was actually a concern that they – that is what is going on and all that. But the front of the police station is glass. Quite easily smashed. The fence isn't overly high, quite easily jumped. I think I'm just more talking about what – what concerns, and what possibilities there are and that. I'm not saying that

is what is happening, now – they're not jumping the fence, they're not smashing in. But I think I'm more saying this is what my concerns are what it could be.

Yes, precisely. It was your perception of what might happen that was frightening you, not actually what was happening?---Correct.

Because no glass was broken?---I – I don't know.

Nobody jumped the fence, that you know?---Not that I'm aware of.

All right. Now finally, just – did you drive one of the police vehicles out to the airport?---Yes I did.

And did – were you – did anybody hold a briefing before you went?---I do not recall. That was – I think by that stage, everyone was in quite a high stress level, but I'd imagine there would have been some kind of briefing before we all went, because we all went together and drove there. So there would have been something.

Was the role of the ambulance discussed?---I – I never – I don't know.

Did you drive the – your vehicle back through town?---Yes.

Was yours the vehicle that was struck with the rock?---Yeah I – every window smashed but mine.

And how fast were you driving through the town?---I have no idea.

Well, could it be up around 80 to 100 kilometres an hour?---I highly doubt that, I don't think there's a – you could get one of those vehicles up that speed in that street, and that was – that was just as we left the airport, that sort of distance you wouldn't be able to get a Hilux up to that sort of speed.

It was dark?---It was.

A lot of children around?---It was night time, so yes it was dark. There was a lot of people around.

Nothing further, thank you, your Honour. Thank you for the indulgence.

HIS HONOUR: We might just press on a little bit longer, if that's all right.

Any other questions?

MS WILD: Yes, your Honour, I've got some.

HIS HONOUR: Yes, Ms Wild.

MS WILD: Your Honour I wonder if I might move this (inaudible).

HIS HONOUR: Certainly.

XXN BY MS WILD:

MS WILD: Constable Kirstenfeldt, my name's Beth Wild, and I'm a lawyer for NAAJA?---Good morning.

I'll try not to be repetitive, and I'll take you to a few issues if I may. You left the army in 2016?---Correct.

And that was to come back to be with your wife?---Mostly, yes. It was change of lifestyle.

You said in your evidence yesterday, that you unfortunately made the decision to leave the force?---Yes.

And that was because you enjoyed your time there?---Yes I had a lot of friends there, and – as you can imagine, spending a lot of time there, and it's quite an enjoyable part of my life. It was quite a large part of my life, and change is always, I guess, a little frightening.

You've enjoyed moving to the Northern Territory though?---I have.

And the lifestyle here?---Yes.

And you liked working in the IRT?---Yes, I did.

"It's busy", that's what you said - - - ?---It is.

- - - yesterday. And you particular liked the search and rescue aspect of it?---Was my favourite, yep.

Now the IRT is amongst similar section of the police force, to the military, would you agree with that?---I – maybe, I suppose you could make that – that connection to it. But my role in the Northern Territory was a different – my time in the military was a different experience to doing the limited call-outs with IRT.

Okay. How so?---Well I think, most of my – most of the stuff with – that I did with IRT, apparently I did a few call-outs, but I don't recall those, unless some of the search and rescues were IRT call-outs, I'm not sure, but like I didn't do a search and rescue in the military. And that was my main thing that I did in IRT. My deployment to Docker River, to provide support for the cross-border team for firearms stolen, never did anything like that in the military. I didn't provide support for a cross-border team, or anything like that. So it's just a different job to what my time in the military was.

You like being busy?---Yes.

When you're at work. You're active, would you agree with that?---Used to be.

Officer Eberl said, of Constable Rolfe, that his reputation was for being energetic, and he was happy to look for arrest targets. He was proactive and energetic, the same could be said of you, would you agree with that?---Probably not.

Probably not?---I – well if someone says that about me, they say that about me. I wouldn't describe myself as that.

Okay, but the aspect I've been going to is the – that you're happy to look for arrest targets. Would you agree with that?---From the arrest document thing, yeah, that's something that we used to do regularly.

Yes, and you're happy to look for arrest targets?---Yes I'm happy to.

And again, this is a similar aspect of the role in the police force, that had been similar to the work in the military, would you agree with that?---Looking for arrest targets?

Yes?---No. I don't think I ever arrested anyone in the military.

But you've got a specific target, is it – is similar as a goal – would be a goal orientated work that you're – that you can do for the day. Would you agree with that?---I – I'm not really sure how – what you're asking, sorry.

All right, I'll move on?---Is there another way you could ask that may be, perhaps?

I can try, so - - - ?---Sorry.

- - - if you're – you're happy to look for arrest targets, because it's a goal orientated part of the job, is that right?---Yeah, I don't know about goal orientated, but it was – that was something that needed to be done. There wasn't someone – most jobs for the police, what happens is you get assigned a job, and that's that person's job. But the arrest target thing is anybody's – if anybody finds this person, if anybody does this. So yeah, being proactive, while doing your work and you're doing extra things, that's keeping busy.

Okay. So would there be a notification that there was an arrest target – a warrant out for someone's arrest, that would come over coms, and you would go for it. Is that right?---No, no, not over coms. It was a – like, I said, a daily emailed document.

Yes?---That came out, and there was – there was usually a couple of people on there that people were currently looking for, for whatever matters.

So that's something that you would often put your hand up for, is that right?---Not put your hand up for, it was like I said, it was just an emailed document, so you print that out and then as you're going about your business, if you come across one of those

people or you go to that same house where that person lives, or anything like that, then you do that job as well as what – whatever else you're there for.

Okay. I'm going to talk about the callout to Yuendumu?---Mm mm.

When you got the call, you thought you knew what it was for. Was that right?---Yes.

And that's because you had said that you had been looking for that arrest target for a week?---Yes.

And in fact it must have been a shorter amount of days?---It must have been.

Yes. Because it was in relation to the axe incident, which was from 6 November?---I think previously he - - -

(inaudible)?---I think prior to that axe incident, he – he was wanted for his breach of bail. I think that originally was one of the reasons why I had gone to look for him.

Yes?---So not just the axe incident, because I think that happened as a result of that same thing, they went there for that same reason, and I think we had done that as well here in Alice Springs, was while we were at Warlpiri camp, checked that house.

And after you received the call to go out to Yuendumu, you checked with your wife?---Yep.

And she said it was okay, presumably?---Yes.

And you – so you said yes. You were asked if this would mean extra pay or overtime, you thought yes, overtime?---Yes, so I'm not sure if I was rostered on that day, though. I think that question was asked of me.

Yes?---If I was rostered on for, like, an evening shift, I'm not going to get overtime for that evening shift that I'm already rostered on for. That's a bit – you know what I mean?

Yes?---But any hours - - -

So was it extra money on top of (inaudible) - - -?---Any hours – any hours worked, any hours worked before and after that, I would obviously get overtime for.

It wasn't your main motivation for agreeing to attend, was it?---No.

It was to be part of a team?---Yes.

And you had been looking for this particular arrest target prior to this call out?---A couple of times, while we were out that way.

And because of your 15 years in the defence force, you're confident in your skills, particularly?---No. I will let you know if I ever do get confident enough in myself to say I'm a confident person, but I – I wouldn't describe myself as that. If other people do, that's nice, but I – I don't know, I wouldn't say I'm a very overly confident person.

Okay. And in fact you're very humble about your rank, aren't you? You've said several times that everyone is more senior to you?---Yes, I've – I'm just a constable.

But you would have to acknowledge that humbleness put aside, that many of your skills are far superior to other officers that you work with?---Skills that probably don't equate.

To not every aspect of the police force, but certainly in arresting someone?---No, like – you're talking about – you're trying to refer to my time in the defence force, I take it?

Yes?---Yes, I would have said I didn't arrest people in the defence force, so arresting someone is something I've only done in the police.

In training in the IRT – and we've got evidence that that was every five weeks, there was an opportunity for training?---Correct.

And you participated in that?---Most of the ones, yes.

And in some of those, you shared your skills. Is that right?---No, I don't think so.

Well, in particular, the close combat drill training, I think it's called, you've mentioned in your statement that that was one of the – that was training that you're familiar with, that you're able to pass on to your fellow IRT members. Is that right?---It's – yeah, it's – it's training I'm familiar with.

Yes?---I didn't run them through any training of it. The way they – the way that it was taught to us was different to the way that I had been taught. It's one of those – one of those skills that – it's one of those things that changes every year depending on who is instructing it. The way it happens gets better or different depending on – it's a – it's a tactic of moving through buildings, what's the best way to do it, and there's several different ways to do it.

It's also training in how to have a close combat, so physical contact with weapons, is it not?---It's – it's probably poorly named. It's the CQB, is what I know it as.

Yes?---Is moving through an urban setting or buildings and that, like, how you move as a team and a group.

And that's training that you did with the IRT?---Yes.

Right. And that was different from the equivalent training that you've received in the defence force?---I didn't – I didn't do the urban package for the defence force. I don't – my job wasn't that.

Okay. So who conducted the training in the IRT, the close combat?---Lee Bauwens. We did that on the – at the actual course, I think it was two weeks, we did that.

That was a two week course?---It was two - - -

Or two sessions?---No, a two – two week course to get – was it two weeks or one week? I can't remember – that we conducted our training for – to be in IRT.

All right?---And that was one of the components of it, was the seeking – the moving through open terrain, is probably what it should be named. That sounds a little bit less combative.

Okay. You've used a number of military words in your evidence in the trial and the committal in relevant statements, and I will just read out a couple of those "force multiplier" is one. What do you mean by that?---As in like however many people are in an area, you put more people there, you've multiplied what force is there.

Right. So to give support to an existing team, is that right?---Yep, yes.

Right. So you – so when you say "force multiplier of the IRT were being deployed to give support to Yuendumu station" is that right?---That was my understanding after – once we got there, that that was to occur as well.

The – and recon meaning reconnaissance?---Correct.

Information gathering?---Correct.

And rollout, I think you've used to mean leaving the station?---Yes.

Now, they're military words, would you agree with that?---Saying recon like that definitely is.

Yes?---I don't know about the others, if they're a military word, perhaps they are. Like I said, I spent a long time in the military, so maybe some terminology and speech I use is – is exactly that, without me even knowing.

Yes. Now, you've said to Mr Boe that there was no counselling upon leaving the defence force. Is that right?---Correct.

And there was no specific training that you underwent in the six month training for the Northern Territory Police that focused on the difference on the use of force in the military and in policing. Is that right?---I – that's correct, as – yeah, that's sort of a - - -

That was a long sentence?---Yeah, no, I just find it a strange question, like, there's no – there's no training in the police force to teach people that worked at Bunnings how to not stack shelves when they get here either, but - - -

Yes?---I just - - -

Yes, that's right. But the very – the point that I make is that there's a difference between the use of force in the military and in policing. Do you agree with that proposition?---Yes, I understand that, yes.

Yes. And there's no specific course for people – ex-militia joining the police force that would explain the difference in practice in use of force?---No, no, there isn't, yeah. I like the way you worded it then, that was much – much easier, sorry for misunderstanding there.

The – now, we are looking to learn from this experience, and in Tasmania Police – it's the only jurisdiction that have it, but they do have a course which is focused specifically on the difference between the use of force in a police context as opposed to the military environment?---True?

For new recruits?---That's good.

Do you think that you would have benefitted from such training?---I don't know, I haven't done the training, but that sounds good if that's a concern that people have, but it seems like two completely different jobs to me. It's two completely different aspects. I understand that I'm not - it's a different - different thing altogether, it's all different to me, so, being a police officer isn't the same as being in the defence force.

Yes?---The way I conduct myself in the rules and - that are different, so I don't - for myself personally I don't - I don't - yeah, I don't - I don't see that I'd need that. However, I can see that that might be beneficial as a - - -

Okay, well, then can you explain to us the difference in the use of force in the policing versus the military context?---That would - that would be entirely based on what the mission of the defence force was.

Okay. You agree it's very important to appreciate the very different approach of the military versus the police force?---Correct.

I now want to talk about community policing very briefly?---Mm mm.

Prior to the arrest of Kumanjaya Walker, prior to leaving the station, you didn't enquire as to whether you could consult with the local Aboriginal community police officer, Derek Williams, did you?---No, I did not.

Why not?---I don't know. It's not something that came to my mind.

Do you agree that he may have been a very useful resource in obtaining a peaceful arrest?---Very much so.

And in fact you do acknowledge the use that ACPO Williams could have been to you back at the station after the death of Kumanjaya Walker?---Yes. I didn't know that he'd attended the station after that.

Okay. In your body-worn statement - in your body-worn video sorry, and we've got a transcript of that, and this is after Kumanjaya has passed away and you're looking at - you're looking at leaving the police station and you state that "Maybe Derek could speak to the community saying that we're taking him to the hospital" meaning Kumanjaya Walker. Do you remember saying that?---No, I do not.

And indeed so you do acknowledge that he, in fact, he'd be an excellent resource in communicating with members of the community?---Definitely. I knew Derek from Alice Springs and I knew that he was from Yuendumu.

But you only seek to engage him at that point - and that's to assist you in deceiving the community, with a view to sustaining the calm so that you can leave the station. Do you agree with that?---It appears so, I don't recall this conversation or anything.

Thank you.

I have got no further questions, your Honour?---Yes. Thank you.

THE CORONER: I note the time. It is quarter to 1:00. I am trying to get through this witness. Mr Zichy-Woinarski, do you have any questions?

MR MCMAHON AC SC: Your Honour, I have a few questions.

THE CORONER: How many do you have, Mr McMahon?

MR MCMAHON: I can - if I am allowed to speak quickly, less than five minutes.

THE CORONER: Okay, let's do that.

XXN BY MR MCMAHON:

MR MCMAHON: All right, thank you.

THE CORONER: Sorry, we are getting the live stream back up I think. We're good.

MR MCMAHON: So, Constable, you heard that, we will try and go through this quickly. My name is McMahon, I act for the Parumpurru Committee of Yuendumu, which is a justice committee and we have big issues. None of my questions are critical of you but you have served in the military more than probably anyone else who turns up on this brief and I am going to ask you some questions about language. You've been asked a few - I have got a few more, and just so you

understand the context, the whole question of the militarisation of the police force in the Northern Territory is an issue that the people in this room are considering. Do you understand?---Okay.

Okay, so I am looking at the similarity of language between police and military, in particular infantry which you have a lot of experience with?---Okay.

I am going to ask about a few words and you just comment as quickly as you can for the purposes of what we are doing. Do you agree that talking about patrolling an area is military language?---No, that's more police.

Okay, "Patrol groups" - military language?---Police.

You don't have patrols in infantry?---You don't have patrol groups.

All right, do you have patrols in the infantry in the Australian Army?---You have patrol - in that term isn't a group of people, it's an act, I think you do - you walk to an area, being a patrol.

Yes. You talked yesterday about a "snatch and grab" of a target. That's not military term - or is it?---I think it's both military and police.

It's certainly specialist military term but not standard, would you agree with that? ---Correct.

"Clearing a house"?---Both. I've heard that in both.

Definitely a military term though?---Yes.

You spoke today about a "target" being a "combatant" when you were asked questions by another barrister?---Yes.

And a "target" in military term is either a person or a thing to be killed or destroyed? ---It can also be an area.

Yes, all right, so it's a military term. "Operational readiness"? Military term?---Yes, I've heard that both in police and military.

When people talk about "cam gear" as in camouflage gear - military term?---No, I'd say that's a civilian term.

What would you use in the military for camouflage gear?---Uniform.

What about when you paint up you face - "cam paint"?---I don't know, I don't - could - - -

Have you ever done that - use camouflage paint on your face?---As a standard procedure, yes.

