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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 28 FEBRUARY 2023

(Continued from 27/02/2023)

Transcribed by:
EPIQ

THE CORONER: Deputy Commissioner, thanks for coming back, and you're on the same promise from yesterday.

MURRAY SMALPAGE:

THE CORONER: Yes, Dr Freckelton.

DR FRECKELTON: Thank you, your Honour.

XXN BY DR FRECKELTON:

DR FRECKELTON: Deputy Commissioner, exhibit 1 to your first affidavit has a set of the charges heard, in other words, the criminal priors against Kumanjayi Walker. Have you familiarised yourself with that?---I have a copy of it here, yes, your Honour.

Now, that has quite a number of matters under it (inaudible), but I think that's turned in 2014 in the Youth Justice Court starting with a breach of bail. So, that's the last page of that exhibit?---That's correct, yes.

Now, certainly so we don't waste time, in general terms, are they dishonesty matters with a small number of assaults?---That's correct, your Honour.

And none of those are sexual assaults, are they?---No, your Honour.

You refer in your first affidavit at par 23 and following to the status of Kumanjayi Walker as of 2019, starting with his being convicted and sentenced to 16 months' imprisonment to be released after eight months. Do you see that in par 23?---I do.

All right. And you are familiar, her Honour can take it, with the fact that he removed himself from the CAAAPU residential rehabilitation program and in due course, make his way to Yuendumu?---That's correct.

Now, by removing himself from CAAAPU, it resulted in an arrest warrant being issued by a Local Court judge?---Yes, that's correct. Yes, your Honour.

That mentioned that it was lawful and proper to arrest him. How important was it in light of his having absconded from CAAAPU for him to be arrested?---Your Honour, I think it was appropriate that police would take steps to effect his arrest.

All right. When one talks about police discretion in the context of a matter such as that, what does that mean?---It's a very good question, Dr Freckelton and your Honour, discretion is that ability for individual police officers to use their judgment. Perhaps it doesn't necessarily align neatly with directions from the law about when they may or may not exercise powers available to them, yeah.

So, if one puts it in terms of there being latitude as to when there is enforcement of an order such as that. Does that capture the essence of it?---Within most boundaries, I think there would be certain times when, you know, clearly discretion

may not be appropriate, but as a by and large rule, that's why police officers have discretion, your Honour.

All right. Now, you refer in your par 28 of that first affidavit to police attending at the Warlpiri Camp in search of Kumanjaji, but efforts to apprehend were not successful?---Yes.

Do you say it was appropriate to endeavour to apprehend him at that stage?---I do, yes.

All right. And do you have any criticism to make of how those efforts were made in terms of attendance and methodology of those attempts to arrest him?---No, I haven't.

All right. I'm going to take you now to what occurred on 6 November, which has been colloquially described as the "axe incident", have you viewed the video footage of that incident?---I have.

And in fact, have you been present for the vast majority of this inquest?---I have, your Honour, and I've heard the evidence of those officers, those members.

Why have you taken the trouble, as the second rank of the entire police force, to spend months here?---Your Honour, I think – I want to make sure that the court, the membership, the community, the police recognise that the Northern Territory Police Force treat this at the highest level, that we are here to learn, we're here to listen, we're here to ensure that we gain every possible nuance of how we can improve the functioning of the Northern Territory Police Force and our response to incidents such as this to prevent a tragedy in the future.

And what has been your involvement, just in general terms, beyond listening and learning in relation to making actual changes arising out of what has already been learnt?---Your Honour, there is lots and lots of things being undertaken by the Northern Territory Police Force since 2020 and since the tragic events of 2019 to address issues, as we've identified, that may improve our response, reflect upon what perhaps wasn't as effective as it could have been and how we can do a better task. And there has been probably not a day go by in my journey here that we haven't thought deep about ways we can improve the Northern Territory Police Force and our community relations, particularly in remote regional settings.

We'll come back to that, but is exhibit 12 to your third affidavit a shortform summary of those matters which have been the subject of actual changes so far?---Yes, your Honour. And I think, if I was brutally honest, there's dozens more things that we've done ancillary to the direct issues identified on - - -

Seven-page document summarising the various matters, your Honour. I'm going to tackle (inaudible) the more important of those in due course.

THE CORONER: Sure.

DR FRECKELTON: Now, I've distracted you and I apologise for that, Deputy Commissioner. I am going to take you back now to 6 November, you make brief reference to what occurred there and you said you've seen the videos. And at par 33, you identified that Constables Smith and Hand make their way into House 577 in an attempt to apprehend Kumanjayi?---That's correct, yes, your Honour.

In the early evening of late Spring, yes?---That's correct, yes, your Honour.

All right. Now, what do you say about how Officers Smith and Hand undertook that attempted apprehension?---From my observations and the evidence I've heard, I thought their efforts were appropriate, practical and well-founded.

One sees on the video that Kumanjayi emerges from the room after his girlfriend has been moved out the way, Rakeisha?---Yes, your Honour.

Then there's a bit of confusion and shouting and he comes out of the room with the axe and goes past the first officer and moves toward the second. What do you say about that incident and the risks involved and how you, on the basis of your nearly 44 years, interpret what occurred?---Thank you, your Honour. Clearly, it was a very confronting incident for the two members involved. I've heard both of their evidence before this inquest and viewed the body-worn video, I thought their evidence was very forthright, honest and identified what was clearly potentially a very dangerous situation and I thought those two particular members managed it extremely well.

Now, neither of them drew their guns or any other accoutrement for that matter. What do you say about that?---Your Honour, I think what they did from their explanations provided to this inquest was exactly probably the right thing to do. I mean they were within their lawful authority to draw their firearms, had they have chosen to, but I did take particular note of the evidence of Senior Constable Hand who indicated he actually believed that if he'd drawn his firearm, it would have provoked further violence towards him and he didn't do that. I think it was a very difficult position for those two members to be confronted with and they managed it well, in the fact that neither they nor Kumanjayi Walker was injured.

Within a metre, give or take, of leaving 577, Kumanjayi dropped his axe and made his way away at speed with the officers pursuing him. Do you attach any significance to his having dropped the axe?---Your Honour, I think – and again, I reflect very heavily on the evidence that they've given. They were the two members who were confronted, who saw it, who witnessed it. I think they drew reference to the fact they thought it was very – I'm just trying to think of the correct word to may explain, that it was dramatic, it was for effect, as opposed to an actual hard-line attempt or intent to do them harm, and the throwing of the axe down may partly reflect that.

All right. Now, the subsequent contact between the police and the family of Kumanjayi at 577 a little bit later for the time (inaudible) statement for these

purposes, Officers Hand and Smith return and speak to the family and impress upon them the need for Kumanjaya to hand himself in within the next couple of hours. What do you say about that initiative on their part to return to the family, talk to them and explain and urge them to use their best endeavours to get him to hand himself in?---I'd expect that and I think it's appropriate for remote policing as a relationship built model to encourage the family and the community to get him to surrender.

And we go back to the police station after that. A report was (inaudible) to Sergeant Frost. I think she sees their body-worn footage and she adds alerts to Kumanjaya Walker's PROMIS identification and you refer to that in your paragraph 35. Advising that he was an active target and must be found. What do you say of that what Sergeant Frost did at that stage?---Appropriate.

Right. Perhaps more importantly, she makes her way herself, with the officers, to the family, that evening, and speaks further to them. Do you recall that?---I do, yes, your Honour.

And again, she impresses upon them this time, the seriousness of the incident and the need for him to hand himself in after the funeral?---That's correct, pursuant - - -

At that state the funeral was - it's Wednesday night, the funeral was expected to be on Friday, is that right?---Correct.

We will come to what happens the next day and the overall situation, but what do you say about the message that is provided there?---With the benefit of reflection and having heard the evidence, it may have assisted had they been a bit more specific about what "after the funeral" in terms of the timing may mean, but I think it's appropriate that they allow some cultural sensitivities in terms of what clearly was - they are confronted with and to allow a bit of leeway and discretion to - for Kumanjaya Walker to surrender to police.

Now, her Honour asked you about what you meant when you used the word "respect" yesterday. How does that notion of respect link into that decision-making process?---I think it does reflect a degree of cultural sensitivity and awareness by those members in an attempt to do an appropriate thing even when, you know, they were confronted with quite a confronting incident affecting them and they still applied discretion, common sense approach, you know, to try and encourage Kumanjaya Walker to surrender. I think it was appropriate.

The next morning you refer on your par 36 to Sergeant Frost adding a notation "Assault police - may assault police to evade" to the daily TCG. What is a TCG? ---Task and Coordinating Group, that's a forum in which to prioritise work activity and priority of activity for operational activity for a day.

MR BOE: Your Honour, I am just having difficulty hearing.

THE CORONER: Sure?---Sorry.

So you said it's for Task and?---Coordinating Group meeting that will - allows sergeants and supervisors to set priority tasks for a day to align to operational activity, depending what's happened in the previous 24 hours or what is a priority at a given day.

DR FRECKELTON: Deputy Commissioner, you've got a bit of a soft voice, so try to keep it up a little bit if you could so - - -

THE CORONER: And you are also facing me, so it might be a bit difficult for - I am happy for you to face whichever ways you are comfortable?---Thank you, your Honour.

DR FRECKELTON: All right, so that's the one thing that occurred on the 7th and Sergeant Frost went back to 577 at about 9 o'clock in the morning, and you refer to that in your par 38, this time with Senior AFPO Williams, to talk about, again, when Kumanjayi should hand himself in and expectations about - of the police in relation to when that should be. What do you say about that as an appropriate third communication from local police to the family?---Again, your Honour, I think it's appropriate. I think it does sort of indicate a reflection of the police perspective of - it's clearly a significant event to them because they've gone back three times but again, it's appropriate I think and an attempt by those local members to get Kumanjayi Walker to surrender. I think it was appropriate.

At that time I think - and I stand to be corrected if I am wrong about this, the understanding of Sergeant Frost was the funeral was going to be the next day - they Friday but she learned in the evening that, as you say in your par 40, that the funeral had been postponed to Saturday the 9th?---That's correct.

Now, regardless of the postponed date, the language used was words to the effect of, "After the funeral"? With the wisdom of hindsight, what do you say about that kind of wording in the communication with Kumanjayi's family?---I think I've already touched upon it, your Honour, but I think there could've been greater clarity provided so, you know, exactly what "after the funeral" means.

Now, why are you saying that? What is the issue about the duration or nature of funerals which is - which makes the issue a bit of a problem?---I think - and again, your Honour, we've had clear evidence provided before the inquest about, you know, funeral proceedings can take, you know, in some instances days and weeks, you know. In the western mind-set a funeral may have one connotation. In Aboriginal culture it may be something totally different and it could potentially lead to that officer confusion about when "after the funeral" is. It might have been helpful to be more specific.

Now, the funeral has moved from the Friday to the Saturday but there isn't further significant contact on the Friday or the Saturday with the family, again with the wisdom of hindsight what do you say about that?---Again, perhaps could have been greater clarity provided.

So for instance, going back on the Friday and saying, "You know, the funeral is now on the Saturday but it is essential that he hand himself in by say"?---Lunch time – 10 o'clock - whatever.

On the Sunday would've been preferable?---Yes, I believe so.

Now, you refer in your affidavit to various things having happened and various demands on the members on the Friday - Saturday night - as I do - I will start again - on the Friday night, going into the Saturday morning which led to exhaustion of the two members who were there, namely Frost and Hand, correct?---That's correct.

And the court has also heard that Hand didn't feel it was appropriate for him to be involved in a further apprehension of Kumanjayi because of what happened on Wednesday the 6th and Sergeant Frost also had reservations about her involvement, given her relationship with Mr Hand?---That's correct.

What do you say about those reservations on the part of the two members?---I think they quite well thought through rational and appropriate and, you know, if the individual member potentially have a conflict of interest, you know, with someone who has presented violence to them, perhaps the availability of an independent police officer other than those, would make sense to me. It's very difficult, unfortunately, in remote locations but.

You refer at par 70 and following, to the events at the police station and the various toings and froings of different members with certainly one Parbs and Alefaio coming back from Nyirripi where they'd been dealing with disturbances, and the fact that there were other matters that they needed to attend to with Parbs, at par 77, returning to Darwin, Alefaio staying to assist Yuendumu members but going off duty for a time. What does that mean in terms of being a pressure on resources, given a funeral had taken place and of course, various other matters that had been happening overnight and in the previous days with (inaudible)?---Yes, our resources would've been challenging for that - for Yuendumu and the police at that location at that time.

Now, in that context the court has heard that there a decision was made by Sergeant Frost to seek additional resources by communicating with (inaudible) Superintendent Nobbs, her superior, in Alice Springs. Is that the right person not whom she should be speaking in terms of the police hierarchy?---Yes. I think it's appropriate.

Now, once again have you reviewed in general terms the processes which led to the authorisation of the deployment of additional members from Alice Springs to assist with the challenges existing in Yuendumu and the need to arrest Kumanjayi?
---I have.

What do you say about those?---Again I think they were appropriate, considered and reflect the, you know difficult nature of policing in a remote environment.

Now, the decision ultimately was to utilise the resource of the IRT which was a unit which you describe at pars 128 and following?---Yes.

There was at the time no equivalent to the IRT for the northern region was there?
---That's correct.

And in broad is the southern region of Alice Springs there?---Up to Tennant Creek.

To Tennant Creek, I beg your pardon?---And the southern region.

North and south?---Yeah, of the Northern Territory, correct.

And you describe the unit as having had different names at different times and you describe the history of it as a cordoned and containment team. And what you say is, "It's principle purpose was a cordoned and containment response." Is that right?
---That's correct.

Now, moving to your par 133 you describe that the IRT had been deployed to some 44 incidents between 2017 and 2019 a majority of which were in remote locations. Just tell her Honour a little bit more, as you understand it recognising that you weren't in the Northern Territory at this stage, about the role of the IRT?---From the evidence before me, and I did hear that evidence led, some of that evidence led at the inquest, your Honour, I think their duties were appropriate. They were balanced and I think they reflect the availability. At times I think Superintendent Nobbs clearly identified they were a group of people who were available at short notice to assist for rapid deployment when we needed a surge capability.

You describe, you make reference to the SOPs for the IRT in par 135?---Yep.

And identify there that there were two categories of deployment of the IRT, high risk and general support operations. Can you talk that through a little bit further insofar as it's relevant to what occurred on 9 November please?---The SOPs provided obviously for, as you've identified, Dr Freckelton and, your Honour, high-risk deployment. And it refers to planned and unplanned high-risk operations and general support operations. High risk operations required an assistant commissioner approval and would by the SOPs trigger the necessity to contact the tactical response group. Sorry, the territory response group at least in a consultative phase. General support operations didn't mandatorily trigger that general order requirement.

What was the operation for the IRT in this instance? Was it high risk or general support?---General support operation.

Now, in fact as Acting Assistant Commissioner Wurst did become involved in authorisation of their deployment. Why was that?---He gave that, your Honour, that approval as Commander Currie who was Commander Southern would normally do it was away and not available so we did it to cover that weekend for him. But he didn't do it in terms of a requirement for the general order requirement. He did it, you know, to cover for the commander.

Now, you make reference to the review by Senior Sergeant Morgan after the death of Kumanjayi of the IRT SOPs and 138 and following. In general terms did Senior Sergeant Morgan assist the executive to recognise that there was some significant deficiencies in the SOPs?---Yes.

THE CORONER: Had they been raised previously?---Not to my knowledge, your Honour.

DR FRECKELTON: Now, Sergeant McCormack – I'll just go back a bit. Sergeant Bauwens, the head of the IRT, wasn't on duty at the time?---That's correct.

Was there a designated deputy head of the IRT in a formal sense?---No, I don't believe in that formal structure there was a designed 2IC.

Would it have been preferable for there to have been?---I think it would have assisted with decision making in a commander control environment, yes.

So, the second person who was on duty was Sergeant McCormack?---Yes.

Did he arrange a variety of logistical matters to track down members of the IRT who were available and prepared to undertake the designed task in Yuendumu?---He did, yes, your Honour.

What do you say about that process for logistics?---Appropriate I think. Made a number of calls. Found people wanting to come out and I think your Honour heard some evidence about some times there was difficulty in that and a group of people were identified and deployed.

He provided information about who the people were and what they were taking with them to Sergeant Frost. How does that fit in, in terms of process for the person Sergeant Frost who has to prepare the arrest plan or action plan?---I think again the equipment they took was IRT equipment and covered a variety of different equipment including weapons.

Yes?---But I think from the evidence I've heard before this inquest, your Honour, it was an in case type situation just in case you need it. And the incident goes from a general support to something else at a later date. It wasn't sent just to be as part of a high-risk deployment. It was a in case you need it have it with you.

Her Honour's heard that the options for deployment of the IRT, they go in their blues or their greens. One's camouflaged and the other is full uniform. What do you say about that?---Yes, your Honour. I think again that's reflective of the duties they're tasked to perform. If you were, in mind, going as a high-risk deployment it was probably likely they would wear tactical specialist clothing, more the camouflaged gear. If you're in general support the expectation would be you were wearing your police uniform that every other member of the police force wears which is what they did.

You say at par 147 that the IRT SOPs are not formally required the completion of this assessment for a general support deployment. And then you say it would have been of assistance had there been such a formal requirement?---Yes.

Why do you say that?---I think formal risk assessment with the benefit of hindsight would have given greater in depth, practical exposure for everyone when they arrive and know what they're likely to be confronted with. It forces you to think about things that perhaps if you don't do a formalised risk assessment that you don't do so it would be have been beneficial.

You say at par 150 of your first affidavit that it's no requirement in the SOPs for a formal briefing to take nor instructions as to how the briefing ought to be conducted or recorded. What do you say about that?---That's what the Standing Operating Procedures at that time did state. Obviously we are of the view, your Honour, that with the benefit of hindsight and future focused we should have more detailed and more effective briefing where we can.

Now, the IRT were deployed with the member of the dog squad, Mr Donaldson, from Alice Springs to Yuendumu. Who was responsible for explaining to them what they ought to be doing and how they ought to be doing it?---Sergeant Frost as the Police Force Commander retains that responsibility as the - - -

What about Mr McCormack, for instance? What's his responsibility for that?---Well, I think if you follow the sequence of events for this your Honour, Sergeant McCormack provided some level of briefing, as he understood it to be, which included the plan to arrest Kumanjayi Walker, but I think Sergeant Frost had – the written plan was not promulgated until after they've arrived or - - -

So, after they'd left?--- - - - after they've left.

Yes. And let's go to that then.

THE CORONER: Well, can I just stop for a second.

DR FRECKELTON: Thank you, your Honour.

THE CORONER: We've been talking about Sergeant Frost and Sergeant McCormack?---Yes.

Where you talked at 147, there was no risk assessment requirement at that time, if there – you say that there should have been or it would have been better had there been a formal risk assessment. Who did you or who do you envisage carrying that out?---The police commander would be the one who would prepare the plan and promulgate the risk assessment as part of that planning process.

So, Sergeant Frost - - -?---Sergeant Frost.

