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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 24 OCTOBER 2022

(Continued from 21/10/2022)

Transcribed by:  
EPIQ

THE CORONER: Yes, Dr Dwyer, and I think Mr Suttner's here.

DR DWYER: He is, your Honour.

THE CORONER: Hi, Mr Suttner.

MR SUTTNER: Hello, nice - - -

THE CORONER: Nice to see you in person.

MR SUTTNER: - - - nice to see what's going on now.

THE CORONER: Yes, Dr Dwyer.

DR DWYER: Thank you, your Honour. Your Honour the first witness is Constable Mark Sykes, and I call Constable Sykes.

THE CORONER: Thank you.

MARK VINCENT JAMES SYKES, affirmed:

XN BY DR DWYER:

DR DWYER: Sir, could you please tell the court your full name, and your rank, and your current station?---Yeah, Constable Mark Vincent James Sykes, and I work in Berrimah PMC.

In Berrimah PMC?---Yes, that's my station.

All right, and just tell us what that acronym stands for?---Peter McAulay Centre.

Thank you. You've provided two interviews for the assistance of the court. One is dated 18 December 2019, at 7-123. And the other one of 30 January 2020, 7-1241?---Yes ma'am.

Constable at the time that you provided your first interview on 18 November 2019, were you a probationary constable?---I was ma'am.

I'm going to ask you first, some questions about your background. Just so you understand, although you've set out quite a lot of detail in your statements, there's lots of family and community members listening in. So it's important that they understand some of that background too?---I understand.

Where did you grow up, constable?---I grew up in a – a small town in New South Wales, until I was about 17.

Yes?---I then moved to Sydney. I lived in a youth hostel in Sydney and – for approximately maybe a year and a half. And after that, I started travelling. And probably travelled on and off for the next five or six years.

And then at some stage, you joined the military, is that right?---I did. I was 27 when I joined the military.

And what was your role in the military?---I joined the Infantry Core, as a rifleman.

And that was effectively, because of all the travel that you did, and your time out, your first full-time job, is that right?---No, by no means it was my first full-time job. I started a – a career in Canada in high – in the gas industry.

Gas?---Gas, yeah, so I worked on an oil rig over there. And when I came back to Australia, I worked for a couple of years with a company called, at the time, Australian Pipeline Authority. It's now known as APA. Conducting excavations on high pressure gas lines that can't be turned off that need maintenance or are due for repair.

What attracted you to a career in the military?---I just think I – it's probably something I had always aspired to be. That – you – I was enjoying travelling at the time as a younger adult. And by the time I turned 27, I – I just took on that inspiration, and off – off I went.

You joined the police force – I'm coming to a period when you joined the police force. Sorry, just remind us of the year?---2018.

And were you in the military up until that time?---I was still effectively in the military in a reserve capacity. But I'd left the full-time army in 2016.

And what was the year you joined?---In 2010, ma'am.

In the military you met Constable Rolfe, who was at – who was also deployed with you at one point, is that right?---That's right.

You met him in 2012, according to your interview?---Yeah so, we – we both would have been in the same battalion before then. But there was a time when he was Three Platoon, I was in Two Platoon, Alpha Company. And not long before we were about to deploy, the amalgamated Three Platoon and Two Platoon. So whilst I knew him before then, that was the time that we probably started having more to do with each other.

And in 2014, you deployed to Afghanistan together, is that correct?---I did ma'am.

And you were there for around six months?---Yeah, just shy of seven months.

So fair to say that you became very close friends with – with Zach Rolfe, while you were in the army?---Yeah, yeah, so yep, that's right.

It must be a very bonding experience to go to Afghanistan together?---Yeah, yep it is. I mean even just being in the military in a sense is a bonding experience. To go away for seven months away together, maybe strengthens that.

And you remained close friends when you got back from Afghanistan?---I did, your Honour.

And then you left – you, yourself left in 2016, I think you said, is that right?---Correct.

And after that period of time, you remained friends with Constable Rolfe?---I did.

He was the first to join the Northern Territory Police Force, is that right?---Yes ma'am.

And is that part of the reason that you came to the Territory to be a police officer?---I definitely lent on him for his experiences before I applied. But I was also already looking to look for another career. And policing was something that I wanted to take on. And I definitely asked him during that period, of trying to work out where I was going to apply, his thoughts on the Northern Territory Police, and how he – how he was enjoying it. And I'd say he was influential in my decision.

What did – so you started asking him about that around 2016 – 2017, is that right?---Yes ma'am.

And what did he say to you about the Northern Territory Police Force?---He just said that he was really enjoying it. It was a good place to work. And that he thought that I would – I would also like it. I'd asked him other things about you know, pay and conditions, and things like that. And that seemed to suit my family at the time. And so we made a decision to put in an application.

At the time that you made the decision to put in the – your application, did you know of other members from the ADF who were applying to get into the police force?---No. Not in – no I didn't.

And in terms of – we know that a number joined the Northern Territory Police Force around that time. What about other police forces around Australia? Did you know it to be a pretty well recognised career progression, to go from the army into the police?---Yes ma'am.

In – we have a report from Commander Proctor that tells us that the Northern Territory Police recruitment data shows that between January 2010 and May 2020, so over that 10-year period, the NT Police recruited 718 former members of the ADF – sorry, 718 members, and 26 percent had previously served with the ADF. Does the ADF itself promote anything to do with careers after the ADF going to the police?---I don't believe so.

Did the Northern Territory Police Force, as far as you know, have any promotion that was directed towards ADF members that you saw?---I don't believe so.

And in terms of your – or people that you served with, at any time in the army, did anybody else end up with you, as a police officer in the Northern Territory?---Yes ma'am. Another good friend of ours, has also since joined the Northern Territory Police. And maybe another couple of guys that I knew have joined the Queensland Police.

Who's the other friend in the Northern Territory Police?---Jack Carter(?).

Okay, and when you say "Good friend of ours", you mean good friend of yours and Constable Rolfe's?---Yeah.

What about Mitch Hansen, did you know him at all?---Not previously. I don't think he has previous military experience.

Okay, what about Officer Kirstenfeldt?---Not previously.

You understand that he has previous military experience?---I do.

When you came to the Northern Territory to do your training as a police officer in 2018, where did you start off? That is, where did you do your training?---Darwin at the recruitment college.

Was any part of your training accelerated because you had been in the ADF?---No, ma'am.

So, how long did that training go for?---I think it's approximately seven months.

Do you recall, during the course of your training, learning anything about cultural competency?---We definitely did cultural awareness.

Okay. What did that involve?---It involved – we did like a field day out to a community where we spent the day in that community. We had a barbecue. They showed us how to throw a woomera. So, that was, I guess, the practical side and then prior to that, we did a couple of days in the classrooms on cultural awareness. We went to a mosque. I think we spent half a day at a mosque. That type of thing.

In terms of the cultural awareness program that you did, was any of that – that is back in the classroom, was any of it delivered by an Aboriginal person?---It was, yeah.

Do you remember who that was?---I don't, no.

When you were in community for a day, do you recall which community you went to?---I do. I just can't remember the name of it, but it's a local one that's about an hour away out towards Wagait Beach.

In the Top End, I take it?---Correct. It's about an hour from Darwin.

Okay. Had you, prior to joining the Northern Territory Police Force, spent much time with Aboriginal people. Prior to joining, no.

Okay. When you were working as a police officer in the Northern Territory, did you work with Aboriginal Community Police Officers, ACPOs?---Yes.

Where did you do that?---Both in – well, all over the Territory. I've worked in Alice Springs, Ramingining in Darwin and generally, there's always ACPOs present at some stage or another.

Let's start with your – when you finished your training in Darwin, where did you go for your first posting?---Alice Springs.

And why was that?---We have a choice. We get a preference system on the backend of college that you could either go to Katherine, Tennant Creek or Alice Springs, and I chose in Alice Springs.

Was part of your reasoning of coming to Alice Springs that you had a mate down here already in Zach Rolfe?---It may have been some part of it, but that was the decision between, I guess, myself and my wife. And we just felt that that would be a good place for us to live.

When you came to Alice Springs, was there any separate induction that you got in relation to the cultural issues in Alice?---Formally, I don't recall. I don't think so.

Do you recall - - -?---There's an induction into the police station, but specifically for that, I don't think so.

So, do I take it from that that you didn't learn anything specific about the Arrernte people in Alice Springs or Mparntwe?---No.

And you didn't learn anything about the areas around Alice Springs and the cultural groups that live there; for example, the Warlpiri or the Luritja or any of the other cultural backgrounds?---Not in a formal setting, I don't believe so. When you're working with senior police officers, I guess that information is imparted.

Do you mean when you're working with other – with senior police officers who are non-Aboriginal, they might tell you about issues that you - - -?---Well, it doesn't matter whether they're Aboriginal or not. If they are from Alice Springs, whilst you're on the road with them, you're still learning. You're a probationary for the first 12 months. And so that information is imparted, but in a formal setting, I think that's what you're asking for, no.

Okay. And in terms of informally, is there anything that you recall learning from senior officers that was of use to you in dealing sensitively, appropriately, with

Aboriginal people who were in town?---I think – I'll say yes. I mean, at the start of your career, it's more of a stand back and see how that senior partner interacts with the public and through that, there's probably some modelling of your own behaviour to do that. I mean, it – when you join the police, it can be quite confronting having those conversations that you generally wouldn't have, and then seeing somebody that is well-versed, like a senior partner, do that, you do take that from them when it's your turn to have those conversations, if that answers your question.

Well, for example, when you're addressing somebody who you believe to be a suspect in a crime or to have just committed an offence, were you taught about any way in which you should be addressing members of the public?---Are you asking me if I should be addressing just a member of the public as a broad question?

No, let me withdraw that question and I'll ask a different one. You talked before about modelling effectively, that it's important to watch the more senior officers and see the way they behave when they're interacting with members of the public?---Correct.

And that's influential on the way that you behave. Correct?---Yes, ma'am.

It's a hierarchical structure within the police force, isn't it? As a probationary constable, you expected to take orders from people above you in rank?---Yes, ma'am.

You've also got to use your own knowledge, obviously, and sensitivity?---That's right.

But it's important to watch others?---It is. We're all learning.

Yes. And that role of sergeant is particularly important in a patrol group, for example, isn't it?---It is, ma'am.

That you will watch how a sergeant interacts with somebody who is expected to be – or a suspect and see how, and that helps you develop your own?---I would agree with that.

Okay. And similarly though, if you are a probationary constable, the way that other constables who've been there for longer behave is also influential. Do you agree?---I think it's influential and I think, you know, as an adult, you can see the good and the bad, you know. You would take little pieces of all your learnings and then take that on to how you want to be.

In relation to approaching members of the public, I'm asking you this question based on the way that you would approach – say, you enter a house and you're speaking to somebody who is suspected of committing an offence, was there any part of your training that suggested you should deal with those persons respectfully?---Of course.

Do you recall part of your training that you should deal with those persons in the least aggressive way possible?---Yes.

By using the minimum amount of force required in the circumstance?---Of course, ma'am.

Okay. And was there anything specific in your training, either formal or informal, as to how you might approach an Aboriginal person on the street or in a house, even if they're a suspect when you're in Alice Springs?---It's not – it wasn't – we didn't do training for approaching an Aboriginal person as opposed to a Caucasian, Asian or Indian.

So, the idea is, isn't it, that you treat everybody with respect?---Yes, ma'am.

Whoever they are in the community and whether they're suspected to have committed an offence or not, you are supposed to model respectful behaviour as a police officer. Do you agree?---I do.

Okay. And you certainly wouldn't treat anybody different, depending on the colour of their skin. Do you agree with that?---I do, ma'am.

And is it your evidence before the court that what you saw in Alice Springs was that same attitude on display, that people were – that the officers that you worked with were respectful towards Aboriginal people?---Yes, ma'am.

And spoke to them in a respectful way?---Yes, ma'am.

And treated people with respect, even if they were suspected of committing a crime?---Yes, ma'am.

And spoke to them in a respectful way?---Yes, ma'am.

And used minimum force?---Yes, ma'am.

In terms of your – of Constable Rolfe and your knowledge of him in the force, I take it that you socialised with him once you came to Alice Springs?---I did.

And did you end up in the same patrol group as him?---Yes, yes. I also ended up in other patrol groups. Quite often, the roster does change if – so you might not always, month in/month out, be in the same patrol group. But there was times when we were in the same patrol group.

Her Honour understands from the report of Superintendent Proctor that for 256 – this is at page 24, he says, "For 256 of the 432 shifts, Constable Rolfe worked with 19 police partners for seven shifts or more. The officers who worked with Constable Rolfe most were Constable Mitch Hanson who was a squad mate of Constable Rolfe, he did 42 shifts. And Constable Mark Sykes, who – you served in Afghanistan with Constable Rolfe. You did 37 shifts with Constable Rolfe. So, this two of you were the ones who worked most with Constable Rolfe?---Yes, ma'am.

Was that by request from you?---No.

Or by accident?---So, each evening, as your shift starts, you do what they call is a muster, which is a briefing. And at that point, the shift sergeant delegates who's working with who, and so that's a delegation.

Okay. In relation to your time with Constable Rolfe, when did you arrive in Alice Springs?---It would have been approximately May of 2019.

May of 2019?---Or thereabouts.

All right, so from May of 2019 through to November 2019 you did about 37 shifts with Zach, is that right?---Sure.

In relation to those shifts with Constable Rolfe, was that helpful to you in terms of modelling your own what-have-you?---Definitely.

In what way?---He was a good teacher. He was someone that was able to explain things well. Quite often when you're learning, especially when you, I guess, come to any new job, but you sort of - you're absorbing a lot of information, even right down to street names and, you know, alerts on people and the suburbs and then you've also got the other side of policing - legislation and everything else and he was good at teaching in those early weeks and months and allowing me to absorb it. So I guess he didn't overload me with information and then as time progressed he would put another layer on, you know. "Now you can do this on PROMIS", and "Now you can do this" and it was good learning curve for me.

In terms of your work with him over those 37 shifts, I take it that you were watching the way that he behaved?---Yes, ma'am.

And that gave you a good idea of what was expected from you in the police force?---It did.

Did you socialise with him outside of work, I take it?---We did, yes.

You are married, is that right?---I am married, yes.

And you would socialise with him and other friends of his at the time?---Yes, that's - that's right.

Did you become friends with Sergeant Kirkby?---Yes, ma'am, Sergeant Kirkby was another shift supervisor.

He was your patrol sergeant at different times, is that right, on shifts?---Yes ma'am.

And was he somebody who you would have beers with and socialise with after work?---I don't think I've ever really socialised outside of work with Sergeant Kirkby.

What about Mitch Hansen, was he - did he become a good friend of yours?---He became a good friend of mine, yes, a good work colleague. I guess with my level of socialising is probably going for a coffee or a run, it's not so - you know, the drinking days are probably behind me, so.

Was there a group that used to go and exercise together regularly?---I wouldn't say there was a group, no.

Who else outside of Constable Rolfe did you spend much time with in the force outside of work hours?---Some of my wife's friends.

Other police officers?---No.

The IRT was a group that we've already heard some evidence about - the Immediate Response Team. Were you a member of the IRT?---No. I did some deployments with the IRT. I wasn't a member of the IRT.

So you were asked this question in your very first interview I think, at page 25? ---Yes ma'am.

You are first asked:

"Are you a member of the IRT?"

And remember, this is back in December 2019 and you said:

"I'll say 'yes' but I haven't done some call-outs - but I've done some call-outs with the IRT."

And then you were asked, "Have you completed any of the IRT training?"

And you said, "Yeah, I've been to two training days with them".

And you go on to say, "I believe there's maybe a two-week course, an upskilling course which they've completed, which I have not."

So in December 2019 did you think you were a member of the IRT?---No. No ma'am.

Why did you say "Yes" when you were asked; "Are you a member of the IRT?---I'll say 'Yes' but I've - I've done some call-outs with the IRT"?---Well, because I hadn't - I hadn't received that two week training that all members of IRT had. Those two training days that I referred to were regular ongoing training days that IRT would conduct, I think about once every roster, so perhaps once every five weeks and I had attended two of those training sessions and I had also been deployed with IRT twice. So I guess that's why I've said "Yes" in that particular question but I would not have - I guess I'm saying that formally, I don't think that I was a part of IRT.

Were you recruited to be on some jobs with the IRT by Constable Rolfe?---No ma'am.

He told you that it would be a good thing for you to do though, is that right?---Most definitely.

Why did he say it was going to be good?---He just thought that I would be well suited to IRT and that I would enjoy the training.

Did he tell you that you'd get to do high-risk jobs?---No ma'am.

And did he tell you it was good fun?---He said the training was good.

Did he tell you that you get to do cowboy stuff?---No ma'am.

No rules?---No ma'am.

Did he say that?---No.

Well, this is what he texted to someone on 30 July 2019;

"We have this small team in Alice, IRT, Immediate Response Team. We're not full time, just get called up from GDs for high-risk jobs. It's a sweet gig. Just get to do cowboy stuff with no rules. You'd walk through TRG section in your sleep. We got Syksey on IRT as soon as he go to Alice so if you got posted here the same thing would happen."

So certainly that suggests that Constable Rolfe thought that you were on the team? ---He may have - he may have, but I guess he may have talked to somebody that gave him that idea. That wasn't conveyed to me by anyone.

So when you went out to do your two jobs with the IRT had you had any training at all with them?---I'd done the two training days.

And what did that involve?---They used to do all different types of training on those training days. The two days that I attended was a range day where they did an ANZ CTZ(?) shoot which is a multi-weapon shoot, you use a side-arm or a pistol plus - plus a long arm. It's a scored shoot, so it's a pass/fail type of thing, so I'd done that and there was also some CQT training that they had one as well, which is Close Quarters Tactics where they had some empty houses around Alice Springs that they used and they facilitated some training.

And in terms of the next day, was that anything different? Was that the close quarter tactics? You said you did two days?---Correct. And I think that was over like, you know, a - one shift this roster, another shift the next roster. They were just one day - one day of training at a time.

Anything about using a negotiator? So did you learn anything about contain and - or cordon and contain first?---Not on those training days I attended.

And did you get any instruction about circumstances in which you would call in a negotiator to assist, as part of the IRT?---On those two training days, no, ma'am.

Do you know whether that was part of the IRT training at all?---I don't, ma'am.

What were the two jobs that you went to for the IRT?---The first job was up at Barrow - Barrow Creek, a lady had been stabbed in the middle of the night - a service station attendant - by a young man and we went up there and arrested the offender and the second was I was deployed up to Borroloola, another young man had hit his mother in the head with a machete and caused quite a lot of community unrest and I deployed to Borroloola.

Was there a team leader on either of those missions?---So on - when we went up to Barrow Creek there was only myself and Zach Rolfe.

When you went up to Barrow Creek did you understand Zach Rolfe to be, in effect, in charge of that job?---Yes ma'am.

Because he was the more senior of the two of you?---Correct.

Was he ever formally appointed a team leader or that was just your understanding because of his seniority?---That was definitely my understanding because of my understanding of rank structure and that he had also been there for longer and he had - he was a member of IRT.

On that job, Borrow Creek - just stopping for a second?---Yes ma'am.

THE CORONER: Barrow.

DR DWYER: Barrow Creek, I'm sorry.

Did you see any written operations order or plan for the job?---No ma'am.

Did Zach Rolfe give you a briefing before you went up there as to what to expect? ---Superintendent Nobbs gave us the briefing and what we were going up there to do.

Did he give you that verbally over the phone or in written or face to face?---Face to face.

And the second job you told us about?---We went to Borroloola for community unrest.

When was that?---I'm not 100 percent sure of the dates that we went up there.

Who went up there on that time?---Myself - so there was - when we went up there we went up there I think for a three day period, we came home for three days and went back for four days. So I'm classing that as the one situation and I went up there firstly with Mitch Hansen and James Kirstenfeldt. When we returned after three days off I think I went back there with Mitch Hansen, Sergeant Lee Bauwens and there may have been or two others - I can't recall.

Was Constable Rolfe with you on either of those occasions?---No.

On either of those occasions, was the community smashed up?---No ma'am.

On either of those occasions, do you recall the IRT members going into houses in community?---We did go into houses ma'am.

What – what for?---There was alcohol that was tipped out within the community. There were also a lot of arrests that were made within the community. When we went out to Borroloola there was, you know, if I'll tell you about, you know, our – our first interaction with the community was coming home from the airport to the police station. And we were approached by two males, both drinking, I think at the time, Bundaberg Rum, in a – in a non-alcohol permitted area. And those males talked to the officer that has picked us up to take us back to the police station and said "If you don't do your f'n job, we're kill old mate tonight." So that was our first interaction, and we hadn't even got to the police station. We did go into his – so we went and dropped off our gear, and returned. And after looking him up, he was – had an outstanding warrant. And we did go into his house and arrest him. And the alcohol that was in there, was also - - -

THE CORONER: Is that old mate the one that they were complaining about?---Yes, sorry.

That – two guys came up to you and said if you don't do your job - - - ?---Yes, ma'am – yes, your Honour.

- - - something's going to happen?---Yes, your Honour.

And then the person you went to get, who had a warrant - - - ?---That was him.

- - - was the one that they were complaining about, or was it one of the two that had approached you?---The two guys that approached us - - -

Right?---And made demands of us, that if we don't, yes, go and do something about somebody else, no that – it was the – one of the two guys that had approached us that were drinking, that had the outstanding warrant, your Honour.

Okay?---As they were talking to us – sorry, on our way back to the police station, we looked him up on our police systems, and realised that guy had an outstanding warrant. And we went back and dealt with that.

DR DWYER: Who was the senior person on that job?---Both Mitchell Hansen and James Kirstenfeldt were senior to me. I was a probationary constable at the time.

Was it just the three of you out there on that – on that occasion?---Yes ma'am.

And on that occasion, was there a team leader appointed?---Your Honour on that – on that occasion, I don't know if there was formally a team leader appointed. They were senior to myself, but we were going to a community that had a sergeant, or an OIC. Now when we got there, they were – well we didn't see much of the OIC, due to stress. He – in fact he left within a few days of our arrival. The members at that point, were so over-worked and run down, that they weren't attending their shifts. And so our police force commander, being the OIC of Borroloola at the time, that we – we ended up having very little interaction with him, because of, I guess the state they were in when we got there. We had gone there to give them some respite. Which we did. And those days ended up being 16 odd hour days - - -

THE CORONER: So you understood why they were tired?---By all means. They have a very hard job out there, your Honour. And that was okay with us, because we weren't tired. We had rocked up fresh, and we were happy to work. But my point is, with – when you're asking about who the team leader was, at the time, it would be our sergeant of the – of Borroloola, who at that time was – needed rest.

DR DWYER: So when you got into the community, you were going out there on the understanding that there was unrest in Borroloola, correct?---Yes ma'am.

And you got – you went out there, without any formal written Operations Order, is that right?---I don't recall any formal written Operations Order.

So you go there, thinking that you're going to try and assist the local police, to deal with any unrest, is that right?---Effectively, we were going there to offer general support, which is respite to the local members.

Okay, and no team member is formally appointed, correct, out of the three of you?---Correct, ma'am, to the best of my knowledge.

Okay, but you got – you're there effectively, with two officers who've had more experience than you. So you're going to take instruction from them?---Yes ma'am.

When you get there, did you expect to have a briefing from the sergeant, who was the head of the police station?---I would have expected to have more of a hand-over than we did. I will say, the police officer that picked us up from the airport and took us back, did a – a great job. He showed us all the different communities. The alcohol restricted areas. Houses that may be a problem to us, during our stay. And so we were definitely front-loaded with a good hand-over take-over, from him.

And do you recall his name?---I don't, your Honour.

After that happened, what did you do?---As?

After you got that hand-over, well I withdraw that. I'll ask you this question first. Were you in your camouflage gear, or your blues?---Dressed as I am today.

What – any – and same as the other two officers with you, Mitch Hansen and Officer Kirstenfeldt?---Yeah, we went there in a general support capacity to offer respite. I – I mean, I was never issued any camouflage uniforms. And I don't believe those two would have even taken them with them.