It's called "camouflage paint" isn't it?---It is, it is called "camouflage paint" on the (inaudible) but - - -

Well, (inaudible) the IRT doing a green training, you know what I mean by that?---Yes.

We've heard some evidence there was a week of green training, a week of black training?---Yes.

Do you know what I'm talking about there?---Yep, yep, I recall that now.

And the green training is essentially (inaudible) style training isn't it, where you're moving towards a target through the bush, cover (inaudible) is that correct? ---I wouldn't say that's more infantry style work but it was just showing - just showing how to move in - like how to wear a camouflage uniform and walk in the bush.

Walk, is also crawl in the bush, consider approach to a target?---I don't know if we did that. I can't remember. I think we did, yes, because I remember getting saltbush all through me.

You've used the term, "Extraction" - military term?---Yes.

You used it in the context of leaving Yuendumu?---Yes, well then definitely.

Because you felt there was a situation where it may be necessary for the police in Yuendumu to leave in a hurry because of some pressures that they felt and that would be an extraction?---Yes.

That's the context used - and that's a military term, correct?---Yes, I've heard it in both.

Yes, you used the term "mission" quite a lot - a military term, to go on a mission? ---Yeah, I suppose you could use that - you could say that's more a military term than anything else.

It's a very military term isn't it?---It - yes.

"Gentlemen, the mission today is to do the following." Standard stuff isn't it?---Yes, it's like a - whatever the goal orientation is.

You were asked about the term, "force multiplier" - "force multiplier" is a very military term isn't it?---I think so, yes.

It means to increase your combat potential of a unit?---Increase the numbers, yes, or the potential.

Combat the potential and the effectiveness for carrying out a mission. That's what it means?---Pretty much, yes.

Do you agree that on 9 November 2019 when you left Yuendumu station on a mission to find and arrest Mr Walker, do you agree that the way that the IRT conducted itself, namely as a group, I will say "patrolling". Would you agree that you were patrolling the area around 577 and the houses there when you moving in on 577?---No.

You don't - you wouldn't use the word "patrolling" for that?---No.

What word would you use?---We drove up to the house.

Yes, but when you got out of the cars, you're moving around the house, people are moving in different positions, you've got the bloke with the dog in one spot, you've got police officers beginning to encircle the house watching different exit points, what do you call that?---A cordon.

A cordon. Just - - -?---It sounds - that sounds like a cordon.

You don't agree that - all right - okay. When you were doing that and moving around the house in the way that you were, one of you had open carry of a military style rifle, AR-15?---Okay.

That's correct? Do you agree that the way that the IRT conducted itself at that time, moving towards the house and then later with 511 the same idea, coming over the fences, surrounding the house, spotting the exits, open carried military weapon. Do you agree that that - the whole set of movements have the look of a military operation?---No.

And why not?---They had police uniforms on.

Just because of the uniforms?---No, like that's how we operate in the police like as a whole, the way you've described it isn't how I would have saw that. When I got to 577, I don't think I jumped a fence and surrounded the house. I think I walked up to the front door and knocked. And then at the other place, I spoke with some people and didn't jump their fence. I had no tacit consent to go inside their property, so I didn't.

Did you see other IRT people jump fences?---No, I didn't.

Okay. Well, you can just accept that it happened on video?---I accept that.

If you were a small military unit of four or five people going into a village to clear a house looking for a target, would you have moved in a similar fashion?---No.

If it was a non-hostile village?---No.

All right. I'm not going to go into your military tactics, we'll just leave it there.

Thank you, your Honour.

DR DWYER: Your Honour, I understand Mr Suttner has some questions.

THE CORONER: Thank you. All right, Mr Suttner - thanks, Dr Dwyer, for reminding me that Mr Suttner is here on the phone.

Yes. Mr Suttner.

MR SUTTNER: Thank you, your Honour. I know we're getting close to lunchtime and I think you've seen from what goes on before that I will be relatively brief.

THE CORONER: Thank you.

XXN BY MR SUTTNER:

MR SUTTNER: Constable Kirstenfeldt - - -?---Hello.

- - - my name is John Suttner and I represent Sergeant Bauwens. I'm sorry you can't see me and I will be brief. Constable, you're aware that Constables Eberl and Hawkings have already testified in the course of this week?---Yes, I am aware.

Yes. I discussed with them the proposition that had been put that there was a culture of racism in the Northern Territory Police Force and particularly in the IRT. What is your experience of the IRT? Was there such a culture of racism from your point of view?---Not that I was aware of.

Yes. It was also suggested that the use of unnecessary force is resorted to when not required. What is your experience of that?---Not that I am aware of.

Yes. Now, I want to dwell a little bit on Sergeant Bauwens. He was the OIC of the IRT. Correct?---Correct.

And Constables Eberl and Hawkings said of him that he was passionate about maintaining the IRT at optimum capabilities. Do you agree with that?---Yes, I agree with that.

And they say he was equally passionate about policing and securing the communities in remote areas. Do you agree with that?---Sorry, what was the last one, securing the communities?

Securing the people in the remote communities?---I'm not sure - - -

Protecting them?---I'm not really sure. I don't have any knowledge of that, sorry. He was very passionate. The first part, I agree with, he was very passionate - - -

Yes?--- - - - as a police officer, but I've not heard him talk of remote communities.

Okay. But you know the IRT regularly did most of its work in remote communities. Is that correct?---Yes.

And can I accept that you never found Sergeant Bauwens to be disrespectful of those communities or the people in them?---No, not in my knowledge or experience.

Would you describe him as an honourable, diligent and professional member of the force?---From me working with him and from what I saw, yes.

Yes. You have been shown the text that has been attributed to him?---Yes.

Do you agree with what Constables Eberl and Hawkings said, and that is that it is totally out of character of the man that you know?---That is extremely out of character. I was quite taken by surprise that it was that person in that text message.

Yes. Have you ever heard a racist utterance or observed racist behaviour from Sergeant Bauwens.

And have you experienced Sergeant Bauwens insulting colleagues in the manner described in earlier examination today?---No, I haven't.

No further questions, your Honour.

THE CORONER: Thank you.

MR EDWARDSON KC: Your Honour, I've got about 20 minutes.

THE CORONER: Okay, we'll do that after lunch then, Mr Edwardson.

ADJOURNED

RESUMED

JAMES KIRSTENFELDT:

HIS HONOUR: Mr Edwardson.

DR DWYER: So sorry, I should have - I think your Honour's prepared to grant leave to Mr Espie, for NAAJA, just to finish off some questions for NAAJA, before Mr Edwardson.

HIS HONOUR: Yes, thank you.

Mr Espie.

XXN BY MR ESPIE:

MR ESPIE: Constable Kirstenfeldt, my name's Espie, I also appear on behalf of NAAJA?---Good afternoon.

And just in light of the answer you gave just before the lunch break, I might just ask you just a few more questions, if that's all right?---Sorry, I don't remember – which one was that?

So you - - - ?---Just refresh my memory please?

HIS HONOUR: Sorry I think – sorry you're asking – what are you asking?---What – what was the questions before lunch?

MR ESPIE: You were asked some questions, on my friend on the phone – sorry, Sutton?---Yes, yes.

In relation to some of the language used by his client, Sergeant Bauwens?---Yes.

You said, as a member of the IRT, you've never heard Sergeant Bauwens, or anyone never experienced racism, from either him, or anyone else - - - ?---No.

- - - in the IRT?---Correct.

You, yourself haven't used any racist language, or racist slurs or behaviours?---I've, probably on occasion used words and terms that are obviously not appropriate, and poor language, but never depicted at any group or race.

What sort of words or slurs do you recall using?---Swear words, that sort of thing, nothing appropriate.

Your Honour, if I could just show the witness.

If you could just have a read of that. Do you recall that text message exchange between yourself and Constable Rolfe?---Sorry, what was the question again? Sorry, I was reading.

Do you recognise that text message exchange as an exchange between yourself and Constable Rolfe?---Yes I see that that's what it is.

All right, and it seems that you were – it's not necessarily something while you're on duty, but you're planning to have some drinks at Monty's, which is a bar in town?---Yes, correct.

And you've used the phrase "What times beers nigger"?---Yes I have.

Do you accept that that's a racist slur, that that's racist language?---That's very inappropriate. I haven't depicted it towards any group of people. I've used it a very poor judgement call, as a – I should have picked a different word. I should have said something different. I – I don't have an excuse for myself as to why that's occurred, other than I should have picked something else, and that does appear to be very inappropriate. But I'm not referring that to any group of people, or race.

No?---And that I've simply used it as a term towards him, that is inappropriate, I can see that.

In perhaps a joking manner, or something of that sort, or slang? Or what do you mean by - - - ?---Joking – joking slang being, yeah.

You've – you've said in your evidence earlier, you worked with – well you've worked with Aboriginal police officers, including Derek Williams, for example?---Yes, he was on my patrol group when I first started.

Would you use that sort of joke or slang towards him, or in front of him?---No I would not.

In front of members of the public, Aboriginal people or other – other people in the community?---No it's not a general term that I use. This is a moment lapse in judgement I'd say, and I've used a poor word that I shouldn't have used.

And you would understand, in this town, in Alice Springs, where you've worked, that's a word that's been used and directed towards Aboriginal people. Are you aware of that?---Yes I am aware of that, that's - - -

(Inaudible) many people?---Yes.

You've explained that perhaps you've used that in a joke, or a light hearted manner, but you accept that - - - ?---Yeah, I can see that that's cause offence. I do apologise. I know that's – my apology doesn't really forgive that, but at the very least I can do is say that I am sorry, and it probably is unforgivable - - -

Right?---But I do – do offer an apology for offending anyone for that.

All right, because that's – that's about a week before the shooting incident that we're here for. Would you agree with that?---Yeah I was just checking the date then, sorry.

Do you understand the context of casual racism?---Yes, yes.

Would – in hindsight, do you accept that any racism, casual or more serious - - - ?---Unacceptable.

- - - particularly someone with the responsibilities and the powers that you have, as an officer, that's simply not acceptable, even in a joking manner?---A 100 percent.

Thank you, nothing further, your Honour.

HIS HONOUR: Mr Edwardson.

MR EDWARDSON: Thank you.

XXN BY MR EDWARDSON:

MR EDWARDSON: Constable, you were asked some questions before lunch, I think by Mr Boe, but I may be – may stand to be corrected. You were asked specifically whether or not you had ever been exposed to a violent reaction by members of the Indigenous community. And I think you said yes, there was an occasion in Alice Springs?---Yes.

Can you just tell us about that please?---There was a lady who was trying to hang herself. She ran off into the bush. She had a power cord, or a rope with her, so there was an actual real threat that that could occur. I went after her. While doing that, there was – just happened to run past the bush where someone was hiding, and he jumped out and attacked me from behind, and ended up on the top of me. I had my body armour on at the time, and I ended up in a wheel rut, sort of trapped, with him on top of me, bashing my head in.

Was he armed?---No.

Was he Indigenous?---Yes.

And what about the woman who attempted to hang herself?---She was also Indigenous. It was outside one of the camps here in town.

And is that the only occasion that you've been the subject of a violent attack by a member of the community? Apart from of course, the incident you've already told us about, after the committal?---No.

Thank you. Now I want to turn if I can, to the issue of the lawyer, and in particular, conversations that arose, or text messages between you and Mr Rolfe, at a time

when you said something to the effect of “Don’t talk, lawyer, lawyer, lawyer”, or something to that effect?---Yep.

And I think you mentioned that the lawyer you were referring to was a lawyer that you had engaged, or that had at least provided some advice to you?---Not – not Rolfe’s lawyer.

No?---No.

Who was the lawyer that told you, for example, that you were to stay home?---That happened after the arrest of Rolfe.

Yes?---That was Ray Murphy, he was representing us.

Ray Murphy, and is that the same lawyer, that at that time I think, was engaged by Mr Rolfe, at the time of his arrest, for the purpose of bail at least?---I don’t – for the purpose of bail, yes. I don’t think that was the lawyer that he engaged, I’m not.

Thank you. I want to turn now, specifically to the events on 9 November 2019. Now you’ve told us, in different ways I think, that you had no idea how the 5 am plan morphed or changed or was abandoned. That’s effectively the evidence that you’ve given?---Yes.

You’ve tried very hard to think back to that particular occasion, and try and reconstruct, if I can put it that way, how there was a change?---Correct.

What I want to do, is to take you through what you did know. You knew that the mission was to arrest Kumanjayi Walker?---Yes.

And you knew that in Alice Springs?---Yes.

Before you came to Yuendumu?---Correct.

And you knew that from Sergeant McCormack?---Yes.

Because that’s specifically what he told you the mission was all about?---I – I believe so, yes.

It was Alice Springs I think, you watched a video of what I’ll call the axe incident, which occurred on 6 November, three days before?---Correct.

And in addition to that, you, yourself, accessed it was PROMIS or emails, things of that nature, to gather more intelligence about Kumanjayi Walker?---Yes, the PROMIS system, check any updated alerts, and obtain a picture of him.

When you say “Obtain a picture from him”, you told us how you took a photograph?---Yes.

You took a photograph of the screen, or of that screen dump I think it was?---Or a screen shot, one of them, I don't remember which one it was, but I wasn't sure that we'd have reception out at Yuendumu, enough for the PROMIS system to work on the phone to get photos up.

And you wanted a photograph in case you needed to identify him, once you moved into the community?---Correct.

When you say you looked at PROMIS, did you also look at his past criminal history?---I don't think so.

You had never dealt with Kumanjayi Walker before?---Not to my knowledge.

But you certainly read the alerts that related to him?---Yes.

And you knew also, there was a warrant out for his arrest?---Yes.

And you knew also, that he was to be apprehended to be charged, in relation to the axe incident offending?---Correct.

Involving those two officers, Smith and Hand?---Correct.

And you knew all of that when you left the Alice Springs Police Station, before you got to Yuendumu?---Yes.

You knew, when you got to Yuendumu, that Sergeant Frost was the officer in charge of that police station?---Yes.

So in effect, she was your superior?---Correct.

And the superior of all other members of the IRT, and also dog handler, Mr Donaldson?---Yes.

You've told us that she was with you at all times?---Yes.

Although there was an occasion where you were not present, because you left or moved somewhere?---If I went out to make a phone call, to call Mr Donaldson. I think I walked away from them at that stage. Also to let the other – let the other guys into the station, Eberl and Hawkings when they arrived and that. Like I've walked away to do that.

Right, so there were two separate occasions where, for example, Zachary Rolfe was in the presence of Sergeant Frost, and you'd moved away from those two?---At least that many, yes.

But apart from those two that you can remember, you were basically with her?---As far as I can remember, yes.

Now you've told us that your best recollection is that at no time were you handed, or was your attention directed to, what I'll call the Email Arrest Plan, you understand what I mean by that?---I do.

But you tell us that she did give you a document, and that document was a map of some sort?---Yes, I remember seeing a map and – and the other – the other email.

Right, and the map, was that a map of Yuendumu?---Yes.

And did it show the location, for example, of House 577 or any other house within that community?---It showed all – all the houses of the community.

All right. The next thing that you knew, and you knew, and must have known, from the conversation you had from Sergeant Frost, was that House 577 was where the axe incident occurred?---Yes.

And so that was the last known place that Kumanjaya Walker had been sighted by police?---Yes.

And so, it would follow, would it not, that that's the most obvious first point of enquiry?---Yes I think that's why we went there.

Because what you can say, as I understand it, is that when you left – when you were deployed by Sergeant Frost, and the other members of the IRT, at about 7.05 on 9 November, you didn't know where Kumanjaya Walker was?---No.

And you certainly were not told that you weren't to be deployed into the community until 11 am - 11 pm, sorry?---No. No, we were not told that.

There was no conversation about 11 pm?---No.