- - - would do the risk assessment?---If – correct, your Honour, if specialists are deployed such as the Territory Response Group, they prepare their own risk assessment as a requirement of their deployment for a high-risk deployment. But again, it wasn't a necessary at frontline operational level at that time that we would do that. And again I think, your Honour, when you've see the Warlpiri Camp search on body-worn video led by Sergeant Kelly, again, there was no formalised risk assessment. You could see there was quite clearly a dynamic risk assessment being conducted, had have been conducted for the way they conducted their duties at that location. So, again, risk assessments can form in a written sense, but I think police officers, generally speaking, are taught to perform dynamic risk assessments on the move. Often, you don't get the – you know, for frontline general duties officers, you don't get the opportunity for, as for a planned operation, to prepare written risk assessments.

Sure. But if IRT is coming out as general deployment, it's your view that it's Sergeant Frost who does the risk assessment, not IRT or the command within IRT? ---I believe that to be the case, yes.

DR FRECKELTON: I'll just go the process of the conception of a plan and I'll ask for it to be put on there?

MR BOE: Excuse me, your Honour. Just so I don't interrupt or not, but just on that issue, may I have clarity whether the witness is saying that's what happened or that's what should be happening?

THE CORONER: I'm trying to understand what is in his affidavit.

MR BOE: Yes.

THE CORONER: In his affidavit, it says there was no requirement for a risk assessment at the time. In his evidence, he said that, in his view, it would be appropriate for there to be a formal risk assessment.

MR BOE: Yes.

THE CORONER: And because I've got these two - - -

MR BOE: I understand, your Honour.

THE CORONER: - - - sort of lines of command, I was just trying to understand in this circumstance who would have – who, in the deputy commissioner's opinion, is the appropriate person in authority to have been in charge of the risk assessment, if there has been one or going forward if there was to be one.

MR BOE: With respect, your Honour, I totally agree with your enquiry. My question was that, when the answer was given, it wasn't clear to me whether the witness was saying that's what occurred, or whether or not that's what should occur.

DR FRECKELTON: I'll clarify that.

Now, so you've referred to – being at par 147 to the VIRT (?) SOPs?---Correct.

The point that you make there was that there was no formal requirement of a risk assessment under those SOPs for the IRT at the time?---That's correct.

In the absence of that formal requirement, whose responsibility was it to make sure that a risk assessment of one form or another was constructed to deal with the deployment?---I think the – my view is that the police forward commander would be responsible for briefing the risks associated with that deployment. Whether that was a formal risk assessment as we've discussed what would occur now, or a dynamic risk assessment, regardless, there would be some briefing as to what likely risk would occur.

Her Honour has heard that information was provided by Sergeant McCormack to Sergeant Frost about who was coming and what they'd be bringing with them, and then that Sergeant Frost generated a plan, whether one calls it an arrest plan or an action plan, and she submitted that to Superintendent Nobbs - - -?---Correct.

- - - who authorised it?---Correct.

What do you say about the correctness or otherwise of that process?---Your Honour, I think it was appropriate. He had a plan that was prepared by the officer in charge who is fully conversant with local knowledge, what they wanted to happen and I think the plan was then presented to Superintendent Nobbs who appropriately considered it and approved it. I think the process was correct.

Could exhibit 14, which is the plan, be shown to the deputy commissioner.

So, do you recognise that as the plan which was emailed to a variety of people at 4:59 on Saturday, the 9th?---Yes.

Now, that was emailed at a time when the members were on route from Alice Springs to Yuendumu?---Correct.

What do you say about the appropriateness or otherwise of emailing a plan in those circumstances?---I think it would be common practice in - you know, in the absence of anything else, I think it was logical, made sense.

Well, let's explore that a bit more. What is the expectation of the executive in terms of members checking their emails if, for instance, they're sent from one place to another, to undertake the task?---Clearly, in remote parts of Australia, you wouldn't get access to your emails, to your phone or elsewhere, you know, at any given moment in time. But it still, in my view, would be appropriate to email it. And as the evidence we've heard, there was a formal briefing, or a briefing conducted at a later point within normal practice. So, I suspect it would – I still think it was appropriate.

What is the expectation, if there is one, of whether upon arrival at the remote station, members would check their emails to see if they've been told to do anything?---Well, again, the evidence is somewhat unclear on this, in my view, your Honour. I can only talk of what I would do. I mean, if I've got an email capability and it pings, I might scan it quickly. However, I am aware that they would have a general discussion about what the activity was that they're about to undertake. You don't turn up somewhere and not - just go about doing whatever you want to do, they were not sent there for - you know, it doesn't make - follow logically to me.

One of the issues that's been raised before her Honour is whether the TRG ought to have been involved. You make reference in this in your second affidavit, where you make reference to the role of the TRG at par 49 of your second affidavit. Could you turn to that please?---Yes.

And you state there that the deployment of the TRG is classified as either high-risk or general support?---Correct.

But there's some similarity to the IRT forms of deployment, isn't it?---Yes.

TRG and IRT, yes. And you've - there's a definition of the high-risk situations which you outline in your par 52. Do you see that?---I do, yes.

Now, was this - did this fall, this arrest of Kumanjaya at this stage, as well as the general assistance with high-risk policing which we'll look at in a moment - sorry, not high-risk, high-visibility policing, does this fall within the TRG high-risk situation? ---I don't believe so, no.

Was it open to Sergeant Frost to make contact with the TRG and ask their advice to mitigate any risks which she'd identified for the apprehension of Kumanjaya Walker? ---She could have, yeah, yes.

Was it obligatory for her to do so?---No, it wasn't.

With the wisdom of hindsight would it have been prudent for her to have made a telephone call and talked through those issues of risk with the TRG?---It may have assisted, yes, your Honour.

Kumanjaya Walker had the prior matters that you've referred to in the first exhibit to your first affidavit and the (inaudible) matter had occurred very recently? What did that mean in terms of what needed to be done to mitigate risk by a plan and by the IRT members when they execute it - the plan or use any initiative which they had? ---I think there was clearly the opportunity to reflect upon the incident that had occurred previously and some of the timings and tactics to perhaps alter so they didn't confront themselves when in a similar or same position and take steps to mitigate the risk of the apprehension of Kumanjaya Walker.

If you summarised what the most important thing for those taking Kumanjaya into custody on the Saturday, Sunday or Monday would be, having regard to what had

happened on the Wednesday. What would that be? What should they have learned?---Well, the two things that stand out to me is first and foremost the timings, the plan was an early morning apprehension, which we've heard evidence and from practical experience as a police officer, it is appropriate to minimise the risk.

Why not go and at 7 or 8 – 7 o'clock in the evening of Wednesday?---Well that is exactly what had happened in the incident with the axe matter and that was around the timings that they did it and I think greater likelihood there would be other people around, there would be greater likelihood that they would be more alert. I think there was really solid sensible decision-making to reach a conclusion to do it at a different time, early in the morning.

What else should have been learned in terms of, for instance, getting into close quarters with Kumanjayi?---Again, I think proximity, there'd be a propensity for violence to have tactics that would allow you to remain some distance between yourself and the arrest.

What does this mean for the standard role of the IRT in terms of cordoning and containing?---Well, that's a tactic that they could have employed.

Could have or should have?--Well, should have.

What is your opinion?---Well, it should have.

Again, why?---To mitigate the risk that was clearly readily identifiable.

All right, let's go to that plan, which is - stand up there and go through it together if that might. We will start at the very beginning. Quite a variety of people are copied into this. We can see that the Dog Operations Unit man, Donaldson, receives it. Mr Hawkings, Mr Eberl, Mr Rolfe, Mr Kirstenfeldt and also Mr Hand?---Yes.

And other persons - sorry, I beg your pardon - Alice Springs Supervisors and Mr Alefaio?---That's correct.

Now, the plan seems to have been to keep M Hand out of it but what about Mr Alefaio?---Appropriate. I think if your further explore, he's in a plan incorporated Mr Alefaio to assist with the apprehension at 5 o'clock in the morning, so.

What, if anything, was significant about choosing Alefaio to be involved?---Again, I think, your Honour, we've head evidence of his local knowledge, as local member, the evidence that I've head from those members from Yuendumu before this inquest and from my own practical experience would be that local knowledge always would be of great assistance when you've got people from outside the community coming in to help affect an arrest.

And Mr Alefaio had had prior experience with Kumanjayi, is that a relevant factor? ---Yes.

Why?---Knowledge, his identity, his demeanour, his behaviour. I think we heard evidence from others that if he knew local - local people. I think there was a degree of understanding of how he may react and perform, so I think it was a wise and sensible thing to do.

A variety of others are copies into this?---Yes.

Superintendent Nobbs, Superintendent Vickery?---Yes.

Territory Duty Superintendent and others?---Yes.

So is that normal practice for a document such as this or is it unusual?

---Again, I think the evidence is pretty clear that - I think it's appropriate that those other people are informed so there's awareness across the command and control structure of the Northern Territory Police of what is likely to occur, what the plan is, but I have heard evidence that this was, you know, the plan was not widely - this detailed plan wasn't the norm is what I am trying to suggest, so it was - we heard evidence that perhaps they weren't always preparing as detailed a plan as this, so I think it was appropriate that it was disseminated widely to those who had visibility and command and control to provide additional resources as they needed it.

All right. There's a heading or a folder to section where you can see the word "task". Do you see that? Just a few lines down?---Yes.

And it's, "Arrest Walker, transport back to Alice Springs, provide to local presence command police to uphold law and order in the community and provide support to local members"?---Yes.

What do you say about the appropriateness or otherwise of that tasking?
---Appropriate.

When it comes to arresting someone like Kumanjaya Walker based upon all of your experience, is this an unusual role for police? In other words, to take someone into custody who has recently brandished a weapon and who has a history of attempting to avoid arrest by running away if he can?---No, it's not a unique event.

Well, when you say "it's not a unique event" how commonly have you encountered it for instance in your own work in remote communities and in the north of Western Australia?---And from my experience here, Mr Freckelton and your Honour it unfortunately is common where officers or members are confronted with weapons and people who would run away and it would not be an uncommon - you know, we arrest people routinely every day.

So what is the obligation in light of that reality for those - for the deployment of members to undertake that task in terms of assessing the risk and working a way through to mitigating it?---I think it provides greater detail to those who are about to embark upon the task to know what they are going to do, as opposed to just turn up and drive around in aimless circles, it gives you an overview, it's a plan.

Now, you've raised an issue about whether this is to be called an arrest plan or an action plan. What is your preferred designation?---Like I prefer the term "action plan". I think it - you know, in my experience, your Honour, an operational order is usually much more detailed, complex and may involve multiple taskings across a broader area and multiple units and just more detailed information, and generally reflective of the more planning that's associated with that operation as opposed to an action plan which is more focused and direction for a particular task.

Let's make our way through that plan. There's a description in there, as you can see, of Kumanjaya removing his EMD and then the incident on Wednesday the 6th. What do you say about that information that was provided to members?---I think it's appropriate and it reflects the incident that had occurred, likely risk to them and the fact that he is likely to escape and flee, I think it's appropriate.

Just scroll down a little bit please? You can see that it says there that Walker is currently facing offences including assault on police and criminal damage to the police vehicle. That was from his throwing some rocks at the police vehicle and that he absconded on the 6th?---Yes.

Is that normal information to be provided?---Yes, I think so yes, appropriate.

Scroll down a bit more please now. I just want to stay away from any photos please. Now, there's a section there, "If arrested what's to be done with him?" What do you say about that?---Again, appropriate, logical.

We might need to go back up just a little bit trying to avoid pictures if you don't mind. That's it, perfect. So, there's a listing of the members. That's standard. We don't need to dwell on that, correct?---Correct.

Now, there's a plan for day 1. Do you see that?---I do.

Now, you've got the members arriving at 6 o'clock give or take in Yuendumu, all right?---Yep.

And what do you say about the information about when they're to actually - so they're to commence duty and conduct high visibility patrols and respond to callouts at 11 pm. What do you say about that timing given they're getting there at about 6:00 or 6:30?---I think it's appropriate for the evidence we've heard. The fatigue for the members at Yuendumu who were clearly fatigued, had been very active in the preceding days. And it allowed the local members to receive some respite and rest and give a direction to the responding members what their duties would be.

So, it gives time for a briefing of the IRT men, is that right?---It does.

Was there any urgency to rush them out to do anything? To go to the Health Centre, to quell disturbances or to arrest Kumanjaya before 11:00 that you are aware of? ---No.

So, 11 o'clock do those things and then there's an entry there that you can see in respect of 5 am and it refers to the dog unit man and Mr Alefaio from Yuendumu along with the IRT members to effect an arrest?---Yes.

Is 5 am an unusual time for an early morning arrest or is that around about the mark?---No, your Honour. I thought it was - - -

Let's go to where we were before, just scroll down a little bit if you would now. So, there's the arrangement for what to do with Kumanjayi if he was arrested. Do you see that?---Yes.

Anything you want to say about that?---No, appropriate.

And as a backup plan if fatigue levels intrude upon the arrangement of getting him to Alice Springs. Anything you want to say about that?---No.

Now, it was possible of course that he would have gone from Yuendumu or not at the entry located so there's a further plan for the next day. Is that right?---Yes.

What do you say about that?---It's almost identical to the first day's plan but again I think it's appropriate.

Scroll down a bit please. So, there's a section called implementation of plan. 577 is the house that is identified. That is the house where he was found on the Wednesday and it's where Rakeisha lived I think?---Correct.

Do you say anything about that designation as that being the primary residence? ---I think intelligence. If that's where the previous incident occurred it's highly likely that it was a good starting point.

And then were some other houses which are identified as secondary places potentially?---Yes.

Further down please, equipment. The equipment then had the IRT members have been tasked to take with them. Do you say anything about that?---No. Again, I think that's just a reflection of what they had taken with them.

Now, let's just go back to this issue to which you've made reference already because this is sensitivity understandably about taking these kinds of weapons to a remote community. Is there an expectation that those weapons that the members have taken with them will actually be taken to undertake any of the tasks which they've been given?---Not for a general deployment operation, no. It reflects the equipment they had but I don't believe it was an instruction they should carry them in the community.

So, what happens with the beanbag shotguns, two of them, and the AR15s? They travelled from Alice Springs to Yuendumu. Where would you expect those weapons to be?---Well, my expectation would be they would be secured in the police vehicles.

In police vehicles?---Unless there was a high risk need from them to be carried.

What if they take them into the station? What happens then?---They could secure them there at the police station.

And there were a couple of vehicles which they travelled in. Nothing more to be said about that and then there are some administrative things about shifts and so on. Is that right?---Yes.

Now, there is nothing about formal in that plan about risk. Is that why you said to her Honour that it would have been preferable had there been something in there? ---It would have assisted, again, I think to reinforce the identifiable risk matters that could have been reflected on more deeply, yes.

Otherwise what do you say about the adequacy or otherwise of that day?---I think it was appropriate.

Now, it does leave Sergeant Frost with a job to do when the men come out to you is it not?---Yes.

Now, you've heard all of the evidence that's been given to her Honour?---Yes.

And you refer in your own affidavit to there being, in effect, three trenches of arrivals. First there's Mr Donaldson who speaks to Sergeant Frost and then he goes off to familiarise himself a bit with the town. Do you recall that?---I do.

And then Mr Kirsten Phelp(?) and Mr Rolfe arrived?---Yes.

And they also speak with Sergeant Frost?---Yes.

And then Mr Eberl and Mr Hawkins arrived and Mr Donaldson comes back and there's a briefing for two or three minutes with all of those members present?---Yes.

Now, do you feel confident that given the varying accounts of the six persons involved about exactly what took place at any given juncture of that briefing, or said briefing I should say?---Your Honour, I can't conclusively identify why there was a deviation from the written plan.

Now, what her Honour does know though is that not at 11 o'clock but a bit before 7:00 I think the five men leave the police station and head straight to House 577? ---Yes.

Can you account for why there is such an apparent deviation from the written plan? ---No.

Should that deviation have occurred?---No.

Why not?---Because the plan articulated a particular version what should have occurred. What eventuated was exactly what had happened on the previous occasion and if you were trying to mitigate the risk that was clearly identified there just seemed why would you go into exactly the same thing that happened that led to the previous confrontation when the plan was clear that a 5 o'clock start would have mitigated a lot of the risk. And it just – I don't know. That's not what should have occurred.

Now, what might be said, and to an extent has been advanced already, is that there was no certainty as to where Kumanjaya was going to be at 5 o'clock the next morning. And so what the men did was to go and gather intelligence by going to House 577?---Yes.

Because that was the most likely place he was going to be?---Yes.

What do you say about that? Was that intelligence gathering what happened there? ---No.

Why do you say that?---Your Honour, in my extensive career I have performed two tours of duty through the Bureau of Criminal Intelligence. I was the Director of Intelligence for WA Police. I have a detailed knowledge about intelligence and its functions and operations and I've been a frontline police officer for extended periods of time. And I've heard evidence in this inquest. Intelligence gathering would generally consist of activities that were better preparing you for the activity that may occur for the execution phase of the plan. Access and easement routes, location of the house, where Kumanjaya may frequent, what vehicles he may be in. There's lots and lots of other intelligence gathering activities that would assist you in supplementing your plan. In my view what I saw was the execution phase where they went straight to House 577 to effect his arrest.

At both Houses 577 and 511 and of course the conversation with members of the public in the vicinity, words to the effect of, "We're here to grab Kumanjaya - we're here to grab up Kumanjaya" that is said?---Correct.

How does that lock into your assessment of whether or not this was intelligence gathering?---Well, I - again, I think it was the execution phase of that plan. If you were intelligence gathering I would suggest you wouldn't go straight out and ask, "I'm here to grab him up." You might make enquiries at the shop or other locations - plenty of things where you can say that he's been seen. There's lots of other activities police can do that may assist in identifying the whereabouts of a person before you go and bang on the door. Once you bang on the door that's it - there is no element of comeback - you're committed to a course of action.

THE CORONER: If there was to be an exercise of intelligence gathering, is that something that you would also have expected to be in the plan document?---I think

police don't traditionally - all police don't call it intelligence gathering, that phase, it's just common practice for good policing practice when you look - that you would gather all of those types of information before you go. I mean, they assist you greatly when you're trying to make decisions and you know, I've been involved in - I don't know - hundreds of arrests and generally you wouldn't go and knock on the door if you were doing an intelligence phase. Intelligence has an element of covert about it that you're trying to gather information so you can effect your arrest without - now it's very difficult in a remote community, I accept it's very difficult in any of these places where strange police are wandering around your community, the ability to have any stealth probably is somewhat limited, but there's plenty of things that could, in my mind, form intelligence gathering before I'd go and knock on a door and, "We're going to grab him up". That to me was exactly what would've happened - or should've happened at 5 o'clock in the morning with the execution phase.

DR FRECKELTON: And in terms of a detail of how the apprehension was to take place, what was the role of the 5 o'clock meeting at the station with Mr Alefaio? ---I think that would've the opportunity again to get a further briefing around what is going to take place. I've seen the body-worn video, you know, that's the elements about who is going where - where your vehicles are - who is going to what door, you know, all those things don't happen organically normally, you would have a brief discussion about. Sometimes the planning is brief, sometimes the planning is detailed but there is usually a plan, that's my experience.

But instead, without the 5 o'clock briefing and without the involvement of Mr Alefaio, they go straight to 577 and they go through the house?---Yes.