What did you take, by way of firearms, into that community?---Just what our normal accoutrements would be, that we would carry on our duty-belt, which is our Glock.

Did you take a - - - ?---Sorry, and a non-lethal, or a less lethal shot gun.

Who – did you carry a shot gun yourself?---No ma'am.

Of the three of you, what long arm weapons were carried?---I don't recall any long - anything more than less lethal shot gun, and our Glocks being taken on that.

By a less lethal shot gun, you mean a bean bag shot gun is that right?---Yes ma'am.

So that was taken by one of the officers, or both officers?---Well there was only one taken.

Okay?---To be able to operate a less-lethal firearm, you need to have done a particular training, and be signed off to do that, which I'm not. Both of those guys were.

Once you were in the community, and you had a hand-over in effect, from another police officer, what did you do in community?---We immediately went back to that bloke that had threaten to kill someone, and arrested him for his outstanding warrant.

And then you took him back to the station, and he was processed there I take it, is that right?---Yes ma'am. And then we were in a position, because there was only three of us, that we now needed to operate a watch house.

So were there no other - - - ?---And - - -

- - - just stop there if you may. Were there no other officers on duty, in effect, while you were there, for those days?---No ma'am.

So you then operated a watch house?---Yes ma'am.

And then – so did that mean that somebody – that one of the three of you stayed within the watch house area?---Correct.

Was that person then conveyed back to Alice Springs?---At some stage, now I can't remember if it was that day or the next day, they were flown back by police air wing.

And by the time that plane came, your Honour, there was more than just that gentleman, sitting on it.

So over the days that you were there, can you recall how many arrests you conducted?---I would imagine it was in the vicinity of eight to 10.

And for what sort of offences were you arresting people?---Mainly their outstanding warrants. Which I believe were mainly offences against the person issues, that hadn't been dealt with.

In order to effect those arrest, for outstanding warrants, would you enter people houses?---If – if the situation arose. I believe that most of those arrests were interactions that we were having with the person. As in, I'm about to have a conversation with you, and then we ask for their names. And we look them up, we then see that they've got an outstanding warrant. And then at that stage, they'd be placed under arrest. We – we – sorry.

No please, go?---We were so busy, we weren't targeting – we weren't looking – we weren't going into people's houses and trying to find arrest targets. The – we were happening upon these. And I imagine that it's because of the state of the other officers that were so run down, there was work to do. And we were happy to do it for them, so that when they came back to work, there was less for them to do.

Over that – after that period of time – or I withdraw that. So for any – are we right that for the days that you were out there, with Officers Kirstenfeldt and Hansen, you were effectively just the three of you policing the community?---Yes, your Honour.

When you got back, was there any debrief session with anyone above you, in the chain of command, as to what had occurred?---No, your Honour.

Did you have concerns that in effect you went out there and replaced the officers, rather than have any sort of debrief with them and – I withdraw that. Did you have any concerns, that in effect, the IRT replaced the existing police for those days, rather than worked with them? Or did you think that's what you were being sent out for?---I believe that's what we were being sent out for, and when there's relief in place, like what we conducted, it's extremely important for those community police officers, to get that rest. And so I was happy that they did get that rest that they needed. Because we obviously can't stay there forever either.

Do you recall speaking to members of the community in Borroloola about why the – why you were there?---Yes. So when we got there, we went and let them know why we were there, because of the unrest. We also - - -

Sorry, how did you do that? How did you let members of the community - - -?---So, we asked – I apologise for not remembering his name, the guy who gave us the initial lift from the airport and showed us around. We asked him who the traditional owners were and the Elders. Once we had dropped him off and effected that first arrest, we went back to some of those places that he designated with the less lethal

shotgun and talked to those community members and explain to them what that orange shotgun was and what the effect of it was, and that it was a less lethal firearm. They were very accepting of that and thanked us for having those conversations. And we made it very well aware that that is a less lethal shotgun and when they see us carrying it, that's what it is.

Did you do that because you understood that it looks pretty intimidating, that longarm firearm?---Well, yes, that is one of the reasons, your Honour. It's also, as we know, you know, presence is a use of force or an escalation in someone knowing that we have something that could effect a less lethal capability, that in itself could stop a potential attack or a threat or something like that.

It operates as a deterrent if you're coming out there with a show of force. Is that right?---Correct. And by being visual and by people seeing it and us explaining it at the start, I mean, word travels pretty quick in the community and that in itself may deter any problems down the track.

Did you see any rioting yourself in the community?---No. We didn't – I don't believe we saw big groups of people formed up. No, we didn't.

THE CORONER: Was it similar, the second time you went out as part of that one?---It was – the work was similar, your Honour, but we had more members. Sergeant Lee Bauwens came out with us that time. We were able to rest more and we conducted more proactive policing during that time. So, we set up RBT stations in the evening, you know, with our lights on, very visual and present within the community. The second time we went back, we also stood on the bottle shop in the opening hours of when they would sell alcohol within the community as more of a parley-type response to reduce the amount of alcohol that was being consumed to those that weren't living in appropriate areas at the time that could consume alcohol. And I believe that had a good effect on the community, as in, we were seeing a lot less intoxicated people and any social behaviour as a result of us doing that for the four days.

And were you – you were one of the group carrying the less lethal shotgun that second time as well?---I wasn't qualified at the time.

You weren't, sorry, one of the others?---Your Honour, there would have been one there on the second trip. I don't remember it being carried.

Okay?---Yeah.

When you came back, was there any debriefing with Sergeant Bauwens as to what had occurred in Borroloola?---Your Honour, I don't recall a debriefing.

From that time though, do I take it that you saw the IRT as an elite group of officers operating in Alice Springs?---I saw them as a – they were trained to a higher standard than your general duties police officer and I was aware or privy to the fact that they had done a two week course that afforded them that extra training, yes.

And they were, do I take it, fit?---Yes, everybody was reasonably fit, your Honour.

And they were highly motivated. Is that fair?---They were motivated police officers, yes.

Okay. And they were people who you would expect to be called out to deal with high-risk jobs. Is that right?---Yes, they had a willingness to do those types of jobs.

And so, they were – when you saw their – the way that they operated, was it something that you wanted to be part of, this IRT?---Yes, I definitely wanted to be a part of IRT. I thought it was a good unit. I thought that that there was a need for it and I would enjoy the extra training.

Did you ever do the extra training - - -?---No, ma'am.

- - - for the IRT? So, you never became a full member of the IRT. Is that right?---Well, no, after this Yuendumu incident, IRT vanished, I guess for lack of a better word.

And if it hadn't done, then you would have become part of it. Is that right? You would have applied?---An enquiry of interest would have come out at some stage, your Honour. I most definitely would have applied.

Did you – I asked you some questions about working with Constable Rolfe on various different jobs, you arrived, I think, in May 2019 in Alice Springs. Is that right?---Thereabouts, ma'am.

Have I got that right? I'm going to show you some video footage of an incident involving the arrest of a Mr Christopher Walker. Does that name ring a bell to you?---No, ma'am, it does not.

I'll show you that footage now. That's lined up?---Christopher Walker.

Just set it up there.

DVD PLAYED

DR DWYER: I just want to play the very start of that again, Bec.

DVD PLAYED

DR DWYER: That's perfect, thanks.

Constable, I asked you earlier about working with your fellow officers. And Constable Rolfe, you suggested that he always spoke respectfully. He behaved appropriately. He used the minimum force. Do you recall that incident with Mr Walker?---I do now, yes, ma'am.

He rang the door. He was first in the door and he said, "Police, don't move. He had his gun out. Get on the ground, get on the fucken ground." Do you think that is an appropriate way for an officer to behave in those circumstances?---Your Honour, in those circumstances, I do. As we were driving to that residence that night, the man that had called the police was still on the phone with police and our radio communications were relaying what he was saying to us. He said that he was barricaded in a bathroom, he had gone in there because the offender, Mr Walker, had had a knife and was trying to kill him. So right up until the moment when we left that vehicle, that police communication was telling us that there was somebody trying to get into the bathroom to kill a man and that he had a knife in his hand. When we got there there was a number of police officers standing outside of the chain link fence that you see both myself and Zach scale to go in. The threat to that man, at that stage was imminent as was being relayed at the time on the phone. Inside of a house or a premises, it is very hard to keep a reactionary gap with anyone - let alone somebody that's potentially - and as we know - we're being told - armed with a knife. What I saw on the video then, I do believe to be proportionate to what we were being told. Zach, from what I could see on that video right then, the moment that he saw both - of that man - of the offender Walker's hands, that he wasn't holding that knife, put his firearm to the side and used a strike to put him onto the ground. I think that shows great restraint in being able to both deal with what's in front of him and manipulate that firearm. At that time - and you will hear in the video, your Honour, he suspects; that the man on the ground was the man that we were looking for with the knife but we can't be sure. We don't know that we're going to walk up the corridor and then be ambushed from the left with the man with the knife and I can hear him saying in there, ma'am, "That's Walker - I think that's Walker". Someone else took custody of him, the house was cleared. That night my body-worn would show you that I immediately went to the back yard and cleared the back yard and we realised that we had the man that we were looking for in custody.

Well, can I suggest to you, officer, if you screamed at a man there - with Constable Rolfe screaming, "Get on the ground - get on the fucking ground" with a gun out to his head - and it wasn't the person you were looking for, then that was going to be a big tip-off for somebody else in the house who may well have been a threat?---Yes.

Do you still think that that's the appropriate way to approach it?---I think there's probably more than one way to approach it and I do think that was appropriate at the time, that was the decision that was made and he also had the support of all of us officers running in with him. If there was a tip-off now the police - there was numerous police cars when we got out there - out the front with their lights on. Anybody within that residence at the time already knew that we were well and truly there.

Do you know what those police officers out around the house were doing?---I do not ma'am.

Do you know whether they were attempting a cordon and contain and negotiate strategy or anything of that nature?---I don't believe that that would be - I don't know that that's what they were doing, or I don't believe that would be their strategy. I think that they were confronted with a padlocked gate and were wondering how to get over it at the time.

Why was there no communication between the officers in your vehicle and those officers around the house?---I - from memory I think when we got out someone had said that "the gate is locked - the gate is locked" and so we ran over - the top of the fence.

Who did you - did you travel in the care with Constable Rolfe to that property?---I did ma'am.

And was there anybody else in the car or was it just you and officer Rolfe?---I believe it as just the two of us.

And the two of you in the car, on the way to the job, you said you were in communication, were you on the phone with a person who was in the house or were you listening to them over the radio?---No, no, so the person in the house has made a 000 phone call. Our Police Communications Centre then relays that information to us but they were relaying it in real time. They were on the phone and also making a radio communication.

And so do you know if there was a team leader for that job? Someone who was in command?---That wasn't a situation where there would be a team leader. So what generally happens in a situation like this, the police communications would put out a call for any available unit. So anyone that can drop what they're doing and make their way to that residence is asked to do so, which could mean that you would have several police vehicles coming from several different jobs convening at the same time or a similar time.

And do I take it from what you're saying, several different police vehicles convening at the same time but not communicating with each other as to the appropriate approach, is that right?---In some incidences you will be communicating. I don't recall what the communication was at that time.

And Constable Rolfe took the lead by the looks of things, in terms of all the police that were there, is that right?---I wouldn't suggest that's the case. I would say that he climbed that fence first.

Can I just show that again one more time, just at the beginning?

THE CORONER: Did the others then climb the fence after you guys demonstrated? ---Yes. Yes, your Honour, that's exactly what happened. I mean, there was people that was walking up and down the fence-line and sort of working out how they were going to get in. The moment we went over that fence I heard it rattle several times as I was approaching the house. It's just a little bit higher than head height.

DVD PLAYED

THE CORONER: That will do, thank you.

DR DWYER: Did you say you saw Constable Rolfe deliver a strike to get him to the ground?---It appeared that way ma'am.

When Constable Rolfe entered that house the gentleman who we - he entered with his gun drawn, is that right?---Yes, it appeared that way on the video.

And the gentleman he confronted had no weapon in his hands, is that right?---Yes.

Am I seeing that right?---Yes.

Well why was there a strike required to get that man to the ground?---In that moment there was no way of identifying whether he was the offender or the victim or a bystander. He was told to get on the ground. He didn't follow instruction. Now, we were still looking in that house for someone that we believed was trying to kill another person, armed with a knife.

Constable, what opportunity did that man have to obey an instruction before he was - to get to the ground before he was struck?---I would say he had limited opportunity. In saying that, that man needed to be contained as soon as possible.

That man needed to be struck to the ground just in case he was the suspect that you were looking for. Is that your evidence?---Yes ma'am. He was put in the position where he was not able to be a threat. Now, when he was struck I think it's pretty obvious that it was on the chest and he was just pushed towards that bed. He was then - that second police officer as you come in, immediately contains him and then the house is searched. At the end of that video I hear Constable Rolfe say, "That's the bad guy - we have him" and everybody relaxes. At that - - -

Is that how you - - -?---Sorry?

Is that how you saw policing in the Northern Territory - good guys and bad guys? ---No, I see it as us serving the community and there's people in the community that I guess are offenders and breaking the law, your Honour.

What if that was the victim, officer? If the victim, standing in the lounge room with no weapons and an officer walks in with a gun drawn saying, "Get on the ground - get on the fucking ground" and then strikes him - that was entirely possible, wasn't it? ---It was and I would find it really unfortunate for that person but it doesn't detract from the information we had at the time and the reason we were going in there. I mean, we weren't talking about someone in there being abusive, we were potentially going to stop a murder.

So I take it from your evidence you think that that was an example of Constable Rolfe using the minimum force that was required in those circumstances?---Yes, ma'am.

Had you - is it ever any part of your training in the Northern Territory Police Force that you can enter a house in those circumstances with your gun drawn?---Yes.

Do you think an unarmed civilian, in those circumstances, would be very frightened of police bursting into a house like that?---I have no doubt that they would be very frightened - - -

Do you think that they would - - - ?---But I also have no doubt that in that moment, they would have known what was occurring in that house. I mean we hadn't stumbled across the wrong house with everybody that was in that house unaware of what was taking place in there.

Do you think that person could be fearful that they might be assaulted by a police officer with a gun out, screaming at them to get on the fucking ground?---Do you mean prior?

No, at the time. Do you think – immediately prior, that person might be frightened that they would be assaulted?---I don't think that they'd be frightened they were going to be assaulted. I think it would be a frightening situation. And I think it would have already been quite a frightening situation to have been anybody in that house at the time.

Appropriate to scream a member of the public, "Get on the fucking ground"?---I think it's a tough situation, your Honour, and those are the words that came out of his mouth. And I think the person that he was saying it to, would have well and truly knew what he meant at that time. And I know that there's different ways of doing that, but in that moment, they are the words he chose to use. And I don't want to say that it's inappropriate, because it did have an effect. It did work. And at the end of the day, when they realise that that man was in custody, I could tell the body language of all those police in there, they totally de-escalated, and went back to, the situation's over.

Was there a culture in the Alice Springs Police Force during the months you served with Constable Rolfe, that it was okay to use whatever force was necessary, if you were going into a risky situation?---No, your Honour.

Can I ask that the next video be played, which is – and that involves Bailey.

DVD PLAYED

DR DWYER: Pause it there if you would please.

Do we see you in that video officer?---Yes ma'am.

Are you there on – to the left hand side of what we see in the picture is Constable Rolfe's glove?---I believe I'm standing in front of his gloves.

Did you then – were you there when that gentleman had – was injured, when Constable Rolfe was running after him?---Yes ma'am.

So did – did Constable Rolfe run first after that gentleman?---There was two police officers that ran at the same time.

Who were they?---Both Constable Rolfe, and Constable Hansen.

And then what did you do? What was your role?---I played no particular role. However, I ran along with them, at the time I hadn't seen the offender assault the victim. What had happened was - - -

Sorry, just answer my questions if you will, constable. If anybody else wants to ask you any questions, they can do. But this is a matter that's subject to a PSC hearing?---Yes ma'am.

So I'm being careful about the questions that I ask you?---Sorry.

What was your role in that arrest of that man?---That night, both myself and Zach were partners. I was the OIC for the night, which means officer in charge. And those jobs would go into my name, and ultimately I would see those matters through the court process.

Constable, in terms of apprehending that man, you saw Constable Rolfe and Mitch Hansen run after him. Did you see what happened to him to cause the injury?---Yes. His head hit the wall.

Were you ever interviewed, after that event, in relation to it, by the PSC or by - - - ?---I was ma'am.

Have you received any – has there been any outcome in a PSC which has affected you, personally?---No there hasn't. So this was raised with me some years ago I now – go now, ma'am. And at that stage when it was raised with me, it was raised as an internal disciplinary matter. I asked at the time whether it was for a criminal disciplinary matter. They said no it most definitely wasn't. When it came to the time of my directive interview, your Honour, I asked the question again. What avenue this investigation was taking. And they told me that the only reason they were investigating was because the matter had fallen over in court. It'd been withdrawn. And they'd taken the s 20 – 41 domestic violence order, they'd withdrawn it from the victim.

When was this, constable?---The interview?

Yes?---It was – it was probably mid-way through 21, I guess. It was when I was still in Ramington, so - - -

And has - - - ?---A long time after the incident.

- - - and then since that time, have you – have you been spoken to about it again from anybody in management?---No. So I have since rang PSC once, to ask where that was at. I also had rang them with some concerns that I had about that interview that they gave me. When they do a directed interview, they make you privy to all the investigative material that they have. So that you can, I guess, study that before you have that conversation. And when I scrutinised some of the CCTV footage of that night, which I wasn't privy to at the time, I'm not sure where it got, but it was like street view CCTV, I'd actually seen a previous assault, which those two police officers didn't see, where the offender uses a closed fist and strikes that victim in the jaw. I mean you can see her head go back. So I'd, during that directed interview, made her privy to the fact that there was actually two assaults. The one that the two officers had seen that night. And that there was one prior to that. And I'd asked her whether she was going to hand that onto Crime Command to do something about it, now knowing that we had a victim without a domestic violence order in place. That second phone call I made to PSC, to answer your question ma'am, was to find out whether the investigation was still ongoing for myself. Because it was worrying to me that I was under investigation. And secondly, to find out whether that information had been passed on.

So just to be clear constable, you were first interviewed, I just want to get the timeframe in relation to concerns that PSC had about the behaviour of police, is that right?---Yes ma'am. So it was that, and the fact that that domestic violence order had been withdrawn, or effectively - - -

THE CORONER: Right, so you understood the PSC were looking at one, the behaviour of the police on the night, plus two, a decision that had been made to withdraw a DVO application?---Yes, your Honour, but that – that was never explained to me as nicely as you've just done that. When I asked, I was getting different versions of what that interview was about. And ultimately, during the directed interview, it was quite obvious what we were talking about. Which was the potential excessive use of force.

Right.

DR DWYER: And that was mid-2021, is that right?---Maybe early – early 20 – I'm sorry I have that – no, it's just - - -

No that's fine. Though it's 2021, though, approximately?---Yes ma'am.

All right, and have you heard anything since?---I haven't heard anything since.

On a – I might try and finish, your Honour, my own – or at least one area of the questioning, and see if I can get done before morning tea.

Constable, on 6 November, there was an incident where police in Yuendumu, Chris Hand, and Lanyon Smith attempted to arrest Kumanjayi Walker, and he ran towards them carrying an axe, do you recall that?---I've seen that footage.

When did you first see that body-worn video footage?---I believe I first saw it within the months after the incident, that incident.

So, did you see it prior to 9 November?---No, I hadn't.

Did you know Kumanjayi Walker at all at any time?---No, ma'am.

On 9 November, you set this out in some detail in your statement, you had a watchhouse shift for the day. At the end of the day, there was a roll over of a bus, totally unrelated to Kumanjayi. Correct?---Yes, ma'am.

And then, you got reception on your phone call when you were out there. Where was the roll over?---It was about – it was down toward Kings Canyon, 130ks south of Alice Springs or thereabouts.

When you got reception, you could see that there was another job which required people to go to Yuendumu. Correct?---There was an overtime text, which at the time, was how they would ask people to go on overtime shifts. And yes, it was an overtime text saying that they needed whatever it was, a certain amount of members to go to Yuendumu.

And you were happy to go to that job. Is that right?---Yes. Yes, ma'am.

So, as soon as possible after handing over the bus roll over job, you went to the airport and you flew out to Yuendumu. Correct?---So, at the time when I was coming back from that job, I had the driver that was involved in that roll over with me. I took him to the hospital, because he was, at that time, in police custody. I did the handover/takeover with another member at the hospital. That member had told me that there'd been a shooting in Yuendumu, which I had already answered the overtime text for.

You got to the airport and you thought to meet up with others flying out to Yuendumu?---Yeah, I think there was a brief time, we went to the station first. And then yes, we were – yeah conveyed out to the airport, ma'am.

In your interview, you explain that you called Officer Kirstenfeldt twice and he conveyed some information to you about the scene?---Yes, ma'am.

And you did that because you were trying to find out what it would like for police in Yuendumu?---Correct. Your Honour, at that time, we had little to no information of what was going to happen. I think I had been told a broad overview which was, there's a potential riot. The police station may need to be evacuated because they're worried that they may come through the front door and that they needed extra members. When I got to the airport, there was some confusion or some delay

between whether we were going to fly in with the Royal Flying Doctors Service and the police or just ourselves. We all walked up to the RFDS hangar and there was some pretty robust conversations with their staff up there on security, or whether it would be secure for us all to in together. Now, I'm not sure how the decision came, but at one point, the decision was made that it would just be the police flying in at that stage. We walked back to our police plane and boarded and flew in.

THE CORONER: I read somewhere about signage on the plane being RFDS signage?---On our plane, your Honour? More than likely. I think these planes sort of get swapped from one role to the other. We have had a plane in the past that may – I believe had RFDS on it.

Right. Okay, so it just happened that the airwing plane may have had RFDS signage on it. So, it's not something that was placed on the plane?---There's no magnets for that plane there, ma'am.

DR DWYER: As I understand it, your Honour, from our – from Superintendent Morgan, it was leased from the RFDS for those purposes?---Yeah, that would make sense.

In terms of the "robust discussions", what time did they take place?---Right before we flew, before we took off.

When did you first find out that a police officer had shot somebody in the community?---It was that exchange that I told you about at the hospital, your Honour. Constable King walked out and told me that Zach Rolfe had shot somebody in Yuendumu. At that stage, I was extremely worried about operational security and that he would know that, he would know Zach Rolfe's name. But that's what happened. He told me. He had no further information apart from, there'd been a shooting. Zach Rolfe shot somebody. And that was that. I did my handover/takeover with the - - -

What time was that?---I wouldn't be able to give you any - - -

To the best of your memory or the best estimate you can?---It was just going dark. As we were driving back up from that roll over, the sun was setting.

So, when you were first told about the job, did you understand that Kumanjayi – sorry that the person who had been shot was alive?---I had no – no, I had no idea.

When do you – are you able to estimate the time that you were on the tarmac having the robust discussions with RFDS about whether they would come?---Within an hour/an hour and a half of that.

Were you ever told at any time prior to leaving for Yuendumu that Kumanjayi had passed away?---I don't recall being told that.

You explain in your interview that when you were speaking to James Kirstenfeldt, he

said to you, basically – you say, “I rang Jimmy Kirstenfeldt on the ground there and I said, ‘Hey mate, we’re about to take off. What’s it like on the ground?’ He’s also an ex-military bloke.” I’ll just pause there. Did you think that he would be able to give you some good situational awareness because of his time in the military previously?---Most definitely did. Not particularly to his time in the military, but particularly to him being there at the time.

All right. So, he started talking about the situation and you said, “I don’t want to know about the situation. I want to know what we are about to see when we land on the ground.” What did he start telling you about?---He started telling me about the particulars of I guess what they were doing at the time.

Right?---And I immediately cut him off. It wasn’t – I didn’t need to know what was happening at the police station. I needed to know that security of that airfield, whether we were going to have somebody who was able to come and pick us up and what it was going to be like for us when we landed.

Okay. And you say – you go on to say:

“He basically said, there’s probably 200 people out the front of the police station. They’re okay. They’re angry, but they’re okay. They’re not rioting.”