It was certainly anticipated and expected that you would leave at 7:05 when you did? ---Yes.

And certainly Sergeant Frost knew that that's what you were doing - you and the other members of the IRT?---Yes.

There was another house that was identified or named or marked, which was 511? ---Yes.

You've mentioned, I think, in passing - intelligence gathering?---Yes.

What does that mean to you?---Gathering any intelligence sort of defines itself by saying it backwards I guess a little, but any information I can find out about anything that I need that I don't already have, I consider to be intelligence.

Thank you. I will come back to that specifically in the context of this case in a minute, but we know, as you have just told us, when you left at 7:05 you didn't know where Kumanjaya Walker was?---Correct.

And so plainly when you left the police station you could not have waited and arrested him at 5 am because you had no idea where he was going to be at 5 am the following morning?---Correct.

Because you didn't know and because the mission was to arrest him, it was certainly your understanding, was it not, that when you left you were to try and intelligence gather, to identify where he might be?---Yes.

And I think it's common ground that Julie Frost - and it was put to you specifically by counsel assisting - that Julie Frost had told you an the collective group, "If you come across him - arrest him"?---Correct.

So when you left we know that you went to the last known place that he had been seen - House 711 -511, sorry?---577.

577 - my apologies. An you knew that you had been told, "If you come across him, arrest him"?---Yes.

Now what you haven't been asked is this - and I want to ask you - when you got to 577 you drove there, didn't you?---I did, yes.

Zachary Rolfe was in your car?---Yes.

And the others followed, or were they in front?---I don't know.

As it happens, all four members of the IRT that had been deployed on this mission by Sergeant Frost, together with the dog handler, all moved initially to House 577? ---Yes.

The last known place where Kumanjaya Walker had been seen?---Correct.

And then when you got there, enquiries were made, were they not?---Yes.

And you specifically spoke to somebody at that house didn't you?---Yes, a young boy. I went to knock on the front door and there was a little window to the left and he poked his head out the window. He had a little - one of the super hero mask on I think from memory and I asked him if he knew where Kumanjaya Walker was.

And what did he say?---I think he said "No" and I asked if he stayed there. I don't know if that was then or of that was when I went inside but I did ask him at some stage if he stopped there - or stayed there and he said, "Yes".

And you went into the house, didn't you, with Zachary Rolfe?---I did, yes.

And you went into the house to make sure that Kumanjaya Walker was not there?
---Correct.

When you left that house did somebody tell you about Kumanjaya Walker having been there only minutes before?---Yes.

Who was that?---I don't know the gentleman's name. He was out the side of the house.

Yes?---Raking - raking the dirt and rubbish and that and tidying the place up and I think he was hosing a garden as well. He provided that information for us.

When you say "He provided that information, can you as best you can, tell us to whom did he provide that information?---I think Rolfe and myself.

And how did that come about? Did you or Rolfe or both of you ask him if he knew where Kumanjaya Walker was?---I don't recall which one asked or who asked.

Certainly the request was made of him in any event?---The request was made of him, yes, I don't - - -

But either one?---Yes.

And I assume you told him that you were looking for Kumanjaya Walker?---I think so.

And he told you, in effect, that you'd missed him only minutes before?---Yes, I think three minutes he said.

Now, you know didn't you, because of the axe incident, that Kumanjaya Walker was likely to decamp if he knew police were present?---Yes

And so once you were in the community - and you know this from your own police experience I assume, once you and the other police officers are in the community and you've disclosed the fact that you're looking for Kumanjaya Walker, it's going to get around the traps fairly quickly, isn't it?---Yes.

So there was an element of urgency, wasn't there in the circumstances that presented themselves to you on this occasion because you'd identified the fact that you're police officers, you're looking for Kumanjaya Walker and you've been told he'd only left three minutes before?---With the information I had, yes.

Right. Did that person, that male that you spoke to, say anything about Rakeisha, his girlfriend?---I don't recall.

In any event, he identified where he thought they were going to - or where they would be?---Yes.

Do you remember what he said?---I don't remember his exact words. He - he said that they'd gone to either - I don't know if he pointed to a map or if he told us the house numbers, it was possibly 511 or 518 I think is the other one.

And so, armed with that intelligence or information that you had got, all of you then move to the vicinity of 511?---Correct.

And we know that ultimately Constable Eberl and Rolfe entered 511 which is where this tragic shooting event occurred?---Correct.

With you outside?---Yes.

And you were in a cordon position consistent with your training?---Yes, I stayed out - I think it was 518, I was out - out the side of that house, near the car, checking on the - that entrance to the house, the dog handler was on what would have been my left looking at it all, out in between the houses and the bush.

Now, whilst as it happens in this case, four of the five were members of the IRT, this was a general duties deployment wasn't it?---Well, I thought we were deployed as the IRT to go and arrest Walker initially, once we got to Yuendumu it appeared that we were wanted to do general duties policing in the community as well.

All right. Let me ask you this. Leaving aside that potentially he was a high-risk or a higher risk target because of the events which had happened on the 6th, was there anything unique about going into the community and trying to identify where a particular offender is and apprehend him?---I don't think there was, no.

In other words, there must have been other occasions where you have identified somebody on the list that you look at before you start your shift and then you decide you are going to go out, usually sometimes with others, and you go about trying to find out where they are?---Yes.

And the most obvious way of doing that police 101, is you go to the house that you know is somehow connected to them?---Correct.

And you make enquiries?---Yes.

And I think you actually did exactly that in relation to the Warlpiri camp on the 7th? ---Yes.

But on that occasion, of course, it didn't arrive in you identifying where he was, or anything of that nature?---No, I don't think there was anyone home.

All right. Now, you've been asked to reflect - and you were asked, you know, how things could be different and how things might have been different and you said, amongst other things, that better communication would be ideal?---Definitely.

You talk about a team leader being nominated because there was no team leader on this occasion, was there?---Nothing officially nominated.

No, there was no risk assessment done?---No.

Of course all of these things are with the benefit of hindsight?---Yes.

At the time that you went about your business together with the other members of the IRT, was there anything that you did which was not consistent with the way in which you would normally conduct your day to day policing when you're looking to identify an offender and apprehend them?---I don't think so. I don't feel that there was.

When you left the Yuendumu Police Station at 7:05 together with the other members you had a clear understanding, as I understand your evidence, at the specific direction of Sergeant Frost that if you were to come upon Kumanjayi Walker, you were to arrest him there and then and bring him back to the police station?---Take him to Alice Springs.

Alice Springs, I'm sorry. Regardless of the time or location?---Yes.

Thank you. Nothing further thank you, your Honour.

THE CORONER: Mr Gnech - sorry, Mr Read. Come up to the Bar table.

MR READ SC: Yes.

XXN BY MR READ:

MR READ: You can see from the video when you were at the station, you pick up a shotgun to walk out. Is that right?---Yes, sir.

Yes. And I think you can also see Senior Constable Hawkings pick up his rifle. Is that right?---Correct.

Sergeant Frost was still at the police station when you left?---Yes.

Was she in the area?---Yes.

Did she say anything to you, look guys, you just need to be going out to do intelligence. You're not going to need your long rifles?---No.

No. Did she saying anything like, I just want you to start at 11 o'clock at night, there's no rush to get out there. Did she say anything like that?---No.

No. The dog handler – the dog itself is not used for gathering intelligence, is it?---No.

It's used for either tracking or helping to apprehend, is that right, or searching?---Yes.

Yes. But a dog handler is also trained in general duties' procedures and operations?---Correct.

Was anything said to Mr Donaldson, you can leave your dog back at the police station, because you're just going out to, you know, find intelligence?---No, I don't think there was anything said. I don't know if they have dog facilities there.

Yes, okay. Would normally the dog handler keep his dog?---Normally he does, yes. Like, even if they attend another job with us, the cars they've got are airconditioned inside for the dog.

And the dog stays in?---The dog stays there.

And the dog's perfectly happy?---And the GDs, - the GDs, sorry, the dog handler would then come and help us.

Yes, but nothing was said to him that there was no need to deploy your dog until perhaps 5 o'clock the next morning?---Not that I'm aware of.

Okay?---Not that I'm aware of.

No.

Thank you.

THE CORONER: I think it's your turn, Mr Gnech.

MR GNECH: Thank you, your Honour. I don't have any questions.

THE CORONER: Thank you. Dr Dwyer?

DR DWYER: Nothing arising. Thank you, your Honour.

THE CORONER: Officer Kirstenfeldt, thank you for coming and giving your evidence. I know it's been longer than you expected and I again apologise for the fact that it's gone overnight?---No, no.

But that completes your evidence and you're free to go. Thank you for coming?---Thank you, your Honour. Thank you, everyone.

WITNESS WITHDREW

MR COLERIDGE: Your Honour, the next witness is Adam Donaldson, Sergeant Adam Donaldson. And I call Sergeant Adam Donaldson. He's just being brought in.

THE CORONER: Thank you.

MR FRECKELTON AO KC: Your Honour, are we first to deal with the non-publication order issue?

THE CORONER: I think I might – I think there are going to be some further submissions, so I'm going to extend my – the order that I've made at the moment until further order of the court and we'll find another time to finalise the submissions.

MR FRECKELTON: As your Honour pleases.

MR GNECH: Your Honour, if I could just address you on that. I intended to seek leave to be excused at the conclusion of my client's evidence. In light of that, pending any further submissions, perhaps if I could seek leave of the court to appear in regards to the non-publication application.

THE CORONER: Yes. When do you propose to leave our jurisdiction?

MR GNECH: My flight's not until 1 o'clock tomorrow.

THE CORONER: All right, well stay in contact with counsel assisting and we'll see if we can deal with it before then. The only reason I'm not dealing with it now is that we have quite a tight witness list and it is very inconvenient for witnesses to anticipate being called and make travel arrangements and the like.

MR GNECH: I appreciate that, your Honour.

THE CORONER: So, I'll try and deal with it while you're here, but we'll just see how we go.

MR COLERIDGE: Your Honour, just to ease Mr Gnech's mind, I'm told that the estimate for a set of written submissions from those who will oppose the application is about 8 pm tonight.

THE CORONER: Right.

MR COLERIDGE: So, we'll certainly have them in by tomorrow. And then, I'm not sure if it was proposed that it be dealt with on the papers or that there be brief submissions, but it certainly sounds like something we could deal with before Mr Gnech leaves the jurisdiction.

THE CORONER: All right, well hopefully we can.

Yes, officer, take a seat. Thank you for coming.

ADAM DONALDSON, affirmed:

THE CORONER: Thank you.

XN BY MR COLERIDGE:

MR COLERIDGE: Sergeant, can I please – may I ask you to restate your full name for the record?---Yep, Adam Donaldson.

And your current rank and station?---I'm a detective sergeant at the Alice Springs Police Station.

All right. Now, you have either provided formal interviews or given evidence on a number of occasions. That's right?---Yes, I have.

All right.

THE CORONER: Thank you.

MR COLERIDGE: I'll just identify them for the record. You were interviewed at about 3 o'clock in the morning on 10 November 2019?---Yes, I was.

Your Honour, that's 7-29 for the record.

That was in fact at the Yuendumu Police Station. Is that right?---It was.

Your second recorded statement was on 21 November 2019?---Yes, it was.

That's 7-30, your Honour.

You gave evidence at the committal at Zachary Rolfe's trial - - -?---Yes, I did.

- - - in those criminal proceedings.

It's 7-30A, your Honour.

And you ultimately gave evidence at trial on 15 February 2022?---Yes, I did.

That's 7-30B. Suffice to say, Sergeant Donaldson, you have been through the events of 9 November time and time again?---Yes.

And I would suggest to you that you've set out your recollection of those events clearly?---Yes.

In documents – or in accounts that you gave as early as 10 November 2019?---Yes.

I don't intend to rehearse the entirety of your evidence, and so don't think that it's because the evidence that you have given isn't significant, if there are parts of your evidence that I overlook, okay?---Yes.

All right. I want to ask you some questions about the type of work you do. Can you

tell her Honour whether you have any specialist training?---Yes, so I was a dog handler for about four years, doing both drug detention and general purpose dog.

I won't ask you any questions about drug detection, but can you give her Honour a sense of the types of police issues that you would deploy a general duties dog with?---Yeah, so the primary use of patrol dogs is searching, tracking people, searching areas, search and rescue. They're also used for building and area searches. They're used to locate hidden items and articles in areas. They're also used for apprehending offenders and that's about it.

Can I ask you some questions specifically about apprehending offenders?---Yes.

Why does the Northern Territory Police Force use dogs in the apprehension of offenders?---So, patrol dogs are another option for less than lethal force when trying to apprehend someone. In particular, someone that may be violent or that may be armed, it reduces the risk to police and to the public.

Now, to some, that might seem counterintuitive because these dogs are frightening. Would you agree?---Yeah, they can look frightening, yes.

But in what ways do you say that the use of these dogs - - -

THE CORONER: What kind of dog is it?---It was a German Shepherd, ma'am.

MR COLERIDGE: In what ways do you say that the use of these dogs reduces the risk of harm?---A lot of the time, and over the time I was doing it, the mere presence of a dog often brings about peaceful solutions – or peaceful resolutions to jobs or incidences in which other circumstances, a higher level of force might need to be used. I found that merely sometimes me just being there resolved the situation without any need to use force whatsoever.

Was that a part of using presence as a tactical rule, is that part of your specialist training as a dog unit operator?---Yeah, yeah, and there's different forms of presence. I can just arrive somewhere or I can have a dog just sitting next to me in a relaxed state, or I could have a dog bark; all of those things. But just merely the presence of the dog is definitely a tool that we use.

And when you say you can have the dog bark, you'd give a command and the dog would bark?---Yes, you can give a command and make the dog bark when you want the dog to bark.

I take it that you were a general duties police officer before you were a dog unit officer?---Quite a while ago, I was a general duties police officer. The I went as a detective and then I went to the dog squad after that.

All right.

THE CORONER: Do they bark if you don't give a command?---They can, ma'am,

but then we make them be quiet, because it can be difficult to communicate with the dogs barking if you're trying to have a conversation.

Do you have a sense of how frequently, when you deploy with the dog, you simply use presence as a tactical tool and how frequently you actually let the dog off the leash?---Yes, sir, so over that time, I would say that I would take the dog out of the car over that time, hundreds of time the dog would have come out. Presence would be 90 percent of that. And half the time the dog doesn't even get out of the car. A lot of it is me being, yeah, so, yeah.

But I take it, that there are occasions where you do let the dog off?---Yes, if the circumstances require it, yes.

What is the dog trained to do in those circumstances?---In which particular circumstance?

Let's cut to the chase?---Yeah.

You have an offender who fleeing police on foot?---Yep.

And is faster than the police?---Mm mm.

What is the dog trained to do, when you let the dog off the lead?---Okay, so if someone is – if I'm justified in deploying the dog, in the circumstances as surrounding it, I can give that dog a command, and that dog will be sent to apprehend the person, and hold them there until such time as I get there, or another police officer gets there.

At – what physically does apprehension involve?---It involves using a bite, to hold someone in position until I get there.

Do you give further commands, once the dog reaches the person?---No. If I've already given the command, the dog is deployed, I've already given the dog that command. If I need – if that person then surrenders, I can call the dog back. The dogs are trained to come back mid-stride – mid-deployment, if required. Otherwise, no, I've given that dog the command. He knows what he has to do from that point on.

And so the dog bites, and latches on?---Will usually bite an limb, yes, like an arm. Ninety percent of the time it will be an arm.

But I take it, that unless you give the command, the dog is trained not to release?---The dogs will not bite unless we've told them to bite.