Then they go to 511 because they receive some information he might be there? ---Yes, that's correct.

And what do you say about the prudence of going to 511 in the circumstances? ---I think they are overt action of the responding police, they - if they've gone to 577 and he's at 511 there was no other option but then they do have to mover towards it, the intent to apprehend him was at that point, their tactics they deploy at that house could've been differently. I think we've heard evidence of that, but your Honour - - -

Could've been different? Or?---Should've been.

Pardon?---Should've been.

Should've been different. So just to go back to what occurred with Sergeant Frost, at paragraph 146 of your third affidavit, you make reference to the conduct of briefings and you've referred there to SMEAC?---Yes.

Situation, Mission, Execution and Administration on Logistics?---Yes.

Command and Communications?---Yes.

You've talked through with her Honour what the role of this acronym is in terms of the provision of a briefing to men who have a task such as arresting. How (inaudible)?---Yes, so your Honour, the application of the SMEAC principles into briefings will - is designed to eliminate some of those inherent oversights that you can make if you don't force yourself into a formalised briefing module, so you can actually address some of the issues that I think could've been covered better. It is widely adopted across police forces right across Australasia as a great tool, it removes ambiguity, it provides greater clarity of tasking.

So would reference to the SMEAC considerations have been appropriate or necessary at the 5 o'clock briefing?---It would've been appropriate. It should have occurred.

You refer to recruits getting instructions about SMEAC at 147?---Yes.

And then other members who received training about it?---Yes.

And then you say at 149 that "Briefings specifically SMEAC and risk assessment are going to form part of the Sergeant Development Course about which I will ask you in due course?---Correct.

As at a further course that sergeants going to be required - - - ?---Correct, yes.

And a broadcast has been sent out about the importance of, amongst other things, clarity and briefings to every member of the police force last year?---Yes.

I am going to ask you - and I am sorry, your Honour, to move you around the affidavits.

THE CORONER: All right.

DR FRECKELTON: To go down to your first affidavit to - and I want you to look at another acronym at par 237. Does your Honour have that?

THE CORONER: Yes.

DR FRECKELTON: Now, Deputy Commissioner, you speak there about training of police and you refer to two additional things, the Operational Safety Principles and an acronym, ICENCIRE which stands for Isolate and Contain, Evacuate, Negotiate, Conclude, Investigate, Rehabilitate, Evaluate and you say that this is taught at par 239 during the recruit incident management training. Do you see that?---Correct, yes.

And you also make reference to a ten Operational Safety Principles which bear quite a relationship to the SMEAC ones at 240?---Yes.

Safety First, Risk Assessment, Take Charge, Plan Response, Cordon and Containment, Avoid Confrontation, Avoid Force, Minimum Force, Avoid Forced Entry

Searches, Results. Now, where should they have figured in the briefing provided at some stage before the members went out to execute the plan?---I think they would have been reinforced through the SMEAC principles and again, they are part of the now training of Northern Territory Police Officers and it should have underpinned their thinking prior to the execution of any plan.

Just in broad terms, were the ten Operational and Safety Principles and ICENCIRE adhered to in the execution of a plan - particularly by Mr Rolfe and Mr Ebel?---No.

Does that matter?---Yes, I think it does.

Why?---Well, I think, if you look at the ten Operational Safety Principles clearly it talks about "Avoid forced entry searches" it talks about "cordon and contain". We've heard evidence already of "knock and containment" where you would cordon and contain, knock on a door, seek people to surrender as opposed to forcing in, we've seen that in action on some of those body-worn videos, your Honour, so I think it had significant impact and some of the ICENCIRE stuff, again around your own tactical awareness of your surroundings, proximity to a potentially armed person, make yourself as - don't take high-risk activity yourself.

Now, I think it is going to be a matter for her Honour, as best she can on the basis of the six accounts that she has (inaudible) she is about (inaudible) we've yet to hear from Mr Rolfe, of what took place with the briefing with Sergeant Frost to work through what was or was not said. Can you identify with confidence what was said or not said at the briefing with all the men at the station?---No, your Honour.

But do you say that at some point and particularly probably 5 o'clock, these key issues about exactly how the cordoning and containing, for the use of a dog, the persons who were going to enter 577 or wherever he was, should have been canvassed?---Absolutely.

Now, the IRT men received information that Kumanjaya Walker may well have been at 511 or 518, which was just close by. In light of the fact that they had taken it upon themselves to attempt, on your account, or on your evaluation, to arrest Kumanjaya at some time shortly after 7 o'clock, should they have been in communication with Sergeant Frost, or anyone about the - the new idea that they had to go and get him at 511 or 518?---In my view, it would have been very prudent, yes.

Why?---So Sergeant Frost, who was the author of the plan, and the senior officer, could have had visibility and knowledge if the plan had changed. And clearly it had. They're now in an execution phase, and about the apprehend someone that probably was anticipated to be apprehend at 5 o'clock in the morning.

She could have had input of that too, as to whether they should go ahead and do what they had in mind, in going to 511 and 518?---Yes.

What do you say about her not being given that opportunity to have any input into their exercise of initiative?---Yeah, I don't know – I'm struggling to find why they didn't. I don't know why they didn't.

Right. At any rate, they have cleared the house, as it has been put, at – at 577, can you identify why they went inside the house to clear it, at 577?---No.

No. What – can you say something about that?---Well from my observations of the video, at that point in time, they've already said he's not at the house, he's somewhere else.

All right. But anyway, they seemed to be checking to – to confirm the situation, is that fair?---Yeah.

They make their way to 511, and I'm only going to take you a very limited way into the house, unless her Honour wants more questions asked, in which case she'll tell me. But they – two of the men, Eberl and Rolfe, enter the house, with two other men outside, Hawkings and Kirstenfeldt?---Yep.

They're on either side of the house?---Yes.

And Hawkings has an AR-15?---Yes.

You've already given your evidence that you don't believe an AR-15 should have been carried at that location, is that right?---That's correct.

Why?---What – well aware of the implications of police officers carrying long-arms in Aboriginal communities, and there wasn't a high risk deployment. It wasn't a high risk, and I don't think there was a necessity to carry the AR-15. It should have remained in the vehicle.

And there was a – the officer, Mr Donaldson, who – who was around about the van, with the dog still inside the police van?---Yes.

What's the significance of his presence, and more importantly, that dog?---His presence was if Kumanjayi Walker had fled the house, they would have an opportunity to deploy the dog to track, and perhaps assist with his apprehension.

All right. So what do you say about these arrangements, dog man outside, somewhere out the front, Hawkings on one side, Kirstenfeldt on the other, two men going into the house?---It indicates to me, that there was some, your Honour, some – and I've watched the body-worn video, tacit planning of it, who was going to go where. They had an operational context plan in place of who would – it wasn't just a random all walking in the one door. There was a degree of structure to it. The entry to the house, they knew there was someone in there.

Yes?---It was clear. Tactics could have been varied at that point, and should have been, in terms of a cordon and contain, call him out. They did exactly what had

happened in the previous occasion. They've entered the house and put themselves in close proximity. I've heard the evidence of Senior Sergeant Barram, and I found his evidence compelling about actions to protect and adherence to the operational safety principles of police.

So they shouldn't have been there in the first place, and if they were going to attempt to – to apprehend him at that time of day, which was not a good idea, they should have, what, cordoned and contained and shouted out to try and get him to – to come out?---Could – could have adopted some other tactics, yes, to see if you could get him to come to the door, put his hands up. Other things, who is it, you know there was an ability, and it talks about (inaudible) around negotiation, cordon, negotiate - -
-

Of course they didn't have Mr Alafeo to assist, or Senior ACPO Williams, to – whom – both of whom knew him?---Would have provided some greater assistance in terms of identification so – to avoid confusion of who they actually had in the house. Someone could have said it's Kumanjayi Walker. Would have made it a bit clearer.

So if they were going to do this in prudent action of training, get him, should they have taken measures to get hold of someone who – from the local area, who knew him, and had had a positive relationship with him?---All would have been beneficial, yes.

Well that's – that's putting in a very mutual and measured terms, Deputy Commissioner. How important is that presence of someone who was familiar to Kumanjayi for an arrest of this kind?---Yeah, your Honour, you've heard, and I've heard evidence from lots of different people in the inquest, and I think it would have been clearly the best course of action. Local knowledge. Local knowledge of the community. Local knowledge of the people. Local knowledge of him. Identification purposes. I think it would have been highly beneficial.

So the absence of anyone who knew Kumanjayi, meant that there was no one of the five there, who had seen him before, save that they'd seen the pictures, which we try to avoid getting up on the screen. But they'd all seen those pictures?---Yes.

So they had some idea of what he looked like, but they didn't know him. They go inside the house, and they encounter him. And he says he's Vernon Dixon?---Yes.

Now you've seen the video, and we won't go into too many details about it, but Mr Rolfe goes right up beside him, a bit like he did in the streets with another person, that Mr Porter's going to talk to the court about. Puts the phone beside him, when it's evident that Kumanjayi has his hands somewhere around his pockets. What do you say about that?---Tactically unsound, your Honour.

Just to be clear, your Honour, I'm not putting a question (inaudible) in any way, it's really tricky to navigate these (inaudible) - - -

THE CORONER: No, no, no.

DR FRECKELTON: Yes, so just don't want her to think that I was being (inaudible).

Okay so there he is, right up beside Kumanjayi, what do you say about the adherence to SMEAC principles, and the ten Operational Safety Principles, and ICENSIRE, in that regard?

MR OFFICER: Your Honour, I've been patient. But I really don't see the point of traversing the evidence that's been dealt with at trial, ad nauseum. The contest between expert (inaudible) and the contest between Senior Sergeant Barram, go over it, chapter and verse, to get just a matter of opinion on the weight and dearness of evidence that's before you, that of which is (inaudible) draw your own conclusions, your Honour. I object to the questioning going along the same path (inaudible).

DR FRECKELTON: It's a matter for your Honour. It's the only question I'm intending to ask about this issue.

THE CORONER: Yes, I'll allow the question.

DR FRECKELTON: As your Honour pleases, I'll - - -

THE CORONER: We've got the deputy Commissioner here, providing an opinion, which I think's relevant.

DR FRECKELTON: Thank you, your Honour.

So I'm directing your attention to the SMEAC Principles, ten Operational Safety Principles, and the ICENSIRE Principles. How – how – what relevance, if any, do they have, to how the arrest was carried out, and particularly getting into (inaudible)?---Again, Dr Freckelton and your Honour, I think I've highlighted, I think it were, the non-adherence to those safety principles. It was tactically unsound, and unhelpful for his apprehension, and potentially placed officers at greater risk.

And what does what occurred on Wednesday, have to do with that issue?---Well it was almost identical in my mind, the actions that occurred on the Wednesday, and the action that occurred later. And if there was elements to learn from it, perhaps, weren't well received. Because clearly they didn't – didn't do that.

THE CORONER: What I don't understand, is if there is – if it's so clear to you that there was no need in relation to this operation, to be carrying AR-15, how was that mistake made, and how was that mistake permitted to continue, when there are supposedly five experienced police officers. Why didn't any of them identify the inappropriateness of that and raise it with Mr Hawkings or Officer Hawkings?---That's a very good question, your Honour, and I don't have a clear picture on it other than I heard the evidence of Sergeant Frost in this that she was surprised when she found out that they had been carrying it. Clearly none of the IRT members didn't consider it or didn't consider the impact that would have and the necessity of it. And they just

did it. I think there was a lack of, clear lack of direction at that point in why. I mean, your Honour, there was other - - -

They have training?---Well, yeah, your Honour. I don't know why. They are trained in how to carry them. They're trained in when they can use them. I don't know.

So, it was not consistent with their training?---In the broad context of it I don't think it was needed to be carried. Yeah, I think that's correct, your Honour. I think they are taught how to carry them when do need to carry them. The decision I think there is a degree of confusion I suspect in the plan insofar as it talks about weapons they've got. It doesn't contain any clarity of whether they should be carrying them.

DR FRECKELTON: Is this something that you would expect to have been addressed at the 5 o'clock briefing?---I would expect they would have had a much more detailed knowledge. You know, the plan was not to arrest him there and then. It was to go at 5 o'clock in the morning. That was the opportunity as a key group. In my extensive experience, your Honour, you would have a conversation in the morning about what you were about to do. You don't just come together, have a coffee and run out the door. People would converse about the tactics you're going to apply, what position you're going to be, where the vehicle's going to be, what radio channels you're on. They are pretty organic common practices for police officers across this nation and that would have been a great opportunity to clarify whether you think you needed the AR15 or the Bean Bag shotgun or any specialist equipment that you may have at your disposal.

THE CORONER: Do you need an AR-15 for intelligence gathering?---No, your Honour.

DR FRECKELTON: What about Alefaio in the 5 o'clock briefing?---Again, your Honour, it would have been of great benefit to attending. Police were not familiar with the community, not familiar with the person you're about to apprehend. They're not familiar with what may occur. All the logical local things around administration and logistics particularly around access routes. How do you get back? You know, the quickest route to the hospital, the clinic, the police station. All those things that may become apparent. It's really helpful if you've got someone who can relay that information. And certainly in terms of your biggest intelligence asset on the ground would be the local police. They're the ones who know Kumanjayi Walker, can identify him, have arrested him previously, know his family.

So, - sorry, your Honour.

THE CORONER: Sorry, I've got another question.

You're obviously putting great, well, you're putting some emphasis on what you imagine what might have occurred at the 5 o'clock planning session. If those things were to have occurred then you would have expected Sergeant Frost to be there? ---Not necessarily, your Honour. I think the plan clearly had Alefaio as being the local member. There was the written plan that had been emailed previously. It's just

not clear to me who had even read that written plan other than Alefaio and perhaps Sergeant Frost and it still remains unclear to me.

Well, it just seems if Sergeant Frost has developed the plan, as far as we know it hasn't been discussed in any detail I don't recall with Alefaio. There might have been some discussion. Surely it would have been her, in the way you're developing the scenario, it would have been necessary for her to be there to ensure a full briefing was provided?---So, to give some clarity then, your Honour. I don't believe sergeants are necessary every briefing to perform an arrest from an action plan. It's a small location. Perhaps if you're in a larger centre, Alice Springs, where you've got lots of activity I'd agree. But I think where you've got a remote location - police effect arrests of people everyday without a police sergeant being present.

So, would Office Alefaio have been then the forward commander so far as this arrest was concerned?---Well, again, that's not clear within the plan, your Honour. I think there would have been at that next point an opportunity for all of them to discuss who's doing what it becomes very clear to me what's going to take place. And sometimes seniority's not the sole determinant of who's going to be the lead on that particular briefing. And you would receive direction on what action to take, who's going to go where. I would imagine that should have occurred at 5 o'clock.

You say you receive direction but who takes the lead in giving that direction? ---Again, your Honour, I think the plan would have been broad enough for them to understand what the basic tenement of what they were required to do. That's my expectation of it.

DR FRECKELTON: Let's go specifically to the issue. Was there any leader of this exercise that you can see?---No and I think it's an issue.

Should someone have been designated the leader?---Yes.

Was one of the roles of Sergeant Frost potentially to designate a leader?---It would have been beneficial, yes.

Or to have assured herself that there was an identified leader amongst the IRT men?---Yes.

Does that address the issue from aside, your Honour?

THE CORONER: Perhaps. I'm still having difficulty working out how the 5 am briefing would have or should have looked.

DR FRECKELTON: Yes.

What do you say about whether it was essential, preferable or optional for Sergeant Frost to have been present at this 5 o'clock briefing?---It would have been preferable but again I think in my experience you don't necessarily need a sergeant every single action plan deployment to apprehend an offender. Unfortunately,

your Honour, police apprehend people all the time and there's not colatitude of sergeants on every street corner for me to deploy to that role. I would expect that our police force and through its training have appropriate skills and ability to plan and execute an arrest plan.

But when the men walked out of the police station to arrest Kumanjaya Walker did there need to be clarity as to who was taking the lead, what they were taking and how they were to go about it?---Yes.

Can you see any indication that there was that clarity in accordance with the plan when they left at 7 o'clock?---No. It was contrary to the plan.

Would this be a convenient time for a short break now?

THE CORONER: Yes. Thank you.

WITNESS WITHDREW

ADJOURNED

RESUMED

MURRAY SMALPAGE:

THE CORONER: Dr Freckelton, I'm still concerned about the AR-15.

DR FRECKELTON: Yes, your Honour. With respect, with reason, your Honour.

THE CORONER: So, it wasn't identified, apparently, by any of the police on the evening that it was not appropriate to be carried.

DR FRECKELTON: That's right.

THE CORONER: And then, of course, we know that it or something like it was out again in the community the following morning.

DR FRECKELTON: Yes, but I think we covered that with the deputy commissioner, but yes.

THE CORONER: All right.

DR FRECKELTON: There were several people – just to put it into context, there were several people who guarded the crime scene and it seems to have just been one group of three who carried those, your Honour. But you'll hear - - -

THE CORONER: And they didn't know that it wasn't appropriate.

DR FRECKELTON: It appears not. If it was appropriate - - -

THE CORONER: So how could anyone be confident that the police are making appropriate decisions in communities about those kinds of firearms. How could the community be confident when there were so many people who were aware that these firearms were being carried in the community and yet no one identified that it was inappropriate or did anything about it.

DR FRECKELTON: Not wanting to minimise your Honour's observation, but the evidence establishes that there are the four IRT members. I don't think one can include the man with the dog, and there are the three members who worked the crime scene the next day. And it is relevant that there's no suggestion that those who guarded the crime scene before or after did the same thing. So, what one has is seven junior members, and they are all quite junior, who made a bad decision.

THE CORONER: Hawkings was in charge of this IRT group, wasn't he?

DR FRECKELTON: I'm not sure.

THE CORONER: And that's an issue, isn't it?

DR FRECKELTON: It is an issue. There should have been a clearly designated man, but he was the most senior by his time in the IRT, from memory, and marginally by ranks; none of them were senior at any rate.

THE CORONER: And the IRT are the ones that are supposed to be trained and have knowledge around the use and deployment of these weapons?

DR FRECKELTON: Yes, that's right. And one of the things that should have taken place, if I can answer your Honour, is that at that 5 o'clock meeting, there should have been clarity about what was being taken as well as who was going to be where and how the apprehension was going to be attempted. All of that - - -

THE CORONER: But who do you think would have been leading this 5 am meeting who would have had the clarity and leadership to do that?

DR FRECKELTON: If Sergeant Frost was there, it should have been she. If she was not there – this was a specialist unit that did – that apprehended people all the time. That was one of their reasons for existence. So, there should have been a discussion which incorporated the input for one man there who knew Kumanjaji, Alefai, and between them, they should have come to a clear consensus.

THE CORONER: Well, it seems pretty clear that the IRT consensus would have been that they would carry a weapon, seeing as they went out to carry it when they weren't doing much the night before.

DR FRECKELTON: Well, it shouldn't have been, your Honour. If that was their consensus, it would have been the wrong consensus.

THE CORONER: Well, I'm just concerned that there's clarity and a plan moving forward to prevent the same issues arising.

DR FRECKELTON: Yes.