And you said, “That was about the only conversation. I put that on speaker.”

You then go on to say you rang twice and he gave you the exact information twice.

“The second time was in front of the group, so they could hear him say that there were these people out the front. And I think it was coming over the fence. At this stage, he wasn’t concerned that they were going to come through the front door. He said, ‘It might be a possibility’ and he believed that he’d be able to come and pick us up from the airport or someone would.”

So, that’s the information that you had before you flew out there?---Yes, ma’am. And the reason that I rang back, your Honour, was because the first time I rang him, it was just me talking to him. I was also there with Senior Sergeant Terry Zhang at the time and I didn’t want to relay the information that James Kirstenfeldt had told me and maybe not say it in the same context that he did. So, I just asked him to say – to relay that information again. I put it on loudspeaker, so that everyone that was going to board that plane was privy to the information that I had now obtained.

When you got to the airport, was there somebody – that is, when you arrived in Yuendumu, was there someone to pick you up?---Yeah, there was. So, we – I think we spent approximately 45 minutes in the air circling Yuendumu before - - -

THE CORONER: How long?---I think it was about 45 minutes.

Circling?---Yeah, so it felt like a long time that we were above Yuendumu.

Sure. Just the police that gathered at the airport - - -?---Yes, your Honour.

- - - did they arrive effectively in two separate lots; one group and then another – some additional members joined them?---I don't recall that.

How many were on the plane?---Sorry, do you mean before we got on the plane in Alice Springs?

Yes?---Yes, we didn't all arrive at the exact same time. There were - - -

You were arriving up in - - -?---In drib – I wouldn't say dribs and drabs, because there wasn't that many of us. But yes, different – you know, we were conveyed out there by other members - - -

Right?--- - - - in vehicles. So, we wouldn't have all fit in the same vehicle. Yes, we arrived at, I guess a similar time, but not the exact same time.

Why were you circling in the air for 45 minutes before landing?---They were trying to make communication with those in Yuendumu to make sure, yes, that the – it was safe for us to land and that we would have – we were able to be taken from the airport back to the police station.

So, when you say “they were trying to make contact”, who was?---I believe Terry Zhang was trying to get phone communication. Once you're above a place that has phone communication, you can make a phone call from the air, and I think that's what was happening at the time.

And do you know who he was speaking to?---No, I don't.

Did you receive any update while you were in the air as to the - whether – well the situation for Kumanjaji who had been shot?---No, ma'am, not that I recall.

When you got there, you explain in your statement that you went – you then – you arrived, you spoke to Constable Rolfe as you left. Is that right?---It was a very short exchange. He was walking towards the plane, your Honour, and I was walking towards the vehicles that were waiting for us, to take us back to the police station.

Well he's your close mate, and you're seeing him for the first time after this traumatic event. What was the conversation?---“Are you okay mate?”

And what did he say?---“I'm okay.”

Any other conversation?---That was it.

Did you ask him what happened?---No.

At that stage, you explain in your interview, you were handed two long arms on the strip, meaning long arm firearms, is that right?---That was before we boarded the plane in Alice Springs.

When you say, "We were handed a long arm firearm", were you handed a long arm firearm?---Yes ma'am.

What sort of firearm?---It's an M4 or what is known within the police force as a patrol rifle.

Is that the same as an AR-15, or different?---If you put two – both of them together, you probably wouldn't tell the difference.

Had you had training in the use of that long arm firearm?---Yes ma'am.

You got in your car then and headed to the police station. Who was in your car?---I believe, from – from – it's just – I'm just going of recollection. I think it was possibly James Kirstenfeldt driving. I can't – I can't really remember. I think Brad Lynch(?) was most definitely in the car. There was three of us. Myself, Brad and a driver, who I think may have been James.

Did you notice, when you got off the plane, that there was an ambulance in attendance?---Yes ma'am.

Was there any discussion as to how the police and the ambulance vehicle would then travel, or what they would do?---No there was wasn't. Which was worrying to me at the time. However, we got in those vehicles extremely quickly. And made way.

Did you have any understanding at the time, that you were supposed to be going in convoy?---Formally no, but I knew what was about to occur, that we were all going to drive back to the police station as a convoy I guess.

What you explain in your interview is - - - ?---What page is that on ma'am?

It's page five, the first interview?---Yeah.

You don't know who was in the front vehicle.

"We were in the second vehicle. There was an ambulance behind us. I remember the first rock came through. I was sitting in the rear in the driver's side, and the first rock came through the window. I covered up. The second rock came through the window and hit me in the arm. And at that stage, I became concerned for the ambulance driver behind us, knowing there was two female drivers."

Had you seen those two females at the airstrip?---Yes ma'am.

So they got out of the – out of the ambulance at some stage?---I believe so.

And you then said, you can't remember who was driving.

“I said you need to slow down and wait for that third vehicle. They sort of didn't. And I said 'Oi, pull it up, we've got one vehicle left behind.'”

At that time, did your driver slow down at all?---Yes.

And you think you said: “Turn around we'll go back and get them”, and then they came past you, is that right? What happened after that?---When we left the airport, the first thing I saw as we entered the community was hundreds of people lined the streets. Now when someone's taking a video on their phone, you're probably aware that the light comes on. And I could see lots of people in the crowd with phones up with their lights on. And I could see people throwing up and down these half brick sized rocks. And I knew that we were about to be effectively ambushed or attacked. It was at that moment that a rock did come through the window. And – and smashed in my window. I then put my arm up. The second rock, luckily, hit my arm instead of my head. The front window then exploded. The rear left then exploded, as we drove. I was very conscious at the time, your Honour, that we had an ambulance behind us. And when I was – it's hard to see in a patrol vehicle, because there's a cage of the back, if – effectively, you can't just look over your shoulder to see who's behind you. So I was trying to get a look through the side mirror or the driver's side to see where that ambulance was. And their lights weren't there anymore, and they'd stopped. Now I'd said to the driver to slow down, hoping that they were just a little bit behind us. He slowed down immediately – sorry, I think I had to tell him twice. He – he then slowed down. That vehicle then didn't present itself, and so I said we're going to back and get it. There was no way we were going to leave that ambulance, to whatever they were being confronted by, with that group in the street. It was at that moment, as we were about to do a U-turn, that ambulance came, at a great speed, around the corner. And it was go, go, go, let's go. Now when I got to the police station, and I saw that nurse exit the vehicle. She sort of back out, and it was like someone had a – had turned a tap on at the back of her head, with blood freely flowing from her face.

I just – I just want to ask you about something you said earlier, which was “I knew we were about to be ambushed or attacked.” What did you mean by that?---Those – just as I explained, those key indicators that we were being filmed. I could see a lot of those lights on in their cameras. So to me, that's a key indicator that something may happen, or they're at least going to be videotaping something that they would like to capture. And then those – there was several people like doing this, with big rocks. And their body language, to me, was an indicator that an attack may be imminent.

Can I take it from what you've said, that you would have been on high alert, because you knew that there had been this very dramatic thing that happened in the community, in that someone had been shot?---Extremely high alert, with not very much information, your Honour. And at one stage we were being told that the – they

may have to evacuate the police station, because they're worried about them coming through the front door. Anything at that stage was a possibility, that needed to be thought about.

Was that a situation that was frightening, for police?---Sure, yeah, yeah, there's definitely – you can be frightened by that situation, there's no doubt.

Had you ever been in any situation before, in a community, where there had been a riot?---No ma'am.

But you'd had – you must have heard other police talking about – I withdraw that. Had you heard any police talking about the fact that they had attended communities, where there'd been a riot?---I don't recall having those conversations.

Were you anticipating some form of riot?---Yes ma'am.

Given that you'd never been in any situation where there'd been a riot, and you hadn't heard any police officers talk about that, why were you anticipating one?---We were told that there was – they were potentially rioting, and that they may – they may come through the front door of the police station, and they may have to evacuate.

Who told you that? That they were potentially rioting?---That was the information – the limited information we got before we left Alice Springs.

From Officer Kirstenfeldt?---No, he actually said that at that time, I think you – you read it out, at that time they seemed okay, but they potentially may.

Well who was it that told you that they might be rioting, or that there may be rioting?---That was – I think that was information relayed to us, your Honour, at the police station, before we left. I can't remember who told me that. But there was a quick summary of what – what had happened, and what was – why we were going out there.

I'm going to truncate some of my questions, so that there's time for everybody else and we can get through - - - ?---Okay.

- - - the witnesses. In your statement, I just want to point out, there is some detail about the time that you spent in Yuendumu over the next few days?---Yes ma'am.

When did you return to Alice Springs?---Wednesday.

Can you recall the date of Wednesday? I'm going to have to do the maths, was it - - - ?---I think it's - - -

- - - that's the 13th?---I - - -

The 11th is the Monday night?---It was – it was the Wednesday after the incident ma'am.

On – at any time while you were in Yuendumu, do you recall calling Constable Rolfe to see how he was?---I did.

How many times do you think you did that?---I think I, from memory, only made a phone call once.

When was that?---It was after – it would – it must have been – must have been on the Tuesday, I'm not - - -

I – perhaps I can – I appreciate it's difficult to recall so long after the event. We've got the telephone records that show that on 11 November, there was a phone call between yourself and Constable Rolfe, that was 37 minutes, when he called you. Was there an occasion when you called him as well?---Yes ma'am. I believe that – is the 11th the Monday?

The 11th is the Monday?---I think I called him on the Tuesday.

When he called you on the Monday, what was that for?---I think he was seeing how I was doing.

Did you find out that there was a debrief on the Monday night?---Are you talking about a gathering at his house?

Yes?---I don't think I was aware of that until I'd come back to Alice Springs after the Wednesday.

Well you must have been aware of it when the phone call was made to you for 37 minutes on the evening, at 7.41. The very same evening of that gathering?---Is that – is that when he had called?

That's right?---Okay, I may have. I don't remember having that conversation.

Were you put on loud speaker at all, to speak to other officers who were there?---I don't recall that.

When you spoke to Constable Rolfe, you obviously asked him how he was as well, is that right?---Yes.

And did you ask him what happened?---I didn't ask him what happened.

Did he tell you anything about the circumstances in which he had shot someone?---He had said that he'd been stabbed. That he'd received medical attention for it. But he was okay.

Did he tell you anything about the name of the person who was stabbed? I am not going to ask you to repeat that name, but did he tell you?---Say again?

Did he tell you the name of the person - sorry - show had been shot?---No, I don't believe so.

Did he tell you anything about why he had shot somebody?---Not that I recall but he had told me that he had been stabbed.

Did he tell you anything else about that?---No - well, not that I recall.

Did he tell you that he'd shot somebody a number of time?---No, he had not - we had not gone into detail about what had happened.

What else did you talk about for the 37 minutes?---I honestly - I don't recall. I mean, I think he was asking me if I was okay and it was just where - what was happening with him in regards to his treatment back in Alice Springs from a work perspective. I know we had conversations regarding that.

Do you mean his medical treatment or some other form of treatment?---No, like how the organisation was dealing with the incident regarding what had happened.

What did he tell you about that?---So he told me that everything was going really well. He'd talked to - now I can't remember if this was the conversation I had that night or on the Tuesday but he told me that - I think it was at the time Commander Brad Currie had told him that he'd already been - he'd already been - what's the word - they'd already - he'd already been passed for justification and excuse and that they were just ticking off authorisation that he'd seen a psych and that he had made an agreement to come back to work, I believe the following Monday and that his parents were flying in and that - he said that everything was going surprisingly really well for him and he felt like he was being very well looked after.

Did he tell you that he had been interviewed or given a statement or done anything like that?---I don't recall having that conversation.

So in terms of already passed off for justification or excuse, that would have been - did you imagine that to be based on something he said?---It was based on what Commander Currie had told him.

So a version of events that he had given to somebody?---I have no idea about that, he was, I guess, just relaying something that he had been told, to me.

Did he tell you that he expected to be back at work pretty soon?---He did.

You've remained in the police force since that time, is that right?---I have ma'am.

In the statement of Sergeant Kirby, who is coming to give evidence this afternoon, he explains that he has developed a negative attitude towards Aboriginal people drinking in town camps and he will tell us why that is the case. Did you develop a negative attitude towards Aboriginal people at any time in your work in Alice

Springs?---No ma'am. In fact, when I left here I took a position out at Ramingining in one of our most remote communities within Australia.

Had you heard anybody else in Alice Springs develop a negative attitude towards Aboriginal people?---I'm not going to say that I've heard anyone develop a negative attitude. There's probably frustrations at times but I never saw anyone overtly have a negative attitude, no.

Did you see anything that concerned you in terms of excessive use of force?  
---No ma'am.

And you've already told us, I think, you don't have any problem yourself with what happened on 22 June 2019 in relation to Mr Walker where the gun was held at his head? You don't see that as problematic?---I didn't see that gun held at his head. I did see it pointed in his direction. I'm not saying that's the only way that could've been dealt with but in the time I do appreciate that that's how it was dealt with and I am okay with that.

And similarly with Mr Bailey on 12 October 2019, you don't have any concerns in relation to that, do you?---I have concerns that he was injured as a - worry about it - as a matter of the arrest. I also have concerns that his partner at the time had a domestic violence order withdrawn, I guess that's another concern about the thing, and also concern that it's three years on and I haven't heard the outcome of that for myself.

In relation to the injuries of that Aboriginal man, did you raise any concerns with any supervisor or superior about the fact that he was injured?---We most definitely would have to some extent. I took that gentleman to the hospital. I went in the ambulance with him and then stayed with him until he'd received all of his medical treatment.

I appreciate that you would have made sure he got medical treatment. Did you have any concerns in relation to the use of force that was on that occasion?---No ma'am.

Do you have any concerns generally, in relation to the language that as used to describe Aboriginal people at the Alice Springs Police Force - while you were there?  
---As far as - could you just say - - -

Sure, well how long were you in Alice Springs again for? From May 2019 until when?---Approximately 12 months.

Did you hear racist language used to describe Aboriginal people during that time?---I definitely heard some inappropriate language.

What do you mean by "inappropriate"?---Well, I mean, I've seen the text messages that were in the media, so yes, I've seen inappropriate language being used.

Do you - you've seen the text messages that have been reported in the media as a result of this inquest. Do you think that it's racist language?---I think it's highly inappropriate language.

Do you think it's racist language?---I'll say I don't think it's racist language and the reason is, your Honour, before I came in here I looked up the - you know, I googled it, I looked up the definition of it so that I knew exactly what it was. I've never seen anybody do something - or do an action - or act on anything - I've never seen someone treat someone with prejudice. I think what I've seen in those text messages is very inappropriate and it's somewhat mindless but I haven't seen it be anything more than that. So I do accept that that is racist language but I don't - but I think it's more highly inappropriate language.

Well, I am just looking at one dictionary definition of racism - I withdraw that?---Yes, it's just that bit at the bottom that says that, you know, there's and action, there's something deeper with it and just in my experience I didn't - I never saw that.

So you think if somebody doesn't intend to be offensive then it's not racist?---No. No, I'm not saying that.

What are you saying about language, like "coon" - what do you think about that language - is that racist?---I think it's - I think it's highly inappropriate language.

Is it racist?---I think it's highly inappropriate.

Okay so is the answer to my question then "No, it is not racist"?---I think there would have to be further action, your Honour.

Okay. Can I ask that you have a look at this document, MFI.

Your Honour, I will hand this document up and ask that it be given MFI 00, it's a collection of text messages between Constable Rolfe and Constable Sykes.

MFI 00 Collection of text messages.

DR DWYER: On 27 April 2019 you texted constable Rolfe. "Heard you had a rough arvo yesterday - grubby fucks". Who were you referring to as "grubby fucks"?---I can't remember the circumstance of this - of what we were talking about at the time.

I suggest that you were referring - I withdraw that - - -?---But - - -

Were you referring to Aboriginal people as "grubby fucks"?---No. No, I was not.

Who were you referring to as "grubby fucks"?---As I said, I can't remember what the circumstances of this - these text messages were but I do use the word "grub" as a description of behaviour - not race.

Look at Constable Rolfe's reply to you, "Nuh bra, it's just slightly annoying, ha ha coons man"?---I can see that ma'am.

Do you use the word "coons" when you're referring to Aboriginal people?  
---No ma'am, I don't.

Why not?---Well, I think it's inappropriate.

It's racist isn't it, Constable? It's offensive and racist. Why can't you acknowledge that?---I can - I definitely do acknowledge that, your Honour, I do, and I guess it's just that I'd read that definition and it seemed to suggest that there needs to be more than these - there needs to be more than some immature, inappropriate language, to be a racist. And I highly accept that that is a racist term and for some people using it they probably are but, in my time spent with Zach I never saw that take action - if that makes sense. I never saw anything more than, I guess, what I'm reading there.

I will just read you what the dictionary definition of that term is in the urban dictionary. "Extremely disparaging and offensive, a contemptuous term used to refer to a black person". Do you accept that?---I most definitely do, ma'am. I'm not trying to defend  
- - -

You're reluctant, you're not trying to defend it, but you don't want to say anything to criticise your mate, Constable Rolfe. Is that right?---No, I'm – that's not right. I'm just trying to be as honest as I can in the moment.

In terms of his reply, "Slightly annoying, ha ha, coons, man", did it jar with you that he'd use that language?---At the time, I can't remember whether it did or it didn't.

What about now?---Most definitely now. I mean yes.

What's changed?---Well, I think the high exposure of these once private texts that are now out there, that there may be some offence within the community. Yeah, it definitely has changed now, ma'am.

When you say, "there may be some offence within the community", who do you think might be offended by hearing police officers use the terms – use a term to describe an Aboriginal person as "Slightly annoying, ha ha, coons, man"?---I think any person in the community could be offended by that.

Any rightminded person in the community should be offended by the use of that term. Do you agree with that?---I do, ma'am.

Aboriginal or non-Aboriginal?---Yes, that was - - -

They should find that term offensive?---I do agree.

And you do. Do you agree?---Yes, ma'am.

And you've now come to acknowledge that it's racist. Is that right?---Yes, that word is a racist word.

Do you agree that it is unacceptable for police to use the term in text changes with each other?---I do. I do agree, ma'am.

If you heard it again, would you pull somebody up for it?---Yeah, I most likely – I most likely would, I think. We can all do better and get better and yes, I would.

Do you accept that the use of racist language can lead to a dehumanising a group of people?---There's – sure. I can see where that could end up, yes.

And that could have the potential to impact on your behaviour towards somebody?---It may.

In July, I withdraw that. Just turn over the page, if you will. You see a discussion there by a gentleman who I won't name.

And your Honour, I'm going to ask that this MFI be released, but a non-publication order over the name of somebody with the initials CB there. And the reason for that is that they're not a witness in these proceedings. They have left the police force.

THE CORONER: Yes. So, where – MFI 00 - - -

DR DWYER: Yes.

THE CORONER: - - - is released. Well, from now, there is a non-publication order over a name which is the name of a person who is not a witness in these proceedings and it appears at point 4 and point 6 on page 2 of that MFI.

DR DWYER: Thank you, your Honour. And point 5 and 7 as well.

THE CORONER: Sorry, yes. So, 4, 5, 6 and 7.

DR DWYER: Thank you, your Honour.

Constable, if you have a look at the text exchange, you will see between that gentleman and Zachary Rolfe on 14 October.

THE CORONER: Do you know that other gentleman who we're not going to name?---I know him from working, yes, here, your Honour.

DR DWYER: And that gentleman, who I'll call "C" says:

"Thanks for the chat and hand this arvo, brother. I really appreciate it. Just spoke with Bizer(?) and he will ask all the questions at the college tomorrow for the fitness test", et cetera.

Constable Rolfe replies: "Yeah, all good, brother. Always down for a chat about our weird shit, ha ha. Fuck yee ha into it."

And he says, that is the person C: "This is going to sound weird, wired bro, but in the nicest way of course, glad someone thinks the way I do and I'm not going mad."

And Constable Rolfe replies, "Nah, I feel exactly the same, man. Cut from the same cloth. I've only talked to you and Syksie about my head. But even he doesn't get violent like us. But you're not mad. We're just different than normal folk."

What did Constable Rolfe say to you about his head?---In relation to this, I have no idea.

Well, the suggestion, you'd agree, Constable, is that this person who I'll call C is talking to Constable Rolfe about something going on for them mentally. Do you agree with that; that that's the implication?---Yes.

And Constable Rolfe says to C:

"Nah, I feel exactly the same, man. Curt from the same cloth. I've only talked to you and Syksie about my head. But even he doesn't get violent like us. But you're not mad. We're just different than normal folk."

I'm going to ask Constable Rolfe what he meant by "getting violent", but what did Constable Rolfe say to you about what was going on in his head around that time?---Your Honour, I can't comment. I don't know what that's about. I mean - - -

THE CORONER: Okay, you might not know what that's about. Have you had conversations with Constable Rolfe where he's talked to you about how he's thinking or feeling or what's going on in his head?---Yes, your Honour. I mean, there's been times when we've had those open, honest discussions with each other. We've been friends for a long time and often sounding boards for each other. And I was only answering in particular to that. I don't know what him and that person's talked about.

DR DWYER: So, in relation to the questions – the conversations that you've had with him about what's going on in his head, he's explained to you that he gets violent and loses his temper sometimes?---No, he hasn't. No, he has not said that to me. We've talked about, you know, on his – when we're happy or when we're having a bad day or a good day or when something's frustrating, yes. We've talked about those types of things. He has never said to me that he has something in his head and that he gets violent. No, we have never had that conversation.

Did you know that in October, he'd gone to see a doctor about what was going on in his head?---He had told me that he did go and see someone. He had sent a text message of a prescription. He had told me at the time that he wasn't sleeping

particularly well and he sent me that and said that, just so you know – I mean, he doesn't live with anybody else or have a partner or anything like that. And it was, I believe, in case something happens, I could tell somebody.

Well, did you have any concerns for his mental health in October 2019?---No.

In terms of the medication, did he tell you why he was taking it?---No, ma'am.

Did he tell you he felt depressed?---No, he didn't.

Did you ever suspect that he was depressed?---I'd never suspected that he was depressed, no. He told me that he had had trouble sleeping at times. And I have known him to train a lot during those moments in his life, both before policing and after, if that makes sense.

You understood that he had been to Afghanistan because you'd been with him for that time?---Yes, ma'am.

Did you both talk about what was going on in your head as a result of being in Afghanistan?---No. I can't make comment on our time in Afghanistan, but I can say that it was a reasonably benign time for us while we were there.

Were you aware of Constable Rolfe experiencing any particular trauma in Afghanistan?---No.

Did he talk to you in Alice Springs about experiencing any trauma from the work he was doing?---No, ma'am.

Did you understand him to be traumatised by the work that he was doing?---No, I didn't.

The incident that I showed you with Mr Bailey where he had his head cut open?---Yes.

You understood he got seven stitches as a result of that wound?---I did.

And you understand he sustained that wound when he was pushed into a – was it a glass wall or a brick wall?---Yeah, like a brick wall, I'd guess you'd say, it's a rendered wall.

And you understand that Constable Rolfe pushed him into the brick wall?---I do.

And you understand that that caused the injury that resulted in that laceration requiring seven stitches?---I do.

That was on 12 October 2019. You would accept that date?---Okay.

On 14 October, he's texting to CB:

“Nah, I feel exactly the same, man. Cut from the same cloth. I’ve only talked to you and Syksie about my head. But even he doesn’t get violent like us.”

Did Constable Rolfe ever talk to you about getting violent with Mr Bailey in a way he regretted?---No, he didn’t.

Your Honour, is that a convenient time for a break?

THE CORONER: Yes, we’ll take the morning tea adjournment for 15 minutes?---  
Thank you, your Honour.

WITNESS WITHDREW

ADJOURNED

RESUMED

MARK VINCENT JAMES SKYES:

DR DWYER: Constable, before the – I'm nearly finished, but I just want to –

I beg your pardon, I'm sorry, Mr Suttner.

THE CORONER: Yes, Mr Suttner.

MR SUTTNER: Your Honour, sorry a few matters. First when I introduced myself in your court this morning, I didn't mention to you that I appear with my learned colleague, Ms McNally, who's at the back there. And - - -

THE CORONER: I can't see, which – which person is it? Hi.