Assuming you've given the command to bite, unless you give the command to release, they'll stay on the limb, is that what they're trained to do?---Yeah, and that's – the dog will stay. And it won't repeatedly bite. It's already bitten once. If a dog – we train them to stay on there. We don't want them to come off and make repeated

bites. It just causes more injury. The dog will bite and hold, until such point as we get there. And when it's safe for me to take the dog off, it's safe for the person, it's safe for me, and it's safe for everyone else around, I will take the dog off, as soon as I can.

I want to ask you some questions about deploying with other police officers. I take it, from time to time you might deploy as a dog officer, by yourself?---Yep.

But from time to time, you also deploy with other police officers?---Not in my car, but I – it's very rare that I do things by myself. I'm a support unit, and normally attached to helping general duties carry out their sort of duties.

And in addition to general duties, from time to time, you're deployed with other specialist teams, like the IRT?---Yeah, rarely. I only deployed with the IRT one time previous to this. I didn't usually work with IRT, but I worked with specialist units such as Crime, and anyone who requires my assistance, on a case by case basis.

Can I ask you some questions about when you deploy with other teams of police?---Yes.

Now I take it that when you're deployed together, everyone brings their own different skill sets?---Yes.

In your case, the specialist skill set of the dog unit officer?---Yes it was.

In the IRT's case, a set of specialist skills that they're trained in, correct?---Yes, that's correct.

Now while you all bring different skill sets to the table, if you have a common goal, you work together, correct?---Yes.

And it's essential, in the pursuit of a common goal that you plan, is that correct?---Yes, that's correct.

And in fact, a part of the Dog Operations Unit General Order teaches, at par 22, "The deployment of general-purpose dogs is a collaborate effort between the DOU and the attending members." Is that right?---Yes, that's correct, because I'm the expert in the deployment of the dog. And I usually give guidance to whoever needs my help, as to how that dog can best be deployed.

And some of that guidance involves safety, does it, is that correct?---Absolutely, yes.

For example, at par 48 of the General Order, the General Order indicates that it's your responsibility to convey to the other members of the team, for example, that if they come in between you and the dog, while it's deployed, they should stop still and not make loud noises, and so on and so forth?---Yeah, and we don't – we don't give that brief every time. A lot of the time these things are covered in recruit training

when dealing with dogs, and we'll tell new constables how to act around the dogs when we deploy them.

I suppose what I'm coming at is, that there needs to be a degree of conversation between the Dog Unit Officer, and the other members of the combined team, while deploying together, would you agree?---Yes I would agree.

It makes absolutely no sense for one of you to have one plan, and the other members to have a different plan, does it?---Yeah, none at all.

And it's particularly important, isn't it, given that the Dog Unit and the IRT, at least in 2019, didn't have any formal written MOU between the two units did they?---No they didn't.

So you really relied on ad hoc, and oral planning, is that right?---Yeah, whenever we spoke about a plan, yeah.

I want to come to the events of 9 November now. You received a telephone call from Senior Sergeant Shaun Furniss, is that correct?---Yes I did, yep.

That was around about 12.30 pm?---Yes.

And I think the first record you make of this is in a set of notes, in a police notebook, is that correct?---Yes.

Can you just tell her Honour when you made those notes?---It would have been when I arrived – when I started getting ready for work that day.

Okay, so you probably made those notes contemporaneously?---Yeah, my things were at home, so I pretty much start straight away from my house.

All right. Now I'm not going to show it to you, but if I put it to you that your notes say that you received a call from Shaun Furniss, and you were – received a call from Senior Sergeant Furniss to attend Yuendumu. And then it reads "Arrest target" and "U/E"?---Unlawful entry, that's – I've just abbreviated unlawful entry.

And what you're recall – recording there, is what you understood to be the purpose of your deployment to Yuendumu - - - ?---That's correct.

- - - is that right?---Yes.

Okay. You also said something about this in your first – apologise, second recorded statement, at page nine. You were told, weren't you, that Superintendent Nobbs was getting a team together to go out to Yuendumu?---Yes.

So, the planning, although it was being relayed to you through Senior Sergeant Furniss, was coming from even higher, correct?---That's my belief, yes.

And you understood that Nobbs was involved actively in designing the plan, correct?---Yes.

And your evidence was then, that the purpose was two-fold. “Because of nurses having left the community, nurses had left the community because there had been a lot of break-ins.” You recall that?---Yes, that was one part.

Now you say that property crime is a common reason that the Dog Unit was deployed, correct?---Yes.

And in part, that’s because the Dog Unit is a very effective deterrent?---More so that dogs are – we use dogs to track offenders away from unlawful entries. I might take them that way.

Were you told anything by Senior Sergeant Furniss, as you were called, about doing some patrols in Yuendumu when you arrived with the dog?---I don’t recall. I – sorry could you say that question again?

Were you told whether you would be doing patrols with the dog in Yuendumu?---Not in the conversation with Shaun Furniss, I don’t believe.

That’s something that - - - ?---That would – that was later, yeah.

In any event, the second purpose for your deployment, was the arrest of a violent offender, correct?---Correct.

And you now know him to be Kumanjaya Walker?---That’s correct.

Were you given that name at that time?---No I wasn’t.

I want to read to you some of Senior Sergeant Furniss’ evidence, and ask you whether this was relayed to you. Senior Sergeant Furniss says this, of the briefing he received from Superintendent Nobbs. He’s asked, “Now did he tell you anything about the specific plan for the arrest of Kumanjaya?” And Furniss answered, “It was proposed that it was – that early the next morning, that they would go and arrest him, and that – that was the plan. And that was – that was something that happened regularly, based on my policing experience as well. Where things are certainly a lot less frantic early in the mornings than what they are generally during the evenings. People are generally asleep.” Now, can I ask you two questions about that. The first is, was that relayed to you by Senior Sergeant Furniss, that the arrest was to occur early the next morning?---I don’t believe on my phone call with Sergeant – Senior Sergeant Furniss, that was relayed to me, no.

All right. The second question I wanted to ask you about is this. What he says about arrest early in the morning being consistent with his policing experience, that people are sleepier, and chances of use of force are lower. Is that consistent with your policing experience?---Yeah, at times. It’s also – early in the morning is also –

usually is when people at their home. That's – that's a major one. As the day goes on, people often aren't home. Very early in the morning, people often are.

I want to ask you something else about your conversations with Furniss. And it's this. Furniss says that he was told by Superintendent Nobbs, that there was a funeral on that weekend in Yuendumu. I'm not sure whether he said when it was on, but he certainly was aware that it was on that weekend. Was that relayed to you at that time?---No it wasn't.

What time did you arrive in Yuendumu?---I believe it was around 5 o'clock.

And shortly after 5:00 or at around 5:30 you had a conversation with Julie Frost?
---Yes, I did.

And where did you have the conversation?---in the - inside the Yuendumu Police Station.

I just want to take you to some of your evidence. Your Honour, I am conscious of the time, I am trying to do this quickly and I am aware that I am leading the witness, but I am trying to do it quickly.

THE CORONER: No.

MR COLERIDGE: Now, in your recorded statement on 21 November you said this:

"And when I got there I spoke to Julie - Sergeant Frost. She just gave me a rundown on what had been happening out there. She asked me if I'd seen the footage of Kumanjayi Walker and what had happened previously".

The interviewer says, "Yep". And then you say:

"And she showed me - and then she showed me - she printed off an email for me that I hadn't got because it had been sent while I had started driving out."

"Yes". And you continue:

"It just had a - a basic plan around what they wanted out of us for the next couple of days for the IRT and the dog for the next couple of days."

There are then some questions about the attempted arrest of Kumanjayi Walker on 6 November and the interview continues:

"Thank you. So Sergeant Frost gave you a bit of a rundown about what had been happening in community?---Yup."

"And you got to see - and the nurse, sorry"

This is your answer:

"And what had happened, the nurses had left and that there had been lots of property crimes. They were actually out at school, which had just been broken into, um, and she said the nurses had all left town because they felt unsafe."

"Okay, and so you go to watch the video and she gave you a copy of an email that she had written a bit of a plan?---Yes, think it was the Superintendent, Nobbs.

"Yes, at that point in time what was your understanding of the plan around the arrest?---My understanding was that we were going to - they wanted to do it early the next morning"?---Yes.

Did that accord with your memory today?---Yes, it does.

I want to ask you a couple of questions about that exchange. I might just ask that the witness be shown a copy of - what was Annexure E to the first recorded statutory declaration of Superintendent Nobbs, this is the 4:49 arrest plan. Now, you were shown this document at committal, you were shown this document at trial, but for completeness can I ask that you identify it?---Yes, this is the email that Sergeant Frost handed me when I arrived at Yuendumu Police Station.

And I won't take you to it, but again at trial you will recall you were shown some stills of some CCTV footage of you in the muster room?---Yes, I was.

And you were holding a document?---Yes, I was.

And you couldn't be sure but you thought that was probably the document you now have in your hands?---Yes, that was what I thought.

All right. Now, I just want to ask you some specific questions about the document itself. All right. At committal you explained that your understanding of that order was, "Well, I was to be assisting with the unlawful entries at the nurses quarters to start with and then the following day I would be looking for the arrest target". Do you agree?---Yes.

And that, in effect, is the plan that is set out at the bottom of the second page of the arrest order?---Yep.

And it reads that on Saturday 9 November at 11 pm the IRT are to commence duty and conduct high visibility patrols and respond to callouts?---Yes.

Did you understand it to be your role to participate in those high visibility patrols?---No, I don't think it was.

What did you understand your role to be?---I was - I was just to be prepared to go out overnight, if needed and then for the arrest the next morning.

But certainly you understood that you were to be involved with the IRT the next morning in the arrest?---Yes, I did.

And indeed, you say at committal that there was a general understanding between you and the IRT members that you would operate as a team to affect the arrest at the appropriate time, do you agree?---Yes.

That's what you said?---Yes.

And that's what you look for?---Yes.

Can I ask you a question now about the first page of that document? In bold, there are four lines, towards the top of the page, do you agree?---Yes.

The second page says, "Authorisation Superintendent Nobbs?---Yes.

Now, that is consistent with the evidence you have given earlier that you understood this to be a plan that was designed in tandem by Sergeant Frost and Superintendent Nobbs?---Yes, that's right.

And that the ultimate authorisation or approval was given by Superintendent Nobbs?---Yes.

Now, did you know Julie Frost before you saw her on 9 November?---Yes, we knew each other.

Do you respect her?---Yes.

Irrespective of any respect you had for her permanent at the time - personally - as a more senior officer she was due your respect as a more junior officer would you agree?---Yes, I would.

She gave you a document?---Yes, she did.

She obviously had a reason for giving you the document?---Yes.

And you ensured that you understood it?---Yes.

Because you understood that she wanted you to understand it?---Yes.

Now, it doesn't really matter whether you called that email a plan or an order or a direction or some of Sergeant Frost's ideas about what was to happen on the night, you knew that they were the ideas of the most senior member of the police force in Yuendumu?---At that time, yes.

And so it was important that you understand them?---Yes.

And that you comply with them?---Yes.

So it wouldn't, for example, be satisfactory for you, having been handed the document, to skim read it and not seek to understand it?---Yes, no it wouldn't, no.

Okay and that's not what you did?---No.

You weren't necessarily privy to all of the pros and cons that had gone into developing this plan, were you?---No.

What you did know was that there had been a number of different issues in the community?---Yes.

Including break-ins at the nurses quarters?---Yes.

Had you come to understand by that point in time that there was also a funeral on? ---Yes, I had.

And were you aware that sometimes funerals in remote communities can be associated with, you know, overcrowding and disputes and things like that nature? ---Yes.

And was that on your radar in terms of what might go in?---Yes, it was because I knew there would be more people in town than usual.

You also knew that Kumanjaya Walker was at least loosely, had been identified as a high-risk target?---Yes.

Certainly a target that warranted the deployment of the IRT?---Yes.

And in your committal evidence you gave evidence that the IRT, you understood, usually to be deployed for more significant or violent targets?---Yes, that's correct.

You knew that senior officers had decided that the best way to proceed was at 5 am in the morning?---Yes.

And that's - even if it isn't what you always do, it is a common police tactic, correct? ---To do it in the morning?

Arrest in the morning?---Yes.

And you also knew that those more senior police officers saw there to be a role for Felix Alefaio in that plan, would you agree?---That's what the plan says, yes.

Yes. You left the station at around about 6.18 pm, is that correct?---Yes.

And that was because you - well, you wanted to go see where the nurses quarters were because you weren't familiar with where they were?---Yes, that's correct.

In effect, you wanted to get a sense of the lay of the land?---Yes.

It was getting dark?---Yes, I wanted to know where I needed to go at night if I had to go there.

But in effect you were preparing for what you were going to be doing at 11 pm?
---Yes, or overnight, yes.

Because that was primarily your area of interest through the night?---Well, yes, through the night, yes.

Now, shortly before 7 pm you received a telephone call from Constable Kirstenfeldt?
---Yes.

Now, he said to come back to the Yuendumu Police Station?---Yes.

I think you've indicate that that was a short telephone call?---Yes, it was just to come back.

Your first recorded statement was given on 10 November 2019?---Yes.

At 3 am in the morning?---Yes.

When events were fresh in your memory?---Yes.

And you said - and I quote - that Kirstenfeldt told you that "they" were going out to go out and search for Walker?---Yes.

If that's what you said then do you think that's likely what he said to you?---Likely, yes.

Your understanding at that point in time was that there must have been some change to the plan?---Yes.

Okay. Because you didn't understand the plan to be that you or any other member of the IRT would go out at 7 pm or thereabouts to search for Kumanjayi Walker?---Yeah, no that was not the discussion I had that afternoon or what the email said.

All right. Did it occur to you to ask Kirstenfeldt, have you had a look at this 5 am plan?---No, it didn't.

Okay. In any event, you returned to the station at about 7 pm?---Yep.

And when you return, everyone's in the muster room?---Yes.

Kirstenfeldt?---Yep.

Eberl?---Yep.

Hawkings?---Yep.

Julie Frost?---Yep.

Felix Alefaio?---I believe he was.

Do you remember if Chris Hand was there?---He was there earlier in the night. I don't know if he was there then.

Okay. Where were they physically in the muster room?---It was – in Yuendumu sort of open area in the middle. Everyone was just standing around a desk.

Okay. And I take it that the members of the IRT were gathered around the desk?---They were, yes.

Looking at the desk?---Yes.

Okay. And in your second recorded statement, you say, "Zach was giving a brief on where we were going to go"?---Yes.

Okay. Now, was Julie Frost immediately around the table, or was she standing back?---I can't remember.

You can't remember where she was?---Nope.

You certainly can't remember her actively participating in this conversation?---No.

Okay. As far as you know, she didn't say a word while you were in there for the five or so minutes between 7:00 and 7:06?---Not that I remember.

Okay. Now, during the briefing that Zach Rolfe was now giving, he was telling you about where you were going to go?---Yes.

He was identifying houses?---Yes.

He told you, you were going to start at House 577?---Yes.

And he was referring to documents on the table?---Yes.

Can you recall what those documents were?---I believe it was a map of the Yuendumu community.

Okay. And can you recall what he said?---That just we were going to House 577 and just going to go have a look if Kumanjayi Walker was there.

Okay. You were searching for him?---Yes.

And again, that was a plan that was inconsistent with the plan you had at least read earlier that day?---Yes.

Okay. I want to ask you some questions about chain of command. The police force is a hierarchical organisation?---Yes.

In that sense, much like the military?---Yes.

But also a lot like other professions; doctors, lawyers are in a sense hierarchical?---Yes.

Basically, in a hierarchical organisation with a chain of command, orders are passed down the chain?---Yes.

At the top of the chain, you have your more senior officers, superintendents, commanders and the like?---Correct.

And at the bottom of the chain, you have your junior officers, constables, constables first class?---Yes.