THE CORONER: At the moment, I'm not 100 percent sure what that plan is.

DR FRECKELTON: Your Honour might be thinking - - -

THE CORONER: I know the IRT is disbanded at the moment.

DR FRECKELTON: Well, it is. But nonetheless, general duties members have these tasks and sometimes TRG has this kind of a task, and if your Honour were contemplating a recommendation that there be clarity every time as to whether a longarm be carried in community, you won't find any opposition from the Northern Territory Police Force.

THE CORONER: Yes, sorry, go on.

XN BY DR FRECKELTON:

DR FRECKELTON: That factor for your own self – is there anything further that you would like to say about that issue, Deputy Commissioner?---Just as a general principle, your Honour, the carrying of longarms in communities not routine practice and I'm not aware in my experience of anywhere else we've done it. From time to time, there is a need for police obviously to carry high powered weapons, destruction of animals and other tasks that have occurred since – that I'm aware of, but again, I would like to point out, your Honour, it is a very rare event.

If somebody, for instance, was known himself or herself to be carrying a weapon, would that potentially be a scenario in which a longarm ought to be carried?---Well, it's totally appropriate, in which case I would support that activity based upon the risk to community and to the police, yes.

I would just like to raise one last issue about the planning, and that is the role of a local person who had previously taken Kumanjaya into custody, whether that be Alefaio or Williamson? Can you say a little bit more to her Honour about the advantages in terms of a negotiated resolution of having someone involved who knew and had prior experience interacting with Kumanjaya?---Just your Honour, the evidence we've already heard, yeah, pretty - provides some clarity that the best peaceful resolution in any time is to have strong communication with the community and to allow the community to assist us in the apprehension. And if that can occur, I think we get far better outcomes from every angle.

Well, let's descend to specifics rather than a community more generally, Kumanjaya knew of certain police at the station by reason of prior interactions, most of which were nonviolent and pretty cooperative. Derek Williams, for instance, has told her Honour about how he spent time talking to Kumanjaya and had effectively been able to talk things through with him, took him off and they've got him into custody without any kind of an issue. So, how integral to a mitigating risk was having someone like that integrally involved?---Well, your Honour, it would be helpful, but again, conversely for police officers right across the Territory, you don't always have access to people who can facilitate that at short notice and yeah, you know, the eternal dilemma between discretion and the execution of a lawful process and having cultural sensitivities is complex. It's difficult.

But here, you've got Alefaio available on Sunday and I think Williams on Monday?
---Yes.

So, how they should have been incorporated into an apprehension?---Well, I think the plan clearly identifies Alefaio as being one of the key players for his local knowledge, local intelligence and identification purposes, as we've discussed. That's what should have happened. That was the plan.

So, a cordon and contain exercise and so what would Alefaio have been doing if the four members had been cordoning and containing and Donaldson had been outside, just in case Kumanjaya made a run for it?---Well, again, your Honour, I'm speculating. But I imagine, if it was – he would be the one who would be knocking on the door

asking, is Kumanjayi here and negotiating with the family and him, if he was there, to surrender.

Thank you. I'm going to pass over the final tragic events and move to the matters after the shooting. And issue of significant sensitivity for members of Kumanjayi's family was that Kumanjayi was dragged to get him into the police car to go back to the station and attend to his condition. What do you say about that?---Again, your Honour, I've extended an apology on behalf of the Northern Territory Police Force. It doesn't comply with our general order and I wish it had not occurred.

You made reference in par 233 to the requirements of the - that's at your first affidavit, the requirements of the police force, the fact that dragging prisoners was the subject of an instruction in 2013. But then there was an updated instruction in 2018 which was unequivocal. There are no circumstances in which dragging should occur. Is that right?---Correct.

All right. You qualified the situation a little bit by saying that while the situation - why what was done was disrespectful and it has caused distress, the situation was, as you put it, dire. What did you mean by that?---That the actions taken by the attending members was urgent and they needed to remove, in their mind and I support that decision, from that location to another.

And why? Why not try to take health measures with him, where he was at that time?---I just think there was probably better opportunity. And it's been covered on the evidence I heard, your Honour, that the police station provided a better facility to enable them to do that in the safe and operating environment they're familiar with. Access to communications, access to what limited serious First-Aid equipment they had. I think there was an ambulance there. There were a number of factors that I think in my mind I would have done the same thing.

I would like to cover off the issue of care given to Kumanjayi. I think you've seen video footage of what took place at the station?---I have.

Each one of those members, Donaldson, Eberl, Hawkings and particularly Kirstenfeldt and Rolfe, provided care and talked to Kumanjayi while he was there calling him brother and similar and tried to provide him with reassurance and then endeavour to maintain his life with the equipment that was there. What do you say about that?---I say it was appropriate, your Honour, and done professionally. I think they did all in their powers to preserve the life of Kumanjayi Walker.

Sergeant Frost delegated that role to the members some of whom had particular training and experience by reason that they had been in the Army. What do you say about her having delegated that rather than getting involved herself?---I think, your Honour, as that role as the senior present at the time I think it was appropriate. I think there was lots of other factors that would have been forefront in the mind when we've got appropriate people doing a good job as best they can. I don't think she had added to that at all and there was clearly other things that needed to be resolved from an administrative and logistical point of view for police.

Now, I want to raise three sensitive matters with you in logical sequence. First, in the failure to invite in any members of Kumanjayi's family when he was clearly in a bad way and when he was dying. Then I'm going to raise with you the issue of the evacuation which was contemplated for a time. Then I'm going to raise with you the use of the ambulance when the additional members were brought from the airport. So, let's go to the first one. I entirely understand that members of Kumanjayi's family are distressed that they were not able to be with and provide reassurance to Kumanjayi when he was in distress and then when he was passing away. This is a very upsetting and confronting issue. What do you say about the decision that was made in that regard?---Your Honour, having viewed the body-worn video it was highly graphic, highly distressing for everybody present. My extensive experience, your Honour, wherever appropriate police would take steps to preserve the dignity of a dead or dying person. I've seen it countless times in public places and in hospitals and elsewhere and steps would be made to ensure that we didn't further distress people watching it, viewing it. We would take steps if it was in a public place, put, your Honour, a blanket around to make sure you provide some dignity. I don't think it was inappropriate of the police to try and prevent that exposure to the family for it was clearly a very graphic event.

I want you to do this with a bit of sensitivity, Deputy Commissioner, but there seemed to me from the video to be two faces. One was where they were trying to work through where he had been injured, shot and staunch the flow of blood and comfort him. And then there was the period when they were trying to keep his heart going with the defibrillator. Going to that first one, you've viewed the video?---Yes.

There is quite a significant loss of blood and he was at times distressed. Would it have been appropriate in your view in during that phase for family members to have been present?---No.

Can you just enlarge on that?---Again, I found it highly graphic. I found it very confronting and I think the police officers were acting with appropriate response and dignity to a severely injured person. And, you know, the potential just of having other people present, as I said, it wouldn't be allowed in hospital. There's some efforts to preserve the dignity of a dying person. I think it was a pride. I don't think we should have had people there. There's additional factors around family members. I mean, if it was normal practice hospitals would allow it openly and they don't. I mean, I've been to many, many localities where people unfortunately are in that last stage of life and generically speaking I think we should take every step to preserve the dignity of a dying person. I don't know necessarily that a loved one would want to be there but I don't know that it's always appropriate, your Honour. That's my view.

I won't discuss anymore on this. Is there anything else your Honour would like to canvass on this?

THE CORONER: So, you think that's the reason why family were not permitted in, to preserve the dignity?---That's my belief, your Honour. I think had they contemplated it and clearly they were focusing very heavily on preserving his life,

that that was a logical view that a police officer would hold. I don't think it's designed to provoke a family member.

DR FRECKELTON: Now, I would like to canvas the separate issue that arises after Kumanjaya passes and take you to par 362 and following of your third affidavit please. It's apparent from the evidence, and you identify this in your own affidavit, that there was a high level of concern on the part of at least Sergeant Frost and then afterwards Superintendent Nobbs in post communication with her about the safety once Kumanjaya had passed. And an initial decision was made to evacuate the community and that was overturned by Assistant Commissioner Wurst?---Yes.

Could you provide your assessment of concerns on the part of Sergeant Frost and Superintendent Nobbs and then the decision making by the assistant commissioner of the day?---Your Honour, having heard the evidence in this inquest I understand the apprehension that was raised by Sergeant Frost and relayed to Superintendent Nobbs. However, I support the decision of Assistant Commissioner Wurst. I don't think the evacuation of the Yuendumu Police Station was necessary and the right decision was reached. And, you know, any instance of police leaving a police facility would be viewed very closely. It's not something we would normally, unless it was really extraordinary circumstances, contemplate.

You make reference in your par 363 not to payback because that's not the right term is it?---That's correct.

But you make reference to a concern about retribution or hostility and distress when the community might learn that Kumanjaya had passed before members had come in from Alice Springs before the TRG had arrived?---Correct.

What do you say from what you can tell of what Sergeant Frost has recited to her Honour and described in her statements and the evaluation of Mr Nobbs' scenarios of which he's been involved of fair state of mind about what might have occurred? ---Your Honour, having heard their evidence in this court, their apprehension was real. In my mind they spoke passionately and honestly, I think, about their deep-seated fear of what could occur. I - from the evidence that has been led and from my knowledge of those individuals in my career, I suspect some of their fears may have been well founded. I don't support the leaving of the police station and that decision by Assistant Commissioner Wurst was the right decision to make.

You make reference to some considerations in your par 364 both in terms of what happened that night and what happened immediately afterwards?---Yes.

A situation that might be thought could be somewhat volatile when a police officer has come in from outside, with colleagues, and regardless of the rights or wrongs of what has happened, that has resulted in the death by shooting with a long arm of a member of the community?---Pistol.

No, I beg your pardon - didn't shoot him with a long arm but they came in?---Yes, correct, yes.

With the long arm? Mr Hawkings was carrying - I think that's right, (inaudible)?
---Thank you.

So a member of the community has been shot. Now, the community, from what we've seen from Samara Fernandez-Brown, assembled at least a significant number - she can't say how many?---Yes

They talked, they expressed concern. Sometimes it was some noise but what we have seen in the video footage, the behaviour was very restrained, was it not?
---Yes.

Now, how does that restrained behaviour that we can see in the cold light of the courtroom three years later, link in with the concerns which Sergeant Frost seems to have been experiencing?---I think, your Honour, and again, looking back on the evidence that I've heard and what I've seen and my experience, I think the fear or the apprehension of what could occur was well founded. There was a noise, there was disturbance out the front, there was raised voices, there was obviously concern by the attending members, as we've discussed, a member of the community has been shot, subsequently dies. I think it would've been a very, very difficult and confronting circumstance for any person and I really struggle to see how we could have - and what we could've done differently and I like to reflect upon that in every possible context. But the police formed a view that they were in fear of their safety.

There was a report of a fire having been lit in the grass somewhere near the health centre as well. How does that factor in?---I think they all contribute to their sense of apprehension, your Honour.

Nonetheless, the experienced and more senior head of Assistant Commissioner Wurst was applied and you say in your par 365, "He was right to overturn the decision and to order the members to stay there" and then you reflect on the circumstances in which it is appropriate for police to withdraw entirely from the community for a time. Could you term that a tactical withdrawal or anything else? Can you say a little bit more to her Honour about that kind of a scenario?---Well, just in generic sense, your Honour, the police are there to provide community safety for everybody. It would be something that we would take extremely gravely that we would actually lead because then there were potential community members who may require police response and we are unavailable to attend. So it would be a very rare event where we would tactically withdraw or leave a police station through violence but it's not uncommon that the police would retreat to the police station when we are confronted with wide scale community violence, so rather than provoke, attempt arrests, take overt action at that moment intime, it's not uncommon that police would retreat - revert to the police station and await for either sufficient numbers or resources to become available to provide deployment options but, your Honour, it's not - in fact I'm not aware of any other instances where we have left a police station through violence in the community.

One of the contexts for this was, of course, that the health personnel had left late on the Saturday morning or early in the afternoon after they had been the victim of a variety of break-ins to their houses and to their cars and similar but the bottom line was that they had left for Yuelamu and were not presently any more in Yuendumu. Now, was that a relevant factor for the plan that Sergeant (inaudible) have been deployed in respect of the apprehension of Kumanjaji Walker, there weren't any health personnel there?---I don't think it was well considered as part of that operational plan. The police were aware there was no-one present. But again, I think fortunately, your Honour, police officers discharging firearms in communities is a very very rare event.

So it's a factor that ought to have been incorporated in risk assessment before the apprehension of Kumanjaji was undertaken?---It may have assisted in their decision-making, yes.

All right. Let's go to another factor. There as a man there with a dog?---Yes.

And dogs are utilised by the police force. Do you say it was appropriate or otherwise, for a man with a dog to be taken as part of the plan to take Kumanjaji into custody?---Yes, I think it was appropriate.

Let's then talk a little bit more about the use of dogs. At par 151 and following, you provide some information about the use of dogs and her Honour has received some evidence about that already from Sergeant Donaldson. You have assembled some statistical material in relation to the use of dogs but before we get there, you describe at 154 the use of a dog as a tactical use of force option available to police members. Is that right?---Yes.

And - but the use of a dog has to comply with amongst other things, the ten Operational Safety Principles?---Yes.

And one of the reasons for that I suppose is that the dog can cause injury to the person who is being apprehended?---Correct.

So, in 155 you identify a selection of tactical options and none of them, I'd suggest, is the use of a dog. Can you say some more about what you mean in par 155 to her Honour please?---Again, the principles around deployment of any use of force is to use the least amount of force available. That's an underlying principle. I think the deployment of a dog, for example, along with any other options that you've got for deployment or apprehension or community - you know, arrest phase, is really, really, quite a powerful tool for police. The data that's contained within my affidavit as provided to me, clearly indicates, your Honour, that on most occasions they are really just there for presence. Their actual physical deployment on the ground to apprehend people is minimal but again, in my experience, when confronted with people with weapons and other things, they provide a real viable safety option for not only the police but for the person they are about to apprehend, as compared to more lethal force of options.

Let's go to those figures then. You describe in par 157 the numbers of times over a period of approximately - well, it's three years, much of 2019, 2020 and 2021 that the Dog Operations Unit was deployed and the outcomes and you explain that Use of Force forms were submitted in respect of the overwhelming majority of those deployments. What is the obligation in terms of a Use of Force Form to be generated when a dog is involved in an apprehension?---It allows certainly us, as the agency - as the Northern Territory Police Force to monitor and track deployment and where we have use of force if there's any specific issues that follow from it. A Use of Force Report does not necessarily indicate that there's been actual use of force, it just means the dog or whatever was present and applied, it doesn't mean that because a Use of Force Report has been submitted that the dog bit or did anything.

But most of the time, in fact, you'd simply still be in the car or standing there?---On most occasions, yes.

All right. You described over 5000 Use of Force forms and you say that there's only active involvement on 45 occasions and of those, there were 18 incidents of injuries being reported over that three year period?---That's correct.

And a first aid team, all of them were in a metropolitan environment?---Correct.

And the overwhelming majority were with adults and most of the injuries you've seen in par 161 were mainly lacerations, grazes and abrasions, and four of them in that three year period involved puncture wounds?---That's correct.

Now, pulling all of that together, what do you say about the appropriateness of having the dog as a back up in the background for the apprehension of Kumanjayi, if it had been done properly?---I think it was appropriate and logical thinking by planning.

Now, with – if I've taken you on that distraction, I'm sorry about, to health personnel and dogs (inaudible), and we've just attended to the issue of evacuation. Let's go now to the fact that the family was not told that Kumanjayi had passed because he passed at – I think it was 8:36 on the Saturday evening. And it's well into the next morning, we'll come to that in due course, that they are informed of that. The decision is made by Assistant Commissioner Wurst that they are to stay there. So, there are the members of the IRT and that's small number of members of the Yuendumu station who were there. And there are two plans quickly made to bring in more resources from Alice Springs by airflight and then to bring in TRG members, lest they be required to keep the peace. Correct?---Correct.

What do you say about bringing in those extra personnel? For a start, first from Alice Springs and then the TRG?---I think that's entirely appropriate and well-founded.

And when you say that, do you mean any criticism of the community?---No, I think the apprehension by the police at the time and their decision-making around having sufficient resources in the event something untoward did happen, because it's all

preplanning for what may happen, that it was appropriate, both for the members present and for the safety of the community; infrastructure on the ground - - -

Is it appropriate to look at contingencies in making plans of that kind?---Sorry?

Is it appropriate for those making decisions about, for instance, when to tell the community and thinking about what might ensue after the tragic news is conveyed, to think about what might be the contingencies?---Absolutely. And then incumbent upon them to do so, absolutely.

All right. Now, it's clear that a decision is made not to tell members of his family for some time, and we know that – and we'll come to the circumstances of this soon, the members from Alice Springs are retrieved a bit after midnight, I think, and then the members of the TRG are retrieved from the airport, I think somewhere around 1:30. Now, what do you say about the correctness or otherwise of not telling members of the family about the death before the TRG arrives, because there is an obligation to communicate, in general terms, the passing of someone as soon as is reasonably practicable, is it not?---Correct.

All right. So, let's deal with this failure to communicate his passing before the arrival of the TRG members?---I'm – in my view, your Honour, I think it was sound thinking and appropriate for the members on the ground to await for sufficient other police resources that come on the ground before they made that notification, in the event that it did lead to further community unrest.

Do you recognise that that is a source of distress and aggrievement now for the family members who feel that they should have been told straight away or close to it?---I do, your Honour, and again, we've extended an apology on behalf of the Northern Territory Police Force. I have heard heartfelt apologies from both Sergeant Frost and Superintendent Nobbs about actions and decisions they made on the night.

Now, I've asked you about this period between the 8:36 passing and the arrival of the TRG?---Yes.

I'll go into the detail of this in a minute, but there is a passage of some hours after the arrival of the TRG before the sergeants go and speak to members of the family. What do you say about that?---Again, your Honour, I can understand the distress it's caused. From the evidence I've heard, it's clear that Sergeant Zhang, Senior Sergeant Zhang, as a new police forward commander, was clearly overwhelmed with the whole raft of activity that he was planning and proposing to do, and he probably didn't put it at the forefront of his mind.

Let's be absolutely straightforward with her Honour about it, should the family have been told promptly after the arrival of the TRG in a suitable way that Kumanjayi had passed?---Well, once we had sufficient resources, then yes, I think we should have provided that as soon as practicable.

Now, the decision had been made during its early phase prior to, for now, the arrival of the additional members from Alice Springs not to tell the family members for reasons that you've just spoken, an ambulance was taken to the airfield and Mr Rolfe was dispatched elsewhere and for new members who had arrived, were brought back to the police station. Should that ambulance have been used in that process?---No.

Why not?---Again, it further led to community distrust and deception by the police that created a belief in their mind that Kumanjayi Walker was being flown from the community, when that wasn't the fact. And again, I've heard the heartfelt apologies from the decision-makers on the night who agonised over the decision and again, we shouldn't have done it.

And not only that, but a Health Department person was requested to drive the ambulance and was injured in rocks that were sent at the ambulance that night. Was it appropriate to use a health department person for that purpose?---No, your Honour. And again, we've apologised to Nurse Walcott for that decision and the fact that she was injured.