MR SUTTNER: Secondly, I want to ask you to excuse myself, I have other commitments in relation to this matter - - -

THE CORONER: Sure.

MR SUTTNER: - - - which relate to – you will be seeing me tomorrow.

THE CORONER: Okay, thanks for letting me know.

Yes, Dr Dwyer.

DR DWYER: Thank you, your Honour.

Constable, before the break, I was asking you some questions about the text messages. And you'd explained that you received a message from Constable Rolfe, in relation to - a photograph of some medication?---Yes ma'am.

I just looked that up, and that was on 9 October, that you received that photograph?---Okay.

Was that – would you accept that from me, or do you want to see that photograph?---No, of course.

Okay. When he sent that to you, I take it that he was identifying to you, that a particular type of medication that he was using, so that you would know about it, and be able to look out for him?---Your Honour, I think it was more along the lines that if something happened to him, I – I would be able to tell somebody that yes, he was on medication.

By "If something happened" - - - ?---My – because I work with him, so if he was injured, or if he ended up in hospital or – or the likes.

But the medication he was taking is known as Escitalopram, it's otherwise known as Lexapro. It's an anti-depressant. Did you know it?---No.

Did you Google it to see what sort of medication it was?---The only time I did was after I had a proofing with Dr Freckelton, which was just in the last few weeks. But I didn't really know what it was.

Well I take it that you had some conversation with Constable Rolfe about why he was on this medication?---Yes, at the time, your Honour, he'd said to me that he wasn't sleeping very well. And he had gone to the doctor.

By "Not sleeping very well", did you appreciate that that was a possible sign of depression?---Not at the time, no.

Do you know understand that to be a possible sign of depression? Inability to sleep?---Sure – I – yeah, of course. I sometimes – you know, like yes, I understand that that could be a sign of that. It's not what I thought at the time, if that makes sense.

What did you think at the time?---I think we just work these huge rosters, and sometimes when you come off the back of like your night shifts into days, and things like that, it is hard to sleep at times, or get a restful night's sleep. And he may have been experiencing that. I mean, to some level of degree, that five-week shift that we're on, we all do suffer from that in some way. Is those – trying to sleep during the day, with the sun up and the kids, and then you don't – it's not always restful.

What he was telling you is that he was prepared to go and see a doctor, to try and deal with that?---He did.

So it was problem for him, wasn't it?---He went to the doctor, he told me that he did, your Honour.

Did he tell you anything – did he tell you which sort of doctor he went to?---No – no he didn't.

Did you ask him?---No I didn't.

Did you ask him about anything else, about how he was coping?---I would have asked him if he was okay. And if there was anything I could do for him.

You - - - ?---I - - -

- - - are a support person for him, is that right?---Of – for all – for all of my mates, yes.

And were you in effect, I think you gave evidence earlier, that he – you thought he was sending it to you because he lived alone and you - - - ?---Sorry, yes.

And he wanted there to be some – someone else who could explain to people what medication he was on, if something happened?---Yes ma'am. I think that was the gist of the conversation, those years ago.

Did you think he was at risk of hurting himself?---I've never thought that about Zach, no.

Did you think to yourself that he needed more help, if he was prepared to go to the doctor, to reach out, because of not being able to sleep - - - ?---No ma'am.

- - - did you think he was getting all the support that he needed?---I – I believe so. I mean, he – he seemed fine to me.

Did you raise with anybody else in the police station that he was on medication?---No ma'am.

Did you think to yourself at that time, that his state of mind had changed?---If Zach hadn't of told me that that was the case, I would never have known. There was no overt actions upon himself that made me think that there was something wrong, if that's what you're asking.

What about the way he treated other people? Like people he was arresting, did that change at all, in your mind, in the time that you saw him on the 37 shifts?---No ma'am.

In terms of him speaking to you about his head, he must have said something more to you than just he wasn't able to sleep?---No that was definitely the gist of our conversations. There was times when he would say that he can't sleep, or he's not feeling fit, and he would train more. And I would have conversations with him regarding, mate you probably need more rest, as opposed to more training, if – but there was – those – there was no deeper conversations with us, than that.

Did he tell you that he struggled with the job at all?---No ma'am.

Did he tell you that he struggled to deal with all the violence that he was seeing?---No ma'am.

Did he tell you that he struggled to deal with Aboriginal people in Alice Springs?---No ma'am.

Did you ever hear him use the term "coon" to – when he was speaking to anybody, outside of the text messages?---No ma'am, I did not.

Did you raise with anybody else in the police station, that he was on medication, having trouble to sleep?---No I didn't.

In terms of the language that you heard, I asked you some questions about that before the break. And you initially said that you had heard language that was inappropriate, used at the station, correct?---Yes ma'am.

When you say "inappropriate", do you mean racist?---I'm – yeah, words that could be taken for that, yes. There's no doubt.

What words have you heard that could be taken to be racist, used by police officers in Alice Springs?---Well I guess I'm – I'm referring to these one's that I'm seeing here before me today, and these text messages.

Words like "coon"?---Well yeah, if it's – it – yes ma'am.

You've heard other officers use that term in Alice Springs?---I could never recall a moment when I have - - -

Well I'm asking you to think about it now - - - ?---Okay, I can't recall a moment where I've heard that before, no.

And what about "niggers", you heard Aboriginal people referred to by that name?---I haven't.

"Neanderthals"?---No.

"Bush coons"?---Outside of these text messages, I'm not hearing that. I've heard inappropriate words.

What in appropriate words have you heard?---Well, I guess - well I'll say "No" then, I guess I'm trying to say that outside of - I've heard these in the last weeks through the media and stuff like that.

But this mustn't have come as any great surprise to you that this language was used in text messages, am I right about that?---There were some - some texts there that was a surprise to me when I saw them, yes.

Before the break you gave evidence that you had heard inappropriate language used by police officers. Have you heard that spoken at any time you've been in the force in the Northern Territory?---I have heard words that would be considered by others as inappropriate, yes, in closed conversations I have.

What words?---Well, I can't - none are coming to mind ma'am.

When you heard those words in closed conversations that might be considered inappropriate are you meaning racist language?---Words like this, yes.

When you say "closed conversations" you mean private conversations?---Yes ma'am.

Between police officers, is that right?---Yes ma'am.

At the police station?---I would have. I can't think of a time. I can't think of a conversation or a moment in time where that has been the case.

At any time when you have heard that language used by police officers has anybody pulled officers up for the use of it?---No ma'am.

When you think back on that now, given you're still a serving member of the Northern Territory Police Force, do you think that they should have?---Yes, ma'am.

Why?---Well, because, you know, when things become public, I guess, you see the real impact or how that may offend somebody or, you know, those closed conversations are now not, you know, just between the privacy of each other and so I can see that when it's in an open forum it can be very offensive. I don't believe at the time it was the intention in that closed forum to be offensive, maybe more of a - as I said before to your Honour, a mindless comment, you know, something that didn't have a lot of deeper meaning to it at the time when they said it but now that we're here and we're talking about it openly and it will be in the media and all the other things, highly inappropriate, highly offensive and I do accept what you say.

Do you think something can be racist and offensive without being intended as such? ---Yes, and I think - I think that was the point I was - I was trying to make.

I am going to suggest to you, officer, that one reason not to allow that language to be used is what I put to you earlier, that it is dehumanising?---I agreed earlier, yes.

And that if you dehumanise a group of the community, it may well affect the way that police behave towards those members of the community, even if they don't realise it?---I accept that as a - as a possibility.

And that's why leadership on this area is extremely important, do you agree?---I would, yes.

And it was lacking in the time that you were in Alice Springs police?---In - in that regard and now that we're talking about it like this, I will agree with you, yes, ma'am.

Nothing further, your Honour.

THE CORONER: Yes, Mr Boe.

MR BOE: Thank you, your Honour.

XXN BY MR BOE:

MR BOE: Constable, my surname is Boe?---Okay.

And I appear today for the Walker, Lane, Robertson and Brown families?---Yes, sir.

Do you know who they are?---Those names are familiar to me from the murder trial, yes sir.

They are connected to Kumanjayi Walker?---Okay.

For the families?---Yes sir.

Insofar as the trial, is it the case that you attended that trial - the Rolfe trial?---Yes sir.

For most of it?---Yes sir.

All of it?---Yes sir.

And that was not part of your official duties, I take it you did that to show and provide support to Constable Rolfe?---It was a support member for Constable Rolfe, approved by the police for him to have a support member, yes.

You were being paid for that time?---Yes, sir.

So you thought - or somebody thought - from higher command, that you'd be present for the trial to provide Constable Rolfe support?---Yes sir.

And is that reflective of the fact that you were probably his best friend in the service? ---Yeah - yes, you could - I could definitely agree with that, yes, as a suitable person for that role.

Yes, but that you would have regarded - and I take it he would have regarded you - to be his best friend in the service?---I'm not sure whether he regards me in that manner but we are very good friends, yes sir.

That's enough. I just want to go through some of the matters that Dr Dwyer carefully took you through. You mentioned that during a briefing or proofing with Dr Freckelton was the first occasion that you understood the nature of the drug that was on the prescription that was texted to you on 9 October 2019?---I think I said it was the first time it was - yes.

You were asked whether or not you had Googled it, you knew what the drug was for?---Yes, yes.

And you indicated that a couple of weeks ago, in proofing Dr Freckelton raised that with you?---He did, yes.

As a result of that did you, in fact, make some enquiries or did he tell you - I don't want to go into (inaudible) - - -

DR FRECKELTON: I object to anything that intrudes on what was exchanged between myself and my client, your Honour.

MR BOE: I withdraw that. He opened it up - he waived the privilege - the witness waived the privilege. The privilege is held by a witness. The witness explained that's when he was given information. But I won't go to the advice - - -

THE CORONER: No, he said after it - afterwards - after a briefing he went away and Googled it.

MR BOE: Is that correct, Constable?---Yes.

And when you Googled it did you ascertain it's an antidepressant?---I just read whatever the very first thing that popped up and I think it gave a list of medical – I can't - I can't remember exactly what it said. That may have been one of the things, yes.

All right, well what - it may have been that you understood then that it was an antidepressant, is that what you're saying?---Yes.

And did you ascertain that it is known to have the potential to increase violent behaviour in younger adults?---No.

You, in answer to Dr Dwyer's questions about the text with witness C - I won't name him - you know the person I mean?---Yes, I've got it in front of me sir.

Your Honour, I am going to ask the question, I am not sure if it goes outside the bounds of the non-publication but I do want to ascertain that he is a police officer and secondly he was a police officer involved in training of the IRT.

THE CORONER: At the moment the name only is suppressed, so I think you are allowed to ask those questions.

MR BOE: Yes, thank you your Honour.

You know that person as being a person involved with the IRT?---When I was in Alice Springs I didn't know that and I don't think he was at the time, yes, I'd never – I actually didn't know that, no sir.

Now, you had said that you do not know the circumstances in the text message that Dr Dwyer read to you when Constable Rolfe it said to say "I've only talked to you and Syksey about my head, but even he doesn't get violent like us." Right, now just looking at that - I think you've got that document in front of you?---I do, sir.

Do you get from that that Constable Rolfe was indicating that in his conversations with you that you had indicated that whatever the issue that you all appear to have, you yourself had told him that you didn't get violent like he did. Can you see that? That's what he's communicating isn't it?---I don't believe so. He's having a conversation with somebody else that I'm not (inaudible) - - -

No, but the "he" - the "he" is you isn't it?---Yes, that he doesn't - - -

He's reporting to C "even Syksey doesn't get violent like us". After talking to you?  
---Yes.

You accept that the ordinary inference from that is within a conversation you had with Constable Rolfe you had said that you don't get violent like they do?---No.

DR FRECKELTON: Those questions really don't (inaudible) or anybody else (inaudible) in this particular - - -

THE CORONER: I am not going to ask him to try and identify what was being communicated here but you can ask him whether or not he's had a conversation like that.

DR FRECKELTON: Certainly.

MR BOE: I sometimes poorly phrase questions?---That's okay, I can answer your Honour's question.

Would you mind answering that question, whether or not you've had a conversation with Constable Rolfe around that time in the context of that text message?---Your Honour, I don't recall the conversation and I don't ever recall the conversation about either of us being violent and one being less than the other. That is not a conversation I think we've ever had.

Okay. Can I just move on to some other matters?. Early on in your evidence this morning, you spoke about having the advantage of watching more senior officers and you used the word "modelling"?---Sure.

And you got that from watching them and listening to them?---Yes, sir.

And you used the phrase that "I took a note of that modelling behaviour, whether good or bad." Do you remember saying that earlier today?---Yes, sir.

What was the bad that you saw?---Probably used the wrong terminology when I said "bad", your Honour. But I think what I was trying to convey was that when you work with lots of different people over a certain amount of time, we choose parts of those people that we'd like to take onboard for our own – for the way that we would like to work. There might just be mannerisms or anything, I guess. "Bad" was probably the wrong word, but yes, we – you take little bits out of all of your training to make up how you would like to be as a police officer or anything in life.

You might now say that it was a wrong word. You knew you were promising to give truthful evidence. You know that it's a serious conversation. The question I'm asking you is, did you see any behaviour that you saw as being bad behaviour?---No.

And if so, what?---No, sir.

So, you never saw or heard any bad behaviour. Is that your evidence?---But your Honour, what I was talking about was, it could be anything right down to how you communicate - - -

THE CORONER: We're not talking about what you were talking about now?---Sorry.

Mr Boe is now asking you a different question?---Okay.

Have you seen bad behaviour?---No. No, your Honour.

MR BOE: Okay. I know Dr Dwyer has tried to pin you down on your recollection of the language that you heard in the context of you saying it's language like what you've seen in the text?---Yes, sir, I do.

When Dr Dwyer took you to the specific language in the texts, you declined to adopt that they were the sorts of words you'd heard. Did you intend to do that or was that just a - - -?---Sorry, could you rephrase that, please, sir?

I guess what I'm interested in is what you refer to when you said you had heard language, and you used the word "inappropriate", I don't care how you described it, in Alice Springs?---Yes.

Dr Dwyer put to you, and then your answer was, "Language like in those texts", or something to that effect. Do you remember saying that?---Yes. Yes, your Honour, I do.

And then, when Dr Dwyer specifically took you to the language, you declined to adopt them as the sort of words you'd heard. Is that what you intended to do?

THE CORONER: He said they were inappropriate words. None of them could come to his mind, but they were words like the ones used in the text messages?

THE WITNESS: Yes, I think what I meant, your Honour, or what I did mean, is that words that we now know that, if that's not in a closed – or even if it is in a closed forum, closed or open, people can take offence to that, even if it's not what the person meant at the time when they said it.

Well, can I – with respect, I've heard your argument about how you viewed these words?---Yes, sir.

At the moment, I'm just trying to get clarity as to what words you were referring to. Now, her Honour has, I think with respect, correctly phrased what your answer was?---Okay.

Does that correctly reflect your recollection that they were words like that, but you can't remember what the words were?---Yes, I can't remember particular – I can't remember a particular conversation or a time or a moment, but I have heard that language, your Honour.

Yes, Constable, can I ask you when it was? I'm just asking you to agree that the words you do recall having been spoken in your presence were words like the words - - -?---Yeah.

- - - in the text messages?---Yes, your Honour. That is my point.

And those words, you've accepted, are words which are intended to describe people in a derogatory term?---Yes, your Honour.

Okay. Now, the distinction you have sought to make, if I understand it, is that merely using a word that is objectively racist is not a racist act. Is that what you were trying to explain when you said there was not action associated with it?---Yes. Yes, your Honour, I feel like it's more mindless or - - -

It's certainly mindless to some?---Yes.

All right. The question I'm asking you is that, you don't think much should be made of it really by the usage of those words. Is that what you're saying? It's whether or not you do some action associated with speaking those words?---No, I don't agree with that, sir. My stance on it was that it was highly inappropriate and that those words might be used by people that are racist. My point I was trying to convey was that I didn't see any deeper seeded – I didn't see any of those people who have used those words do anything more than say those words. And I have already accepted that I do believe they're highly inappropriate and racist words, but I never saw anything that was more than that.

Do I understand that you make a distinction between somebody that's using racist words and that person being racist? It's not sufficient merely to use racist words to be regarded as a racist by you?---Yes.

Is that what you're saying?---Yes, sir.

Now, the people you heard that language in the station, who were they?---Well, I can't – as I said, I can't recall these conversations.

Can't or won't?---Can't, sir.

They were part of your patrol unit?---Your Honour, I can't recall these conversations that I've had or overheard. The point was that I have heard this type of inappropriate language over the course of however long.

THE CORONER: How long? Over what course? When did you first start?---Well, I've only been in the police for four years, ma'am.

Okay, so over the course of your four years?---Yeah, I just don't want to - - -

You've heard this kind of language?---I have ma'am, on certain occasions, here and there. I'm not saying that we hear it every day. I don't think it's commonplace. But I also don't want to say that this here, these few text messages, is the only time I've heard something like this.

Sure?---I haven't brought my mind to certain instances or times or – you know, I don't have recollection, but I also don't want to stand here and say, this is the only time I've heard something that I consider inappropriate. I think that would be remiss of me to do that.

Sure. So, over the four years that you've been in the police force, from time to time, you have heard words, racist words, similar to those used in the text messages, spoken around police stations?---Yes, your Honour.

Not limited to Alice Springs?---No, your Honour.

MR BOE: Thank you, your Honour.

I just want to go to another topic. Your awareness of the existence - - -

THE CORONER: Sorry, Mr Boe, before you do.

MR BOE: Yes.

THE CORONER: So, the kinds of conversations where you might hear this kind of language, is it – you know, where a few people are gathered, are people joking around?---I think it could be anything from just a mindless, offhand comment to probably just a mindless, offhand comment, your Honour.

Have you ever used these kinds of words?---I probably have used inappropriate words, ma'am.

All right. And when you - - -?---I haven't used these words.

- - - reflect back, you think it's a mindless comment by you, in the context where such mindless comments are made and nobody thinks much of them around the police station?---Yes, your Honour.

And certainly, no one's pulled up for them?---Yes, your Honour.

Right. Of course, you don't know what other people are thinking when they use these kinds of terms, do you?---I definitely don't, your Honour.

All right.

MR BOE: I'm just mindful of time, but there are just some more questions on that issue, if you don't mind.

THE CORONER: I used up a little of your time, Mr Boe.

MR BOE: Thank you, your Honour, yes.

THE CORONER: I've got a stopwatch going here.

MR BOE: Yes.

Just quickly, you said you didn't use those words. What inappropriate words did you use in the context of her Honour's question?---Well, I just think I've used, in passing comments before, words that may be offensive to others.

Like what?---I mean, there's a text message in here from me where I – actually, I don't know if there is. I don't know, I thought I saw something.

“Grubby fucks”, I think it was?---Yeah, sorry, there you go. You know, until that was brought to light today, I didn't realise that that was offensive to others. And it most definitely wasn't in a – when I said that, I never had any deeper meaning to be offensive to others.

Are you - - -?---But I did say it and I do now accept that it's highly inappropriate and I - - -

Is that acceptance because now the cat's out of the bag? Everybody knows that this is the way in which some police officers communicate. So you want to show some insight in contrition, is that what this is about?---Well I think that's important.

Yes. At the time it was all happening, and when nobody else knew, it was all bit of a mindless giggle or - - - ?---Correct, that's right.

But now that you're caught out, you think you should show some regret about it, is that what you're saying?---I – I don't feel caught out. I feel that in a public forum, I can understand that people take offence to it, and I acknowledge that, and that is not something that I want to do. I don't want to be offensive.

All right. In terms of the IRT, your knowledge of the existence of that team came from Constable Rolfe, correct?---Yes sir.

In fact that was one of your selling points in your discussions with him, about the prospect you entering the Northern Territory Police service?---Yes sir.

And somehow, you were permitted by the Officer in Charge Bauwens, to attend a training day, after Constable Rolfe sought his permission. Is that correct?---I definitely attended the training day. I don't know whether someone sought anyone's permission.

Well how did you get there and know of it?---Through – through just working in the police station. Knowing Zach, and yes, there – at some stage, there must have been a conversation with Sergeant Lee Bauwens, yes. But I don't know whether that was enacted by - - -

All right, we've got some - - - ?---It doesn't – I don't know.

- - - okay, we've got some evidence about that. I won't worry. The point I'm getting to is this. You, yourself, knew you had not completed the induction course, is that correct?---I - - -

You knew that?---Yeah I hadn't completed - - -

And you knew there was an induction course, correct?---Yes sir.

And you went out on IRT deployment, knowing you had not completed the induction course, correct?---Yes sir.

Everybody else in the IRT team and framework, knew you had not done the IRT course, is that correct?---Yes sir.

You certainly had no knowledge of the SOP?---Yes sir.

And one answer you gave, is that you didn't think that there is an official qualification to be a member of the IRT, is that correct? I can take you to the evidence. There was a question asked of you, and you said "There'd only been two training days. I don't think there's an official qualification." Do accept that?---I think I – no, I think there is. There's the two-week training package that - - -

That's a course?---Okay.

I think the question from those asking you was directed to how you got into the team after the course. I mean surely there's a pass/fail? It's not just simply you do a course and you're in?---I – yeah, I'd imagine that was the case.

That is pass – pass/fail or simply showing - - -

THE CORONER: Sorry, he hasn't done the course, so unless - - - ?---It was – it was used before my time.

MR BOE: Yes, but the question I'm trying to get to is, the answer you gave was "I don't think there's an official qualification." Was that your understanding as of the time of your police interview?---And I think in my police interview I said that I hadn't done the two week training course.

All right, all right, okay. I'll go to another subject. The Walker incident that we saw a video of, and for the record, you were obviously not referring to Kumanjaji

Walker?---Yes.

You gave the explanation as to the circumstances which led to your actions following Constable Rolfe, as being, there was real time information being given to you by OPS, whilst another person in the house was outlining a concern or threat. Do you remember that?---Yes.

Is there any record of that anywhere?---There most definitely would be, I would imagine - - -

Of the OPS communication?---Yes, I would imagine you'd be able to request that.

Secondly, is there any record of what you said about that fact, in any subsequent statement? That is – that is why you went to the house on that occasion?---I – I don't recall. I - - -

Did you do any post-arrest notes about it, or give any statement about it?---Sir, I can't recall.

You accept that the video shows, that there's no language used, by any police, to suggest that they should drop a weapon of any kind?---I - - -

From what I gleamed – sorry, just finish the question. What I gleamed was, you rushed in in that way, door was open. Went in, bang, we've heard the language. But there's no reference to any police officer asking anyone in that house to drop any weapon?---Sir, he didn't have a weapon in his hands.

I know. I know. I'm asking you, if that was the concern, for the entry, do you think it might have been a question to raise, simply because you couldn't see something?---Your Honour, at that time, when we went into that house, and Zach made entry to that house, he was not to know, and nor was anyone else, whether the man that he was telling to get on the ground, was an offender, a victim, an innocent stand, someone that was just in the house.

All right?---He identified that that person didn't have any weapons in his hands, and he told him to get on the ground. It's not to say that in a different circumstance, with the same scenario, that that guy with the knife, isn't just around the corner. Or he's not just behind the fridge. Or he's not just somewhere else. That – that can't be finished – no one can relax until we know that we've got the person we're looking for. Someone's not armed. Someone doesn't have potentially lethal force, or less, in their – in their hand still, and that we can account for that victim, and that they haven't had what was possibly we thought could have happened to them, done to them, and they need medical attention. In these – in these situations, you often don't have all of – all the information you need immediately. And that's why we saw those police officers, and not just Zach, there was others, clear the house. Clear the backyard. Positively identify that that is the person that they were looking for.

Constable, I thank you for that. Can I ask you this - - -

THE CORONER: Did you have your gun out?---I did, your Honour. And there's – I think there's some – there's some footage of me. I cleared the backyard.

MR BOE: The word “clear”, is that a term you picked up from military training or police training?---I think it's used in both.

Just the information that you outlined as to justifying the way in which you jumped the fences and entered the house. Are you aware with SOP's they defined what they call high risk situations?---I am now, yes.