All right. Now a more senior officer can give a more junior officer a command?---Correct.

And provided it's lawful, they follow it?---Yes.

Now, a junior officer can raise with the senior officer a concern that they have about the order?---Yes.

So, that's not prohibited?---No, of course not.

You're allowed to discuss if you have concerns?---Yes.

But unless circumstances are urgent, if a junior officer wants to depart from an order that they've been given by a senior officer, they would be expected to discuss that departure with the senior officer?---Possibly, unless say the circumstances had changed in which you needed a change of plan, yes.

Okay. If circumstances have changed but circumstances are not urgent - - -?---Yep.

- - - and a plan has been devised - - -?---Yes.

- - - by a senior officer, there would be an expectation that you seek an approval from the senior officer for the change of plans. Would you agree?---If it was serious enough, yes. If it was a minor change, then I would say, no, you wouldn't need to.

Well, I mean, let's cut to the chase here?---Yep.

You were given a written operations order – sorry, a written arrest order - - -?---Yes.

- - - that took into account all of those considerations that we talked about?---Yes.

And took into account considerations that you may not have known about?---Yes.

So, they were potentially balancing matters that were outside your knowledge. Do you agree?---Yes.

Now, they asked you to do something quite particular, which was arrest Kumanjaji at 5 am in the morning. Correct?---Yes, yes.

To go and search for him at 7 pm was a very significant change. You would agree?--Yes.

It was a change that would require approval up the chain of command. Correct?---Yes.

Okay. Now, when you came back at 7 pm, did you turn to Julie Frost and say, hang on a second, has there been some confusion here?---No, I didn't.

Okay. Do you think, in hindsight, it was important that you turn to the sergeant who was involved in devising the plan and say, look, are we all on the same page, have we all received the same briefing?---Quite possibly, but Sergeant Frost was present at the time. I was not privy to all the conversations that had gone on before that, so as far as I was concerned, there'd been a change in the plan that had been discussed between Sergeant Frost and IRT. Just because I wasn't privy to that conversation, I still thought it must have happened and the plan had changed.

All right. Let's unpack that a little bit?---Yep.

You weren't privy to those conversations?---No.

So, you were making an assumption?---Yes.

In hindsight, do you think that was a little bit dangerous?---Possibly.

I want you to cast your mind back to the evidence you gave about the importance of when you're deployed as a group with another unit - - -?---Yep.

- - - working from the same plan?---Yep.

You would agree that in order to ensure that you're working from the same plan, it's essential that you receive the same briefing, isn't it?---Yes.

Okay. Because you just can't say whether Sergeant Julie Frost thought that the plan

had changed, or had authorised a plan, or was confused, or had been overborne or ignored?---No, I can't say.

Okay. You've also given evidence that you understood that plan to have been approved by Superintendent Nobbs. Correct?---Yes.

Superintendent Nobbs is above Sergeant Frost in the chain of command?---Yes, he is.

Did you check with Superintendent Nobbs whether he had approved the change in the plan?---It wasn't my place to check with Superintendent Nobbs. Sergeant Frost was in charge.

All right. Did you check with Sergeant Frost?---No, I didn't.

Okay. So, is your evidence that in the face of a potential deviation from a very senior police officer's plan, a police officer in your circumstance would do nothing?---In this circumstance, I believe that it had changed.

Okay. Even though you didn't know whether Superintendent Nobbs had been consulted at all?---No, I didn't, no. I know his intent was for us to arrest the next day. Circumstances in the way that intent is carried out can change. Our intent, for that period, was to make the arrest. I believed the plan had been varied to that evening, even though it was the next night – sorry.

To the extent that it had been varied, it would only have been varied by Sergeant Julie Frost?---Yes, I guess.

Okay. Assuming she was - - -?---Well, not really, because specialist units, often when they come on the ground, will give – I'll use myself, for example, and I'm not going evidence on IRT. I'm not specialist trained with the IRT. But I might arrive somewhere where a plan has been made and if my specialist experience or my expertise in the deployment of a dog changes that plan, then I can give guidance to the local commanders on how the deployment of that dog will take place, or how we can amend that plan from there.

I want to ask you a question about a word you just used, "guidance"?---Yep.

You can't give them an order, can you?---Of course not.

Because you fall under them in the chain of command?---No. They often will listen to the person who is the expertise in that field.

I know, but as far as you knew - - -?---Yep.

- - - the IRT who had ostensibly some specialist skills here had had no conversations with Superintendent Nobbs?---No.

So, they couldn't have given him any guidance?---Not that I know of.

And although they have some specialist skills, they fall within the ordinary Northern Territory Police Force chain of command structure?---Yes.

Okay.

Your Honour, those are my questions.

THE CORONER: Thank you. Yes.

DR DWYER: Your Honour, just before we commence, might I just tender some documents which I have been meaning to do and they may come up again in this witness, as they just did. When the last witness, Constable Kirstenfeldt, was being examined, I referred a number of documents to him; two stills from Yuendumu Police Station CCTV, front counter CCTV and corridor. Might I propose that they be exhibit 10.

THE CORONER: Yes.

DR DWYER: Video compilation, exhibit 11.

THE CORONER: Yes.

EXHIBIT 11 Video compilation.

DR DWYER: The email from Acting Sergeant Shane McCormack to Sergeant Julie Frost, 9 November 2019 at 16:24, exhibit 12. It's currently annexure C to Superintendent Nobbs, but it may come up again and again, as it has done.

THE CORONER: Yes.

EXHIBIT 12 Email from Acting Sergeant Shane McCormack to Sergeant Julie Frost, 9 November 2019 at 16:24.

THE CORONER: Yes.

DR DWYER: So, exhibit 12. And the email from Sergeant Frost to Superintendent Nobbs, 9 November 16:49, exhibit 13.

EXHIBIT 13 Sergeant Frost to Superintendent Nobbs, 9 November 16:49.

THE CORONER: Yes.

DR DWYER: And the email from Sergeant Julie Frost to the IRT watch commanders, Alice Springs supervisors dated 16:59, exhibit 14. Thank you, your Honour.

THE CORONER: Thank you.

EXHIBIT 14 Email from Sergeant Julie Frost to the IRT watch commanders, Alice Springs supervisors dated 16:59.

THE CORONER: Yes, Ms O'Neill.

MS O'NEILL: Thank you, your Honour.

XXN BY MS O'NEILL:

MS O'NEILL: Senior Constable, my name is O'Neill, I represent the Walker, Lane and Robertson families. I want to ask you some questions about body-worn video, if I may. You've been a police officer since 2007 with the Northern Territory Police Force. Is that correct?---Correct.

So as at 9 November 2019, you'd been there for over 12 years, is that correct?---Yes.

Body-worn video was first trialled in the Northern Territory Police in about 2014, do you remember that?---Yes.

And came in more permanently, in late 2016, is that correct?---That's correct, I think. I can't be certain of the dates, but that sounds accurate.

And so by November 2019, you had been – you, yourself, had been using body-worn video for about three years. Do you agree with that?---Yes – I wouldn't have been no. Not everyone – body-worn cameras weren't rolled out to everyone immediately. I didn't get my body-worn camera until perhaps the end of 2018 I think.

So about a year by the time - - - ?---Yes, that would be more accurate, yes.

And is there a General Order in the Northern Territory Police Force regarding body-worn video?---Yes, there is.

There is?---Yeah.

And is there an instruction, under that General Order?---I believe so, yes.

Now body-worn video, in your view, is that a benefit to your policing?---Yes.

It allows for a more accurate recording of incidents, correct?---Yes, that's correct.

It increases accountability for both police, and those you interact with, correct?---Yes, that's correct.

It reduces sustained complaints against police - - - ?---Yes.

- - - correct? And it increases successful prosecutions, where it's relied on to record certain actions and admissions. You agree with that?---Yes I agree.

It also improves the behaviour of the people police interact with, from time to time, do you agree with that?---Yes.

On 9 November, you were wearing your body-worn video camera, weren't you?---Yes I was.

And we have in the brief of evidence, five records that you make at various points, correct?---I assume so, yes. I don't know.

What makes you decide to turn on your video?---When I'm going to exercise a police power is the way in which it's written, but yeah.

And what makes you turn it off?---When I don't – I'm no longer executing a police power, I'm no longer required to have it on.

Now what occurred on 9 November, you'd agree, was a critical incident?---Yes I would.

And as part of that, you were keen to ensure that what happened, that as much of what happened, was captured on your body-worn video, do you agree?---Yes.

It's not common for police to make recordings on their body-worn video when they're inside the police station, correct?---Yeah, no. Not – that's not a thing that normally happens at all.

But this was not a usual incident, do you agree?---No of course not, yes.

And so as result, from time to time, you did make recordings of what occurred in the police station. Correct?---Yes, correct.

And you did it because you recognised the importance of preserving evidence of police actions, correct?---Correct.

By about 11 pm, on the night of 9 November, you were aware that Constable Rolfe had shot Kumanjayi Walker?---Yes I was.

And you were aware that he had passed away?---I believe so, I can't recall the time.

Would you accept from me that he passed away at about 8.36 pm?---Yes, I accept that.

Now on 12 November, Constable Rolfe was charged with murder. Were you aware of that?---Yes.

You'd been in the police force since 2007. You must have considered, on the night of 9 November, that it was a possibility, that Constable Rolfe, would be charged, in relation to this incident. Do you agree?---I did not.

You did not consider that it was possible that he would be a suspect in relation to the death?---No I didn't.

I want to play you some – sorry. Were you aware that his gun was removed by Senior Constable Hawkings?---I remember that his firearm was taken away, and that's just often something that will happen if a firearm's been discharged during a – a job, or an accident.

Were you aware that photographs had been taken of his injuries?---I wasn't.

Were you aware that his short has – had been seized?---At – when – when was that sorry?

At the police station that night?---No, I wasn't.

Now body-worn video is another important tool in preserving evidence, in addition to seizing items, you agree with that?---Absolutely, yes.

And that's because of the accuracy that comes with body-worn video?---Yes.

It also provides police with protection from allegations of a cover-up, do you agree with that?---I agree.

I just want to play you some video, if I may.

It's from 4.1 of your Honour's brief, video four of five. And I'm asking that it be played from the two-minute mark.

This is your body-worn video.

DVD PLAYED

MS O'NEILL: Senior Constable, did you hear what was said at the end of that excerpt?---I believe I said "I'm turning mine off."

And did you hear what that was said in response to?---"Can you turn yours off", or "Is your camera off", I'm not sure. Something - - -

Can I suggest to you, Constable Rolfe said "Is anyone on?"?---Quite possibly, I didn't hear what it said, but yes, that sounds accurate.

And you understand – you understood at the time, that he was asking if anyone's body-worn video was recording, correct?---Correct.

And you responded to that question, didn't you?---I did, yes.

And you said "No, I'm about to turn mine off", correct?---Correct.

And you did turn it off, didn't you?---I did, yes.

Now would you agree that it appeared that Constable Rolfe was checking to see what he was about to say or do, was going to be recorded?---I believe so, yes.

And in response to that enquiry, you turned off your body-worn video, do you agree with that?---Yes, that's correct.

Wouldn't the fact that he asked you to turn it off, make it more important to leave it on?---At that stage, and I'm not sure what stage of the night that was, I couldn't tell, but that looked that we were no longer doing anything, and we were just stand – we were together in the – in the main room.

But you didn't need him to ask you, "Is anyone on?" in order for you to come to the conclusion that you needed to turn your body-worn video off?---Can you say that again sorry?

I'm suggesting to you, that you did not turn your video off because nothing was happening, you turned your video off, because he asked "Is anyone on?", do you agree?---I believe so, yes.

And so, in a critical incident like that, where Constable Rolfe shot the man who just passed away, wouldn't the fact that he asked you to turn it off, make it more important to leave it on?---I believe at the time, as I remember – from what I remember, is we were coming together in the middle, and I think the whole point of that, was to see if everyone was okay. And I probably concede that that would not look what it looks like, but for me, a lot of things had just happened. I think that was the first, and I'll call it "lull" in what had happened all that night, where we could just take a breath, and that's what I remember happening.

The next time you turn your body-worn video on, and I accept the recordings on the videos are not completely accurate, is about 11.28 pm, when you're in the vehicles outside. Do you agree with that?---I don't know.

Does that sound about right?---Probably.

And so there's this gap, of about 14 minutes - - - ?---Yep.

- - - where your body-worn video is not on. Do you agree with that?---I agree, yes.

And so there is no record, as far as you know, of what was said. Do you agree with that?---I agree, yes.

Those are my questions.

HIS HONOUR: Mr Mullins.

MR MULLINS: Thank you, your Honour.

XXN BY MR MULLINS:

I'm going to refer to 730 - 7030, in a few moments.

Sergeant Donaldson, my name is Mullins. I appear on behalf of the Brown family. I've just got some questions for you. Firstly, just in respect of how you discovered that shots had been fired. It's the case, isn't it, that you heard a call over the radio, that shots had been fired?---No, I heard the shots, I was outside.

Well do I understand it that your vehicle was across the road from the vehicle – or at least one of the vehicles, that was adjacent to the house?---My vehicle was out the front, just next to the road, yes.

And how far were you from the vehicle to which Kumanjayi Walker's body was ultimately dragged to?---His body was – the other vehicle I believe was probably about 10 – 15 metres away.

And were you standing by your vehicle when - - -?---Sorry. Sorry, I interrupted you, go.

That's all right. Were you standing by your vehicle when the officers went into the house?---Yes, I did.

And did you observe that there were several people in the vicinity?---Yes, I did.

And I think in your statement, which we'll go to in a moment, you estimate about 10 to 15 people?---From what I remember, yes.

And they were in various positions around the property? They weren't altogether?---It just wasn't in that property. There were people also outside around the streets as well.

And you noticed mainly women?---I don't remember.

Children?---I don't recall.

Well, do you have any recollection of there being children in the area?---I don't remember anyone. I just remember there were people around. I don't remember who they were.

Well, do you recollect there being children in the yard of the house, either the House 511 or the house next door?---I don't remember.

All right. Now, do you need to stay with your dog?---No, I don't need to.

So, the dog can stay in the back of the vehicle and you can go away and leave it for a period of time?---Yes, that's correct.

And how long can you leave the dog for?---As long as needed until he either needs to get out and go to the toilet or until my car runs out of petrol.

All right. And when you heard the shots, what did you think?---Well, I immediately knew what had happened because shots had been fired and I wasn't quite sure where to go from there. And I was waiting to get some guidance. I was initially going not go into the house, but I didn't go into the house. I waited with my vehicle to just try and see whether or not – or what response I would make to what's happened, whether I took my dog out of the car, whether I waited out the front, whether I went inside. I wasn't sure at the time.

Well, one witness told the court – who was present at the time, that when he heard the shots and realised that there had been a police shooting, he felt it was very shocking. Had you had this experience before?---Yes, I had.

You've been present at a police shooting before?---I have once before, yes.

And did you have the same reaction?---Yes, of course I did.

And is it the case that you felt your own adrenaline start to rise?---Of course, yes.

Now, as I understand it, that you took out a large party pack?---Yes, it's a pepper spray, yes.

So, it's pepper spray, is it?---Yep, or a party pack is what it is, yes.

Well, can you just describe what you use it for?---It's usually to – used for – it's a long-range – normally, police carry small pepper sprays on their belt. This is a larger one. It disburses a larger amount of OC spray and it's primarily used for large crowds.

Did you have a Glock on your hip?---I did, yes.

And so, were you expecting there to be a large crowd that you needed to disburse?---I thought there was a potential that, yes, I might need to do that to disburse a large crowd.

And is a "large crowd" 10 to 15 people?---It was initially. After the shots were fired, there was a lot of yelling and a lot more people started walking to where we were.