TRG members arrived at a little bit after 1:30 in the morning; 1:17, I'm told they report to – from the airport to the station and Senior Sergeant Zhang met them there and they settled in to make sure that the premises was secure, yes?---Yes.

All right. Again, appropriate for the TRG to be there, but appropriate that they keep a low profile and respond if it became necessary for them to do so?---Yes.

Now, I want to ask you some more questions about the response then. During all this period, there was a need to keep the five men who had been involved in the attempted arrest of Kumanjayi apart, so far as that was possible. Was that right, was there not?---Yes.

Now, her Honour has heard that Sergeant Zhang said that, shortly after he arrived, he had a briefing with members present and he asked members not to discuss the incident. What do you say about the appropriateness around an order like that? ---I think his actions were clearly appropriate and in line with the general order that covers deaths in custody and provided clarity.

Now, her Honour has heard that Leith Phillips who became the initial investigator communicated with Mr Hawkings about the need not to say anything but that was earlier. Was that an appropriate communication or instruction from Mr Phillips? ---It was. It could have had greater clarity I expect but it was appropriate.

Would it have been helpful if Sergeant Frost had explicitly at a juncture after everyone had settled a little after the decision to not evacuate instructed members to keep well apart from each other and under no circumstances say anything to each other about what happened?---Yes, insofar as possible, yes.

In all the circumstances what level of criticism do you make of Sergeant Frost for having failed to do that?---I think overwhelmed with a myriad of competing priorities and I can understand how an oversight of that nature would occur and I'm not overly critical.

Initial statements were obtained from everyone except for Mr Rolfe. Namely, Mr Eberl, Mr Hawkings, Mr Kirstenfeldt and Mr Donaldson around about 3 o'clock in the morning of the Sunday. Now, that was before the body-worn footage had been viewed by anyone. What do you say about the appropriateness of obtaining those narrative accounts at that early juncture before the body-worn footage had been seen?---I think it's an appropriate. It's a free recall.

Now, a criticism might be made that not having seen the body-worn footage there were few questions and the members were largely left to give their accounts in a narrative form as they deemed appropriate. They weren't held to account in any way. What do you say about that?---I think given the nature of the circumstances it's understandable.

Why is it important to give an account as soon as possible even if there are some limitations to the questions asked?---It's just good investigative practice to get a free recall account as soon as you can. I think it provides opportunities for the investigators to get that first opportunity recall of what happened in their own words and their own time outlining what occurred and it's entirely appropriate.

Does it follow from the fact that those first interviews did not have the advantage of the interviewers having seen the body-worn footage that almost inevitably there would need to be further interviews?---Yes.

In light of that would it have been preferable for a clear instruction to have been given to each of those four members that they must not talk to anyone about the incident or preferably associate with each other more than was necessary until they had given their second statements?---Yes.

Now, as you know it's a reasonably small police station at Yuendumu?---Yes.

And there seems to have been some contact amongst the members during that evening when people were guarding the station and when they were in different parts of the station. What do you say about whether that was a problematic issue and further steps should have been taken to avoid the five members coming into proximity with one another?---It is a small locale, your Honour. Insofar as possible I think to keep them apart was wise and sensible. However, there were unusual and extraordinary circumstances going on at that particular moment at the police station. We've heard the evidence of their apprehension and fear, the coordination, a whole raft of activity that was going on around. I'm not overly critical that were unable to effectively do that.

There was a gathering which was a barbecue. It appears that pizza was obtained and drinks were consumed on the Monday evening at which some of the members

involved in this matter were present along with others. What do you say about the appropriateness of that gathering?---Your Honour, I think that was unwise, ill-founded. I prefer it wouldn't have occurred. They shouldn't have done it.

How do you think members of Kumanjaya's family would feel when members of the police were getting together and talking and drinking and eating within a couple of days of Kumanjaya having been fatally shot?---Your Honour, I understand the feelings of the community and the family would have been distressing.

In addition they were present, one with another, before they've given their second statements. What do you say about that as a criminal investigator?---Your Honour, it creates a perception that regardless of the circumstances that was not necessary had they complied with some, had of had further direction not to meet collaboratively. I think there's still plenty of opportunities for the Northern Territory Police Force and the workforce here who are obviously trying to look after the wellbeing of our members to have taken other steps to come up with a safety and wellbeing plan that didn't incorporate that event.

Now, one can understand that this had been a traumatic event for those members also and those who cared about them and there was some need for what's been described as a debrief informally or for some support to be provided to them. But was the Monday barbecue the right way?---I think no. We could have provided, well, it creates the perception, your Honour, that we don't need, that there are other ways we can look after the wellbeing and health of our, mental health of those members without necessarily having them all on the one location together. We could have done it in a different form and at least until we had secured those second detailed interviews.

I'm going to go back now to the issue of the communication of the passing of Kumanjaya. You refer to the apology which you provided to the community and to her Honour to the fact that Eddy Robertson was asked to identify the body of Kumanjaya and you've said that it was acknowledged that he was not the right person to ask. Her Honour's asked you about respect. He shouldn't have been asked to identify the body of a close relative should he?---No, and I accept that, your Honour.

And it is a matter of respect for cultural values that we don't make that kind of request is it not?---Correct.

People should have known better?---Yes.

And then there was the provision of information a little while later. He was told that Kumanjaya had passed away, yes?---Yes.

And he didn't want to be the bearer of that news to the community. Do you understand that that was understandable? That that was an unsurprising response from him?---Yes.

So, Sergeant Zhang, Sergeant Frost and Sergeant King took themselves to the families to give them that news?---That's correct.

You say that did that appropriately?---No, your Honour. I think - - -

What was inappropriate and insensitive and wrong that they did?---Your Honour, we've seen the body-worn video. We've heard the evidence of those members identifying the deceased by the wrong name. The insensitivity around the delivery of the message and the communications that we had and we could have done a much better job.

Now, how did it come about that TRG personnel were involved in delivering that? That's not normally the role of TRG persons is it?---No.

Who normally delivers that kind of very difficult information to families?---Often from my experience, your Honour, it would normally be the investigators that would do that. In this case that didn't occur on the newly appointed Police Forward Commander took it upon himself to do that task.

And one might be pardoned for thinking that a concern that he ventilated when delivering that message was to keep public order and to keep everyone calm rather than compassionately - - - ?---Show empathy, yes, your Honour.

Showing some care to the distress that the family would feel when they were told the tragic news?---Yes.

And they used his first name in the (inaudible) is that right?---That's correct.

So there were a variety of ways in this (inaudible) which this should have been done differently and better. What can be learned from this do you think, so that nothing like this ever happens again?---I think - well, this inquest is a great forum for opportunities, your Honour, if you're not aware, many, many members of the Northern Territory Police Force watch these proceedings and are following it, so we have high degree of awareness. We have - - -

To get down to specifics?---Sorry. Again - - -

To bring this kind of information - how can it be done better next time?---I think promulgation of the new general order around how we were going to deliver death notifications.

It's not as if that kind of guidance is completely absent already, but it just went quite long this time, didn't it?---Yes.

Is there a need for further education about that kind of communication to all family members including indigenous families?---Yes.

And what steps are going to be taken to ensure that that happens?---I think, your Honour, you - we've touched upon it briefly. There's a whole raft of activity around enhancing our cultural sensitivities by Northern Territory Police across the board, not just with death but across the board. They includes, as we've discussed, the CREC, cultural awareness training, a whole raft of improvements, an inclusion of ALOs at remote communities, ACPOs. We've heard of the value of and the - Derek Williams and the fantastic role they play in community. There's a raft of those and issues that are currently being delivered by the Northern Territory Police Force.

So there's a process of provision of general orders in respect of a wide variety of matters in the aftermath of this incident, is that right?---Yes, your Honour. There's a total re-write of all the general orders of the Northern Territory Police Force has been undergoing for a period of time.

And is attending to this issue part of that revision process?---Yes.

Thank you. I'd ask you to turn to paragraph 344. 344 of your first affidavit. You set out there a variety of the matters which have been revised, is that right?---Correct.

And turning then to - and you set out in your third affidavit, a variety of the other changes that have been made in later times to the general orders, is that right?---Correct.

Now, I'd like to deal with the next day when there was a need to safeguard the house, 511, which is now often referred to as the "memory house" and police - which at the time was referred to as the "crime scene" correct?---Yes.

Now, her Honour has raised this with you and I would just like to cover off on it by lunch time, the house, of course, was where the events happened and so had evidence in it and needed to be secured and protected for potential charges which might be brought and ultimately were, yes?---Yes.

And so that was attended to early in the morning, a period of time after the meeting where the information was provided that Kumanjayi had passed?---That's correct.

As best you understand it, those who initially guarded the house did not carry long arms, did they?---Not to my knowledge, no.

But later on her Honour knows that three members did and you've already said to her that that ought not to have happened?---Yes.

Her Honour has heard that three men were provided with AR-15s before they left the airstrip in Alice Springs. Does it follow from the fact that they were provided with those weapons that they should carry them to the memory house?---No.

Ought they, in the best of all worlds, have spoken to someone and asked someone about whether they should take their guns with them?---Yes. Again, it was an omission that that didn't occur.

And is there any justification for them to have been standing outside that house with long arms?---No your Honour.

And given the traumatic history which dates right back, amongst other things, to the Coniston massacre, do you accept that that would have been experienced as very distressing by the community?---Yes, your Honour.

Especially when Mr Hawkings had been walking around with his AR-15?---Yes, your Honour.

Outside 511 the evening before?---Yes. Yes, your Honour.

THE CORONER: Did those three officers go from the airstrip directly to the - - -

DR FRECKELTON: I am not sure if the Assistant Commissioner would know the detail, they went to the station.

THE CORONER: So the TRG were there as well and they didn't pick up the fact that these guys were leaving with their long arms?

DR FRECKELTON: No. But the TRG are, of course, a separate group so you probably wouldn't look to the TRG to get their instructions but someone should have to - - -?---Should have.

"Go and guard the crime scene but no requirement to take your weapons with you, leave them here."

THE CORONER: I know it's probably not the most significant point but it's just a point that - it's an important point but it's a very specific example of the fact that although there appears to be policies and procedures that the hierarchy believe the general members understand, it's an example of where there is not one person on the ground who appears to have understood that.

DR FRECKELTON: Your Honour, with the wisdom of hindsight, someone who presumably sent out the three men, should have intervened and said, "You don't need to take your AR-15s with you." That's not written down anywhere. For people who work in the remote communities it's generally understood but it appears that these men who come in from Alice didn't understand it and took the weapons with them. We say nothing in defence of that and we accept that someone in authority ought to have intervened when they sent them out or when they saw them going out with their AR-15s and said, "Leave them at the station".

THE CORONER: Well, the training needs to be very clear and you need well trained officers.

DR FRECKELTON: Your Honour, it is difficult. There's only so much you can train for, every contingency can't be trained for and it would be a difficult thing to say to

recruits or in the midst of ongoing training, "If you have to go out, where there has been a fatal police shooting at a remote station, unless it is absolutely necessary to not take long-arms in any circumstances with you" what is necessary we would say to your Honour, is that someone in authority should have intervened and said, "Leave them here". But otherwise we leave that to your Honour's analysis.

Is there anything you'd like to add to that, Deputy Commissioner?---No, your Honour, only in the fact that again, it was brought to my attention watching them and some images that were relayed during this inquest, so I think that was the first I became aware that they'd actually had them at the house was at this inquest. So, again there is a breakdown in communication between somebody on the ground, the fact that you'd carry an AR-15 to the community doesn't mean it necessarily carries suite that you have to carry it in to the field and they didn't get direction not to do that. And at some point obviously someone has woken up and told them not to because -
--

Afterwards the members did not after this (inaudible) but took theirs and came back to the station, other members, as far as you understand it, did not carry AR-15s? ---No, and as I said, your Honour, the first I was aware was in this inquest when I saw images.

MR BOE: Just so that the deputy commissioner can respond, I thought there was evidence that at the meeting that Zhang had, that there were members with AR-15s in cars in sight of the people in the community.

DR FRECKELTON: My learned friend and I are completely at odds with that. But we will leave this to your Honour, if there seems to be some uncertainty of that, exactly what was happening there, and of how the evidence was led so far as I had apprehended, but that might be something for submissions.

If that were the case, Deputy Commissioner, if there were TRG members with longarms that could be seen by members of the community during that meeting, should that have happened?---Again, I've seen no urgent need where they had to have AR-15s out in the community. I don't know what they mean by, were they visible, were they in the backseats - - -

Yes?--- - - - or were they carrying them, it's unclear to me. But my expectation would have been that the AR-15s were secured in the vehicle unless we need them.

DR FRECKELTON: Now, could you go please, it's the last matter before we have a break, to par 381 of your third affidavit, I asked you – and I was having trouble finding the spot, your Honour, that's my fault. I would like you to have regard to what you've said there in relation to the new general order crime coincide with serious investigations. You say there that additional guidance has been given to members in relation to the notification of – to next of kin after a death. Could you just talk her Honour through about the outcome of that and the guidance that pre-exists?---So again, your Honour, this is a comprehensive piece of work to try and promulgate the new general order to encompass what was previously three or four separate general

orders. But again, it strikes at the heart of what the intent was, is to deliver the death notification in an appropriate way as quickly as possible.

And you make reference in your subpar 3 in that to such notifications being delivered in a culturally appropriate and sensitive manner providing any information that's necessary to that sort of - - -?---Yes, your Honour. That's the new general rule.

All right. And will there be additional training to reinforce the words in this order - - - ?---Your Honour - - -

- - - utilising what occurred here without (inaudible) the members involved, but to assist members to do better in the future?---Yes, there's a learning, your Honour, yes.

Your Honour, unless there's anything else you would like to raise about that?

THE CORONER: No specifically. I know we're just about to take the lunch break, but it seems that you are attempting to address the – you know, the cultural sensitivities around the degree of the death notice. I have a little difficulty accepting that the decision not to permit family into the police station when Kumanjayi was passing was primarily to preserve his dignity. However, if that was the case, there are cultural considerations to be taken into account in relation to that decision as well that have been raised by the family. So, if that's the justification, I would like to understand how cultural considerations are being factored into that decision-making process?---I'm with you, your Honour. About the other aspect to what's been said to you is the cause of distress, your Honour has probably seen the video footage.

I don't – causing of distress and to preserve dignity is a cultural overlay. It may not have that same importance in the Aboriginal community. There may be other strong cultural reasons why family would prefer to witness this event and be present with a person who is passing, even in distressing circumstances?---Yes, we understand what your Honour is saying. It's a very difficult (inaudible).

I understand from the evidence that a significant part of the decision-making around that was in relation to safety concerns. That's a different issue?---That's different.

But the explanation that's being provided here was to preserve dignity and to ensure that people weren't distressed. And if they are the explanations, then I think some cultural consideration needs to be given as to whether or not they're appropriate considerations.

But we'll adjourn for lunch.

DR FRECKELTON: Thank you, your Honour.

WITNESS WITHDREW

ADJOURNED

RESUMED

MURRAY SMALPAGE:

XN BY DR FRECKELTON:

THE CORONER: Dr Freckelton.

DR FRECKELTON: Thank you, your Honour.

I would like to move a little forward please, Deputy Commissioner, to what happened in the aftermath of the arrival of additional resources. You made reference to some of the things that were done in terms of the early on trying to establish a relationship with the community. I think you've said yesterday to her Honour and said it's an ongoing process in terms of trying to re-establish a relationship with trust and vibration?---Correct.

Now, at par 98 and following.

THE CORONER: Which?

DR FRECKELTON: First affidavit, your Honour.

THE CORONER: Yes.

DR FRECKELTON: Now, the first thing to be said I think, and I know this is something you want to communicate to her Honour, remarkable efforts were made by Senior Williams and also by his father?---That's correct, your Honour, outstanding. I heard the evidence and I'm very impressed and it makes me proud that the actions he took as a member of the Northern Territory Police Force and as a cultural man from Yuendumu he did an outstanding job to assist those on the ground and I commend him for it.

UNKNOWN MALE SPEAKER: Sorry, your Honour, I just can't hear.

DR FRECKELTON: Just a bit louder?---Sorry. He did an amazing job and I commend him for it.

At par 101 and following you speak of the transition in role for Acting Assistant Commissioner Wurst going from operations commander to being the senior executive member responsible for providing community engagement. Now, translating that into action run on words he and the Acting Commissioner Dennis Murphy both flew out to Yuendumu the next day. Is that right?---That's correct.

You've described it in par 103 the various meetings and communications that Assistant Commissioner Wurst engaged in. And then Mr Murphy joined him and in due course there was the bigger meeting to which we've made reference already. Now, looking back what do you say about the attempts to engage after the tragic

events of the night before?---In my view, your Honour, I think senior police took steps to start the first part of that process that still continues to this day to rebuild community trust in the Northern Territory Police Force and I think these steps were appropriate.

You described a small meeting at the Yuendumu Police Station involving Assistant Commissioner Wurst which allowed questions to be answered and then of course the establishment of a Sorry Camp. And it was on 12 November that the new Police Commissioner Mr Chalker came to Yuendumu. It was really one of his first responsibilities as Commissioner of Police in the Northern Territory. Is that right? ---As I understand it that's correct, yes.

And he met with members of WYDAC and a cleansing ceremony took place in his presence I think involving a large percentage of the community?---I'm informed that's correct yes, your Honour.

And there was something of a further component of that in her Honour's presence that took place when we were present in the community. There was a communication you describe in par 115 between Mr Wurst and members at the station. And you described that as trying to ensure that members understood their culturally responsibilities. Can you say a little bit more about what you understand to have taken place in terms of not making any more errors and ensuring that the community was allowed to go about in sorry business without disturbance from police?---Your Honour, I'm informed, as per my affidavit, that those steps as outlined were culturally appropriate and they were designed by senior police through their relationships, previous and existing relationships with senior elders at Yuendumu to try and allow an opportunity to commence that first build back of trust that could be and was eroded following the shooting. I think it was appropriate that those officers got briefed what they can do, where they go, how they should perform, how they should act.

Sergeant Jolley was prevailed upon to return to Yuendumu and why was that? ---Sergeant Jolley's got a longstanding connections with Yuendumu. She's a respected member of the Northern Territory Police Force and was a person considered to be the most appropriate to help lead that, rebuild that trust in the community.

In pars 119 and following you describe the attempts to communicate with community elders such as Robert Brenants and others about the sensitive task of completing the criminal investigation?---Correct.

What do you say about the efforts that were made to speak with and solicit cooperation from senior members of the Yuendumu community so that the task could be done? I have to undertake the criminal investigation and also to secure evidence needed by her Honour for her investigation?---Yes, your Honour. In my view it was appropriate, commensurate. I'm sure there was numerous difficulties at the start of it but it was a commencement pathway that we could work collaborative with the community. Get the best possible evidence for both, well, the investigation

that needed to take place into the circumstances surrounding the death of Kumanjayi Walker.

And the community generously and collaboratively constituted through (inaudible) and facilitated, is that right?---That's correct.