Yes. Are you now aware that what you've described would fit into – arguably fit into that description?---That would fit into an active armed offender situation.

Yes. Well it'd fit into a few of them, if I may say, in 21 of the TRG SOP. The seriousness – sorry, physically exhibiting violence now. That'd be one of the things that – the information suggested?---Yes.

Had issued threats to kill or injure any person, correct?---Yes.

May use lethal force?---Yes.

So that would fall into what the police service regard as capable of being used to determine a matter as a high risk situation?---Yes.

Is that a situation in which – meant that you would just rush in, without any plan, as to what - - - ?---General duties police officers, in situation like that, still have to make an initial response. Knowing that there is a potential offender and a victim in the same house. Our TRG – would it be anywhere from I don't know, six hours, or eight hours, to be able to get there. That was - - -

That's okay. The – did you – did you understand that you had a right to enter, because of that information?---Most definitely sir.

And on what basis did you believe that the person was inside the house?---It – the – the offender?

Yes?---The communications that were coming to us, in real time, said that he was at the bathroom door, with the knife.

All right. Final issue, you were in the military from I think 2010 to 2014, is that what you said?---To 2016.

Okay - - - ?---2016 sir.

Yes, 2010 to 2016?---Yes sir.

And I take it you were trained to be an Infantry man, to go on deployments overseas?---Yes sir.

In order – in – trained in order to use your weapons in a combat situation?---Sir when we leave the military, we sign these non-disclosure agreements about this type of stuff. I'm happy to talk on a surface level, your Honour, I guess, but - - -

THE CORONER: I think it's only a surface level question?---Yeah okay, I would have to seek further – I don't know but – yes.

MR BOE: I think your – as I understand the framework, you're not allowed to talk about what you did on deployment, correct?---Well the tactics trainings and procedures, but yes.

So did your training include strategies to de-sensitise you to use violence through repetitive training, like stabbing a bayonet at a burlap sack, or something like that?---Your Honour, I'd have to seek some sort of clarification, whether I am - - -

MR BOE: I won't press it?---Able to talk about those things.

Thank you. As a result of your time in the service, your evidence is that you felt no mental health issues that warranted you getting any assistance. Is that correct?---No.

You're agreeing with me?---Yes.

Yes. And were you assessed by anyone before you were discharged?---Of course.

And did that involve a psychological test?---It does.

And did you, from that process, I don't want to go into the details, you felt you needed no further assistance to enter into civilian life?---That's right, sir.

Thank you, your Honour, no further questions.

THE CORONER: Are there any other questions? Mr Espie.

XXN BY MR ESPIE,

MR ESPIE: Hello, Constable, my name is Espie. I appear on behalf of NAAJA?---Yes, sir.

Do you know what NAAJA's role is - - -?---Yes, I do, sir.

- - - in the Northern Territory?---I do.

What's that?---As a legal aid response.

That's correct. We represent all Aboriginal people in the Northern Territory in matters relating to justice or advocacy?---Yes, sir.

The set-up 50 years ago, as a result of many injustices and also people in town included not having access to justice, not being represented and legal matters. I just want to ask you firstly a few questions about the Walker matter that we were just discussing; this is, the matter that occurred here in town.

MR COLERIDGE: Your Honour, can I just clarify for the record that there are a number of Walker matters. This is the matter of Christopher Walker.

MR ESPIE: Christopher Walker, that's the matter.

Yourself and Constable Rolfe and others obviously are trained to make very quick decisions, split second decisions at times?---Yes, sir.

All right. You have explained that the information you received was that there was someone in the bathroom and someone at the doorway of that bathroom with a knife?---That's my recollection, sir.

All right. We've seen that footage of Constable Rolfe smashing through the door. The first thing we see, as has been described already, is the gentleman who we assume is Chris Walker with his hands up?---Yes, sir.

All right. A split second decision, in fact there's a few seconds that he's observed with his hands up moving backwards. There's more than a split second, there's a few seconds, but it's quite clear that he doesn't present with a knife. You've kicked – well the door's been opened to the front room, which is clearly not - - ?---It was already opened.

- - - clearly not the bathroom, is it?---No.

It's not the bathroom door where he's – the information you had received is that he was at the bathroom door?---No, sir, he's not.

Right. And you've agreed the same for that he was(?) an innocent person in the house?---Yes, sir.

But nevertheless, he was shoved to the ground, and had a gun to his face and was shoved to the ground and sworn at?---He didn't have a gun to his face.

Pointed at him?---Yes, sir.

All right. Was there anyone else in the house other than the alleged victim and Mr Walker?---No, I don't believe so.

Right. What's – what I observed shortly after he was shoved to the ground and Constable Rolfe moving through the house was what appeared to be handprints or

fingerpainting on, I believe it was a fridge or a wall, would suggest to me that there was – it's a house that children perhaps lived in or frequented?---Okay.

Do you recall seeing any children in the house?---I don't recall seeing anyone else in the house, apart from the offender and victim.

Rushing through the door without observing who else is in the room. You would agree that there is a risk that, you know, children could be present?---Your Honour, in these situations, there could be a multitude of people in that house. We can only act on the information that we have at the time and it's great to give consideration to all these things after the fact. But we can only go with the information we have at the time. We must act accordingly. We weren't given any information that there was anyone else in the house. The person reporting the matter, the victim in the case, wasn't – I don't think at the time told us that there was anyone else in the house. It was just the offender and himself and he was in the bathroom. Quite often, these things are called in and there's only moments later until the police rock up, which is ideal, you know, that we get that as soon as possible. But it's often only the information relayed from the person that's ringing up and reporting that we can go on.

Do you recall yourself drawing your gun before you entered the premises?---Yeah, I'm sure I did. I think in or around the front door.

All right. It's fair to say that most of the people you interact with and arrest would be Aboriginal people?---That's correct.

All right. Do you have an understanding of trauma and things like cumulative trauma, intergenerational trauma?---I can understand what that is, yes, sir.

Whilst there are times when force is justified and you need to use force to physically apprehend someone, that can be – as we've seen today, that can be quite confronting, can't it?---That could be confronting for someone, yes.

You understand children often observe these sorts of things?---Unfortunately, children within our community see huge amounts of - - -

Right?--- - - - violence and trauma. I do agree.

And is that something that you're conscious of, as a police officer, that you're dealing with people that have experienced trauma and they're not going to understand why you or one of your colleagues might be shoving someone's – running up and shoving someone's head into a wall to perhaps prevent a crime occurring?---Well, in the moment, the police officer can only deal with what's presented to him.

That's correct?---And - - -

Certainly, the main part of my question is - - -?---We always - - -

- - - is that something that you're aware of and you take into consideration when you do have, not so much in the moment, but times to plan?---Most definitely. I think most police officers are compassionate and think about others.

All right?---And it's - there's an escalation of force.

All right?---You know, we don't start at the top. It's how we're trained. Police officers are here to serve and look after their community. So, yes, I do agree that in certain circumstances, that time is not permissible and in most circumstances, it most definitely is.

Right. At least four people that – in the second incident, I think, that we observed, a Mr Bailey, that was arrested. There were at least four officers that ran up to him. Do you recall, four or five officers?---Yes.

Right. In hindsight, would you agree that there was perhaps other ways of dealing with that incident?---Yes.

He had his back against the wall. Perhaps someone could have called out "Stop"?---Yes.

All right. You agree that's certainly not the best way of dealing with the matter?---I think there's often – you know, in hindsight, many courses of actions that we can ponder over.

Right. Kumanjaya Walker is someone that in psychiatric reports that we've read on the brief, suffered from or had symptoms of hyperactivity, hypervigilance, poor impulse control and exaggerated startle response. Now, I'm not suggesting you're a psychiatrist and have to understand all of those words, but it's suggested in these reports that those are indicators of PTSD. Do you have any awareness that many of the people that commit offences suffer those sorts of issues or other cognitive or trauma-related - - -

MR FRECKELTON: That's irrelevant and there's no way this officer can possibly comment. Those sorts of questions should be directed to Professor McFarlane who is called (inaudible). But it's not a matter for cross-examination of this witness.

MR ESPIE: Perhaps I'll rephrase that question, your Honour.

THE CORONER: Sure.

MR ESPIE: Are you aware that many offenders – many people that come into contact with the justice system suffer from things such as cognitive issues, FASD, PTSD?---Whether members of society – yes, do suffer from mental issues.

Is the – has there been anything in your training to help you understand how to interact with those sorts of people from a policing perspective?---Yeah, during college, I believe there was a FASD – you know, we did learn how to interact with

people with Foetal Alcohol Syndrome. All those terms that you were suggesting before, I think that's – no, I don't remember any particular training - - -

Right?--- - - - to those technical terms.

Right?---I mean, it's the first I'm sort of hearing some of those words.

But just in thinking about that, would you agree that those sort of things, if you're aware of an offender, or someone you're interacting with, having those sort of issues, it might change the way you respond - - - ?---Most definitely - - -

- - - perhaps?---That would make me think that someone may be unpredictable, or you know, they may not act like someone without those things. But I'm not too assess that, I guess.

And I suppose generally speaking, their fight or flight response may be different to someone that doesn't suffer things such as poor impulse control or exaggerated startle response?---Is that the findings?

It's a question whether you agree with - - -

THE CORONER: Is that something that you're aware of?---Yeah, I think if I was, your Honour, like - - -

If you thought about it?---If someone told me that I was about to go and see someone with a list of these things, I would think I need to be very careful, this person could be highly unpredictable. I can't for a second think that they may do what a normal person, similarly circumstances would – similarly circumstanced would do, if that answers the questions. It would raise concerns for me, yes.

And would it change your approach?---It may do. And it may do if I had time for that approach to change. If I was able to you know, like we all wish we had plenty of time to do anything. In – if we had the time, of course it may change the approach. If there's no time, it may not.

MR DERRIG: And you would agree, constable, that whilst obviously yourself and people in a situation, everyone's safety is important, that even a target or an offender, their safety is important. Their safety from their own potential actions is something that you need to factor in when – when dealing with the arrests or apprehension of - - - ?---Everybody's safety is equally as important. We don't – no one has your safety less important than the next person, your Honour.

Constable - - - ?---We – yes sorry.

- - - all right, I'll perhaps move on from that question?---Sure.

You have an aid with you that has a number of your text messages?---Say again sorry?

You have transcripts - - - ?---Yes I do.

And I know you've been to this from some perspective, but can I ask that you just read items one and two on that – on that page?---Would you like me to read them out aloud?

Yes I will?---“Heard you had a rough arvo yesty, grubby fucks. Are you running issue duty belt et cetera? Do you run a comforter?” “No bro, just slightly annoying, ha ha, coons man. Nah just issue belt, no comforter, no vest even 'cause I just go light and speedy.”

And you obviously don't recall what that was about, but looking at that, it's fair to assume that you're both talking about Aboriginal people?---I would agree.

What gives it away?---That – in number two, it says “Ha ha, coons man.”

Right. It's pretty obvious isn't it?---Yes sir.

When was your first time, constable, that you felt comfortable, having those sort of conversations, either through text messages or verbally?---What do you mean “comfortable”?

Did you – did you have these sort of conversations prior to – is this sort of language you used with people, prior to joining the police force in the Northern Territory?---Well I have – I have heard those – that terminology - - -

I'm asking about yourself using or interacting in those sort of conversations? Some people may just hear someone speak like that, and disengage and walk away, and not talk to them but - - - ?---Well I have – I have said, yeah, I've never thought of it as an issue of being comfortable or uncomfortable. But – and I have accepted today that I see it as very mindless, that being said. I can't give you a time. But there hasn't been something that's happened to me, if that's what you mean.

You've given some very articulate intelligent answers today. You're not a mindless person?---That's correct.

Was this sort of language used – perhaps this is a surface level question, was this sort of language used in the military? You served in Afghanistan?---No it most - - -

Is this racist language used against people in Afghanistan?---It most definitely wasn't. And it's my understanding, your Honour, that these are text messages from some 8000 pages of text messages, from what I've been told, and we're - - -

I'm just referring to - - - ?---To me, it doesn't feel like this is everyday language, but I also do want to acknowledge that I accept it has been said, and that I'm not going to deny that. But you know, if there's 8000 pages of text messages, there's probably, I don't know, thousands or something from me, and we've found one

where we've looked at it. We're not – we're not talking – this hasn't happened repeatedly over years and years, through text messages between me and Zach. I mean I – I think we must, you know, accept that there's – this is years and years and years of his life, and we're going to talk about a few messages that are highly inappropriate. But I think the suggestion being made is that this is happening regularly, or semi-regularly, or anything like that.

Constable, what we're talking about, is text messages from 2019. The same year the young Aboriginal man was shot - - - ?---It is, sir.

- - - in the lead up to that. You've heard, or you've seen and recall your text messages. And you've obviously been reading about many other text messages?---Correct, I have.

You looked up the definition of racism?---I did.

Did a bit of Googling this morning, or before giving evidence at some stage?---Yes sir, I did.

And you think there needs to be something deeper than “grubby fucks and coons”, there needs to be something deeper than just mindless language?---Your Honour, “grubby” was a reference to behaviour, not race. And the reason why - - -

Well what that question is you're suggesting there needs to be something deeper than simply using a bit – bit of bad language?---For somebody to be racist - - -

Right?---Yes, your Honour.

What about this extremely bad language, and yes, it's 8000 pages worth of text messages. There's also – it's also littered with references that many would call homophobic. It's also littered with references to – or there are some references to what people would suggest is a prevalence to violence, or heavy handedness. Is that something deeper? A bunch of racist messages, in very close proximity to – and I'm not – it doesn't have to be specific to Mr Rolfe, but would you agree that a bunch of racist messages in close proximity to references to violence and using violence - - -

A PERSON UNKNOWN: Your Honour, I object to the way the question's being put.

THE CORONER: Sure, if - - -

MR DERRIG: Well I'll be specific, your Honour.

THE CORONER: - - - if you can put it a little bit more specifically, yes.

MR DERRIG: I will put it specifically.

There's messages from Mr Rolfe, that talk about towelling up locals, and you don't seem to recall the details of a conversation about his head, and you don't get violent like him, you seem to think. But he obviously has some insight into his violence. Combing those things, and in fact with what we know is that he's someone that had a number of complaints about potential excessive use of force. Isn't that something deeper than just a bunch of text messages, calling people coons?---Your Honour, I don't think any of his complaints, as far as I was aware, were unresolved. I – I can't comment to - - -

THE CORONER: You've heard the – you know there's a message - - - ?---Yes.

- - - where there's a reference to "Towelling up locals, I like it"?---Yes I've – I've seen that.

All right. And you've seen this message today, where he appears to be indicating that he may or does, get violent?---Yes I do see that.

Okay?---Yes.

And you've heard messages, or heard of messages, where there are racist terms used?---Yes, your Honour.

And you're now being asked, to put all of that together. You said just the use of a word, doesn't necessarily make you a racist?---Yes, your Honour.

Well you're now being asked to put those things together. We've now got some suggestions that there are text messages that talk about actions. Plus we've got text messages that talk about racist words. So when you put those together, on your definition, where racism requires more than a word, it requires an action, can you reflect on that for a moment?---Yes – yes, I can, your Honour. If someone was to do those words, because of – sorry, to do those actions because of somebody's race, there's a problem.

So "Towelling up locals" would be - - - ?---Well I don't know what he means by towelling up locals, and I - - -

Well you know him, so you could give us some insight into what your good friend might mean when - - - ?---Well I - - -

- - - he says "I like towelling up locals"?---Well I've never seen him use any excessive use of force. I've worked with him. I was the one that were on the shifts. If he said something that suggests that, that's not a reflection of what I saw when I was working with him. If he's talking to somebody, and for whatever reason using that language, it's not what I saw when I worked with him, and that was the reason I brought that point up. Is was yes, I do accept he said the words. My interactions with him and the community have not been evidenced by what these texts are saying. And I guess that's the point I was trying to make, your Honour. I do accept everything he just said. I can see that the – the picture that we're forming here. But

at the end of the day, I worked with him, known him for ten years and I haven't seen this evidenced in the community. And I'm not – I'm just trying to be honest with you. That's what I've seen.

MR DERRIG: Do you understand, Constable, what the word perception means?---Yes, I think so - - -

People perceive things differently?---Yes, I – yes.

You perceive Constable Rolfe and perhaps yourself as people that aren't racist?---Yes, sir.

Lot of Aboriginal people in the back of the court that probably don't think (inaudible) something but they've heard your messages; they probably just – they picked you as a racist. That's probably their view, but my question is: do you have any – as an officer – because we're looking at how do we change or if there's some concerns with the general culture in the NT Police Force. Do you have an understanding that, as a parent, as an Aboriginal person with a parent of a young Aboriginal man, this sort of language – this sort of evidence that being heard of, there's people that are too frightened to sit in here?---Most definitely, I can accept that.

Do you understand that knowing that there's police officers that, in their perception, are racist, pro-violent and trigger-happy; that's probably their worst nightmare as a parent?---That would be any parent's worst nightmare. Yes, I fully accept that.

What can we do about that; it's open-ended question, but what can we do about that; where did it fall, because it's happened, the world's seen it, what do we do?---You know, I think we just – those closed conversations should be spoken in a way that they're - - -

But they're closed anymore, Constable, they're open - - -?---Just that those – when we had these closed conversations, they should be spoken with a thought that they aren't closed. And I think that insight would perhaps be beneficial moving forward. Because whilst, you know, and I know that it isn't mindless to some. And for me to sit here and say, "Yes, it was mindless," if I had have had that conversation or these conversations with a thought that I was going to sit here today and explain this in front of everybody, I may have made better decision. I might have thought about what I was saying more.

Constable, you're not a civilian. You're an officer of the law, just like everyone sitting at this Bar. We're officers of the court. I'm not sure the – I don't know the words to whatever oath you've sworn, but officers of the law or the court, we need to hold ourselves at a higher standard?---That's what I was - - -

Would you agree?--- - - - suggesting when you asked, "How do we move forward? How do we do better?" That was a response to that, sir.

What do you think you yourself can do; I mean – sorry, the question is you understand that community has to have confidence in every police officer and the force as a whole?---Most definitely do. I mean, when I left Alice Springs, I went and worked up in Ramingining in Arnhem Land for 12 months. At a time when I was up there, I mixed with the community members there. My child went to their day care centre. I was adopted by a family there within the community. I have connections with remote Indigenous communities. The NT Police advocate for people to go bush and have the same experiences that I've had. I don't feel any different than I did before I went there to I do now, as in I didn't have a different opinion before or for the experience after. But the community living that I gained out there was an insight, I think, into what your trying to suggest and why people may have these perceptions or thoughts. And I think just by our interaction, we can change that.

Constable, that community in Ramingining, how would you feel if somebody called those people that have taken in you in “grubby fucks and coons”?---I wouldn't feel good about it if – no, I wouldn't feel good about it, sir, to answer this question.

No further questions, your Honour.

THE WITNESS: Thank you.

THE CORONER: Mr O'Brien?

MR O'BRIEN: Thank you, your Honour.

XXN BY MR O'BRIEN:

MR O'BRIEN: Constable, you were asked by counsel assisting a short time about the (inaudible) that you were given when you arrived in Yuendumu?---Yes, sir.

Apologises. My name's Conrad O'Brien. I'm appearing for the Parumpurru community?---Okay.

Which is a justice community of Elders and leaders from Yuendumu. You'd be aware that M4's can be either automatic or semi-automatic?---No, that's not the case, sir.

Not the case at all. They're just semi-automatics?---Yes, sir.

Now, I understand that you've signed a non-disclosure agreement, and I don't want to ask you anything particular about your training and operations or anything in the Army or your time in the Army. I just wanted to clarify a couple of the matters that you've spoken about in your statutory declaration. And you've said that at the time of your deployment, the focus was on training and mentoring the Afghani National Army?---Sure.

And you talk in your statement about green on blue being the highest threat. Do you recall that?---Yes, sir.

Now, am I understanding that correctly, that green on blue means an inside attack by a rogue Afghani operative against an Australian soldier engaged in mentoring and tracking?---Yes, that's right, but it doesn't have to be an Afghan soldier; could be anyone within what we'd consider a friendly force, yes.

And at the time of your deployment, you were providing protection to the Australian officers who were engaged in that mentoring and training?---Yes, I was.

And you'd be aware that several Australians, in the course of their deployment, have been killed from green on blue attacks?---Yes, would have had casualties that way.

And work that you were engaged in prior to that protection was dangerous work?---It had the potential to be very dangerous, yes.

And you would have had to have been on extremely high alert at all times when you're performing that role?---Yes. We were definitely alert. You can't operate in an extremely highly alert manner the whole time. You need to be able to process that and take those things in. But to answer your question, yes, we're very alert. But if you were in a hypersensitive state the whole time, your body can't sustain that for long periods of time. And that's where, I guess, training comes into effect.

What I'm getting at, constable, is that the nature of that work would have required an extremely rapid response at the presentation of that threat?---Most definitely.

Because the consequence of failing to act quickly enough could be the death of a cop?---It may.

And was I understanding your statutory declaration correct that Constable Rolfe was engaged in that type of work with you as well in Afghanistan?---We were both deployed on the same deployment.

And performing the same role in that deployment?---Yes, sir.

Constable, I'd just like to ask you about the 37-minute phone call you had with Constable Rolfe on the Monday. In your statutory declaration, you say that Constable Rolfe communicated to you that Kumanjayi had attacked him and stabbed him in the shoulder?---Yes, sir.

And that was in the course of this 37-minute phone call?---I believe it was either on that phone call, the one that I was talking to him on Tuesday. I don't remember whether – which one it was.

The 37-minute phone call on the Monday was the first time that you had spoken properly to your close friend, who had just shot and killed someone, correct?---Yes, sir.

It would make sense, wouldn't it, that in that first conversation that you had with that person, that would be the time that you'd be discussing the circumstances - - -?---It would, yes.

And you've also said that Constable Rolfe told you he'd been cleared by a psychologist to go back to work?---Yes, and I don't remember whether it was – yes he had, either on that – the Monday or the Tuesday, he had.

And that he told you he'd been cleared on justification issues?---Yes sir.

And I'd just like to understand exactly what that meant. Are you saying there that he told you he was justified in his use of force?---Your Honour, he had told me that he had had a conversation with Commander Brad Currie, who had come to his house, I think, and told him that the investigation was on-going, but he had been cleared of justification and excuse, and that they were working on the authorisation part of that. And that yes – yes he talked to the psych and he was looking like he was going back to work I think the following Monday after a visit from his parents.

And just so I'm clear. Being cleared on justification or excuse, means that he had adhered to his training in the circumstances, is that right?---Yes, I believe so.

And he had adhered to the training that an edged weapon equals gun?---To me, when he told me that, it was – it had mean that whatever investigation was being undertaken, he had been told that he was cleared for the justification excuse. He'd never gone into details about – and I doubt that he – Brad Currie would have – Commander Currie would have told him those details. So I don't know what in – in what particular – I don't know what the justification excuse part of the investigation was, no, but that would be my understanding. But that wasn't conveyed to me by him.

There's evidence before the Coroner, that at the debrief at Zach Rolfe's house that occurred on the Monday - - - ?---Yes.

- - - there was a discussion about how Constable Rolfe had adhered to his training?---Okay.

And there was a discussion that edged weapons equals guns?---Yes.

Were you part of – I know that you were present there in person, but is it possible that you were part of that conversation in that 37 minute phone call you had that evening, with Constable Rolfe?---No I don't recall being a part of that conversation.

Do you recall what else was discussed during the course of your 37 minute phone call with Constable Rolfe?---No I don't.

Do you recall whether anybody else was on that phone call with you, or whether it was just a private conversation between you and Constable Rolfe?---I – I don't recall anyone else being on that, as a part of that conversation, no.

Constable, I just want to put a couple of propositions to you in fairness, and give you the opportunity to respond to them. The first thing that I'd like to suggest to you is that it is not plausible that you do not recall the contents of a 37 minute phone call you had with your close friend, being the first point in communication you had with him, after he had shot (inaudible)?---I did say previous that I did remember parts of that conversation.