Sorry, that was more a definitional question?---Sorry.

Is 10 or 15 people a large crowd?---No.

No?---Yes, I would think it is if it was just me, by myself; 10 to 15 people is a large crowd for me to deal with by myself.

So, when you took your pepper spray out - - -?---Yes.

- - - for the purposes of potentially using it, the 10 to 15 people that were already there, if you had to disburse it then, you would have used it on them?---Well, it wasn't necessarily about them. It was about what could have happened and I needed to get it out of my car before I went inside, if I chose to go inside.

And so, what was going through your head about what could happen?---I felt that perhaps we were going to be attacked after that had happened, so I was concerned for myself and I was concerned for the other police officers in the house as well.

And who did you think you were going to be attacked by?---The community that was around us.

So, the community that were there at the current time?---There were a lot of people there. Other than the 10 to 15 people at the house, there was also another house across the road, and as soon as it happened, a large amount of yelling came from that house and people started to walk out.

How many people started to walk out from there?---I don't know. I can't remember.

Can we have document 7030 at page 14, please?

So, these are some questions that you were asked on 21 November 2019?---Yep.

And I'm not sure who "Hen" is. Do you know who Hen is?---Yeah, that's Sergeant Currahen (?). She interviewed me on, I think it was 21 November.

And you were asked initially when you pulled up, there were probably 10 to 15 people sitting down. So, when you say "sitting down", were they sitting down at the house or were they the ones who were spread around in various places?---I no longer remember. I can't remember.

Okay. And then you say, "Yep, and initially it was quite calm – ah – ah – the guys went in and we were talking to people. There were a number of houses together"?---Yes.

Yes.

And then if we scroll down, please.

"There wasn't all that many people around at the start and I could see that I didn't actually activate my – it's like I didn't activate my body-worn until the shots had actually been fired. I was in the car, because we weren't sure which way he was going to run from, 'cause I could drive really quickly to get to where I needed to go."

Can you just explain that? Were you actually with your car, so that you could drive if you need to release your dog?---Yes, so initially when we'd gone to House 577 and I was outside, I'd taken the dog out. We were attacked by a large amount of community dogs, so I had to put that dog away. So, according to the house, I knew I wasn't going to take my dog out at that house, because I thought we'd be attacked from dogs again. The loose plan at that stage was for me to remain with my car. I know that on the previous occasion when he ran from police, he ran to the bushland. So, my plan was to stay with my car and if Kumanjaya Walker ran from the house into the bushland, I would follow in my vehicle out of the community and once we got to the edge of the community, I could deploy my dog, if I want.

Now, you've described quite a comprehensive plan about what was going to happen with your dog. Is that right?---It's not very comprehensive.

Well, who did you discuss the plan with?---I think when we were at 577, I said, "I'll stay in the car, so that if he runs to the bush, I can follow them to the edge of the bushland and go from there."

And was that a discussion between the five of you?---No, it – I would have been with – I think Zach came and told me after they'd spoke to people in 577. I can't remember if there was another person with me out the back there, but that's when I said I'd do that.

And was it the case that Zach was acting as sort of a de facto person in command of what was happening?---Yes, that's true.

All right. Was that always the case during the course of the exercise that you were undertaking after you'd left the police station soon after 7:00?---Yes.

Now, if we can scroll down a little further, please.

"And then, as soon as the IRT moved into that house --", which is 511, "I think about five – sorry, about 10 – five to 10 people started sort of becoming loud and walking down a side fence --", yes - - -?---Yes.

- - - "to go in and that's when I got out of the car." Which was the initial question, "I'm sorry I forgot."

Move down a little further, please, onto the next page.

"As soon as the shots were fired, it seems like the numbers doubled or tripled. There could have been 50 to 60 people all of a sudden coming, and I could also see a bus coming?---Yes.

Now, two things. Firstly, when you say that the numbers doubled or tripled, and up to 50 to 60 people, that must have taken a few minutes?---I don't know if that's the case, mainly because, as I said, and I said it in the statement, it was quite quiet when we first went there. So, I don't think I had a full appreciation of about how

many people were in the near vicinity. I remember, there was only a few people at the house, but after the shots had sounded, a lot of noise started happening. A lot of noise started happening. A lot of people started coming out of other houses. So, given the close proximity of that house in the middle of town, it wouldn't take long at all for people to start coming outside.

And is it the case that the shots rang out across the community?---Absolutely, yes.

Yes. So, they would have been clearly audible?---Yes, easily audible.

Would you accept for the second proposition that you could also see a bus coming, it's unlikely that people would have been able to organise a bus, hop on the bus and travel within a couple of minutes of the shooting?---I think you've misinterpreted what I'm saying there. If I can clarify, after it had happened and I was outside, I could actually see vehicles already coming back into town. It wasn't related to the shots that had happened.

I mean, the reality is, is that it may well have been – I mean, you thought the bus coming was from the funeral?---Yeah, I did think it was actually, yes.

Yes?---Yes. I didn't think it was related to the shots in any way whatsoever, but there were more people coming there.

Exactly. So, the reality was that there may well have been people coming back from the community in cars?---Yes.

They were completely unrelated to the shooting?---Yeah, that's – the cars not the 50 or 60 people that I said tripled or doubled.

No, okay. Now, I'm not going to play your body-worn video of you, after you returned to your vehicle, but just help me with this, is your vehicle blue?---Yes.

So, the body-worn footage of yours with you standing at the – or sitting in the driver's seat for a minute or two is you?---Yes.

And if we look around, to what's depicted in the body-worn video, does that help us with – get some sort of indication of all the people that were streaming in?---Quite possibly, I've only ever briefly seen this body-worn video once.

The front door of the vehicle stays open for quite a few seconds, if not, a minute or so?---I'm not sure what you're talking about, I'm sorry.

Did you feel there was any urgency for you to leave?---At when – which point are we talking about here?

This is before - - - ?---Before or after the shot?

- - - you returned back to the police station, after the shooting?---After the shooting, and my door stayed open?

Yes?---Yes I did think there was a hurry to leave.

Did any person ever touch you or assault you?---No.

Did any person ever threaten you?---No.

How close did a person get to you?---I don't recall.

Well did any person get within a metre?---No.

Any person get within five metres?---No.

Any person carry a weapon that you saw?---I couldn't see – I didn't see any.

There was a lot of screaming?---There was, yes.

And there was like a wailing?---Yes.

But beyond that, no person was threatening you at all?---Not at that stage, that's why we left quickly.

No. Now back at the station, you assisted with the CPR of Kumanjayi Walker?---I didn't do CPR, I provided assistance to him, initial first aid to him.

Do you recollect that shortly after you came back, that two gentlemen, Derek Williams and Warren Williams came into the station?---I didn't see them until later, but I was aware they were at the station later, yes.

So you saw them later though?---Much later, I found out Derek was outside, but I hadn't gone out the front for some time.

But did you ever see them inside the station?---No.

You've expressed, in your statement, some concerns about what was going on outside the station?---Yes.

Did you ever go outside?---Only briefly, to speak with Derek and tell him if he saw when the Yuelumu nurses got there to let us know.

When you did that, was it calm outside?---It was fairly calm outside, yes.

So on the one occasion that you went outside to look how things were going on outside the station, it was calm?---Yes.

And did you feel threatened, when you gave that information to Derek?---Not at that stage.

And that – so that was just before the nurses arrived, is that right?---It would have had to have been before the nurses arrived, because I asked him to tell us when they got there.

When you were having the discussion with Derek, did he ask you for information?---I can't recall, quite possibly, yes.

Yes, is it the case that he may have asked you just to know what the current status of Kumanjaji's situation was?---He probably did, yes.

And did you know whether he was alive or dead?---I can't remember at that stage whether he was.

Now the – sometime later, there was – I withdraw that. Can I just ask you a couple of questions then about the station itself?---Yes.

Are you familiar with the Yuendumu station?---Yes I am.

You're familiar with the rear compound?---I am now, and I wasn't at the time.

You know it can be easily breached by a person if they chose to?---Yes.

You know it's got – you know the station's got front glass windows?---I do know that, yes.

None of them were smashed were they?---No.

The rear of the compound was never breached?---No.

No person ever, to your knowledge, even tried to breach it?---Not that I know of, no.

Other than the rocks on the roof, and the yelling outside, that was the only evidence of volatility that you're aware of?---Yes.

And why were you frightened?---Because at any time that can turn. All it takes is one person to agitate a crowd, and all of a sudden we're in a precarious position that's extremely dangerous. Yes, it wasn't, and I'm glad to this day that it wasn't. And I thank Derek and the people outside for keeping things calm. But in the back of my mind I always thought, at the moment, at a drop of hat, that could turn, and things could get really violent and ugly.

And where does your experience about one person winding up the crowd so that they can turn, come from?---I've been a police officer in Central Australia the majority of my career. I've seen one angry person turn a whole camp against me and one

other, or just myself, so that's where my experience come from, it's happened before.

When – where was that, and when?---The exact times and dates, I can't tell you the exact time and date. I can't tell you it's happened quite a few times. I've policed in Alice Springs a lot, and things can turn violent very quickly. And all it takes is one person to be really angry, and a large crowd can gather really quickly.

And was that in Alice Springs, or a community?---Alice Springs.

In Alice Springs?---Yes, Alice Springs.

Has it ever happened to you in a community?---No it hasn't.

Have you – you've gone to communities more than a 100 times?---Yeah I'd say so.

And it's never happened to you in a community?---No, but I'd never been in that situation before. That was totally unprecedented for me.

But you said you'd been at a police shooting before?---Yes, at a residential property in Alice Springs, not in a community, 300 kilometres away from Alice Springs.

Interested, did you have a good recollection of that other police shooting?---It was so many years ago, so not really.

Do - - - ?---My involvement in that was very limited, I was just standing at the front.

But do you remember whether the area was secured by police?---Yes, and there were a lot of police there.

So a lot of police arrived, the area was secured, and did the person pass away?---No.

So the person was transported to hospital or something - - - ?---Yes.

- - - by ambulance, all right. The ambulance was called?---Yes.

Now so just finally, the drive out to the airport to collect other staff, do you recollect that?---Yes I wasn't a part of that. I stayed at the station.

Well did you hear – was there any briefing in respect of that?---I wasn't privy to that briefing.

Thank you, your Honour.

HIS HONOUR: Look, I note the time, we might just take a short adjournment so we can complete this afternoon.

WITNESS WITHDREW

ADJOURNED

RESUMED

ADAM DONALDSON:

THE CORONER: Yes, Mr Espie?

XXN BY MR ESPIE:

MR ESPIE: Yes, your Honour. Noting the time, I probably will be about 20 minutes. At the moment I would ask for the - almost or at least two minutes of the body-worn footage of Mr Donaldson be played.

THE CORONER: Sure.

MR ESPIE; Senior Constable, my name is Espie, I appear on behalf of NAAJA and just picking up on something you said earlier in evidence as part of your police force - your career has been here in the Northern Territory?---Yes.

And just remind me how long that is?---It's 16 years now.

Prior to that you served in the military?---Yes.

Including some overseas deployments?---Yes.

You've worked in remote areas?---Only - no, not permanent remote positions - relieving.

And can I ask, have you ever been in attendance either personally or on the job at funerals in Aboriginal Communities in Central Australia?---Yes, I've been to one.

You've observed - perhaps it could be referred as cultural expression of grief, and that is the wailing of mostly women?---Yes.

And you understand - - ?---I understand - I understand wailing is, yes.

Wailing is - it's an expression of - - -

THE CORONER: I am sorry, the live stream is not working.

MR ESPIE: Sorry, I will perhaps just quickly repeat that, Constable Donaldson. You just explained (inaudible) that came out, you have for 16 years been a police officer in the Northern Territory and served in the military before that?---Yes.

I was just asking your experience of funerals in Aboriginal communities, you understand that wailing is a cultural expression of grief?---Yes, I'm aware - I'm aware of what it is, yes.

In effect we could play that body-worn footage of Constable Donaldson, which is (inaudible) attendance at - on the night in question.

DVD PLAYED

MR ESPIE: Perhaps - I believe the audio - there is audio but that comes in.

THE CORONER: This comes in, yes.

MR ESPIE: I am really pointing out and asking you to point out when or where - one of the things is where - when you observed people - - -

DVD PLAYED

MR ESPIE: The shooting, you returned back – back at the police station. You said you had spoken to Derek Williams that night?---Yeah that was later that night. I'm not sure at what time it was.

All right - - - ?---It was before the nurses arrived.

Before they arrived?---Yes.

Shortly before or (inaudible)?---I don't remember.

You recall conversations around not telling the community of Kumanjayi's - - - ?---Yes.

- - - death?---Yes.

Do you – you specifically didn't – you, yourself didn't have any conversation with Derek Williams around that?---No, I didn't.

And was that part of the whole concept of not telling the community?---Did I have a conversation about Derek Williams about not telling - - -

(Inaudible)?---Or did I just not tell Derek Williams?

Is that the reason you didn't tell Derek Williams anything, because you knew the concerns about should the community find out?---When I spoke to Derek, there was about 20 people standing around him anyway, so, I wasn't – any conversation I had with Derek wasn't going to be private.

No. You were subsequently part of plan to travel to the airstrip?---I was not.

You weren't?---No.

You were present in discussions around it?---No I wasn't, no.

You weren't. Do you recall that – do you recall that incident, where people travelled out in company with the ambulance?---I do remember them going, yes.

Take it from me that you're discussed – perhaps I can just read this, I can show you if you like, but if this jogs your memory. "They'd organised eight", and I think you're referring to IRT or sorry TRG. "We took the ambulance out and a couple of police cars, and picked up more police and then have gone back to the police station"?---Yep.

So is your evidence that you weren't part of that convey?---When I – yeah no, sorry I wasn't. When I said "we" I'm obviously – I'm collectively referring to the group that was there. Sorry, I wasn't part of it.

Were you present when they arrived back?---Yes, I was.

Did you observe the injuries to the – the (inaudible)?---Yes I did.

But you don't recall any conversations around – around that?---I don't recall being there when they made the plan to go to the airstrip, no.

And perhaps just a general question. I mean you – you have a military background. And I'm not suggesting this is a military situation, or a war time situation, but are you aware of the – the fact that that sort of use of medical personnel is something that you're not able to do, in a military situation?---Well getting away from a military situation, I would agree that that was – that was not – that was not the right choice to make, to send those nurses in the ambulance.

All right, but you would(?) be aware that for difference circumstances, if you were in combat, that that sort of thing wouldn't – you simply wouldn't do that for a variety of - - ?---Which part are you talking about, sorry?

If this was in a situation where you were serving in the military, you wouldn't be able to utilise an ambulance and medical staff - - - ?---Medical staff are military, so they would have been used, yes.

Perhaps I'll leave that there.

Those are my questions, your Honour.

HIS HONOUR: Thank you, Mr Espie.

Any other questions?

MR MCMAHON: I think we both do, your Honour.

DR DWYER: And Mr Suttner also, your Honour (inaudible).

HIS HONOUR: All right, okay.

Let's do Mr Suttner.

XXN BY MR SUTTNER:

MR SUTTNER: Okay, am I being heard?

HIS HONOUR: You are definitely being heard, Mr Suttner.

MR SUTTNER: Thank you, and I will try and ensure that you adjourn on time.

Constable Donaldson, my name is John Suttner, and I appear for Sergeant Bauwens. Where were you stationed during November 2019?---Alice Springs Dog Operations Unit.

Yes, that's where Sergeant Bauwens was stationed at the time, as well?---
Alice Springs, yes.

Yes. And you knew him?---Yes.

How long have you known him?---I've known Sergeant Bauwens for many years, when he was in TRG before he moved to Alice Springs. I could say eight years, may be.