Now, let's deal with the two investigations, the criminal and Coronial investigations. I only propose to do this briefly but you and (inaudible) know more about it than me if they can. But have you reviewed the criminal and Coronial investigations in order to reflect upon whether they seem to have been contributed to and undertaken properly by the Northern Territory Police?---I have.

And senior personnel from whom her Honour has heard undertook those. They have differences of perspective from time to time, is that right?---Yes.

Does that surprise you?---No, not at all.

Are you satisfied with the quality of the criminal investigation first up?---Yes I am.

Now, there have been some reservations from time to time expressed by persons about that criminal investigation and about the relationship with the Coronial investigation but when that reaches the bottom line are you satisfied with the information which the Northern Territory Police Force has been able to assist her Honour and provide it to her Honour?---Yes, I am and ultimately, your Honour, I think, as you see before you, thousands and thousands of pages of evidence and documents are prepared in a logical - albeit time consuming methodology. I think it's been comprehensive, thorough. I have no concerns.

Has it been your instruction and also that of Deputy Commissioner Murphy, that there be full cooperation with this coronial investigation?---Absolutely, your Honour.

And to your knowledge has that taken place?---Yes, your Honour. I hope every single member of the Northern Territory Police Force that appears before this inquest does so in the spirit of what is intended and in obligation with their duty of their office.

Now, being entirely straightforward with her Honour, there were some persons who were not as quick as might have been desirable to provide their statements, is that right?---Correct.

But ultimately those statements were provided and where necessary appropriate instructions were given that they be provided. Is that right?---Yes.

I'd like to move to a different topic altogether, which is Mr Rolfe, because while the inquest is not about him, there are issues which have been raised in relation to his recruitment and his training and similar. Now, would you mind turning to first or all par 237 of your first affidavit?---Yes.

You say something positive about the training of Northern Territory Police member?
---Yes.

But perhaps more importantly there is a review from time to time of the content and focus of training is there not?---Yes.

And has there been a particular review in the aftermath of Kumanjaji Walker's passing?---Yes.

And you identify in par 237 four areas where it was identified that there needed to be improvements. Could you say a little to her Honour about those four areas please starting with the first one?---Your Honour, the first identified opportunity was noncompliance of legislation policy procedure and practice, in particular the adherence to the ten principles - Operational Safety Principles we talked about and ICENCIRE here. Elements of command and control, decision-making and risk assessment that could be improved.

I'll just stop you there. A number of those issues to do with the Operational Safety Principles an ICENCIRE were identified arising out of the various incidents in which Mr Rolfe was involved prior to (inaudible) is that right?---Correct.

And the review of those various incidents about which your Honour, Mr Porter will give you evidence, later this week, identified that there was no adequate compliance with or implementation of the Operational Safety Principles or ICENCIRE, is that right?---Yes.

And is that (inaudible) force reflect further on what needs to be done to make sure that those important principles are better understood and more importantly, are implemented?---Yes.,

A lot of that is to do with thinking about risk options or risk principles and options, for instance for taking people into custody or how efforts should be made to apprehend people, is that right?---Correct.

So we will go into what has been done in due course. So command and control decision making risk assessment, we talked about that. And the last two please?
---The need to improve our system to monitor performance of members with previous military or law enforcement experience to ensure that our training is primacy and there is no confusion between other training modules.

Let's think about that a little bit more please, because reservations have been expressed by representatives of the community on instructions about former members of the military being serving members in remote communities and is that something that has been thought about by the Northern Territory Police Force since it was raised here?---Yes, it has.

We will go into it a little bit more, but are changes being made to training to ensure that person from such backgrounds reflect upon the culture with which they have been inculcated in Defence of Australia including overseas?---Yes, and - - -

As against what is expected of them from the Northern Territory Police Force?
---Correct. Again, your Honour, to drive the primacy of police training - Northern Territory Police training is the primacy for their response.

Without being exhaustive about it, what are some of the differences that have been identified between what one expects of one of our armed services and what is expected of a member of the Northern Territory Police Force?---Primarily, you know, and I am not a former member of the ADF, your Honour, but primarily tactics deployed in a war zone or a hostile operating environment such as a war zone, are fundamentally different to those that we would employ in peace time Australia operationally. They include weapons, different type of weapons, they include our clothing, they include our vehicles, they include our communications. They include a whole raft of factors that are fundamentally different.

I want to focus if I could with you, Deputy Commissioner, on latitudes because the training of members of the armed services is rigorous and it helps to protect us and importantly, it helps them to do their job when they are deployed elsewhere and there are values and approaches to what they do in order to stay alive and in order to fulfil their objective as, for instance, members of the army. And those are different to what needs to be done when a search is being done of Warlpiri camp or a person who has stolen something and needs to be apprehended or when someone who has been domestically violent needs to be taken into custody. How do you acculturate people from what keeps them alive in the Army to what is required of them with all the cheques and bounces and expectations of a member of the police force?---Very good question, Dr Freckelton. I think - - -

You need to give a good answer to that?---thank you very much for that challenge.

That's okay?---Your Honour, I think it is a challenge for anybody and I think at the heart of that is the culture of our policing model, to be brutally honest, that we operate in a community-focussed environment. We are not on patrol in a war zone, we are patrolling our people - we are policing our people for protection, for community safety. It's a fundamental, significant difference in how we go about what we do. I think - - -

How do you communicate that altogether different emphasis and separate objectives to people who have served in defence member rather than (inaudible)?---So, moving into the future, Assistant Commissioner Porter will be able to give you some clarity around what we propose to do in terms of getting ADF members to be more ex-ADF member who are member of the Northern Territory Police Force to help us shape some sort of definitive program, it allows it, because it's not cut and dry, your Honour, I think. We have many fantastic police officers who are ex members of the ADF who served not only heir country not only their country with great distinction but now the Northern Territory, so I don't believe it's a simple cut across between

two, but there's a fundamental problem that you are a former member of the ADF and you can't become a police officer. I don't believe that at all. I think the issue is just ensuring that there's no confusion between what was their role perhaps in a militarised sense and what we do as police officers, and whilst there's police officers and whilst there's police officers we have the command and control structure and we have uniforms and ranks. I don't think it is as rigid and as prescriptive perhaps as what maybe our soldiers operate under in the army for example - and I'm sure it differs between the services.

In the order of a quarter of the persons who are being recruited to the Northern Territory Police Force have a defence background, is that right?---Yes, that's correct.

(Inaudible anyway?---That's correct, your Honour.

What are the advantages of employing those persons?---Generically speaking, your Honour, I think they come with a number of significant advantages. Exposure to discipline, understanding of the requirement around ranks, structure, generally in my experience a sense of duty which is difficult to articulate but a duty, I want to serve; I want to improve; I want to make it better for people. I think that's a fundamental concept that transposes well between the ADF and what we do as police officers, I think that general sense, we want to make a difference; we want to make things better. Training is somewhat different, but I think there's a sense of camaraderie; I think there's a sense of belonging. I think those things that come from between uniform service, perhaps might be a word that I could use, that translate across between the ADF and the Northern Territory Police Force and other police forces.

Would you mind turning to par 32 and following of your second affidavit, you give a statistical breakdown of ex-ADF members being taken into the force, but what I would like to ask you about is what you say in par 34. You say 293 former ADF members during the 2016-18 period applied to join the force, but only 47 were given letters of offer. Can you say anything more to her Honour about the processes which lead to, what is it, one in about six being successful in their applications? ---Again, your Honour, I suspect you can get far greater clarity from Assistant Commissioner Bruce Porter, but to touch upon it, I think there are probably a number of factors that may affect why there is a disparity in those who apply and those who are accepted. The vacancy rate might be one, a number of people seeking at any particular time and the number of people that are applying could be varied between police forces. I think there is potentially psychological assessment that's undertaken through the recruitment process that may preclude some people, regardless of ADF service or not, whether they may or may not be suitable for employment as a police officer. A number of factors, Dr Freckelton, that could influence that number.

Thank you. I would like to turn now to what you have been able to identify by analyses of use of force by former ADF members. And for that purpose, would you mind turning to par 240 of your third affidavit. Now, while you're doing that, you'll -- I'll set the context, you may recall that Mr Procter raised some issues in terms of

whether more force has been utilised by former ADF members than by non-ADF members. In your second affidavit, you identified that, anecdotally, that did not seek to be right. But on the basis of the issue raised by Commander Procter, it's been looked into further. Is that right?---That's correct.

Now, let's go through this carefully, starting at par 217, please. An analysis has been done by you and your staff about the persons utilising use of force more than others?---Correct.

Now, is the use of force a presentation which is documented every time, isn't it, or it's supposed to be anyway?---Correct.

Yes. Is that, of itself, an indicator as to whether somebody is using force more than they ought to be?---Your Honour, the data would – your Honour, Mr Freckelton has made the point, the data is generally reflective that it reflects that the police force consists of 27 to 30 percent of ex-ADF members. So, the fact that the corresponding number of forms is generally consistent with a number of ex-ADF members we have on board anyway. But the use of force is and of itself reporting, it's not necessary an act where there's been excessive force, or any force applied, because the reporting guidelines dictate when we would submit a use of force report. For example, where you actually haven't used any force, you've just drawn a weapon or you've used or drawn your taser or you've carried a firearm, deployed a dog. You've heard some of those examples. They get recorded as a use of force report for statistical recording and analysis, but there's not necessarily been any use of force applied. There is also the data and unfortunately, the ability for us to collect it in any meaningful way doesn't necessarily reflect upon where the member or the individual officer is located or attached. And for example, your Honour, deputy commissioners don't use a lot of use of force when compared to a constable who are frontline operational police officers, so it depends on what area of the police force. Use of force can be a great indicator in certain areas, but it's not a surprise that administrative areas don't have a high use of force, school-based police officers, there's a whole raft of functions performed by police officers. So you know, a number of frontline operational police officers are more likely to have a higher use of force than some other – so the data and the analyses has been quite problematic to pull together to ensure that we can actually make some meaningful assessment. So what "use of force" truly means when it's other than just a statistic on a bit of paper.

The analysis that's been done by Northern Territory Police has identified - and I stands to be corrected by my learned friend, Mr Officer, if I get this wrong, but I think 46 instances of use of force by Mr Rolfe over the period before Yuendumu. And that was over approximately three years?---If that's the number, Doctor, I can't recall off the top of my head.

Yes, I think that's right, and Mr Officer will tell me if I've got that wrong. That's in the order of 15 a year and in the station mostly in Alice Springs?---Yes.

Is there an inference to be drawn on the basis of that?---Again, I think – no, I think the data was clear in terms that he didn't appear in the top numbers of use of force

by members, and of those use of forces that have now received some detailed scrutiny, most of which as I understand didn't result in any further action needed to be taken at a disciplinary level, at least.

I'm hearing you say there's a distinction to be drawn between use of force rule data and established determinations that excessive use of force has been used by a member?---Correct. So, yeah, a use of force report does not mean that you've used excessive force.

All right?---It means that you've recorded the use of force in an appropriate and in accordance with our general order practice and procedure. But it doesn't necessarily follow suit that, just because you're putting a use of force report in, that it was disproportionate, unlawful, unnecessary.

On the basis of the data which the force does have and the interrogation of which has been undertaken as best it can be, have you identified any indication that former ADF personnel are either using more force or using excessive force - - -?---No, your Honour.

- - - than that of non-ADF personnel?---No, your Honour.

I would like to ask you some questions about recruiting processes, please. And for that purpose, would you mind turning to par 208 of your first affidavit. So, if we go a little bit further back to 194, you identified there that there were some issues in relation to information provided by Constable Rolfe, and you give three instances. Could you speak to each of those briefly in turn, please?---Your Honour - - -

Starting with the – his answer to the question, “Have you previously tried to join any other force?”?---Have you – in which his application to join the Northern Territory Police Force, he crossed out the “yes” box.

Now, why does that matter?---Because he had previously applied.

All right. What's the issue that arises from that, Deputy Commissioner?---Well, I think with all jurisdictions in an active recruiting campaign certainly would like to know if he's likely to be accepted, if another police force has accepted someone or refused somebody, I think they're really relevant to whether we should accept or reject an applicant. I think it's a very appropriate question to ask and I now know every police force in Australia would be asking similar questions.

What's the significance or otherwise of his having answered incorrectly?---Well, I think in this instance it relates to his rejection by the Queensland Police and had he have ticked otherwise further enquiries may have been made by the Northern Territory Police Force to identify why.

But again, he's given an incorrect impression by his answer. Is that relevant to recruitment criteria?---It does in terms of it strikes at the heart of the honesty of the applicant. First step.

How important is honesty as a criterion from employment of a person who's a Northern Territory police officer?---In my view it's absolutely critical.

Let's go to the second one then. This is the public nuisance issue?---Yes. Failed to disclose that he had received a fine for public nuisance, violent behaviour, issued by the Queensland Police.

Now, to his credit he did disclose this in the interview process but he didn't disclose it in his initial communications. What's the issue there?---Well, again, I think if it had been documented more thoroughly at that particular moment in the recruitment process he wouldn't have progressed through to the next phase.

So, the third issue, he failed to disclose having been convicted of theft. It was a minor theft but nonetheless it was from a colleague in the military and he was called to account for that and asked specifically about it and he didn't communicate that. What's the significance of that?---I think, again as we've discussed previously, your Honour, I think it strikes at the heart of the application process and who we're trying to recruit. It's a dishonesty offence. I think it would have a significant impact on his progression through to the next phase of the recruitment process.

Now, as you described in par 201 and following there were difficulties in terms of gaining access to ADF service records at the relevant time. And that meant that generally ADF records were not being obtained by those undertaking the recruiting assessment. Is that right?---Correct.

Now, that's a significant deficiency given that you're drawing a quarter of your membership from the ADF. Is that right?---Well, it was.

It was, exactly. Has that been addressed now?---It has, your Honour.

Could you explain that to her Honour please?---Well, we now have filled that board and we seek that information prior to progressing to final selection process.

And if the ADF is slow in providing that information what happens?---They don't progress.

And generally speaking is the ADF cooperating in providing that?---Yes they are, your Honour. I think as I've discussed, you know, we have lots of former members of the ADF who are outstanding members of the police force.

You describe that at par 218 and following of this affidavit for the joint military police unit those enquiries have been made?---Yes, your Honour.

Now, her Honour has heard evidence which I'm going to take you to very briefly in terms of the involvement of psychologists - a psychologist in the process and you describe at 209 and following of the organisation that was being used. Going to what that expert communicated to the force you detail, "About average aggression

score. Less likely than others to accept responsibility after making a mistake. Prediction ranking, above average to excellent. Overall potential suitability, excellent potential.” There are some issues sitting within those results are there not? Especially the first one in terms of the progression score?---Yeah. I thought they would have triggered some questioning by interviewers what it means.

What is your understanding of whether those kinds of signs are being followed up on more assertively now?---I think this whole process has highlighted our ability that we could have done and should be doing and we are doing that recruitment process much more rigorously. So, I think it was a great learning and we’ve closed that gap.

And you’ve explained the new organisation Tallagee (?) at par 223 and following?
---Yes.

They use a pre-employment psychological testing process. Is the force satisfied with the assistance being provided by Tallagee?---Yes.

At par 213 you say that there are limits to what can be achieved by the recruitment process in identifying unsuitable applicants. What did you mean by that?---I think that’s an identification that the Northern Territory Police Force, like every other employer, are fallible in terms of what we’re told, you know, based upon the honesty and veracity of our processes and people that apply. I don’t think there’s a bullet proof system anywhere in Australia that will absolutely guarantee. There’s lots of gaps between information sharing, between systems across jurisdictions, about a variety of matters. Some may be minor criminal matters. Some may be traffic matters. A whole raft of issues and there’s no unique one model that I’m aware of that has solved every one of those potential to close the gaps.

Now, most of the checks and balances of the recruiting process is the following up of references. Do you recall that?---Correct.

And in this instance those undertaking that process made contact with a solicitor’s firm which was, I’m going to put this tactfully, which may not have been in the best position to be entirely independent in its position of a reference. Is that right?
---Correct.

Now, what’s been done to address the need for arms-length independent provision of references rather than ones which might be regarded as influenced by connection?
---So, there’s provision of a statement that we seek from those referees to acknowledge if there’s any potential conflict of interest or relationship issues that were not overly apparent with the paperwork that’s attached.

Thank you. And is that – I’ll just ask you to turn if you don’t mind to the third of your affidavits and to par 401?---Yes.

That covers the issue that we’ve just been discussing. Is 402 the new referee report template which endeavours to address that issue?---Correct, your Honour. The new template includes the following, “With you providing this referee check for [blank] the

named person could there be any conflicts of interest in doing so? For example, do you know them personally? Close friends, partner, family member and other some type of relationship.” Just to give some clarity around the referee, how they know the application may assist decision makers further down through the process.

Now, you identify the paragraphs after that if I recall that Constable Rolfe had received a fine in Queensland but it didn't show up on the national police check albeit appropriate checks undertaken because of the relevance of what is disclosed by those checks. Traffic matters, for instance do not show up and nor it would appear fines for minor infractions of community behaviour. Behaviour offences of a low order?---Yeah that's correct, your Honour. And it's of significant national issue obviously not just in relation to recruitment but certainly with the ability of police forces across the nation to know what people coming into each jurisdiction have. So, it's still not been resolved.

So, if these matters emerge by what should be a self-disclosure or by the process of enquiry or discussion with the applicant you say that there is a change of approach expected of a person in a recruiting area as of par 409?---Well, again it's outlined in that paragraph, your Honour, but it talks about the ability and it should be explored with the applicant during their interview, and members of the interview panel can take further steps if they are any time concerned about the veracity of information provided to them. And I think it reflects back on to the earlier conversations we had, where the primary focus on individual applicants to disclose full frankness and honesty, everything they know about themselves that may affect their ability to employ them.

And has the time pressure been explicitly removed, and do you refer to this at 410, so that investigations of any kind can be undertaken regardless of (inaudible)?
---Agreed, yes, crucial.

So is this a required change of culture and priorities that has been communicated to those undertaking recruitment of applicants to the course?---Yes.

Her Honour has heard a great deal about that, messages that have been engaged in by Mr Rolfe and by persons known to Mr Rolfe, including within the Northern Territory Police Force. You've described those messages yourself in a variety of ways. In particular, in par 57 of your first affidavit, where you've called them unacceptable and not reflective of the culture. And you also describe them as reprehensible, offensive and ill-disciplined?---That's correct.

Is there any ambiguity about whether the references that particularly Dr Dwyer has taken a number of references to, in terms of their being racist, sexist, homophobic, disrespectful of authority?---No, I don't so. I think my words are clear.

What's your personal reaction to reading it?---Confronting, disappointing, disturbed.

(Inaudible) minor language is that (inaudible) your own gut reaction a bit stronger than that?

DR DWYER: Your Honour, I object, he's asked the question - - -

DR FRECKELTON: You said they're not consistent with the values to be expected of the police force. What do you mean by that?---Well, they're just totally unacceptable from – and don't reflect the values of the police force. I mean, I think I'm being clear, concise. It's not acceptable. We don't tolerate it.

THE CORONER: What don't you tolerate?---Those unacceptable types of reference and language that's been reflected in those text messages, your Honour. I think they're very reprehensible conduct.