Which are the parts of that conversation – just so we're clear, what parts to you remember? Was it just that he had been cleared by a psychologist that - - - ?---Yes.

- - - and justification excuse?---Yes, that he - - -

And that he'd been stabbed in the shoulder?---Yes.

You'd said – my understanding of what you'd said is that you couldn't recall whether they were part of the conversation of the Monday or the Tuesday, but you now say that those things did form part of this 37 minute phone call?---I – I believe so. That – those things were either talked about on the Monday or the Tuesday, your Honour. I don't recall the particulars of that whole conversation, this many years on.

And those three things are the only things that you recall about that phone conversations?---Well I recall that it was also talking about, you know, whether he was okay, and – and things like that. He did talk about that he was being treated very well by the organisation at the time. That his parents were coming. That he was okay. I don't think he had any concern at the time. That was the conversation.

No more questions, thank you, your Honour.

THE CORONER: Are there any other questions?

MR ZICHY-WOINARSKI: Your Honour, briefly, yes.

THE CORONER: Yes.

XXN BY MR ZICHY-WOINARSKI:

MR ZICHY-WOINARSKI: Constable Sykes, my name is Zichy-Woinarski. I appear for NT Health. I want to ask you some questions about the convoy as you come from the airstrip to the police station on the night of 9 November 2019?---Yes sir.

You said that you'd noticed the ambulance had fallen behind in the convoy?---Yes sir.

And your evidence was, in effect, that there was no way we were going to leave the ambulance, whatever they were going to be confronted with?---Yes sir.

What did you think might happen to the two women in the ambulance, if they were left there unprotected?---They may have been stoned, as we were. If they're vehicle had of become static in that situation, they would have been static targets, and effectively in a very bad situation.

So there might have been rocks thrown at the ambulance?---There – yes, there was, and soon as you become static in a situation like that, you are a much more vulnerable target.

Vulnerable to other forms of attack as well?---Correct – well, whatever it may be. And I also would – you know at the time, view those two nurses as probably not in a position to defend themselves either, whatever they may have been confronted with. At that time, you know, I was bleeding. I'd been hit with rocks. I didn't know that they had been injured at the time. I was to find out that later at the police station. But either way, it doesn't matter. Whatever – whatever was going to happen, I was happy to go around and help those – turn around and help those ladies.

You also agreed that that situation was frightening for the police?---Yeah, most definitely.

It was frightening to you, even with your experience as a police officer, as a former member of the Australian Defence Force?---Of course.

You can appreciate how terrifying it must have been for those two nurses in the ambulance?---Well yes.

Thank you.

Nothing further.

A PERSON UNKNOWN: I have no questions, your Honour.

THE CORONER: Dr Freckelton.

MR FRECKELTON KC: Thank you, your Honour, I won't be long.

XXN BY MR FRECKELTON:

MR FRECKELTON: Constable, were you in the vicinity of the public meeting, which resulted in Sergeant Frost leaving Yuendumu?---Yes sir.

Were you in a position to evaluate the mood of those people assembled and to hear the things that were being said?---Your Honour, before I went to the basketball court, I was on a crime scene guard, in visual distance from the basketball court. I could hear – I could hear the crowd within that basketball court echoing, and growing in – I guess the acoustics within that basketball court. From where I was, hundreds of metres away, I could hear it escalating, and getting more and more – we were then – we were then asked, both myself and Senior Constable Haig, to attend at the

basketball court, to assist with – to assist TRG in the removal of Sergeant Julie Frost. At – by the time I got there, they – the – she seemed to be the antagonistic – they were asking her to leave, and as she left, they took her out and they were yelling at her. And I was asked to escort her 20 kilometres out of town.

What sorts of things did you hear being said to, or about Sergeant Frost?---They were yelling at her to get out of town. Words to the effect of I guess don't ever come back. They were swearing at her. And she was very quickly ushered away.

And what was the mood of the crowd when you heard – the assembling crowd when you – before you got to the basketball area, and then when you were in the vicinity of the basketball area?---They were extremely hype – hyped up. Yelling, pointing, inconsolable, to a certain degree, I guess. I think at the time, Commander Wurst and that were standing at the front trying to have a conversation with the community. But that didn't seem to be viable whilst Sergeant Julie Frost was there. And they – and I think that was the reason – they'd asked her to leave. And from then, I took her 20 kilometres out of town, as an escort.

And did you see any effect upon Sergeant Frost, of what had taken place there?---She was very upset.

Thank you, your Honour.

THE CORONER: Dr Dwyer, anything else?

DR DWYER: Just briefly, your Honour.

REXN BY DR DWYER:

DR DWYER: Constable, I just return very briefly to the issue involving Christopher Walker, the incident at the house on 22 June?---Yes.

I showed you the body-worn video footage that came from Constable Rolfe's camera?---Yes ma'am.

Have you seen your own recently?---Not recently, no ma'am.

I'll just ask that it be played. It won't take long, just the first couple of seconds.

DVD PLAYED

DR DWYER: That's all. Thank you Bec.

Do you need to see any more, officer?---No ma'am.

You see from that body-worn footage that there are three police officers who enter that house with their guns drawn?---Yes.

Do you accept that?---Yes ma'am.

You accept, do you, that that gentleman who had his hands up had a gun pointed towards his head? You can see that from Constable Rolfe's footage?---Yes ma'am.

Have a look at the still that we've taken from that body-worn video footage. That's Constable Rolfe's body-worn video - sorry - that's Constable Rolfe - sorry - depicted in the photograph?---Okay, yes, yes.

In circumstances where - that can come down - three officers entered the house with their guns drawn, with no communication from other officers in the house and the gun was pointed towards that gentleman who was unarmed, do you accept in hindsight that that was an excessive use of force?---I don't accept it was an excessive use of force, no.

And nobody has ever suggested to you before today - as I just did - that it was excessive?---Most definitely not.

You said before that there could have been a number of different ways that could have been handled. What other ways do you think in hindsight that could have been handled - that provided a safe way of dealing with the situation?---There could have been a - there could have been more communication from the door. There could've been - you could have a slow cordon and call response. The reason why I accepted that that was the course of action and I accept it was appropriate was with the information we had, that to me, whether to go inside and assess that from the inside immediately.

That it could have - the situation could have been assessed from - using comms at the door, couldn't it?---You could not - you could not have been sure that there was nobody else in that house from the door, no.

When you got to the door and you opened it you would have seen a man standing there unarmed, correct?---We did see that, ma'am.

In those circumstances that man could have been given commands to put his hands above his head without drawing a firearm couldn't he?---The firearms were already drawn in that moment ma'am.

In those circumstances of that - I appreciate that it's dynamic and that you had certain information. You could have entered the house in those circumstances, without your firearms drawn, do you agree?---I don't think that would have been the safest option for us to do that then.

So as far as you're aware, your training from the Northern Territory Police Force at the time, justified three officers entering the house with their guns drawn, on the basis of the knowledge that you had?---Yes, ma'am.

And you think that's still the situation now?---I do, ma'am.

No problem with it at all?---No ma'am.

You were asked some questions about the text messages. I am not going to take you back there substantially. You made a point of saying that this was a handful of text messages on an 8000 page document. You understand that there are five officers involved in the exchange of racist language on that text - on that - - -?---I didn't know that it was five but from the media I could - I knew that it was more than myself, yes ma'am.

In circumstances where it's one phone from one officer of the course of a year and it reveals five officers exchanging racist remarks, it can hardly be said to be an isolated incidence?---I agree.

Excuse me a moment. My learned friend, Mr Espie, asked you some questions about what we do about it now and he as asking you questions from the perspective of an Aboriginal man hearing those messages. Is there anything you want to say while you've got the chance, to the Aboriginal people in this courtroom and who are listening, about your choice of language "grubby fucks" and exchanging in a dialogue with Constable Rolfe on his phone where he used the word, "Coons" and you don't pull him up on it?---Yes, yes, most definitely. I will apologise. And I would never have wanted to say something that was offensive and I totally accept that it is offensive and I do apologise and I don't - I don't want to be seen in that light that is somebody that would flippantly - flippantly do that. I have a sincere apology if there are people that are offended by that.

When you say "a sincere apology if people are offended" are you suggesting that people might be - you know, that it's unusual to be offended in some way or that you've got to be thin-skinned to be offended by those messages?---No, but I - no, not at all.

The final question is this. Do you think that given what has been exposed as a result of this inquest, it would be appropriate for police to receive some better - more training about the impact of racist language?---Yes, I think we could always do with some more training.

On that issue?---Yes ma'am.

Thank you, your Honour, those are my questions.

THE CORONER: Yes, thank you for coming and giving evidence and yes, we appreciate the information that you have been able to provide?---Yes, your Honour.

We will adjourn until quarter past 2:00.

WITNESS WITHDREW

ADJOURNED

## RESUMED

MR ROBSON SC: This might be a good time for me to announce my appearance, your Honour. Robson, I appear for the next witness of Kirkby pursuant to your Honour's prayer and leave.

THE CORONER: Thanks, Mr Robson.

MR ROBSON: Thank you.

THE CORONER: Yes, Dr Dwyer.

DR DWYER: Thank you, your Honour. I call Sergeant Paul Kirkby.

THE CORONER: Please take a seat.

PAUL MICHAEL KIRKBY, affirmed:

THE CORONER: Thank you.

DR DWYER: One moment, your Honour. I'll just locate a document.

XN BY DR DWYER:

DR DWYER: Sorry, Sergeant, if you would just give me a moment. Sir, could you please state your full name for the record?---Paul Michael Kirkby.

And your rank is sergeant. Is that right?---Correct.

You've provided a statutory declaration to assist her Honour which is dated 19 August 2022. Is that right?---Correct.

You are currently on personal leave from the Northern Territory Police Force. Is that right?---No.

Okay. You're back at work, are you?---Approximately eight weeks.

Okay. What period have you been out on leave for?---April through September, I think.

Okay. Let me go back a step to your background within the Northern Territory Police Force. In 1997, you became a member of the New Zealand Police Force. Is that right?---That's correct.

You worked in both urban and rural areas in New Zealand?---I did.

And you were promoted to the rank of sergeant in New Zealand in 2008. Is that

right?---18.

In New Zealand?---Sorry, 2008, correct.

You spent the majority of your time in New Zealand working in general duties. Is that right?---Correct.

In 2013, you resigned from the New Zealand Police Force and you moved to the Northern Territory. Is that right?---That's correct.

And did you become a police officer in the – or apply to become a police officer in the Northern Territory soon after you arrived, or had you arranged that from New Zealand?---That had been arranged. I made my application and was accepted.

What prompted you to move to the Northern Territory as a police officer?---Money, to be honest.

Okay.

THE CORONER: The pays a little better here than New Zealand, is it?---Considerably.

Right. We've had a number of New Zealand or ex-New Zealand police officers give evidence in this court?---Yep.

Yes.

DR DWYER: Is it fair to say also that the conditions for the Northern Territory Police are pretty generous in terms of leave?---Yes, I can't remember what it was in New Zealand, but more so here.

Sick leave, much more generous in the Northern Territory than it is in New Zealand?--Different schemes. People say it's unlimited sick leave here, which it's not really.

What do you interpret the sick leave provisions to be here for the Northern Territory?---Generous, but if – obviously, you can't take leave and just not come back. You would be – it's leave with a medical certificate. And so, there would be interaction between different groups within the police wellness, the back to work people, that's probably not their actual name, and the medical provider to get you back to work.

Was it seen – do you recall when you were being – or when you were recruited to the Northern Territory Police Force seeing advertising campaigns for the NT Police?---It wasn't an advertising campaign. We have a police association newsletter, the same we do here. And there was a two – three page – I don't – sorry, I guess, about the Northern Territory and New Zealand police moving. It wasn't advertising – obviously they're not going to advertise for us to move, but.

Included within that story, was there indication that there was – there was better pay for Northern Territory Police?---Yeah I believe so.

And included in that story, was there anything about the good leave conditions?---I don't – I don't remember.

Did you have friends in the Northern Territory Police Force before you moved here?---I knew one person here. I did get in touch in with that person.

Who was that?---Rob Engles(?).

Have you ever served any time in the Australian Army – sorry, in the New Zealand Army I should say?---No, boy scout's as far as I went.

When you came to Alice Springs, you – you took part in what you describe as an accelerated recruit program?---In Darwin, prior to.

Prior to getting (inaudible)?---Coming to Alice Springs.

How long did that go for?---I think three months, thereabouts.

So as opposed to the six months that you would ordinary do - - - ?---Correct.

- - - it's cut in half, is your understanding?---Correct.

Do you recall any part of that training involving cultural competency?---I think in the statement I wrote that there was a – there was a two day excursion, and I think we went to Jabiru and then to Oenpelli, I – that may be wrong, but I had a look on the map, and that's where it was.

Okay. This is what you say at par 18, "Training received in dealing specifically with Aboriginal people at the police college is minimal"?---Yep.

"On my ARP course", that's your accelerated recruit program course, "We did travel to Jabiru and then to an Aboriginal community, possibly Oenpelli. At a near-by arts centre, we received a talk about Aboriginal people and their culture. The talk was delivered by an Irish chap"?---Correct.

What did you think about that at the time?---I wasn't expecting it to be delivered by an Irish chap, I – I thought we were going to speak to Aboriginal folk.

It's pretty unsatisfactory isn't it, to have a – a talk on cross-cultural issues, delivered by somebody who's not an Aboriginal person?---I don't know - - -

(Inaudible)?---Like I think he was – he lived in community. I don't know what his role was. So I don't want to bag him or anything, but it seemed a bit odd.

You have had – in 2013, you moved to Alice Springs, is that right?---Correct.

Was that your first job then out of training?---Correct, yes.

And you started to work on general duties?---No. The first – five-week rosters, it's just revolving. And the first roster I was on traffic, for some reason.

Did you do the bulk of your work in Alice Springs in general duties?---I did – most of my work was general duties. But I did some out and about in communities. I worked – I don't know what they call it now. It was called POSI, Point of Sale and – Point of Sale Intervention, or something like that. And that's when you stand at the bottle shops and kind of man those. And I was either doing that, or Sergeant in Charge, or Acting up to Sergeant in Charge of that.

You came here in 2013 to Alice Springs. I think you went on leave in September 2019, is that right?---On leave?

On some form of leave on – in September 2019, does that sound right?---Oh - - -

That's all right, I'll just – I'll ask you a different question if it doesn't cross your memory, or if you have no memory of it?---I think – I think I had shoulder surgery.

That's what I'm getting at - - - ?---Okay.

- - - you had – so you had some surgery in 2019, is that right?---Correct.

And you went on that leave at that time for the shoulder surgery?---For – yep, for the surgery and the recovery.

Okay, from 2013 to 2019, were you based primarily in Alice Springs?---Yes, I did some work in the Southern Desert Region.

You've explained in your statement, some of the Southern Desert Regions that you've worked in. And they include Kintore?---Correct.

Haasts Bluff?---Correct.

You were in Kintore for two months. Haasts Bluff for eight months, Galiwinku five weeks, in the Top End?---In the – yeah, Top End. That's been since I've moved up here, yep.

I see. Between 2013 and 2019, what work did you do in remote communities?---What did I do or - - -

Sorry, which remote communities did you work in was perhaps an easier - - - ?---Easier this way, if I just go through chronologically. I went – 2013 I went to Kintore. There was a – isn't wasn't a broadcast, it was just an email sent out. Someone was obviously going on leave, and there was a position for 10 days.

So I put my hand up for that. Or I put my name into the hat for that. I think a few people wanted to go. That was for 10 days. And I extended that stay.

And you stayed about two months, is that right?---I think – I think so, yeah.

Okay, and then just going chronologically, what other communities?---Coming back, I think, it's still 2013, I went to Imanpa, that's south – that's getting close to Uluru. A little community there off the Lassiter. And I think I stayed there five months.

Do you recall other times that you went out bush?---From – it was still in the same time as Imanpa, it's still in that five months, I think someone had leave over Christmas, and that was at Ti Tree, which is north of Alice Springs. And I – I only did two weeks there. Back to Imanpa. Did my – finished my five months there. Back to Alice Springs. I think then, I can't – I don't know what year it was, I went to Alpurrurulam, some people call it Lake Nesh. And I think I spent maybe three months. From there, I think I went out to – after that, it was to Haasts Bluff.

And you were there for about eight months?---Yeah, correct. About eight months.

Was that all prior to 2016?---I – I think it might have been, yes - - -

What was - - - ?---I'd say yes.

- - - in terms of the Central Desert Communities, what was the last – what date roughly, was the last time you were in Central Desert Community?---Two – I remember coming back 2016. I remember someone in Alice Springs got sacked, or something. And so I ended up acting up as sergeant on a patrol group. But that – I – I don't know when, but I'm pretty sure it was 2016.

In terms of your experience in remote communities, Kintore was the first one that you went to. Do you recall when you got to Kintore, was there any induction provided to the station?---No, the chap that was working there, the sergeant that was working there, had been there five years. And he – I think my induction was through him. He basically knew everyone in town. I think one of the first people – do you want me to name names?

It's – there's no difficulty if you do (inaudible)?---He introduced me to the ALO, the Aboriginal Liaison Officer, Charlie, or Ringo. Charlie Michael, otherwise known as Ringo. And Charlie's a Kintore resident. I got to meet the Elders and TO's, but there was no real induction. There was no sit down, and this is what we do I think - - -

When you say you got to meet the Elders, how did that happen?---Pete Stowers(?), the Sergeant, would have just taken me and introduced me. He kind of made a point of introducing me to the – at that stage, I was only there 10 days, but he introduced me to the - - -

And when he introduced you to the Elders in the community, was that meaningful to you, in terms of the police work that you were going to do?---It – yeah it was,

because I come from New Zealand, and look, obviously there's Maori culture over there, and there's different cultures, but may be like Maori, there's certain things you have to do certain ways. That – to be – not being blasé, but if someone dies, do you take them feet first, or head first out through the door, and things like that, like, just that's a real simple one. Just - - -

Well that's an example where in Maori culture, that's a significant cultural issue, is that right?---Yes, yep.

And so in order to do things in a proper way, that shows respect, you need to understand what those cultural practices are, is that right?---Correct, yep.

And do you say that in New Zealand, police receive some training in relation to what is the appropriate – what are the appropriate customs to respect in those circumstances?---Yeah, now – I – back in 2013, we had Iwi liaison officers. And so there – that were police, and they would – and Iwi is a tribe, sorry. And so they would liaise, if I lived in a particular area – Rotorua, I grew up in Rotorua - the Iwi there is Te Arawa and the certain sub-tribes are Hapu. And so they would liaise between those people. Between their tribes and all the – all the Iwi and the Hapu. Hapu are kind of sub-family groups.

When you were being trained in the Northern Territory Police Force were you told about the role of the ALO or ACPOs?---ACPOs - they talked about - I still remember thinking, "What are ACPOs and I didn't know what they were.

As in when you started your work you didn't know what they - - -?---At the college they talked about ACPOs but I didn't know what we were talking about.

Did you learn about it at some stage during the college or not till you started work? ---I think there was possibly an ACPO - what do you call it - recruit course or something at the time so that's how I found that.

I take it that there was no ACPO or Aboriginal police officer who was involved in training you about how to respect Aboriginal culture?---No. No.

In terms of your community - work in communities you talk about Imanpa that you went to for five months. Did you receive any sort of orientation or induction provided by an Aboriginal person in that community?---No. I went to - he's already given evidence yeah, Lanyon Smith. I went and I worked with him, same type thing, he took me around and introduced me to different people. There it was a little bit different, there was a lady there - I won't name - but she - she wasn't - she worked in the office and basically everything got done through here, so yes, she would introduce me to different people and - - -

Was she and Aboriginal person?---Yes.

And so did you meet with the Elders in Imanpa as part of your (inaudible)?---Not - you know, we didn't have a meeting. I would say "Hello". I got introduced to them -

different things, but we wouldn't go and - we wouldn't have a meeting where we would discuss what was happening in the town or - - -

I won't go through each of the communities that you worked in but do I understand from the answers to date that you might have informal - there was an informal process where you might be introduced to some of the Elders but there was no process of orientation for new police officers where you would be formally introduced to the Elders?---No, no.

Do you think that would be helpful, reflecting?---It would be. It would - obviously a two way - yeah, and I think some of the Elders get a bit annoyed because people come in and people go out but people like myself, I couldn't go in for too long. I did relieving stints. I didn't have a gazetted position and I think it would be a good idea, but I think the Elders would probably get bit kind of tired of people coming at - like if it was Kintore, I was only there initial, or supposedly, for 10 days.

But you accept that that is something that we should be asking the Elders about, the police officers?---Yes

In terms of you - the answer you just gave, "I couldn't go in for too long" why was that?---I didn't have - I had two teenage boys both at high school. One was year 11, one was year 12 so obviously - no, sorry - yes, 11 when we first came and 9 or something like that so I couldn't take them out to community for - I think the gazetted positions were for two years but I could go out for 10 days - three months, like that.

In terms of - are your kids through high school now?---Sorry?

Are your kids through school now?---25 and 23.

Have you got any interest in working in remote communities?---No.

And why is that?---We talked about it. My wife is an auxiliary in the police and it would be - to get a position there would have to be an auxiliary position there also. I - some people love the - I loved working remote, I thought it was great and it was a great experience. You have some people who - like Pete Stowers who I went to Kintore with, had been there five yeas and it worked well for him but I - I think you are a remote person or you're not.

I take it then from your answers you hadn't - the longest you've ever spent in - prior to 2019 I think, was in Haasts Bluff for eight months?---Eight months.

Is that right. Well, in Haasts Bluff do you recall receiving - or have any particular relationship with the elders in the community?---Same thing. I - I arrived in Haasts Bluff, the OIC was there at the time and he took me and introduced me to three of the traditional owners or Elders, I'm not sure and that was - he showed me where the shop was, gave me the keys and that was basically it.

You mention one officer or sergeant you worked with, Pete Sowers (sic)?---Stowers.

Stowers, who was there for five years I think?---Kintore for five years.

And he appears to enjoy his work there?---Loved it.

And have good relationships with people?---Great - seemed to, yes.

Did he seem to work hard?---I think, yes.

Did you respect him as a sergeant of that - - -?---Pete Stowers?

Yes?---I got on - he's kind of a - he's an ex-New Zealander. Yes, I really enjoyed working with him.

Did you respect the work that he was doing in that community?---Yes.

Is there a hesitation?---No, I was just thinking what he actually did, he was a policeman there and the - - -

Did - was it significant to you that he had good relationships with the community?  
---Yes, he seemed to know everyone. His wife seemed to know everyone and there was - seemed to be a good vibe there.

Did he have any particular personal skills that made him well suited to that?---I don't know.

Well, you observed him over a period of, I think eight months, is that right?

THE CORONER: No, he was (inaudible) - - -

DR DWYER: Kintore. So this is - thank you, your Honour.

So this is the two months, is that right?---Initially ten - ten days and then I extended it - or I asked to extend it or they asked me to stay.

And was Pete Stowers there the whole time that you - - -?---No. He - I think he was there part of the time and then he went on leave and then the chap who was on leave came back and I worked with him.

What about in Haasts Bluff? Did you work with the same sergeant during that time?  
---No, I was the - I went out - he handed over the keys, showed me who - or introduced me to the - I think the three TO's, two of whom were night patrol, showed me where the shop was, got me to sign over the inventory and he was gone.

So you were an acting Sergeant in that position, is that right?---In Haasts Bluff, correct.

Was it hard work?---It was. I - not that I went there for that reason but Haasts Bluff was known as - police generally don't say "quiet" but it was - had a nice settled community and someone said, "Well, if you go Haasts Bluff you can study for your sergeant's in the evening" and I nearly didn't sit the sergeant's exam because that was just so so busy.

And so were there call-outs through the night on occasion?---Yes, quite regularly. We - for whatever reason we ended up you would look after or help out the next town - the next community over and sometimes - a couple of times - we'd have to go to Kintore, which is about three hours away, so.

And was it the same at Kintore, that you would often get called up during the night? ---I can only remember maybe one - or two - kids broke into the shop so that was one.