And even outside the IRT, he fulfilled a leadership role at Alice Springs?---Yes, I worked closely with Sergeant Bauwens on a – as a police dog handler, while he was a general duties sergeant.

Yes, and you regard him as a diligent, professional policeman?---I do, yes.

You know of the text message that has been attributed to him, and that's it's entered in this hearing?---I don't know of the exact details, but I know there have been messages, ye.

Well you know there's some unpleasant message, that has been attributed to him, of a racist nature?---Yes.

Have you ever experienced, in the time you've known him, have you ever experienced racist conduct on the spot?---No.

Have you ever heard him use a racist term?---No.

No further questions.

HIS HONOUR: Thank you, Mr Suttner.

Anybody else?

Mr McMahon.

MR MCMAHON: It seems to be my fate to get to my feet as everyone's wishing the day were over.

XXN BY MR MCMAHON:

MR MCMAHON: Sergeant, I'm just pausing because many issues I was going to discuss with you have been covered, so I'll try to step through that, and (inaudible)?---Sure.

But just going back to the question of puncture wounds for a moment?---Yep.

Do you ever do research before you go out on an operation, to see whether the person that you're – whose your target, has been the victim of a dog apprehension, dog bite, police dog apprehension, or police dog bite, prior to the operation you're about to commence?---I would not – I will not agree with the term "victim", but yes, if they've been subjected a police dog bite before.

Victim of the dog bite?---Yes.

Is that controversial?---No, just – that's fine, yes, a victim of a dog bite, yes.

Do you ever do research on that before you go out?---No.

Is there a reason for that? Is that a policy that you don't want to know, or that you're been told not to find out, or what's the reason?---No neither of that, but usually my dog deployment are rapid, spur of the moment deployments.

Do you agree that it would be desirable to know if a person had previously been the victim of a dog apprehension, or police dog bite, before you went out on that operation?---I don't think it would make a difference.

We've actually had some evidence from some senior police, prior to you coming, that it might be more effective to use a dog – police dog, in an operation, where the person was known to be terrified of police dogs, because of a prior incident with a police dog. Is that your view?---No.

Just dealing with puncture wounds. I'm just a bit unclear what you said – unclear to me that is, you said that when a dog apprehends somebody, and we're using a word "bite" and "apprehend" interchangeably, aren't we?---Sure, yes.

Just to clarify that, in ordinary English language, apprehend does not mean bite, but in police dog language, apprehend has a special meaning, which means to bite, doesn't it?---Yes.

So when a police dog apprehends or bites somebody, as I understood it, you said the majority of the injuries that you come across are puncture wounds?---Yes.

And presumably that would include deep tissue injuries, where the puncture wound has been inflicted on the person?---Yes.

And you then seemed to say that no one has, in your experience, needed advanced medical treatment?---Okay. I probably – I'll re-clarify that.

Thank you?---So what I'm saying is, yes they might need advanced medical treatment, in that when something's deep, they may need surgery to repair something underneath. What I meant was that would not normally be immediately life threatening, or – that's what I was trying to say.

But it might be a very serious injury, but it might not – but in your experience, it hasn't yet been life threatening?---Yeah, and – and I would be able – in the initial first instance, to give first aid to that person until I can get them to proper medical aid.

And that would include, would it, if an artery was punctured by the dog bite?---I've never seen that happen.

And just, I'm sorry if you have already answered this, but did you know that at the time you were in Yuendumu that evening on 9 November that the medical clinic was closed?---Yes, I was aware.

And did you have a plan for what medical, how you would deal with the medical emergency if your dog did apprehend and bite the target?---Yeah. So, that's what I was saying, was my dog biting someone I don't think would be an emergency and it doesn't need emergency treatment straightaway. So, I would be able to cover that first aid myself.

Okay. So, that's the plan?---Yes.

All right.

THE CORONER: Do you get some extra first aid training to deal with dog bites?---No, ma'am, I don't.

Okay?---It's usually, it's just, it's no different to I guess another – aside from the bacteria I guess which is something further down, it's no different to treating another laceration.

And have you ever heard of an artery being punctured?---No. No, ma'am, I haven't.

MR MCMAHON: Just to clarify from what you have said earlier, the plan was, as you understood it when you were at the house, that an intricate part of the plan was the likelihood that the target, which was Mr Walker, would flee from the house and then your work would come into play?---Yes.

Obviously there was no plan for a house shooting or anything like that? It goes without saying?---Yes, of course not.

But built into all of the state of your knowledge at the time, by the time you got to that house you understood the plan to be that in all likelihood – I'm looking at your notes here as well that you have written on the day?---Yep.

That there would be an escape of Walker, track him to the bush and apprehend with PD Laki?---Loki, yes.

Loki. PD Loki means police dog Loki, is that right?---Yes.

L-O-K-I?---Yes.

Yes. And in answer to an earlier question you seemed to be saying that on the assumption that that happened, that if Mr Walker ran out of the house and ran into the bush, you wouldn't release your dog immediately but rather you would follow in your car until he got to the edge of town?---Yes, that's correct.

And presumably that's because you didn't want to release your dog in the town with all the camp dogs?---For a few reasons. That's one of them, yes. I couldn't, I wasn't comfortable deploying the dog within the bounds of the town there with other people around and also the dogs, as you've said and as I said earlier.

I missed the last 10 words. Also what?---I can't recall. I don't remember what I said.

You wouldn't be comfortable deploying the dog with other people around and also?---Well, there's a lot of people around and all the camp dogs as well in the area. I couldn't, I couldn't let him go with all the dogs in the area which is why I suggested that course of action.

And a few moments ago on this subject, you then said you would then deploy the dog?---Mm mm.

So, I take that to mean that in your mind you picture the offender running into the bush. You drive to somewhere on the edge of town and then you take the dog out and release the dog?---No, that's not what happens at all. So, deploy is a generic term for when we take our dog out of the car. We just say the dog's deployed out of the vehicle. And depending on what happened. If I followed to the edge of town most likely I would get the dog out and commence a track to try and locate where Kumanjaji Walker would have gone. If I was to find Kumanjaji Walker out I would challenge him with the police dog, give him loud verbal commands. And if he has surrendered then nothing else would happen. If he ran and I had a clear line of sight with no one else in and I was justified to do so, I would deploy the dog to apprehend him. Yes.

And those last few words, that would mean that you would release the dog?---Yes.

And the dog would run off?---Yes.

And apprehend as in bite?---Yes.

The target?---Yes.

And then you would catch up?---Yes.

And do you cuff the offender before you release the dog?---No, it depends on what the circumstances are. If I was by myself I would give him commands. If he's, if he's then that time compliant, I can have the dog take off. I don't need to cuff him straightaway. I can release the dog but I need to make sure it's safe for me and him and I don't want to take the dog off if there are a lot of people around. And I don't want him to run off again and get rebitten. So, I need, they're all things that I need to weigh up at the time. As soon as I have compliance of that person and I don't feel the dog's any need to be on there, I will immediately end that use of force and remove the dog.

If the person who is being apprehended by the dog resists quite aggressively against the dog, shaking him out, trying to get the dog off?---Yeah.

Is the dog trained to bite more fiercely?---No, it's not.

So, what happens?---It may but it's impossible to train a dog to bite harder.

Okay?---They only bite at one force.

When a dog has latched onto a human, and if the human successfully struggles so that the arm or leg partially releases, the dog will open its mouth and move closer in and bite again. Is that correct?---Yes, quite possibly, yes.

So, if a person is struggling successfully, the dog will keep opening the mouth and moving in closer and biting them so there could be repeated bites on that limb?---It's quite possible however we train the dogs not to let go. And they can be punched in the face multiple times and the dog will just stay on there.

You were asked some questions about data. I just want to expand on that a bit. How long were you in the Dog Squad?---It was about six years all up.

And prior to that you were a detective?---In Drug Squad, yes.

So, you were already an experienced police officer prior to joining to the Drug Squad though?---Yes.

Yes. So you know how the police force works is the reason I'm asking you that. Because even at that time - - - ?---Yes, I do know how it works, yes.

So, in terms of data and the work you were doing in the Dog Squad. Is it called the Dog Squad?---Yes, that's fine.

Are you able to say how many people were apprehended by dogs on a particular day or week through those years?---And when you say apprehended, are you saying that we find someone or are you talking about the physical bite?

The bite?---It's definitely not a weekly thing. Hardly, hardly - - -

I'm sorry to speak over you, Sergeant. I'm not talking about you alone. I'm talking about - - - ?---The Dog Unit in general?

The Dog Unit?---Hardly any. The percentage of dog bites is so low, it would be less than 1 per cent of all dog deployments.

How many dog deployments are there in a year?---Is that when the dog gets out of the car?

Yes?---I take my dog out hundreds of times in a year. Probably 200 times I would get my dog out of the car over the whole year. The amount of times that dog was released to apprehend somebody, one, two. Hardly at all. And that's pretty much the same across the whole of the Northern Territory. The deployment of dogs to bite people is so low compared to when we get them out.

Perhaps coincidentally on this brief, the young man who was the subject of your operation on 9 November had as a younger man, as a 16-year-old, been chased down and apprehended by a dog?---Yes, he had.

And bitten. You know that?---I know that now. I didn't know that before.

How is it that you know it now but you didn't know it before?---Because I was told.

Just, what, in the last few days?---I was told about a month ago, I think, when I was first talking to my lawyer about this coronial trial, coronial inquest.

What were you told about that?---That he had been bitten by a police dog previously and I said I didn't know anything about that.

If you have a line of sight on a person who is running through the bush in the way that you described before?---Yes.

And you're satisfied that there is nobody else around, and you're satisfied that it's an appropriate thing for you to do?---Yes.

What is the maximum distance that that might be? It could be as far as 500 metres or a kilometre?---We generally – it's a rule that we don't let the dog go out of our sight. So, if that person was to escape my line of sight I would call that dog back. We do that to limit any accidental bites or innocent people being bitten.

Right. So - - - ?---Depending on what the lay of the land is, I guess what you're saying, it changes from time to time.

So, in some areas that could be quite a long distance, many hundreds of metres. And other areas, quite a short distance?---Yeah, but personally I wouldn't deploy a dog that far because it would take me too long to catch up because I'm not as fast as the dog.

Just going back to the question of data, how many people in a year, are you able to say? I mean - - - ?---I have no idea but it's very low.

I guess that is - - -

DR DWYER: Your Honour, apologies for interrupting. If I can assist my friend, data about this is being compiled and will be made available later in the inquest.

THE CORONER: Thank you.

DR DWYER: The sergeant is not able to answer. That information will come later.

MR MCMAHON: All right. I appreciate that. I think last time I was asking him about this I was told to ask this witness. So, here we go?---I've also left – I've been out of the Dog Unit for the last 2.5 years so I can't tell you right now.

I am going to ask you a couple of other questions, just out of fairness. But I won't ask you all my guarded(?) questions. But in your experience – just one question about ethnicity. So, I understood – my friend yesterday asked you a question about data and ethnicity, and you said, "A male is a male." Is that what you said? "A full-grown male is a full-grown male"?---Yeah, I think we were also talking about in my considerations in deploying a dog and I was talking about disparity and disparity. I don't – so, and we were talking about deployment on a female or a younger person. I'm less likely to deploy a dog on a – I'm not gonna deploy a dog on a child or a small female whereas a full-grown male is more likely for me to deploy a dog after my risk assessment.

Or a teenage male, obviously we know from this brief, that dogs get deployed on teenage males?---Yeah I'm pretty – I don't think he had time to even ask his age before he deployed that dog, I don't know. If they're tall and - - -

And he was escaping from CAAAPU?---Yeah, I have no idea. I wasn't involved in that apprehension so - - -

No, I'm not suggesting you were?---And at times, some – a younger person may be bitten, but if I can't tell how old that is, and that person looks like a grown man, I can't tell that in the dark.

No. But if you knew that a person was under 18, but of – a well grown teenager, not some small infant like teenager, you'd still be willing to release the dog, which deployed the dog onto a teenager?---That would depend what the offence committed was. The offence would have to be a much higher threshold for me to do that.

Much higher threshold than what?---So driving unlicensed, compared to a murder. So I'm saying I'm not going to – if someone's committed a sexual assault, or has killed someone, I'm more likely to deploy a – I would then consider deploying a dog on a younger person, if it was required, and it was needed.

Sure. So based on what you knew about this offence – pardon me, the allegations against Mr Walker, you were prepared to release the dog on him?---I was prepared to use the dog to apprehend him, yes.

If he'd been running into the bush – well criteria would include – pardon me, criteria would include things like public risk?---Yes.

But if the offender was a known murderer - - - ?---Yes.

- - - then the public risk of that person remaining at large is very significant?---Yes.

If the person was armed with a – a pistol, then the risk to the public and the police, is very significant?---Yes.

However, if Mr Walker had run out of the house without a weapon, and run into the bush, you'd agree, wouldn't you, that the risk to either the public or the police, was very low at that point?---I don't know if he didn't have a weapon. I wouldn't know that.

If – I'm just asking you, if he didn't have a weapon - - - ?---Yeah.

- - - and ran into the bush, which is in fact what happened a few days earlier - - - ?---Yep.

- - - ran out of the house, as he ran off, he didn't have a weapon, and he ran away?---Yep.

So assuming a repeat scenario, for your expedition?---Yep.

If he ran into the bush without a weapon, and you realised that, then there's very low public risk, is very low, police risk, and there'd be no basis to deploy the dog, would there?---I would deploy the dog, to apprehend him, yes.

You would have?---Yes.

Without a weapon as he ran into the bush?---Yes, he's committed a serious violence offence. I – so in my – in my personal opinion, it was reasonable and justified to deploy the dog to apprehend him that day.

You say he's committed a serious violence offence, are you referring to the waving of the axe?---Yes.

Which in - - - ?---The assault police, yes.

- - - pardon me?---Assault police, yes.

Assault police?---Assault police, yes. Was the offence, yeah.

When you were interviewed by police, you said "He threatened police with the axe, he feigned a couple of times to hit people, he did that in order to escape"?---Yes.

Yes, so when you use – these are your words?---Yeah.

When you use that "He feigned a couple of times to hit people", you're acknowledging that, as you perceived, the video of that incident?---Mm mm.

It was your perception that he had no intention to hit the people, whom he could have hitten – whom he could have hit, with the axe?---I said he feigned it, yes. I don't know if it was completely to escape. But that was definitely part of his reasoning, it might - - -

I'm just (Inaudible) your words - - - ?---Yeah I know I said - - -

You said, "He feigned a couple of times to hit people, he did that in order to escape"?---Yeah I said that, but - - -

Do you want to change that?---I don't necessarily want to change it, but I can't tell exactly what he was doing, but it looked like that to me.

When you said that to the police who were interviewing you on 10 November, you were certainly conveying the impression, that as far as you could perceived it, he deliberately chose not to strike the two policemen with the axe?---Well he did deliberately choose not to do it, or else they would have been hit with the axe.

A few days after the – a few days after the shooting, there was a barbeque at Constable Rolfe's house. You were at that barbeque?---No I was not at the barbeque.

Okay, that's my mistake, I - - - ?---No, no, definitely not.

- - - for some reason I'd heard something that you were there?---No.

All right. When you use – when you were in the Dog Squad, and you were deployed on a mission, were you ever deployed with somebody who would – who would have the use of a drone to accompany you on the – on the mission?---When I was still in, the drone was only just starting, and I didn't really have - - -

Sorry, could you say that again?---When I was – when I was there, the drone was only just starting, and I wasn't really – I was never exposed to that drone and dog interaction. I never really had it.

All right, I won't go there then. Can you just tell us when you left?---Mid 2020.

I'll stop there.

Thank you, your Honour.