DR FRECKELTON: Is that a general set of attitudes and behaviours within your police force, Deputy Commissioner?---From my experience, your Honour, no, it's not. I mean, from my exposure, I – no, it's not, it's not – it's not something that I see broadly across – even on the disciplinary matters that I'm aware of that come across my desk, your Honour, when they come; it – and it also reflected language that, quite bluntly, I haven't heard 30 years.

I want to interrogate this further with you, because her Honour has a number of text messages, they include Mr Rolfe, to be sure, but a variety of other persons, including a Sergeant (inaudible)?---Yeah.

And no one would have known about this but for the circumstances of Mr Rolfe's phone being downloaded - - -?---Yep.

- - - and identified as for the purposes of proceedings. And so we now know that there is at least a cohort of people who are utterly racist, sexist, homophobic, contemptuous of remote policing and disrespectful of persons such as yourself?---Correct.

How do you know that that's not a general and prevalent attitude within your force, given you didn't know about this group until the serendipitous discovery of these (inaudible)?---In my exposure through the Northern Territory Police Force, I come into contact with lots and lots of people; not just police officers or police members. I come into contact with a broad sector of the community, Aboriginal communities, other community members. I get a sense in my view of what I see when it's confronting me, I accept the fact that constables are highly unlikely to be – or any rank are highly likely they're going to sit in front of me and use that type of terminology and language. But again, if it was prevalent and everywhere, it would be much more visible to our supervisor sergeants, senior sergeants. And I would have anticipated would have resulted in a lot more action being taken if it was called out. I mean, I – my view – my belief, my fervent belief is I sit here, your Honour, with a Northern Territory Police uniform on. I swore an oath when I took this role. I hold that oath to very close to my heart. I wouldn't be here, I wouldn't tolerate to be a member of this agency if I honestly believe that we held these deep-seated racist views. I would terminate my commission and leave. It's not what I've seen from the broad spectrum of people that I know. However, I accept, from what I read and what

I saw that there are people who do use those communications, and it's not acceptable and it never will be acceptable. I don't know - - -

Well, those – most of those messages involve people at Alice Springs station?---Yes.

At the very least, one can say that there has been a cohort of people with these kinds of views and attitudes that they were hiding from others, of which they ventilated in what they thought was a private context in text messages. So what have you, as the deputy commissioner, done to deal with the issue which has been identified unequivocally at Alice Springs?---Well, certainly, in respect to Alice Springs specifically - - -

Yes?--- - - - we have done some – and quite a lot, I think, efforts. And again, it – identified within my affidavit a whole significant amount of work we've done, particularly around cultural reform. And at the heart of cultural reform, in my view, is our deep-seated value and belief systems around what's acceptable and not acceptable. So, specifically at Alice Springs, following clearly the evidence that's been heard before this inquest, basic things like relocation of our supervisors, our watch commanders and our officers in charge from other location in the – Alice Springs Police (inaudible) be back on the floor. Your Honour, I've heard the evidence of Bradley(?) Wallace, who gave really impassioned evidence before this inquest. And he talked about what he sees on the floor here, much closer to the action, unfortunately, than I get, and he didn't highlight to this inquest that it's widespread and endemic at the Alice Springs Police Station. When I look at the context of those that received those text messages, patrol group number 5 of that era, in 2019, they were primarily the people who received and were involved in the text messages. Most of those people no long are here in Alice Springs; I'd suggest all of them, and there's been significant change to the leadership at Alice Springs. A lot, in my view, your Honour, has been done to address at least the perception that there is this widespread – where just this week, your Honour, Monday, there was a smoking ceremony and cultural induction training again at Alice Springs for the new recruits that have just turned up. There are ongoing conversations with sergeants and senior sergeants about acceptable standards of behaviour, what's accepted. Where issues are identified, we take firm action.

Let's go through some of the things to which you refer in your affidavit please, because at 82, you say in writing what you've just said orally to her Honour. And then you make a reference to meetings with senior sergeants. Could you explain that further please?---Your Honour, in my affidavit, I identify specifically, I think – I've identified 11; there would be 111 over my journey here, but certainly, the first thing was the Commissioner of Police, Jaime Chalker APM, Deputy Commissioner Michael Murphy and myself have met with every member of the Northern Territory Police Force above the rank and including the rank of senior sergeant through to assistant commissioner. We held a series of workshops and we met personally with every member for at least half an hour.

Give her Honour an account please of what those interactions were like. Were they just asking people for feedback and how they were going in the force and whether

they like to be promoted (inaudible) at risk; some of these sorts of issues?---They addressed at the heart of what this whole process in my mind is trying to identify to you, your Honour, is about our cultural reform, the leadership we expect.

How did you do that?---Personally - face to face.

What did you say to them? What did you - - ?---We - one, we addressed through a workshop process the project 2030 Back to Basics Commissioner strategy and our strategy about the future direction of the Northern Territory Police Force. That as the first process in what - so they have an awareness and understanding of what the future looked like going forward in terms of our strategy. We had conversations at a broad level with the group around leadership expectations and that as followed then with a one-on-one conversation with every member that we've identified where we sat down and we had a conversation, a heart to heart conversation about what the Northern Territory Police Force expected, what we expected and we sought engagement from each one of those members what they could deliver back to us and how we would improve because we knew, coming, that this sort of behaviour was just totally unacceptable.

Now, you must have got some good responses and some poorer responses from some of them. Can you give her Honour a flavour of how those meetings went when you broached those kinds of issues and tried to draw them out to get an idea of whether they might be sympathisers with racism, sexism and so on?---Your Honour, again I am trying to couch this in terms that you can appreciate, but in my 44 years as a police officer I've never been involved with anything as powerful as that. The ability to sit down with the senior executive of the police force is almost nigh on impossible in any other jurisdiction but we made the effort and we sat down, we looked everyone of those people in the eye and we talked about this. And I am not going to disclose every conversation because I haven't got my records in front of me but I can assure this forum and the Northern Territory Police Force that may be listening, everyone listened closely, there were tears in that room from various people, it was very, very deep and meaningful about expectations and what role they could provide to provide future leadership for the Northern Territory Police Force. It wasn't a one-way street and lots of people sat in that room and looked at us and thought, "I can do better" and lots of people said things to us that we took away that may be could do better, so it was a great, powerful opportunity to reflect the cultural values of the Northern Territory Police Force as we expected and demand it to be.

Now, you've explained what has been done with senior sergeants, superintendents and commanders. Have you engaged in - or you say you started to engage in the comparable process with the 195 sergeants in the force?---Commissioner of Police is personally speaking to every officer of the rank of sergeant and above. He's commenced that process as of this year. He has unfortunately only done 23 so far but his aim is that he will personally speak to every Northern Territory police officer above of the rank of sergeant and have the same conversation again around expectations, leadership, cultural values, what we expect, what we do, collaboration, wellbeing, strategies we're doing.

You refer in the next - in par 66 and 67 to broadcasts in respect of these matters. Is that an attempt to reinforce the message in writing?---It is, your Honour. Again, it is an official broadcast to the membership reinforcing the expectations and reminding them of their responsibility under the Northern Territory Police Force Code of Conduct and that if there's breaches that we would consider it to be a serious breach of discipline.

In pars 68 to 70 you refer to incorporation of these issues into the promotional process. How has that been done?---Your Honour, I think this, again, links very closely to - at the heart of cultural reform that we've talked about. For every - I personally until my time for the three months I was down here for the inquest, have sat on every promotional panel from the rank of Senior Sergeant through to Assistant Commissioner. I haven't got the data in front of us but I've personally invested a significant portion of my time in the Northern Territory to that process and when we interview people we take the questions we ask of our potential leaders for the Northern Territory Police Force and we ask them specific questions around leadership - about culture - about reform - about governance - about accountability. They are all things that we've talked about here now incorporated in our questioning and interview process of every single applicant from the rank of senior sergeant and above and in my journey here it has been significant the difference I see between what people told us in 2020 to what I am getting told in 2023, there seems to be a very large uptake and a number of people - we've promoted a significant number of people who clearly can articulate and demonstrate the cultural needs and the reform of the Northern Territory Police Force. I think it's been very powerful. Those questions are specific. Explain to us what you've - you know, I can't give you the word for word, but around cultural change, leadership, continuous improvement, "What are you going to do?" "What would you do if you're confronted?" "If you're the officer-in-charge of Alice Springs Police Station and something has happened, what will you do about it. There's been a number of those direct questions that significantly, across a broad sector for the dozens and dozens of interviews we've done, I am sure every applicant for promotion knows what the senior executive are expecting of our future leaders.

Is it your perspective that the word "efficiencies" and "leadership" in particular in Alice Springs in relation to these kinds of issues from the supervisors?---I - well, when I heard the evidence, your Honour, in here, I was supervisor of the Alice Springs Police Station who is involved and sending text messages and other behaviour we had in here, yes, it concerns me greatly.

And so is this the reason for the focus on - of enhancement of leadership skills and assumption of responsibility in relation to response to racist, misogynistic, disrespectful, homophobic and sexist language?---I think that's one element of it, yes, Dr Freckelton, but your Honour, it goes deeper than that. I think it actually goes to the heart of policing, what style of police we want and the absolute necessity for things such as governance and accountability, it's broader than just one dimension and I think it's a requirement of any contemporary modern police force that those values are driven - and driven hard.

At par 71 you refer to the utilisation of the Australian Institute of Police Management to run leadership training for sergeants. Why are you particularly focusing on sergeants and senior sergeants?---Sergeants and senior sergeants, your Honour, are the backbone of the Northern Territory Police Force and in police force. They are our front line leaders, they are the person - the people - the men and women who have to use their discretion, have to use all the complexities of the things we've discussed in here to address the issues that we're currently talking about. They have to have the courage of conviction, they have to have the ability to navigate complex and difficult pathways and, you know, we demand a great deal of those particular ranks and we are trying and committed to coming up with better training modules so we get people appropriately skilled to be able to do the role that we demand of them.

If I described those ranks as the transmitters of culture, would you agree?---Yes, I would.

So you described the RPM course as that's been known in October last year and a series of further courses during this year, is that right?---That's correct, your Honour, and I had the opportunity to speak to both the AIP and the Australian Institute of Police Management lecturers who provided the course and to participants on that course and we're going to be rolling them out today and the feedback we got was glowing in terms of eye-opening, things that really challenge their thinking and it is absolutely fundamental for our - for the Northern Territory Police Force going forward. We are going to be driving that throughout the rest of ongoing time in the Northern Territory - my time here.

Moving to par 72, you've describe to her Honour then that AIPM course, your won college is rolling out a sergeant development course, mandatory for all substantive and remote sergeants, is that right?---That's correct.

Now, in order to be in charge of a remote station, is a person made a remote sergeant rather than a substantive one?---Correct.

So you've clarified this college course recapturing both the substantive sergeants and also those who have this important responsibility in charge of what might only be two or three man stations, is that right?---That's correct, your Honour.

And just tell her Honour a little bit more about that. It's programmed to commence in the middle of this year and you underline in that third sentence range of issues which hit is targeting. Can you tell her Honour a bit more about some of those particular issue?---So, your Honour, if you read my - the course is technically focussed on some of the key technical responsibilities of the rank of sergeant - or remote sergeant - and as outlined again we talk about SMEAC principles, the delivery of briefings, culture, discipline, domestic violence – really, all of the things that we would expect a sergeant to be capable of delivering in the field in the Northern Territory. And I think there has been – well, consider it's just an absolute necessity to address what we see as, perhaps, a bit of a void in that area. We want to make sure that our sergeants – particularly the rank of sergeant, they are the most

important – or senior sergeant – most important ranks out there have got this deeper knowledge and understanding of how they perform their duties.

And is the plan, as you have described in 73, when this sergeant (inaudible) down to extend it to more senior ranks?---We will. We will amend it to include the rank of senior sergeant. It will be amended more – with the rank of senior sergeant, so yes, absolutely.

Now the eighth matter, you've referred to already. You've got down the superintendents from the second floor of the Alice Springs Police Station and ultimately, the muster room floor to have more contact with members and to influence how people are- -?---Senior sergeants, your Honour.

Senior sergeants?---Senior sergeants. So previously the officer in charge was on the second floor and the watch commander was in a different location. We have relocated them to be on the muster room floor. And I think your Honour has heard evidence from a number of witnesses who talk about when that senior leadership was on the floor, banter – you know, it was capable of being heard and witnessed by senior members who could pull it up. I think we heard evidence, your Honour, of superintendents – they didn't say that sort of thing when the superintendent was around. So those senior leadership roles closer to the muster room floor as just another safeguard measure, so we can address behaviour there and then if it's needed.

Now, her Honour has asked you about issues to do with respect. The respect, equity and diversity policy you described – I think it's par 75 – as having been reviewed and updated?---Yes.

Has that been, in part, as a consequence of what has been revealed in the course of this inquest?---Partly, your Honour, yes. But I think it's, again, contemporary, modern and appropriate for every police force to take those as absolute fundamental values that we need to drive, not just this inquest.

At par 10, you've described the human resources and wellbeing section as having conducted a series of workshops in relation to respectful workplace behaviour? ---Correct.

And finally, you described an issue (inaudible) after you can develop further in terms of robust action being taken against a series of individuals in recent times where racism appears to have been at least a component of their unacceptable behaviour? ---Yes.

Now, one of the – one of the ways, perhaps, to reduce racism is to have more indigenous persons working within the force and participating at every level in policing in the Northern Territory. Is that right?---Yes, your Honour.

Now, I'm just going to take you through this reasonably briefly, but in par 80 and following, you outline the role of ACPOs, police auxiliaries and Aboriginal Liaison Officers. Is that right?---Correct.

And you identified that ACPOs – in par 83 – have to do a course of 24 weeks. Whereas, in fact, the constable course is only a little bit longer. Is that so?---That's correct, your Honour.

And on graduating from the course, they're a probationary ACPO and then they have to do – fulfill other requirements to become a substantive ACPO and there's the potential for them, in 86, to graduate to ACPO First Class, Second Class, Senior ACPO (inaudible)?---That's correct.

And there's the potential for transition to constable?---That's correct.

Of the ACPO? The – there's a review you describe in par 87 to facilitate those processes. Can you say just a little bit more about the framework and what has been done in that regard?---Again, I think your Honour, in simplicity – it's an intent to streamline our processes so we can make the transition much more efficient and effective to allow a progression pathway between the two identified positions.

You are identified the numbers. Just say a little bit more of ACPOs – can you say a bit more to her Honour about those? And you described those in par 90?---Your Honour, it just talked about numbers there, in terms of we have 61 ACPO positions across the Northern Territory Police Force, 1378 sworn members – at least on the date that I signed this affidavit – 108 of which were Aboriginal. So it just talks about Northern Territory Police Force currently have about 11.4, or 11 percent of its workforce identifies as Aboriginal.

What's the plan in terms of trying to recruit more persons as ACPOs and then in due course, as constable – we will come to ALO in a minute?---We're actively trying to pursue additional and more ACPO recruitment. That's ongoing.

You've described the role of police (inaudible) pass over those, but there are 234 of them, you say, in par 94, a number of whom identify as Aboriginal/Torres Strait Islander. But let's go to Aboriginal Liaison Officers, ALOs. You say that, in par 98, there are approximately 50 of them. I told her Honour yesterday that there were two in Lajumanu. I think that's right, isn't it?---Correct.

Paragraph 98? And one can see in that table in paragraph – at 98 that currently, there are three in Yuendumu. I think there have been more a little while ago. It's a fluent process, is that right?---That's correct, your Honour. And from time to time, people transition out of those roles.

What's the intention in terms of numbers of ALOs, recognising that the ALO is actually quite a new phenomenon in the Northern Territory Police Force?---We – Northern Territory Police Force intent, your Honour, is we're going – we wish to recruit at minimum another 30, hopefully considerably more than that. And

futuristically, anticipating that the ALO program could provide a great pathway – promotional pathway or recruitment pathway – into the sworn ranks of the Northern Territory Police Force and beyond.

THE CORONER: Have you had anyone move from ALO to a substantive position?
---I've - - -

Other position, I should say?---Mr Porter may be able to provide me that by tomorrow, your Honour. I suspect there might be. Certainly, I do know that we have lost a number of our ALOs to other Government agencies, unfortunately.

DR FRECKELTON: In answer to your Honour's question, at par 27, your Honour. The route is generally ALO to ACPO and then ACPO through the ranks up to constable and you can see there at two former ALOs have gone on to be ACPOs, they've indicated interest in the process.

Now, given that there – we can see therefore, that there are considerable numbers of ACPOs and ALOs in the Police Force, with the aspiration that there be more as soon as that can be organised. 61-odd – put that the other way, 61 ACPOs and 50 ALOs. That's now, as you said to her Honour, a significant component of the Force. We have heard evidence that these people have been distressed by the revelation of these text messages from their constable colleagues?---Yes.

As these numbers increase, what impact do you think that is likely to have on the acceptability of (inaudible) similar attitudes within your force?---Well, it's our absolute hope and part of the strategy that it will minimise that. And hopefully, that those members who may be ignorant – if that's a word I'm even going to use – would be working with people who demonstrate that that's not the case. That they would call it out, they would see it. I mean, I heard the evidence of one of the most compelling witness men was Bradley Wallace. In and of himself, heartbroken that working with some of these people and then reading and hearing about these text messages that he's – of people he works with. So again, I don't – I don't know how to couch an answer. I'm – I'm challenged by what they – what happened and what transpired.

Your Honour, would this be a convenient time? I (inaudible) to a different topic.

THE CORONER: Sure.

ADJOURNED

RESUMED

THE CORONER: Dr Freckelton.

RR FRECKELTON: Thank you, your Honour.

MURRAY SMALPAGE,

XN BY DR FRECKELTON:

DR FRECKELTON: Deputy Commissioner, I'd like to go onto a different topic with you. There's the carriage of firearms, and in that regard, I'm not referring particularly to long-arms, there's a wish on the part of some members of the Yuendumu community and the family members that police not carry firearms in the future in their community and perhaps in others also. You address this issue at par 159 of your first affidavit and you describe firearms as an integral part of police tactical options. When you say that in this context, what are you referring to?---They form part, your Honour, of our integral use of force options and integral in terms of our ability to effectively police.

I'm going to ask you now to turn to par 183 of your third affidavit where you go into the issue further, and you use quite strong language in par 185, saying, "It's untenable to say that police ought not to carry firearms, either in remote communities or anywhere else." Why do you use that strong language?---Your Honour, fundamental to the role and responsibilities of a police officer anywhere in the Northern Territory and indeed Australia, is that ability to respond at any moment in time. My bitter experience over a lengthy period of time is that police officers do require the ability to have that force option.

What sorts of situations are you thinking about, Deputy Commissioner?---Lots of instances of examples of extreme violence, weapons; numerous instances where police officers need options in order to protect themselves and the community for which they serve. So it's just an integral part of our training and a part of our options going forward.