What about Imanpa, you were there for five months. Was that a busy station? ---Not particularly. It was - things happened there but it wasn't particularly busy. We did a lot of - you've got the Lassiter Highway so we did a lot of RBTs. There's a couple of time we had to go and help out at Uluru, I can't remember where else. We had patrols to Kings Canyon. Every time you go somewhere it takes five hours or so.

Would you regard that as hard work?---No.

Your time there at Imanpa?---It's - no, no, I - I enjoyed it but I wouldn't say it was hard.

You wouldn't call it "slacking off" or "easy" would you?---No.

It was just good solid work days, is that right?---Yep.

And what about Aputula?---That was - yes, another good - I enjoyed that one maybe most. I think I was maybe finding my feet there and no-one had driver's licence - or the kids didn't have - or kids - youths - whatever, didn't have drivers licence so we started trying to encourage that and we tried to have like days when they would come in and we'd go through and teach the road code.

This is what you say in your statement at par 19;

"I assumed incorrectly, that having moved from New Zealand to Australia there would be no form of culture shock. I simply wasn't prepared for the conditions that the Aboriginal people in the local camps and communities lived in. When I flew to Kintore to work there for a short time I was seriously tempted to remain on the plane and return home. Kintore was filthy and covered in rubbish. There were more dogs than people and all the dogs looked in such poor health I believe they should have been put down."

?---I - it's back - I think I nearly cried. It was - I didn't know what I'd done. More so though like the conditions. The town camps, just - yeah that was quite eye-opening.

Would you describe those conditions as poverty? They were - you were confronted by the level of poverty?---It would be hard to describe it as poverty when the back yard is full of green cans.

So were you - you're talking about town camps in Alice Springs?---The town camps, yes.

Can I – I'll come to those shortly. Can I just ask you about your time in remote communities?---Okay, yep.

Were you shocked with the level of overcrowding in houses?---No, it was eye-opening, because I had never seen it where – obviously where I came from, it rained quite a lot. The folk in Kintore and obviously the time of year, the beds would all come outside and they'd sleep in the yards, because it was just cooler, I think, sleeping outside. And you may have a lot of people like sleeping in the beds or gathered around. But then you would have empty houses where they had moved from to go and sleep with family and things like that. So, there was overcrowding in a way, but there were also empty houses where they'd moved from. I don't know what that was about but.

Did you learn anything at any time when you were in community about the history of the area, in terms of colonisation?---Colonisation?

Yes?---No, I don't think so.

Do you know what that – do you know what I mean by that term?---Yeah.

Did you learn anything about massacres that had been committed in the areas around?---No, no. And the first one, the Coniston.

Yes?---I didn't actually know about that until the hearing started and I googled it.

Were you shocked to learn that that was a state-sanctioned massacre of Aboriginal people in that area in 1928?---Yeah, yep. And that, I think, was what shocked me most of the 1920s.

Did you ever learn anything as part of your training in the Northern Territory about the history of dispossession of Aboriginal people in this area?---No.

In Central Australia?---No. No.

Did you ever talk to any of the Elders when you were in any community about what had – their families had felt - - -?---No.

- - - being removed from their land?---I talked – probably, I'm not sure if I can talk

about it. In Haasts Bluff sitting down with one of the Elders, I'm saying one of the Elders, I think he was – he wasn't an Elder of Haasts Bluff, he was a TO, but he lived somewhere else and he came in. So, we sat down and that was my opportunity, I saw that as my opportunity to find out some stuff. But he – no dispossession or massacres or - - -

When you saw the conditions in Kintore that you describe in par 19 of your statement, "filthy and covered in rubbish", is what you say about that community. Were you critical of the people in Kintore?---I wondered what I'd gone to. It was – I didn't know, you know, that all the rubbish had fallen over that day or something or – but no, it was just stuff blowing around.

Well, that's not quite it, is it? I'm just asking you to be really frank about your impressions at the time, you were critical, weren't you, about the communities that you saw. You were seriously tempted to remain on the plane. "It was filthy and covered in rubbish. There were more dogs than people and the dogs looked in such poor health."?---Yep.

Did you form a poor view of the – or opinion of the people who were there as a result of that?---I think, yeah first impression, it was, what have I come to?

Did you have any way of understanding how that might come about? That is, did you talk to anybody at the time about why there were these issues with the houses, or who were these people on this land and how they might have got there?---Nope, I don't think so.

Did you have – do you know what I mean by being "trauma-informed"?---No.

Have you heard that term at all?---No.

You – if I suggested to you that Aboriginal people in this country have experienced generations of trauma as a result of colonisation, is that something that you accept?---I don't know. I don't know.

Is that a new concept to you? I'm not being critical of you, I'm just - - -?---Yeah, well it's – I've heard about – yeah, different trauma from colonisation, but I don't - - -

Do you accept it or are you sceptical of it, or something else?---Agnostic, if it was - - -

Sorry?---Neither here nor there. Like I'm open.

But you've never - - -?---But I don't know. You know like, is this because of colonisation, I have no idea.

Would you be interested to learn more about - - -?---Well, I heard about Coniston and I started having a look at that, so - - -

Do you think that's something that all Australians should understand about

history?---Yep, yep.

The history of dispossession in this country?---Well, that would be one part of studying history, wouldn't it.

Sure. And the history of massacres, of Aboriginal people. Do you think that's important - - -?---Again - - -

- - - for us to understand?---Again, that would be – yeah, that would be in the history.

And as a police officer, do you think it's important to understand the link between trauma and offending behaviour?---Yep, yep.

Did you ever receive any training about that yourself, the fact that people can go on to commit offences if they, themselves, have been the victim, for example, of violence?---Yep.

Is it part of your training?---No, probably – probably not.

You mentioned earlier when I was asking you about your experience of communities, your experience of town camps, and you talk about this in your statement as well. You say:

“I think it would -”, at par 21, “I think it would be naïve to say that working in the Northern Territory Police hasn't affected me negatively. I think this is a complex issue and I'm unable to answer it in a way that will adequately explain or articulate how I feel. I'm asked if I have developed negative attitudes towards Aboriginal members of the community. I would have to ask, 'What community?' I developed no negative attitudes while working in remote communities.” And you describe them as “Kintore or Haasts Bluff”.

“In Alice Springs, there are Aboriginal people living there, but don't come from there. It's well known that, due to the liquor laws and restrictions in remote communities, a lot of people decide to not reside in community, but in Alice Springs. This was done for the sole purpose of accessing alcohol. I would ask, what community would these people belong to. I would have to say that I do have negative attitudes to these people. Do I think more training from police is required? No, I think more effort's required by other government agencies.”

And I want to ask you about what you mean by that. Sergeant, in relation to Aboriginal people coming in from communities into Alice Springs, you have formed a negative view of them. Is that right?---The ones – when I worked on POSI, that's the alcohol group that was basically – all I dealt with was just drunken people. Not all Aboriginal, but we're probably talking about 95 percent Aboriginal. It wears you down. So, I – negative attitudes, you just got – it was day in, day out and sometimes the same people and sometimes, you would take someone to the watch-house and they would say, “See you tomorrow”. And you knew you probably were going to see

them tomorrow.

Can I suggest to you that when you are explaining that to her Honour, you're trying to get across a really important point about your experiences in Alice Springs Police?---I know, I am. And then I – at the start, I explained that I probably wasn't going to – or I wasn't explaining it adequately enough or articulating it.

I just want to give you an opportunity to really clearly help us understand what it's like from your perspective as a police officer. Did you come into the Northern Territory Police Force with negative views about Aboriginal people living in Alice Springs?---No. No, I didn't.

And you're honest in your statement about the way that it – working in Alice Springs has affected you in some sort of negative way. It would be naïve to say otherwise. Is that right?---Correct.

You're telling her Honour, are you, that working in circumstances where you're having to police many people who are alcohol-affected wears you down?---It does, that's correct.

Ninety five percent of the people that you were taking into detention were Aboriginal people?---Into protective custody or to DASA, correct.

Do you think that that can mean you develop, in some circumstances, unconsciously, a bias about Aboriginal people in this town?---No, because it's – I'm looking at that group of people. It's not Aboriginal folk as a whole. And in the statement, like I don't have negative attitudes about Kintore. I went there for 10 days, but extended it. I put in for a year for Haasts Bluff. I only got – I think I had to come back after eight. I didn't have negative attitudes there. But just the drunkenness and it wears you down.

When you see Aboriginal people in the circumstances in which you described who are intoxicated, you form a negative view about them. Agreed?---No, not so much about them. There's probably the worst – I don't even know if he's still alive. The worst drunk, if you will, in town was probably the nicest person. She was always sweet. She was always polite. She was always happy to talk to you. I can't remember her name. I picked her up so many times. I never had negative attitudes about her. But this – I guess the situation that – all I dealt with every single day was drunk people.

And it's part of your job, in Alice Springs, as a police officer isn't it, to put people into protective custody, if you deem that they're so intoxicated they might be a risk to themselves?---To themselves, to other people. That may be they might commit an offence, or that that can't adequately look after themselves.

And if that's your job, day in, day out, you might develop negative attitudes towards the Aboriginal people who you're policing, in Alice Springs?---I think – yeah.

I'm just reading your words down here - - - ?---Yeah.

- - - this was – when you're talking about liquor as people coming into town, to access liquor, you say: "That was for the sole purpose of accessing alcohol. I would ask what community would these people belong to. I would have to say that I do have negative attitudes to these people"?---I think the question was, that I was answering, was talking about "the" community, and that obviously didn't kind of spell it out that correctly, or that well. It was which community are we talking about? "The community", "A community", and in which community did they belong to.

Do you have any – if I suggested to you that some Aboriginal people in Alice Springs might drink alcohol because they are the victims of trauma, does that surprise you?---Like sexual abuse, or something like that? Or - - -

May be, or what – any form of trauma, in the form of violence, dispossession, sexual abuse, physical abuse?---I'm sure lots of people do, but I - - -

Have you received any training that might educate you about the link between alcoholism and trauma?---General duties, I don't think so.

Do you think - - - ?---I think if you went to another – if – if you went to say DV, or sorry, Domestic Violence, or the Sexual Abuse Team, and you would probably do – you would look at the correlation there.

Have you ever been in either of those teams that you just mentioned?---No.

So sticking with general duties. General duties is the area where you're likely to have responsibility for detaining people and putting them in protective custody, correct?---Correct.

Do you think it would be helpful, for police to understand where some of the alcoholism comes from, or not? Is that something you're not sure?---No. The front line guys and girls, are basically – they've – it doesn't matter how they got drunk, it's – we're dealing with the fact that they are drunk. I – you – I see where you're coming from, but the front line police don't get that luxury. It's job to job to job to job. So - - -

What you – what you tell her Honour is that you would have to say, I do have negative attitudes to these people who come into town from community to drink. Would it help, do you think, to address some of those negative attitudes, if you understood more about (inaudible)?---I – I think so.

You go on to say, "I think efforts required by other government agencies", you understand, don't you, that from your perspective, people – some people are coming into town, specifically to access alcohol in a way that they can't access in community?---Yep.

And you are concerned by that, is that right?---The need to come into town to get it?

Well no, the fact that they – alcohol is so readily available in town, the supply of alcohol, are you concerned by that?---And it's more so now, than it was when I was here.

That's – that's what I'm coming to. You're aware aren't you, that this year, that alcohol restriction – that supply restrictions eased?---Yep.

And so it's even more freely available in town – or it's available in town camps now - - - ?---| - - -

- - - in a way it never used to be?---I agree.

What do you say about that, in terms of being a front line officer who's responsible for - - - ?---I think the ball got dropped there by some people. It hit stronger, that the legislation that was in place was obviously only temporary.

Would you like to see the ball picked back up again, if it can be, so that restrictions are put back in place, supply restrictions?---I – I'd go further, and I don't know if it was what you were getting at before. We can stop people getting the alcohol, but they're still going to want alcohol. And I stop people from getting alcohol, and they started drinking Metho, or they started at the hand cleaner, the – whatever that stuff's called. So it's like – it's got to go – we can stop them. But they're going to get something else. So how do you stop that? So you've got to go further than that. But I don't think that as – I'm a front line police officer. The people who pick up the drunks off the street are front line. Someone else has got to do that. Police would work in with them, I imagine, but again, I'm – I'm just a sergeant - - -

When you say in par 22, "I would have to say that I do have negative attitudes these people. Do I think more training from police is required? No, I think more effort's required by other government agencies." What are you talking about in terms of the efforts that you would like to see?---Education. Education and not educating those people not to drink, but they've all got kids. Their kids aren't going to school.

What about programs to help Aboriginal people deal with any underlying trauma? Think that might be helpful?---Yeah, I don't think I could – couldn't comment with any knowledge on it, but yeah.

And do you think the government has any role to play in – now, in terms of restricting supply, in circumstances where it causes such damage to society?---Yeah. I think that horse has bolted, but I don't know how they would – I'm sure they're going to like me talking about the government, but.

Did you – were there any other – or I withdraw that. Are you – are you – do you feel constrained in any way in this courtroom, and being critical of the government?---It's – like the education that you're talking about is – and I keep going back to, I'm a front line police officer, and we deal with just that kind of thing. Will educating me help? It will – yeah probably. But the education that you're talking about, and that we've

discussed before is – there's way – it's not me. So I could – I could condemn people, but it's not really my place.

Well you're a front line officer in general duties, having to deal with the aftermath of people drinking a lot of alcohol, correct?---Yeah.

Whether you're an Aboriginal person, or a non-Aboriginal person, you can be put in to protective custody if you drink too much alcohol, and you're a risk to yourself or others, correct?---And you're in a public place, yeah.

So an increase in the level of supply of alcohol, in the community, is – may well lead to an increase in offending. Do you agree?---I agree.

Would you be interested to see the statistics on that, as a front line police officer, who's got to deal with the aftermath?---I – yeah, they would probably know, they would have experienced it.

And if there is – the statistics suggesting that there's been an increase in violence, as a result of the increase in supply of alcohol, would you expect the government to take responsibility for that?---(Inaudible) government down.

I'm going to change topics, and ask you about your work with Constable Rolfe in Alice Springs. You met him some time in December 2016, is that right?---Is – that's in my statement?

That's right?---Yeah, yep.

And at that time you'd come back in from your work in community?---Correct.

And you explain in your statement, that he made a big impression in the station, is that right?---There was the rescue of the Chinese couple – I think they were Chinese couple. And Constable Rolfe swam out into the river, and when he swam down the – I don't think I was here at the time, but swam down the river, and rescued the lady.

You heard about that?---Yes.

And you explain in your statement, par 9 that – or par 8, "He'd just finished his recruit course. He made an immediate impact on the station, in that he assisted in rescuing two tourists"?---Correct.

"In a flooded river." And you explain that that was his first week?---I think possibly his sixth day.

And there were two officers involved. Himself, and Acting Sergeant Christina Jamison?---Correct.

And you say in par 8 that you believe that he had rescued them from certain death in the flooded river?---She couldn't swim, apparently. She did quite well, she went five KS.

So that was the story going around the station, that Sergeant Rolfe had rescued those people from sudden death – from almost certain death, is that right?---Maybe that's me adding that.

He was regarded as a hero in the station, is that right?---No I don't think so, oh not a hero, that kind of was going to be happening in the police station.

Well there was a – certainly a perception as a result of that, that he was brave?---I – I imagine.

And proactive?---Proactive?

Hard working?---Because he jumped in the river?

Well that – let me start with that. Happy to jump in and help out?---Yeah, yeah well - - -

Happy to take the lead on something?---I think Christina was – I don't – Christina was the boss.

Well what was the perception of Constable Rolfe when you arrived that - - - ?---That was all I'd heard, that they'd done the rescue - - -

Soon after - - - ?---I – I was pretty impressed.

Sorry, you?---I was pretty – I'm not a very good swimmer, so I'm pretty impressed.

Soon after the incident, you learnt that Alice Springs had reprimanded him and a – and his fellow officer, Officer Jameson?---Yeah.

What do you mean by "reprimanded"?---I think they got stuck, and I may not be correct here, but I think they got stuck on the other side of the river. And so, the evening shift jobs were piling up and I think Christina got in trouble about her leadership and I just – that annoyed me.

You didn't – how did you hear about that?---Just within the station.

Okay. So, just gossip in the station. Is that right?---Yep.

Okay. Did Constable Rolfe tell you anything about that?---No.

You thought it was wrong, when you say, I think, "the management in Alice Springs", who are you talking about there?---I'm not 100 percent sure who it was.

Did he gossip about who it was?---Pauline Vicary and Virginia Reid.

Okay. So, there was a thought in the station, was there, amongst some of the troops that Alice Springs management, Vicary and Reid, were really out of touch to be getting cross about that?---That they had got international awards, that they had got bravery awards in Canberra and I think there was another award, and the only place where they weren't recognised was the NT Police.

So, that was the chat going around the station. Is that right?---That came – that was ongoing, in that – well, nothing's happened yet and - - -

Okay. So, that was ongoing for a number of months, was it?---Yep.

And if you could take it from me there's no PSC that's ever been raised about those issues for Constable Rolfe or his fellow officer. So, as far as you knew, any Alice Springs management response, you just found out about that from chatter in the station?---Correct.

And was there a general view while you were there in the period after December 2016 up until 2019 that management in Alice Springs were out of touch?---No, we had some good managers.

Was there - - -?---Well, the leadership team within the station, some good.

Was there a general – were you aware of a lack of respect for Vicary and Reid?---Not – I got on – I don't know her very well, but I got on quite well with Virginia Reid. I don't know what her rank is, but I think she might be a super now.

Can you answer my question which is - - -?---Sorry.

- - - were you aware of an attitude towards Vicary and Reid which was a bit contemptuous?---Maybe Superintendent Vicary.

And that wasn't – that was a number of people in the station. Is that right?---I believe so.

And that was the whole time from about 2016 through to 2019, was it?---I don't know how – yeah, I would say that.

And what was that based on? What was the perception that you heard about?---Sometimes, someone is particularly good in a role or a job, doing a job. But sometimes, I guess, and the perception was that maybe they weren't particularly good in that role.

Did Vicary have a role in overseeing use of force or complaints?---I suppose so. She got made up to super, so yeah, she would have.

Was there a – was she resented for that?

MR ROBSON: I don't know how the witness can really answer that, your Honour.

DR DWYER: Well, I'll withdraw the question and I'll ask that again.

Did you hear any words used in the station or gossip around the station that suggested to you that she was resented for that?---No, not really.

You would have heard people generally, officers in your patrol group, for example, complain about the way use of force was managed or disciplinary proceedings were managed?---Which patrol group is that?

Well, any patrol group?---That I was in?

Yes?---What was the question again, sorry?

There's a sense, wasn't there, in Alice Springs Police when you were there between 2016 to 2019, that police were being picked on a bit for the use of force?---By other police?

By management?---No, I don't think so.

Really? Do you – you had no problem at all with the disciplinary process?

MR ROBSON: Again, that's a very – “no probably at all with the disciplinary process.”

THE CORONER: Yes, that's a very - - -

DR DWYER: I'll withdraw the question.

Were you aware of anybody complaining about the process of overseeing use of force events?---Not the process, no.

The response to use of force events, the way they were dealt with. Were there complaints about that?---By management or by PSC or by - - -

By officers you were working with in the station?---Yep.

Were there complaints about the way that - - -?---Not that I know.

- - - management deal with it? You worked with Officer Rolfe on a number of different shifts. Is that right?---I don't know.

You don't recall them?---Well, I don't know how many there were. I don't think there was - - -

Did you work with him on more than one shift?---I think I did a POSI shift. I think we

were in the cage together. I think – that's the only one I can remember.

Did you come to form an opinion about him as an officer?---From that one shift?

Or from any interactions you had with him in and around the station?---I think the inter – it wasn't even an interaction, I was just watching. Something was happening and I wasn't part of it, but Zach was – he was making decisions, how about we do this, we do this, we can do this. And he took charge and I was really impressed.

So, he was proactive, he took charge?---Correct.

And that was from your POSI shift or something else?---No, I don't – no, sorry that wasn't – I don't know – I can't remember that POSI shift, but - - -

All right. Was that from some other incident?---I remember the POSI shift, because I remember one or two things happening.

From the one that you just told us about where Zach took charge and - - -?---I was a bystander of – and so I was able to watch. I can't – I couldn't tell you what it was, where it was, but I remember, he had his back to me, but he was kind of – there was a few constables around.

When you were out on patrol with him. Is that right?---No, no. I was – no, I had nothing to do with him at that stage. I don't know when that incident was.

THE CORONER: Was this at the station? Was it at the station when you saw that?---I think it was at the station. Something must have – I'm kind of making it up a little bit, but something must have happened. There were – there was a group of cops and usually, you have your little – you know, what's going to happen and Zach took charge. And I remember he was making quick decisions and they were good decisions and I remember just watching.

So, you can't recall being out with him on any jobs?---Yep.

Other than the POSI job?---No.

No? Okay. Sergeants go out on patrol with other police. Is that right? That is, their active in the field, sergeants?---Yeah, some more than others.

You were promoted to a sergeant role in March 2018?---Correct.

And do you agree that it's an important leadership role, a sergeant?---Of the patrol group?

Yes?---Yep.

And within the station, it's an important role, isn't it, in terms of providing mentoring and leadership?---Within your patrol group, correct.

So, beyond your patrol group, do you see sergeants in the station has having any role in mentoring or setting standards?---But you have your patrol group. They're your team.

Okay?---So, I wouldn't – if you were a sergeant, I wouldn't go off and – like, I would say – you would have to say, do you mind if I talk to so and so about - - -

Okay. Within your patrol group - - -?---Yep.

- - - do you see the sergeant role as important for providing mentoring and leadership?---I do.

And do you agree that this sergeant sets an example of the behaviour that is expected by the Northern Territory Police Force?---I do.

Did you receive any specific training in terms of becoming a sergeant?---In the Northern Territory?

Yes?---Yeah, there was a – you do an exam, or you do a couple of exams.

Do you recall - - -?---And when you pass that exam, then you do – if you pass it, there's a – I can't remember what the name of the course is, it's a sergeants' course.

Do you recall being instructed or taught at any point in time when you're learning to be a sergeant about the importance of the role you play in mentoring other officers?---I imagine they probably would have told us.

And setting standards - - -?---Yep.

- - - of behaviour?---Well, I can't – well, I imagine that's all part.

It's part of your duty as a sergeant to review use of force incidents. Is that right?---Correct.

Was that the same as New Zealand?---I imagine. I can't remember.

Were you ever trained in what role you play as a reviewer of the use of force incidents?---Probably not.

Was it your understanding that you can review use of force incidents as a sergeant, even if you were there at the time the incident occurred?---If you were there, but not if you were involved.

On the – in February 2019, you took over as the Shift Sergeant on Patrol Group Five, in Alice Springs. You explain in your statement "You're not completely sure if Constable Rolfe was already on that patrol group, or if he came into it after you started." You were also there on occasions, while you were a sergeant, on POSI.

You would have regarded Constable Rolfe as a good man to have on your patrol group, is that right?---Definitely.

And he was in your patrol group, from the time that you took over as Shift Sergeant in February, until the time in September, when you went off for your shoulder surgery?---Yeah I think I said that I wasn't sure if he was on it, or came onto it, after I take – I – I didn't look at the roster.

There are I think 45 use of force incidents reported by Constable Rolfe, or involving Constable Rolfe. You were the supervisor for 11 of those - - - ?---Yep.

- - - you recall – you understand that? You appreciate that that's the case?---Yeah, well yep.

That – I wanted to ask you about three of them. The first is a matter of Cleveland Walker, an incident that occurred on 1 April 2019. Does – are you familiar with the name Cleveland Walker?---Yeah, yes.

You know that person?---Of him, yeah. Like I don't know him, but.

Have you read the PROMIS job in relation to that matter, recently?---I looked at the body-worn the other day, but I – I don't think I read the PROMIS job or anything.

Just to refresh your memory then. This is a job on 1 April 2019, where Constable Rolfe was chasing after Mr Walker. He initially had his body-worn video on, and he de-activated it, after three minutes?---Yep.

You familiar with that?---No.