HIS HONOUR: Anybody – yes, Mr Read, thank you.

XXN BY MR READ:

MR READ: Sergeant, at 9 November 2019(?), were you a senior constable at that time?---Yes.

You're senior constable. And you know – you knew Julie Frost from previously, is that right?---Yes.

And we've talked about the nature of command, but also going to other way, a junior officer, if they've got concerns, must go to their – the next rank up, or effectively, their commanding officer?---Yes, we'd say the immediate superior, yes.

And it is a breach of discipline to jump that and go to the next person up, isn't it?---It definitely can be repercussions from going above your immediate line supervisor's head, ye.

Yes, so when you were – evidence led by my learned friend, Mr Coleridge, the possibility, or the view, contacting Superintendent Nobbs, to say well hold on, I've been given two pictures, that would out of the question?---Well that would be, yeah, two ranks above – he'd be the third direct line supervisor for me, that - - -

On Saturday evening - - - ?---No – the time doesn't concern me, I – it would have been Julie, followed by the OIC of Southern Desert, would be my imagination or the southern watch commander - - -

Yes?---Before the Superintendent. Even though he was directly involved, so that may change on this, but yeah.

But you, in your position, where you were - - - ?---Yep.

- - - you were out doing effectively recognisance - - - ?---Yeah.

- - - etcetera, called back in, it's quite legitimate for you to think, well Officer in Charge Frost, is in charge here. If there was any consideration that there was a

necessity to speak with Mr Nobbs, you would assume, well she's either rung him, or whatever the case might be. But it wouldn't (inaudible)?---No, that's correct.

Yes. And Officer in Charge, Sergeant Frost, never approached you, you were a senior constable. The only other senior constable was Senior Constable Hawkings, is that right?---I believe so, I can't tell you what rank Tony was, I'm sorry.

Yes, yes. It would have been quite possible, if the circumstances required, for Sergeant Frost to say to you, look I don't like this immediate deployment, that's not what the plan is?---Yeah, she could have come to me, yes.

And if she'd said something like that to you, you would have said, well look, ma'am, we need to take a bit more time and talk about this?---Absolutely.

And certainly if the – at that time of 7.05 or 7.06 when you left the police station to go out - - - ?---Yep.

- - - Constable Kirstenfeldt had a shot gun with him, is that right? Do you - - - ?---I can't remember what he was carrying.

Can you remember whether someone else had a long arm?---Someone did, yes.

Yes. And if it was simply an intelligence gathering exercise, or that was the principle purpose - - - ?---Yep.

- - - would you have expected that Sergeant Frost would say, look don't take your guns at this stage, may be later on at five in the morning?---Possibly, I don't – I don't – given the IRT were a semi-specialist unit, I don't know what training they have, or what – what general rules they have in deploying their – sorry.

I appreciate you would say that, but Sergeant Frost could have well said, look we don't need that sort of - - - ?---She could have, yes.

- - - equipment at this stage, is that right? Nothing like that was said?---No.

And that was your genuine belief, that there must have been some form of change of format, change of plan, is that right?---Yes that's right.

Thank you very much, sergeant.

HIS HONOUR: Mr Edwardson?

MR EDWARDSON: Do you want me to press on, your Honour?

HIS HONOUR: If we – I'm not quite sure how much is left, I'd very much - - -

MR EDWARDSON: Your Honour, I've got very - - -

HIS HONOUR: - - - I'd very much like to finish this witness today, if possible.

MR EDWARDSON: I think that's – by the sounds of it, I think that's certainly possible.

THE CORONER: Yes, thank you very much.

XXN BY MR EDWARDSON:

MR EDWARDSON: Sergeant, the two topics I want to cover is first of all this change of plan?---Yes.

You've told us that when you first attended you were given a copy of the plan in that email format. You then go out to Yuendumu to do a reconnaissance to look at the area because you weren't familiar with it?---Yes, that's correct.

At that point in time the members of the IRT had not arrived?---That's correct.

And by the time you get the call from Mr Kirstenfeldt you then returned back to the station?---Yes, I did.

And they were all then all present?---They were, yes.

And so was Julie Frost?---Yes.

And at that point in time I think you said that Zachary Rolfe was giving a briefing of some sort?---Yes, we were looking at the map on the bench.

Right, and he was identifying, presumably, houses, in particular House 577?
---That's correct, yes.

And Sergeant Frost was present when that occurred?---That's correct, yes.

And it's your evidence, as I understand it, that you certainly understood and knew that at the time when you left the station with the other members of the IRT, you were all going to House 577?---Yes.

And that was certainly an understanding as you understood it, amongst the collective group, including Sergeant Frost, before you departed the police station?---That's correct.

Now, we've had evidence in this case, including from Sergeant Frost, that she said words to this effect, "If you come across him" - that is Kumanjayi Walker - "arrest him". Now, did she say those words in your presence or did you hear her say something to that effect?---I can't remember those words.

Did you have an understanding at least that when you departed and you were going to House 577, you were going there to see if you could find out where he might be?

---Yes.

And did you have an understanding that if you came upon him - when I say "you" I mean the collective group - that he would be arrested?---Yes.

You knew that there was a warrant out for his arrest?---Yes.

You knew about the axe incident?---Yes.

Had you seen the video footage?---Yes.

So you were aware of the risks associated with him?---Yes.

And because of the gravity of the combination of those two factors, his apprehension was inevitable?---Yes.

And indeed, as you've told us, if required, you would have deployed the dog?---Yes.

Finally, had you worked with Zachary Rolfe before?---Very limited.

Did you know him?---Yes. Only just around the police station. We weren't social.

What about the other members of the IRT?---No, not - I haven't done work much with them at all.

But Zachary Rolfe you had but only on a limited basis?---Yes, with - probably with all of them it's the same.

Was there anything said by him specifically or for that matter any other member of the IRT which caused you to think that there might be some sort of racial motivation in the way that they were going to perform their duties on that day?---No.

Was there anything said by any member of the IRT including Zachary Rolfe, which suggested any sort of racial concern?---No.

Have you ever heard Zachary Rolfe say anything disparaging of a racial nature? ---No, I have not.

Or for that matter any of the other members?---No.

And nothing was said in that regard?---No.

Did you see anything that any of them did that from your perspective, looking back on it, was inconsistent with anything other than a professional operation in the circumstances that presented themselves?---Yes.

You agree with that?---Yes, I agree with that.

Nothing further, thank you, your Honour.

THE CORONER: Ms Burnnard?

XXN BY MS BURNNARD:

MS BURNNARD: May it please your Honour. Good afternoon sergeant. You were asked some questions about a period during which your body-worn camera was turned off on the evening of 9 November 2019? Do you remember being asked those questions by Ms O'Neill - - -?---Yes, I remember.

You indicated that a reason you might turn your body-worn off is because you're not executing a police power anymore? Do you agree with that?---Yes, I agree.

Is it also correct that you might turn your body-worn off if you're driving or if you're in the police station or if it's not necessary?---Yes, absolutely.

Are there any other reasons where you might turn your body-worn off?---No, not really.

What about preservation of the battery? Body-worns rely on battery don't they? ---They do, yes.

At the time that you turned that video off, did you know how long you were going to be on duty that evening?---No, I did not.

Did you know to what degree you'd be required to have your body-worn on into that evening?---No, I had no idea what was coming.

THE CORONER: I expect there are batteries at the station though, wouldn't there be?---They are rechargeable ma'am, they have to go into a slot. They don't change the batteries.

Right.

MS BURNNARD: Sergeant, you indicated that at the point that you turned your body-worn off you were coming together in the middle and the whole point of that was to see if everyone was okay?---Yes.

Is that the evidence? You said it was the first lull and it was an opportunity to take a breath?---Yes.

What was the purpose of that? What do you mean? Was there a welfare check? ---Well, I think that's how I look at it. It had - it had been an intense few hours, a lot of things had happened, we didn't know how everyone was going so it was generally a genuine welfare check on how everyone was.

During the period your camera was off, Sergeant, was there any discussion about what happened during the shooting?---I don't think so.

I want to take you now to your experience as a patrol dog handler?---Mm mm.

THE CORONER: What were you talking about then? When you - when the camera was off, what were you talking about?---I have no idea ma'am, I can't remember.

MS BURNNARD: But your recollection is that it was a welfare check?---That was my - my memory, yes.

In November 2018 Sergeant, you were a certified patrol dog handler, is that right? ---That's correct, yes.

And the particular dog assigned to you was Loki?---Yes.

How much training did you have to do to be a certified patrol dog handler?---So it take a dog about 18 months to be ready. It can take longer, up to two years. For a dog handler themselves it can be anywhere from six months to a year and it's three courses, blocks of courses and you go way back to your kennel and you work on again, you come back for another course, go away and work and then you come back for your final course and then if you're certified then you in the third course you can deploy as an operational handler.

So extensive training for you and then separate extensive training for Loki?---Yes. Sometimes you do it yourself, sometimes you'll get a dog from three months up until 18 months, other times you'll be assigned a dog.

Is first aid training part of that course?---It's not part of that course, it's just part of our regular police training qualifications.

So when you were a certified patrol dog handler did you hold up to date first aid qualifications?---Yes, I held current first aid qualifications.

Do you know if the Northern Territory Police Forces Dog Unit received assistance in training from any other police interests?---Yes, New Zealand Police came to the Northern Territory, and assisted us with our program.

And when was that?---They first came over in 2000 – it was either end of 2000 – no, 2017 it was, when they first came over.

And what was the purpose of their attendance?---It was to upgrade our – our – our knowledge base, and upgrade our training.

And what was the focus of the training they gave you, as far as you recall, that they provided to you?---The focus of it? Just to make – just to have highly trained dogs and – and just to train us better, to know what – how to be a dog handler.

Did they give you any training in relation to use of force?---I can't remember specifically NT use of force, but they have a very – a very conservative sort of approach, and they're very low use of force in the use of their dog.

And do you know that because they conveyed that to you?---Yes.

What was Loki like? He was with you for a long time wasn't he?---Yep, he was good dog.

Were you able to have him around others, or was his temper - - - ?---Yeah, he was okay. He's quite – he was a 40-kilo dog, so he was a bit boisterous, but he was friends with my family. He lived at home. He was friends with our friends. He lived at my house.

HIS HONOUR: Is Loki still around?---No he died.

MS BURNNARD: Could you take him around the police station, have him around other people?---Yeah all the patrol dogs, run around the bottom side of the police station at musters. We take them to paediatric wings. We take them to pre-schools, we take them to schools.

So some of the police patrol dogs are taken to paediatric wings at hospitals, is that what you just said?---Yeah.

What's the purpose of doing that?---It's good to go and see the kids with the dogs, they love it.

We've established, sergeant, that use of a patrol dog is a non-lethal use of force, you agree with that?---Correct.

I won't take you to it, but it's obviously governed by a General Order?---Yes.

If somebody is injured, if there was a requirement in the General Order that applied to you to notify the watch commander, is that right?---Yes.

And the officer in charge of the Dog Unit, is that right?---Yes.

Did you wear the body-worn when you were deploying a dog?---Yes.

I want to talk a little bit about the process for deploying a dog. You've given some evidence about taking into account the nature of the offending - - - ?---Yes.

- - - and the risk that the offender would pose to others?---Yep.

When you are determining whether or not it's safe to deploy a dog, what other circumstances do you take into account?---Beside the circumstance of the offence, whatever else is around me. I need to make sure that no one else is going to get hurt. I need to make sure no police are going to get hurt, or members of the public

are going to get hurt. I need to make sure the dog is focussed on what I need him to do.

Okay. You have some evidence about giving a loud verbal command - - - ?---Yes.

- - - before you deploy a dog. Or before you release a dog?---Yes.

What is that loud verbal command?---They're - for a deployment for someone running away, it's yelling as loud as you can, "Police with a police dog. Stop or I will release the dog. Last chance, stop or I'll release the dog." And that's yelled as loud as we possibly can.

Every time?---Every time, unless there was a particular tactical situation that required it not to be, but that's not something that we would train ever.

Okay. You gave some evidence, Sergeant, about taking your dog out the car hundreds of times?---Yes.

Was that a reference to Loki?---Yes.

In the – how long was Loki with you?---We were together for two and a half years.

Okay. During that period, how many times a shift would he get out of the car?---It varied from shift to shift, but I'd say on average over a block of shifts, five/six.

Okay. So, during that period doing the best you can to estimate, how many times did you use him?---It depends which - - -

Let's go, not releasing?---Yes.

But just how many times did he get out of the car with you?---Maybe only one of the deployments he would be used for one of the things he's trained for, the rest we might get out and nothing will happen and he goes back away again, or we go for a walk and have a look around and then go back to the car.

Okay. So, out of those hundreds of times, how many times was Loki released and how many times did he bite somebody?---Three.

Of those three, how many suffered an injury?---One suffered minor injuries and the other two suffered no injuries, just some light scratches.

Okay?---From the winter clothes, Alice Springs winter clothes. Sometimes, the dog will grab hold of a jumper, but it doesn't actually touch the skin of the person, it just holds the jumper or the clothing.

The minor injury that Loki caused?---Yep.

What was the nature of that injury?---It was four puncture marks to the back of the

leg.

When was that?---That was early 2019.

Do you recall the circumstances of the alleged offending?---Yes, it was an aggravated assault. The male had beaten his – assaulted his six-month-old pregnant wife and then pushed police down and one of the police officers had been injured and he fled.

Okay. Ever seen a police dog cause a life-threatening injury?---No.

You've given some evidence about medical treatment. You said you'd cleaned the wound yourself?---Just saline.

And then treatment would be administered?---Applying pressure and a bandage, yeah.

Sure. The qualifications you have for that is the first aid that you referred to earlier. Is that right?---Just a senior first aid certificate, yes.

If, on this occasion, events had transpired differently and Kumanjayi Walker had been bitten by a dog, and as we know, there were no nurses in the community, what is your understanding of how he would have received the obligatory medical treatment?---Well, I would have done it myself. I would have done exactly what I said before, the saline, the pressure of the bandage and then my understanding was that he was to be transported directly back to Alice Springs where he would have gone to the hospital or seen a nurse.

Thank you very much, Sergeant.

Those are the matters, your Honour.

MR COLERIDGE: Just two minutes, your Honour.

THE CORONER: Yes, Mr Coleridge.

REXN BY MR COLERIDGE:

MR COLERIDGE: You went through an incredibly traumatic event on 9 November?---Yes.

Would you agree?---Yes.

Experiencing a police shooting would be traumatising for any ordinary human being?---Absolutely.

Including police, I'd say?---Absolutely.

And although the members of the IRT, in a sense, went through that together, they each had very different experiences. Would you agree?---Yes.

You don't know what the others saw or heard or did?---No, I don't.

You don't know how they were feeling after the event, did you?---No, I don't.

And that's why, when there was a lull in the proceedings, you came together and discussed things. Correct?---Yes.

Because you wanted to know how they were feeling?---Yes.

What they'd seen and done?---Well, exactly how they were feeling.

All right?---Yeah, if everyone was okay. If anyone was injured.

You would agree that how they were feeling would be directly related to what they saw and did though?---Yes, of course, yes.

Okay. So, there'd be some discussion of what had happened. Correct?---Yes.

Okay. And that's the context in which Constable Rolfe asked you to turn off your body-worn footage?---Yes.

Okay. And you don't know what was then said?---I don't recall. We talked about it after that.

Okay, because your body-worn footage was off?---Yeah.

Okay?---Yeah, it was a long time ago. I don't remember.

THE CORONER: Thank you very much for coming to give evidence. It's very much appreciated that you made yourself available to answer all of those questions and assist with the inquest?---Thank you, ma'am.

WITNESS WITHDREW

THE CORONER: We'll adjourn to 9:30.

ADJOURNED