Will you take it from me that that happened? And someone else will correct me if I'm wrong. He then apprehended Cleveland Walker. You were on that job with Constable Rolfe, do you recall that?---Correct, down the bottom of Anzac Hill.

When you arrived, on the scene, Constable Rolfe was standing over Cleveland Walker, who was laying on the ground, do you remember that now?---I did – I don't know if he was standing – yeah, I remember the incident.

You recall Mr Walker being on the ground, and Constable Rolfe being there standing up?---I do.

And Mr Walker was bleeding from a cut on his head, do you recall that?---That came – I realised that later.

You would have seen on the body-worn video footage, that he complained of that? Or that he complained of being injured?---Yep.

And he complained that Zach Rolfe had bashed his head into a rock?---Yep.

And you saw the cut on his head?---Later on, I think I would have.

But at the – you arrived too late to see what had actually occurred in the arrest, didn't you?---Yeah I – the – Anzac Hill is a very rocky – it's a rocky hill. And Cleveland – there were police – there were a number of police up the top of Anzac Hill, it's quite high. And we were on the St Phillips side. Cleveland – I don't know what he was being chased, or I can't remember what he was being chased for. But there were a number of police. And I remember we turned our cameras off – or I turned mine off. It's got a red flashing light. And we didn't have torches. The reason we turned it off, was we wanted him to come to us. So I think I was hiding in bushes, or laying on the ground. And then Cleveland, sure enough, has come down the – the hill, towards us.

Did you turn your body-worn video footage off yourself, is that right?---Turned it off.

You were wearing – you had body-worn video (inaudible) on?---I don't know if I had mine on and turned it off, or whether I just didn't turn it on.

A PERSON UNKNOWN: Your Honour, I - - -

THE WITNESS: I don't – there's a - - -

A PERSON UNKNOWN: With respect, that's being put to the witness is misleading.

THE CORONER: I don't know if anything was just put - - -

A PERSON UNKNOWN: On the basis of (inaudible) - - -

DR DWYER: No, I asked – I asked a question, because the officer had just said, "I" – "We turned our body-worn video footage off, because we wanted him to turn – to come to us." And the question I asked was, "Did you turn your body-worn video footage off."

A PERSON UNKNOWN: (Inaudible) then, I understand.

DR DWYER: What's your answer to that question? Did you turn – do you recall turning - - - ?---I – I don't - - -

- - - your body-worn video footage off?---I don't know if I turned mine off, or just didn't turn it on, at that time. But like I was explaining, it has a red flashing light, and we were – it has a stealth mode, and I still don't know how to do it. So you can do it so the red flashing light doesn't flash. It flashes to say that you're there, but obviously it would be a beacon, and so we wanted him to think there was no one where we were.

You didn't turn your body-worn video footage on at all – your body-worn camera on at all, did you, in this?---Yeah, I think you've looked – you talked about my body-worn.

Officer, you've read the PROMIS note recently?---No I looked at the - - -

THE CORONER: Footage?---I looked at the footage.

DR DWYER: You looked at whose footage?---Mine.

Do you recall turning your body-worn video footage on, and then off?---No.

Do you recall making any decision in relation to your body-worn at all that night? To activate it, or not to activate it, or to turn it off?---I – the decision was to delay, because of the light. And then obviously, I made a decision to turn it on, because I turned it on.

Your Honour, I'm going to set that – some footage up to play, might we have a short break?

THE CORONER: Sure.

We'll just have a – the afternoon break, which is about 15 minutes.

WITNESS WITHDREW

ADJOURNED

RESUMED

HIS HONOUR: Yes.

DR DWYER: Thank you. Sergeant, before the break I was referring to your body-worn video footage which you explained that you did turn on but not until a point where the gentleman on the ground was being arrested, is that right?---Yes.

When Mr Walker was being arrested?---Yes, yes, I think that's how it worked out, yes.

We'll just play that now, thanks Bec.

DVD PLAYED

DR DWYER: The sound will come on shortly.

DVD PLAYED

DR DWYER: That will be enough, thanks Bec.

You turned your - activated your body-worn video to capture the arrest of Mr Walker, is that right?---Correct.

You activated - do you agree that it's important to have an objective record of an arrest - that's created by the body-worn video footage?---Yes, correct.

So it's important, isn't it, to turn it on as often as you can when you're affecting your police powers, barring some exceptional circumstances?---Correct.

Because it gives you an objective account of what occurred?---Yes.

You don't have to rely on "He said - she said"?---Yes.

And was that the message that you imparted to all of the people in your patrol group that it was important to use your body-worn video?---Yes, you'd remind - it became a disciplinary thing that if you didn't turn your camera on that you could get in trouble.

And did you regard that as something that was important and worthwhile - that is having the body-worn video, or did you regard it as a pain?---No, I thought it was great - the camera was great.

And that's the message that you imparted to staff working with you is it?---Yes.

That it was good thing - worthwhile?---Yes. And the other - yes, and it was also punitive - if you don't you're going to start getting in trouble.

You can hear yourself in that video. Is it you that explains to people - to other officers - that you've got your body-worn video on?---Yep.

You turned it on? Why did you do that?---Sometimes people come along and say things - like it might be inappropriate at that time, so you just say "Camera's on".

So you're warning your other offices that the camera is on, it's going to be recording? ---Well, most of them know, but just so that someone doesn't say something.

You agree, don't you, that the lighting around there is pretty good? There's a fair bit of street lighting we can see on the body-worn video?---Yep.

And it's a rocky area, correct?---Yes.

There was a supervisor for the use of force who was Alistair Gall(?), who signed off on this? Is that right?---Correct.

Was there a reason you didn't?---I was involved.

Okay. So, you provided an explanation to Officer Gall as to the circumstances. Is that right?---Must have, yes, correct.

And the use of force entry that's available in court 3-82A, against your name, it says, "Body-worn video: Kirkby activated. Recorded Rolfe arresting Walker". You read that recently?---The comments from Gall?

Yes?---Yeah, I think I did.

And that would have been based on his review of the body-worn video, would you imagine?---Of course, yep.

Was it – did you also speak to Officer Gall about it?---I don't know.

There's nothing against your name as to a reason why you didn't activate your body-worn video until the point of arrest. Do you agree?---I don't know.

Well, you've read it recently, the use of force account?---There was something about from Alistair Gall, so he was the senior - - -

Yes?---So, he was the watch commander. So, I did read what he wrote.

Well, I'll just show you a copy of it. Is it customary for a use of force account to speak to the officers who were involved when you are a supervisor and you fill it out, Sergeant?---To - - -

Is it part of the process of reviews - - -?---For me to speak to Alistair Gall?

Yes?---No, well I don't have to speak to him. With the use of force, you add a task,

you send that task. It goes to that person.

So, you could base – that person could base it solely on review of the body-worn video. Is that right?---Body-worn and the statement and the file.

Body-worn and a statement of officers involved. Is that right?---Yep.

So, you would have done a statement in relation to this arrest?---I was asked to look for one. I couldn't find one.

Okay. Do you have any recollection that you would have spoken to Officer Gall?---I would have, I imagine. I was in the next office.

If you have a look, please, at that document at page 4, you see there a case note summary with a name "Alistair Gall" at the top?---Yep.

And the last section deals with body-worn video, and it says, "Kirkby: activated, recorded Rolfe arresting Walker"?---Yep.

Is there anything else there provided by way of explanation in relation to your use of body-worn on that day?---No, it just says, "Activated".

There's nothing there about you not activating until late, because you didn't want the light on your camera to give away any position. Do you agree?---No. Is this from Alistair Gall?

That's right?---Nope.

Can I suggest to you that you activated your – the reason you activated your camera late had nothing to do with not giving away your position?---Sorry, can you - - -

At the time of this incident, around April 2019?---Yep.

You never suggested to anybody that you activated your body-worn video late. Is that right? You never gave an explanation to anybody about that?---I don't know. I haven't read it.

If you did give an explanation to anybody about that, do you agree that there's nothing on this record that suggests you were thinking that the light on your camera might give away your position?---That's what we thought.

When you say, "That's what we thought", that's not what you thought?---That's what we – well, I was with – yeah, we were there.

But in terms of your body-worn video footage?---Yep.

There's nothing in this explanation that suggests you didn't turn your light on or your camera on, because you didn't want the light to give away your position?---No,

there's nothing written about that.

And in fact, what is written there is something by Constable Rolfe, "Initially activated but then deactivated when Rolfe began pursuing, his reason being that the light on the camera would give away his position to Walker." Is that why you say, "we" did certain things, because you've read that in this - - -?---No, well obviously, I didn't turn my camera on until that stage. The lighting was reasonably good there, the street lighting, but he's come from out of the darkness.

You know that there was a PSC in relation to this involving Constable Rolfe? Are you aware of that?---I'm not sure.

Are you aware that – I'll see if I can refresh your memory. Are you aware that the PSC did not accept the explanation given by Constable Rolfe as to why he turned his light – didn't have his body-worn video on?---No, I was aware that someone in the Ombudsman's Office.

Ombudsman's?---I'll get there eventually, said they didn't accept the explanation about not having torches and lights and – but I think that would have been later on, a little bit later on. I don't know what timeframe.

The report from the PSC was provided by Virginia Reid. Was it provided to you?---I don't – no, I think possibly the other day was the first time I found that there was no adverse findings about me. No one had told me that.

Were you provided with any explanation as to whether there was any adverse findings about one of your patrol members, Constable Rolfe, at any time before now?---No, I can't remember. Like I said though, the Ombudsman's Office had said something about, they didn't accept the explanation.

Are you now aware, as a result of preparing for this inquest, that the PSC didn't accept the explanation that Constable Rolfe gave, that he turned the light on – that he turned the camera off, because he didn't want to give away his position to Walker?---I'm struggling to remember like the ins and outs, but I don't know what we talked about. That's where we were and neither of us had it on. Neither of us had torches.

In your – well, her Honour can see the street lighting for herself, but you can see the street lighting on that body-worn video footage, can't you?---Yep.

And you can see the rocky ground underneath that would make a noise when somebody ran on it. Is that right?---The - - -

It's a rocky area there, isn't it?---It's ANZAC Hill.

Yes. There's rocks there, isn't there?---There's rocks.

And it's pretty noisy when somebody is running on it, isn't it? I'm going to suggest to

you, it's going to give your position away if you were running on that area towards a suspect. The suspect is going to know you're there if you're running towards them, aren't they?---But they're not going to know that we're there if we're not running towards them, so obviously, he's come into sight and then we've started running.

Can I ask you a question about your body-worn video and the use of it at that time?---Yep.

In your statement, you say at par 17, "I have never heard of any member turning off a camera deliberately to avoid capturing an incident". Is that right?---That's - - -

Is that true?---When I wrote that, that was correct.

Is that still the truth? Is that still correct?---Well, you've just told me that he's turned his off there, so – but I didn't - - -

Have you ever heard of any member turning off a camera deliberately to avoid capturing an incident?---No.

Have you ever heard of any pushback in the station about using your body-worn video footage?---No.

Have you ever heard of anybody – any police officer playing up for the film, turning it on and making it seem like something was more serious than it was?---Yes, that text.

Well, the text aside, have you ever heard of any police officer doing that?---No.

You've got a copy of MFI RR? If not, I'm going to ask that you be provided with one. Have a look at the first two text messages, 22 June 2019, "Sergeant Kirkby to Sergeant (sic) Rolfe, "Hope you've got your body-worn on." Constable Rolfe. "Hope you've got your body-worn on." And Constable Rolfe replies to you, "Ha ha, on the whole time." What were you talking about there?---No idea.

Have a look, please, at page 2, Constable Rolfe to Sergeant Kirkby on 3 September 2019, I'll go back a step. You sent a text message to Constable Rolfe on that day, 3 September, "Sorry about the stress caused by losing my shit the other night. Stress you didn't need. You sorted it well. I'd just had enough. He was the second person to press my button that night." When did you lose – what did you mean by "losing your shit"?---I don't know.

Can you remember the – it was obviously a police gaol. Correct?---I think I might know it. I'm not 100 percent sure, possibly a trucking yard. And I don't know what the job was, how I've got called there. But I've ended up there and in a foot chase. I don't know what the offending was or what had been reported. Well, I can't remember.

Did you turn your body-worn video on for the foot chase?---I don't know.

It was a – you used police powers, presumably, if you were doing a foot chase. Is that right?---Yep.

For a foot chase. Did you effect an arrest on that night?---I don't think he was arrested.

What makes you think that when I ask you about when you were losing your shit, it was about that incident at the trucking yard?---Because I got the text and I was trying to think what it was.

But what happened at the trucking yard where you were losing your shit?---I think we were just shouting at each other.

Who was shouting at each other?---I was shouting at him, the chap.

Was that an Aboriginal person?---Yep, yeah, it would be – trucking yards, yes.

And what were they alleged to be doing?---Well, I don't know what the job was.

Why were you chasing them?---I think – I'm kind of assuming that he fit the description. I remember calling out to someone that he's walked off. So I've walked around, and then he started running. I started running. We started – we've jumped a couple of fences.

And then what happened?---I kind of, not really tackled him, but I've grabbed him as – as we're running.

And then what happened?---We crashed into a shed.

And then what happened?---I think it was – I can't remember the conversation – I remember shouting. He was shouting at me, calling me whatever, and I was shouting at him, but - - -

Calling whatever?---Well I've probably (inaudible), yeah, probably something.

And Constable Rolfe was there, is that right?---Well yeah, I'm kind of assuming that's where it was. I – that was the only incident I could really think of so.

If you tackled that person, and you tackled him into a shed, is that right?---We've run into a shed, yeah.

Okay, was that person - - - ?---Like a garden shed, or something.

- - - was that person injured?---No, I don't think so. I – I – no.

If you tackled him, and it was into a garden shed, that was a use of force, is that right?---Yeah, yeah it would be.

If you tackled him, and it was into a garden shed, is it likely that he was detained, at that time?---Yeah.

And is that likely to be a matter where you would have filled out a use of force incident report?---Yeah, I don't – yeah, yep.

We can't locate any use of force incident report involving you in September. Do you know when that was?---No. Oh, no.

Do you know whether any police officer had their body-worn video footage turned on for that incident?---Turned?

Turned on for that incident?---I don't know.

You didn't, is that right?---No I don't think so.

Why not?---I don't know.

The reply to that text message, after you say "Sorry about the stressed caused by losing my shit the other night, stress you didn't need, you sorted it well. I've had enough. He was the second person to press my button that night." Constable Rolfe replies, "Bro there was literally no stress about it. I'm all for that shit. I've done the same thing to you more than once before." What was he talking about there?---I don't know.

And he goes on to say, "I'm always ready to make my camera face the other way, and be a dramatic cunt for the film, ha ha." And your reply is, "And the Oscar goes to ...", and Constable Rolfe replies "Ha ha." You're laughing, aren't you, about the way that body-worn video footage can be manipulated by police to present a situation?---Yeah, it seems that way.

And Constable Rolfe was saying, "I'm always ready to make my camera face the other way and be a dramatic cunt for the film." He was talking, wasn't he, about turning the camera around to face him, and to pretend to have some sort of injury?---I don't know.

Well what – what do – what did you take him to mean?---I don't know.

Well he was talking about acting on the film?---Mm mm.

Pretending that something had happened, correct?---Yep.

To falsify evidence that would be available later on, is that right?---To act up, like I don't know.

Well that's – that's the implication isn't it? That a police officer, he, as a police officer, would turn the camera to face himself, fane an injury, or pretend to do

something, so that the evidence available to a court of law, would be the acting from a police officer on that camera?

MR EDWARDSON: I object to that question, your Honour. I don't hear words and actions (inaudible) text message (inaudible) message. The only person that can answer that message, unless this officer specifically remembers its contents, is Zachary Rolfe. And if they're issues that she wants to put, that is Counsel Assisting, he's the person they should be put to.

THE CORONER: I'm sure they will be. But this officer can be asked questions about whether he has any knowledge of that kind of behaviour.

MR EDWARDSON: I don't have any issue with that, your Honour. But she – that's not the question that's been put, and it's not the way in which the question's framed. I have no objection to the way your Honour just articulated.

DR DWYER: I'll withdraw the question. That's the first one I'll ask about this text message.

In relation to the reply, from Constable Rolfe, "I'm always ready to make my camera face the other way, and be a dramatic cunt for the film, ha ha." And your reply is, "And the Oscar goes to", you understood him to mean, didn't you, that he would turn the camera around, and act on it, for the creation of some type of evidence for – to be - - - ?---I don't know.

What did you think he meant, by turning his camera to face the other way and being a dramatic cunt for the film?---I don't know.

Well you replied, "And the Oscar goes to", what did you mean by that?---I don't know.

Well you meant by it, didn't you, Sergeant, please just try and answer in a way that is - - - ?---I do answer, I said I don't know.

- - - well I'll suggest an explanation for you, and see if you agree with it. That Constable Rolfe was clearly indicating, that he was prepared, when he was on duty, to turn his body-worn video footage, and perform in a way that would suggest he might be injured, or suggest some other false evidence. That's what you understood him to mean, didn't you?---No.

What - - - ?---I don't - - -

- - - did you understand him to mean?---I don't know.

Why did you think he might want to turn his camera around to face the other way?---I don't know.

Why did you say "And the Oscar goes to"?---I don't know.

Sir, do you understand that you're giving evidence, and you've made a promise to tell the truth?---I do.

And that her Honour is making an assessment of your credibility, not Constable Rolfe's, your credibility now in the witness box. You are asked to explain a text exchange that you were involved in. Constable, you're apologising for losing your shit. Constable Rolfe says "Literally no stress, I'm all for that shit. I've done that to you more than once before." And then he says "I'm always ready to make my camera face the other way and be a dramatic cunt for the film, ha ha." And your reply is, "And the Oscar goes to", what were you talking about?---The reply's still the same, your Honour. I don't know.

You understood clearly, that Constable Rolfe was saying to you that he was prepared to act up for – on the body-worn video film?---That's what it sounds like.

And you thought it was funny, what he was saying? You were in on the joke weren't you? Well I withdraw that. Did you think he was joking?---About turning the camera – I don't – I don't know.

Did you think he – it was funny, what he was saying?---Well then I'll read it. Well I said "Ha ha" at the end, but I don't know. I - - -

Do you – I'm anticipating making a submission to her Honour, that this was Constable Rolfe, indicating that he was prepared to falsify evidence in an event to – to create an impression as to what had occurred - - -

MR EDWARDSON: Well I object to that. Not only is there no evidentiary foundation, we haven't even heard from Zachary Rolfe on this topic. How on earth can Counsel Assisting foreshadow what she intends to put in this coronial inquest, when we haven't even heard from the person who actually created the message.

DR DWYER: I'm going – this is for procedural fairness. I'm giving this officer an opportunity to respond – I'll ask in another way.

Did it occur –

Sorry, was there something that I missed there? Is there an objection you want to make on your feet, Mr Edwardson?

MR EDWARDSON: I've made it.

DR DWYER: Officer, I anticipate submitting to her Honour, that this is - - -

MR FRECKELTON: Well I object to this question too, your Honour. Put a proposition to the witness. A clear proposition - - -

THE CORONER: That's what - - -

MR FRECKELTON: - - - so he can answer - - -

THE CORONER: - - - that is – that is - - -

MR FRECKELTON: - - - what - - -

THE CORONER: That is what is being put.

MR FRECKELTON: To phrase it in terms of “I’m anticipating putting a submission to your Honour” is unnecessary. It doesn’t assist the witness to answer the proposition that’s being put. And it simply shouldn’t be put. It’s already been put to him several times. But to phrase it in that way.

THE CORONER: It’s – it’s as a matter of fairness, that it’s phrased that way - - -

MR FRECKELTON: Well I beg to differ, with respect, your Honour, in terms of the way Counsel Assisting is going about this cross-examination essentially.

DR DWYER: Well I’m happy - - -

THE CORONER: But she’s allowed to cross-examine.

MR FRECKELTON: I understand.

THE CORONER: It’s not essentially, it is. It’s examination, which can be in the form of cross-examination. And there’s nothing improper about that in these proceedings.

MR FRECKELTON: As your Honour pleases.

DR DWYER: It’s plain as day, if I can put it that way, Sergeant, if that’s clearer for you, it’s plain as day, that Constable Rolfe is suggesting to you that he’s prepared to – fact to – fane something, to act up, that would give a particular impression on his body-worn video footage, correct?---That seems to be what it is.

And that was obvious to you when you received that text message wasn’t it?---Well I can’t – I can’t remember getting the text. I’m reading the text message now. So I don’t know what I was thinking at the time.

Okay. It – it must have been obvious to you, in getting the text message, can I suggest to you?---Something must have been obvious to me.

You were his supervising officer, correct, on – or a number of jobs?---Yeah, that was September, wasn’t it?

You were – that’s right. So you’re his supervising officer. You would have reviewed use of force incidents in relation to Constable Rolfe, is that right?---I would have,

I imagine, yeah.

And you were in a leadership role, as the sergeant at this – of his patrol group, correct?---Correct.

You were mentoring, correct, him?---No audible response.

Well you were modelling behaviour for him, is that right?---Yep, I guess.

Well what do you think now of the fact that when he texted that to you, your reply was “And the Oscar goes to”? What do you think of that as a – as a demonstration of leadership, about attitude to body-worn video footage?---Well, I'm not too sure.

What do you say to a suggestion that it's a failure of leadership from you to engage in that sort of text exchange with Constable Rolfe about being prepared to turn his camera to face the other way and act up for the film. Do you accept that?---A failure in leadership?

Yes?---Yes, I'd say that.

Might give him the impression, mightn't it, that it was okay to do that - to act up for the film?---Well, I - yeah, I probably should've said - like I - I don't know what I thought of the text when I received the text. It would've been clear then I imagine. I don't know what the text - I don't remember what it's talking about now.

What you should have said to him - - -

THE CORONER: But it was a response, wasn't it, to your text? So you've texted Constable Rolfe about losing your shit?---Correct.

So it seems to suggest that he has done something with his body-worn video or is prepared to do something with his body-worn video to protect you?---I - I don't know. I - it didn't make sense turning your camera aside if - I - I don't know. I really don't know.

DR DWYER: Did you have any conversation with - other conversation with Constable Rolfe where he indicated that there was a bit of pushback from him in wearing his body-worn video footage? Wearing his body-worn camera?  
---Pushback?

Yes?---No, don't think so.

That he was reluctant to do it in any way?---No.

THE CORONER: His answer also suggests that you have done the same thing for him. Have you ever made decisions about your body-worn video to protect Constable Rolfe when Constable Rolfe is doing something that would otherwise potentially be inappropriate?---I don't believe so, no, your Honour.

But you do warn people - - -?---I would be more positive in saying no, I haven't.

But you do warn people, for example, your colleagues, when you are turning your video on so that, for example, someone doesn't say something in appropriate?  
---I have done that, yes.

So you're trying to manipulate what is happening by the use or the failure to use body-worn video?---Correct. In that I just don't want someone to come and start talking inappropriately and get recorded. Sometimes I'll say it to the ambos, I'll just tell them that the camera is on if we're out and about - and the St John's are there - same thing, just to prepare people.

In that text exchange with Constable Rolfe you say, "Sorry about the stress caused by losing my shit the other night". What was the stress you caused when you lost your shit?---I don't - I don't know.

Well, before you might have been at the trucking yard where you ran after someone and tackled them and crashed them into a shed?---But I don't know what the stress was or - .

DR DWYER: Is your Honour happy for me to continue?

THE CORONER: It's a matter for you. We can go a little longer or we can break, whichever you prefer.

DR DWYER: I am happy to continue and try and finish, your Honour.

THE CORONER: Sure.

DR DWYER: But I've got about another half an hour, so if that tips us over I am happy to start tomorrow. Excuse me, your Honour, I think other people might - - -

MR EDWARDSON: Your Honour we – Mr Merenda and I actually have a Perth video conference so that would embarrass us if we went for another half an hour.

THE CORONER: All right. We will adjourn now.

Officer, there are obviously some other people at the bar table who will also have questions so I am sorry that we are going to require you to come back tomorrow morning as well, at 9:30?---Thank you.

WITNESS WITHDREW

ADJOURNED