Let's interrogate this a little bit further. There are parts of the world where officers do not carry a Glock or similar on their hip, but have them readily available in the police vehicle or somewhere else and my colleague, Mr McMahon, would tell you of cases in the United Kingdom and Scandinavia, New Zealand perhaps where that's the approach. Why do you say that that is inappropriate for the Northern Territory?---For a number of factors, your Honour, notwithstanding the vast distance that we experience in Australia and the remote areas of the Northern Territory where you don't have close proximity to – you know, as per in the UK, what are they – armed response vehicles or whatever they call them who are very, very close by saturating areas usually within a very short geographical location. There's – fundamentally, all of our training, all of our experience, all of my experience over 44 years is that they provide a level of security to the community and to the individual officers to be able to respond to whatever they're confronted with, and you cannot prescribe what a

general duties police officer's likely to experience. It could escalate from nothing to everything. Unfortunately, we – we just saw in Queensland a number of police officers murdered, you know, on a routine callout. I – it's just - - -

(Inaudible) highly unusual but very painful example. But what about a domestic violence situation, which – I think domestic violence policing (inaudible) 65 percent of work for the Northern Territory Police Force, is that right?---That's – that's correct, the data, I think, is around 65 percent of all our effort links to response to domestic violence incidents or family and domestic violence incidents.

Now, when officers attend a domestic violence incident, for instance, why they need to be carrying a Glock?---I think emotion's generally very – runny very high. The unpredictable nature of highly emotive people make a necessity for a tactical force options that you've got to protect yourself and others who may be present.

After the evidence yesterday, have you checked into whether there are any communities in the Northern Territory (inaudible) where the officers are not carrying their guns?---Your Honour, I'm not aware of anywhere where police officers, operationally, are not carrying their firearms as required by the general order and a requirement.

Have you caused enquiries to be made, for instance, about what the practice is in Lajamanu after the evidence yesterday?---I am, your Honour, and I'm informed that, operationally, they are wearing their Glock pistols. However, I am informed there may be the odd occasion where they attend certain functions upon invite and they're not carrying firearms to those, you know, schools, things like that, by negotiation. But again, I think that is not affecting the general rule of our operational necessity to be arms. And others, no doubt, in the community would be armed. Not saying all the police are unarmed.

You speak further about this in par 187, and you raise the issue of volatility in various communities, and also community members having access to evidence on occasion. Could you develop your thinking there please for her Honour?---I think your Honour's heard evidence already from officers who have served, in particular, at Yuendumu, and they've had the necessity to have access to their firearms for self-protection. As I said, your Honour, it's just fundamental to our operational philosophy and tactics as police, and that's not unique to the Northern Territory; it's Australia wide.

THE CORONER: I heard some somewhat conflicting evidence, I think, in relation to ACPOs, and maybe the situation's changed in relation to whether or not they're trained and whether or not they carry a Glock. I'm not sure what the situation is with ALOs. They don't have very significant lengthy training?---Your Honour - - -

DR FRECKELTON: (Inaudible) the ALOs carry gun - - -

THE WITNESS: Your Honour, ALOs are not sworn members of the police.

THE CORONER: And the ACPOs?---ACPOs are and - - -

Are they required under the general order to carry - -?---If they're operationally and trained, they should be carrying their Glock pistol as required by the instruction.

DR FRECKELTON: The question has been raised with a number of witnesses whether they have ever drawn their guns or fired it, and a number of persons who have testified before her Honour have said no to both of those questions. Does that affect your attitude toward whether they nonetheless ought to be armed in almost all circumstances?---No, your Honour.

Why is that?---Again, my better experience is when you need it, you need it then, there, immediately. It's not something that has – allows you the opportunity to either retreat to a vehicle or some other place to secure to obtain your weapon for either self-defence or protection of protection of others.

You make two points in the pars 189 and following. The first is that there is a higher regulation by legislation and a policy of the use of firearms (inaudible)?---Yes.

We won't go further into that. But you then speak about the different kinds of weapons, and you distinguish between Glocks and patrol rifles and other forms of long arms?---Yes.

And you state that police patrol rifles 194 are storing their case and either in the police armoury or police vehicles?---That's correct.

And you make reference to a general order, operational safety and use of force in respect of deployment of such weapons. Can you say a little further to her Honour about that?---Again, as it's indicated, it should only occur when there's a risk assessment or a situation arises where they need to deploy that weapon into the field.

For instance the situation, whatever exactly was taking place at the two houses was not one from your view where there was a requirement for a rifle to being carried?---That's correct. It would appear it was some type of misconfusion (sic) of something, I don't know, but yes, I agree.

(Inaudible)?---Yes, I agree.

And wherever a firearm is either carried or deployed, a use of force form must be completed. What's the reason for that?---So we can keep track and monitor rationale thinking why – so somebody, a supervisor or above, will have visibility on why that risk assessment or why the necessity to carry, it was required, and if necessary, challenge that decision.

You make particular reference to the Territory Response Group, the TRG and its access to specialist weapons and the way they carry them. Again, could you explain that to her Honour please?---Again, TRG are our specialist police who are specifically trained for high-risk situations. They routinely carry specialist equipment

that's not available to ordinary members of the Northern Territory Police Force. However, when they do deploy, they regularly and routinely carry non-lethal options as a mechanism. So we – you know, we – we transition through the whole use of force continuum before we resort to lethal force.

So for instance, if the TRG is attending other than in a high-risk incident context, would you expect them to be carrying long arms?---I would. If it's a high-risk situation, I - - -

Sorry, it's not - - -?---Well, if it's not a high-risk situation, I don't expect them to be carrying long arms opening at all, no, and they wouldn't.

I'd like to move to a related issue then, unless there's anything else, your Honour, on it. Militarisation of policing. There's a report from Emeritus Professor McCullough about this issue, and her Honour is likely to here from Professor McCullough. You've read that report, I think, deputy commissioner?---I have.

I'd like to talk through with you this issue of whether the Northern Territory Police Force has become militarised in recent times. You've engaged with this issue at par 198 and following, and acknowledge that some people do perceive that there has been this phenomenon of militarisation of police forces?---Yes.

You've said in your first affidavit that you don't find this to be a very helpful analysis. Why is this?---Well, I fundamentally don't believe that we have militarised as a police force.

Well, why not, if – here, we've got dark blue uniforms, you carry guns, you're entitled to use lethal force in certain situation. Your first line of response in terrorist or active violent defendant situation, people are trained to deal with those situations, and that's been an unfortunately reality that police forces have had to grapple with?---So - - -

Why is that not militarisation?---Your Honour - a good question, Dr Freckelton. Your Honour, the uniform change, for example, is - it's a traditional dark blue, it's not a black, it's a dark blue uniform commensurate with lots of other police forces within Australia. It's not a uniform that I see with the military, generally revolving around camouflage gear and other equipment. I think historically there was some tactical groups seen wearing dark clothing, but they were particular tactical clothing, not the type of uniform that I think we wear, so - - -

The TRG wears tactical clothing here and what is it?---Well, they would wear camouflage gear or a different uniform than what we would see here that I've got on today.

Is that (inaudible) with the IRT?---Yes, they had the option of either - depending on what their deployment was, yes.

Now, let's go to the weapon issue, which you canvas at par 200 and following. What do you say about whether the fact that some police on occasion carry long arms - in terms of whether they are like the Army or becoming militarised?---The weapons themselves are semi-automatic, not full automatic.

Right?---They are designed for their practicality for cross use for a rather than historically where police would have shotguns, they would have .22 rifle - 22 calibre rifles, a .308 calibre rifles and a series of different weapons, depending what they needed for either shooting livestock, injured animals, as the roles and responsibility of police forces have evolved. The current weapons were chosen because they cross the bridge and the need for one weapon as opposed to a multitude of weapons in your armoury at a police station. They weren't procured because they were designed for military use in my mind.

You make a point in 2.02 that police have a variety of non-lethal options available to them, tasers, beanbag shotguns, dogs and so on?---Correct. Batons, pepper spray.

That's so, yes?---Other - and we train in verbal communications, other things around predominantly encourage compliance rather than brute force.

Is that different, as you put it, to the military?---I think it is fundamentally different, your Honour.

Now, you refer in most of your first affidavit and your third one, to this issue of when the Northern Territory Police Force has been provided with weapons of any kind, by the military. What is the situation there?---No, we don't receive weapons from the military. We have a liaison role with the Australian Defence Force well established. We have a big - - -

What does that mean?---Traditionally the liaison role, your Honour, is centred around emergency management and assistance in times of civil emergency, cyclones, and other - you know, weather inclement events. I think we've seen, your Honour, even during COVID where we had to call upon assistance from the defence force to help the Northern Territory because of our geographical size and the small size of the police force but it was generally - the liaison role is generally around support for non-military activity they are not designed to go into the field and effect arrests or carry weapons or tanks or you know, significantly different the roles and responsibilities.

And drawing upon being at the Lindt Café inquest for instance, the military was not called in but there is an option if the forces of a particular jurisdiction become exhausted, for supplementation (indistinct)?---That's correct, your Honour. We have - I am a member of the ANZ counter-terrorism committee. We have protocols right across Australia, Australasia for deployment to clearly terrorist related and high-risk incidents where we may need specialist equipment, specialist weapons, so we have to have a degree of operability with the Australian Defence Force in those very very rare events but they can only be triggered by approval, I think, of the Prime Minister of Australia, from memory and when we have exhausted our capability within Australia, so it's a very very events practiced more at exercise level than reality,

your Honour, but I did see in Queensland, tragically, where at that horrific murder of those police officers where they had an armoured vehicle - police vehicle, you know, riddled with bullets, so we do have specialist equipment but they're not the same as military tanks or - in fact they're titled "rescue vehicles" and it's written all over them.

You make reference to these different roles in the context of discussion militarisation in your par 75, you talk about the operation of safety principles, there's tactical responsibility, are sincere. Some of it seemed policing rather than military concepts?---Yes, that's right, your Honour, and the fundamental philosophy obviously to protect life and serve the community. I don't think, you know, in a war zone our soldiers have that quite rightly philosophy, they are there for a different function - different rules of engagement. Different training.

Emeritus Professor McCollough has mentioned in her report about use of police - a tactical groups as one of the indicators of the militarisation of those, focussing upon the TRG in the Northern Territory. What do you say in terms of whether the TRG is a paramilitary component of the course?---The TRG is the police tactical group for the Northern Territory as a signatory to our response nationally and a capability that every police force in Australia and Australasia maintains. They perform a very - but it's a very small group of people what are very highly trained to a very specific standard around an event that we hope and pray never - we never have to use, your Honour, but it's there and it's a requirements, unfortunately.

So are there other parallels or overlaps between the Northern Territory Police Force and the military?---Your Honour, I think - and again, I can be correct on this but my understanding of it is from time to time we may use their range or their localities for our training but we don't train with them. It's mainly because there may be access to firing ranges and things that are in a safer place for us to engage in utilising weapons but our general liaison role is to primarily function around supporting the Northern Territory in times of emergency and need, to manage the emergency incidents.

Thank you. I move to a different related topic. You told her Honour about the IRT and you referred to the fact that it has been abolished. You've described that in par 185 of your first affidavit and following. You've told her Honour already about the role of the IAR. It was suspended, you say, in paragraph 185, on 27 November 2019 and that was shortly after the tragic events of September (inaudible) and then it ceased to exist on 31 May of last year. Is that a suspension or is it an abolition? ---It's gone.

Is it coming back with another name?---No. It's no intent of the Northern Territory Police force to replace the IRT with some other functioning body.

I want to ask you some questions about that because the IRT was there for a particular reason for the southern part of the Territory from - - -

THE CORONER: Tennant Creek.

DR FRECKELTON: Tennant Creek, so thank you, your Honour, I am getting there. And there you've described the tyranny of distance in the Territory. But the TRG can easily reach - or relatively easily reach - places north of Tennant Creek. Where does that leave Tennant Creek and south? How is that being looked after for matter which the TRG would need to attend to they need to (inaudible)?---So also the operating model, your Honour, is the TRG and our operating model around the securing of police aircraft to deploy - the ability to deploy specialists on the ground anywhere they're required within four hours is the mantra that we're trying to work towards, your Honour and I think it's highly achievable. We are - - -

Four hours can be a long time if there is a, for instance, a very serious riot somewhere in the southern division?---Your Honour, training of our current, frontline police officers captures a whole raft of activity around (inaudible). Active armed offender training – and we're comfortable that our officers are sufficiently trained to enable them to be able to cordon, contain and maintain, until such time as we can get specialists on the ground to assist.

THE CORONER: What do you use for force multipliers in a non-high-risk scenario? ---I'm not quite sure I can answer that, your Honour.

DR FRECKELTON: If you need extra resources to an emergency in the southern region, what do you do?---Well, we've got aircraft here in the southern region, so we can fly members, as we've done even in this instance, quickly, so we got initial first response, and then we plan and build from that, until we can get the highly trained specialist on the ground.

THE CORONER: But in this case, you were needing additional numbers to assist with general policing, including the arrest of a higher risk offender. How do you – and the IRT were used for that role because they were a group of people who were identified as likely to be available to fill that role reasonably quickly. So, how do you fill those roles or call for assistance now?---So, that's since the abolishment of the IRT. That falls back to the current structure, roles and functions of the Territory duty superintendent, watch commanders and individual superintendents. If we need resources, we recall people and we fly them out routinely now. We haven't seen a loss of service delivery since this incident. We still have the capability and capacity to get people on the ground in remote parts of the Northern Territory as quick as humanly possible - you know, humanly possible, having regard to all the uncertainties of the world, your Honour, but we haven't seen a loss in service delivery since the abolishment of the IRT and I think we have a response model that's capable and agile and capable of delivering the need we require.

DR FRECKELTON: Can I explore that a bit more with you? If there were someone with the same kind of profile as Kumanjayi Walker, in Yuendumu again or Borroloola or anywhere else that's remote, where the resources of the town, in terms of policing, are depleted and there is a need to take the person into custody, do you have the resources to draw upon personnel from elsewhere to get them to undertake the task?---So, your Honour, this is a really important question and it's fundamentally part of our future focus for the Northern Territory police force, fundamentally, the

demands on our service, quite bluntly, regularly exceed our capability as we're currently structured at the moment. So, we do, at times, struggle to respond everywhere and we are looking towards capability to have more members at remote locations; one, more people available for surge-type capability, as we have seen in the deployment to Alice Springs as a result of Operation Drena (?) for the surge in crime, reported crime here. The Northern Territory police force is looking very closely to find solutions with government to get more capability. I can - - -

Straightforwardly, are you asking government to provide more resources so that you can undertake the work that you need to do?---Yes, we are, your Honour.

For your s 5 functions?---Yes, we are, your Honour.

And does that incorporate a range of areas, response to domestic violence being one?---Correct, your Honour.

More persons to staff remote stations?---Yes, your Honour. There has been increase in our remote footprint, but again, we are actively seeking government and Federal government support to a bigger plan to ensure we have adequate numbers at our remote and regional footprint, so we can effectively police the needs of the Northern Territory.

More personnel for the professional standards area?---Yes, your Honour.

In broad terms, so that the force can do what it needs to do to fulfil those s 5 functions?---Yes.

Without lobbying anyone or being industrial about it, what do you need?
---Your Honour, we are actively pursuing, through government, additional police resources. We've – as a snapshot on an increase in demand in the last ten years, there has been a 30 percent increase in all reported crime across the Northern Territory. In the last ten years, there is a 126 percent increase in family and domestic violence in the Northern Territory. We have seen a 52 percent increase in unlawful entries across the Northern Territory. The demand on our services and the commensurate size of our footprint is challenging and difficult and we are really working, we believe, the Northern Territory police – we need additional police officers to meet all of those demands.

Are you prepared to give any indication of what the force regards as required to enable you to do what you need to do?---We believe, your Honour, we need in the vicinity of 300 police officers to increase, to enable us to meet the demand on our services and provide an effective response to crime and social order right across the Northern Territory. Encapsulated in that, your Honour, includes the ability to get critical infrastructure development to replace at least - Northern Territory police are still operating out of sea containers at numerous locations that are at end-of-life, not fit for purpose. We need additional housing, so we can place officers at remote locations. So, it is a difficult and complex problem.

I'd like to follow that up with you right now, if I could, Deputy Commissioner. There are stations that are called (inaudible) stations?---That's correct.

I don't know what that actually stands for. Can you tell her Honour, if you will?
---They are intervention era police facilities.

No, I'm asking you if you know what the acronym means?---No.

(inaudible) I don't?---I'm looking around to my colleagues, your Honour.

(inaudible). There are (inaudible) stations and those are stations - - -

A PERSON UNKNOWN: (inaudible) it's just an operation.

DR FRECKELTON: All right. Thank you, Assistant Commissioner.

All right. At any rate, those are stations where quite often there are no police officers at all and, as necessary, police officers go out to them and staff them for periods of time, is that right?---That's correct, your Honour. Some were manned permanently and, again, within our industrial footprint and the ability to attract, recruit and retain people in the Northern Territory, you know, they don't meet necessity and requirements for permanent habitation.

So, in short, while you would like to have more manned stations and the (inaudible) stations – is Nyirripi one of those?---It's in my affidavit. I have to refer to it
- - -

Anyway, there are a number of stations within the general vicinity of Yuendumu that are (inaudible) stations. You would like to have more of them manned but, in terms of staffing, you don't have them, and in terms of infrastructure, it's not satisfactory, is that right?---Correct, your Honour. In many of the locations, we're trying to bolster the number of police officers at those remote locations. We are having significant difficulties securing housing and enclaves for the additional member and their family in which to live, which restricts the ability to get permanent members on the ground, which then further links to our community engagement model and how we'd like to operate on the ground, becoming more integrated with our community. It's a vexed problem.

There are numbers of station - you might remember how many – where there are only two members, is that right?---Yes, your Honour. Again, they're within my affidavit. There is a number of police stations that we made a commitment that we would increase from two officer to three officer.

So, your commitment is to raise those minimum numbers from two to three?---Yes.

As staff numbers permit and when the accommodate is fit for purpose, so that they can live with dignity?---Correct, your Honour.

(inaudible) - - -?---Correct, your Honour, and I am advised – it's in my affidavit – I think there are 19 locations where we've already increased from a minimum of two to three or more persons at those localities. So, progress has started. We're underway, but the difficulty around securing accommodation and housing that's suitable is complex, ongoing and subject to great negotiation, and I can't resolve that instantly.

And, in short, are representations being made to government?---Absolutely, your Honour.

To – to enable infrastructure to be generated which is suitable for police and so that more police can be assigned to those areas?---Your Honour, we believe it's in the vicinity of \$5m worth of infrastructure required.

Thank you. I would ask- - -?---That would secure new police stations, your Honour. Housing, accommodation.

Now, I was asking questions about the capacity of the TRG to deal with some matters which the IRT would previously have attended to in the southern region? ---Yes.

How is the TRG functioning since the suspension of the IRT, which was back in November of 2019. Have they had problems in meeting the needs?---Your Honour, I'm not aware of any deficiency in our TRG. There – we have changed some of the recruiting practices there in order to recruit a number of vacancies. It has been widely reported in the media – not just for the TRG, but for the Northern Territory Police Force – has an attrition rate, where we have our members who are pursued and actively sought out by other law enforcement agencies, predominately. And it's an ongoing issue for the Northern Territory Police Force to ensure that our recruitment remains above our attrition rate. And we have been successful at that.

An issue that has been raised already is potential for local communities, particularly remote ones, to play a role in screening police officers who might otherwise be assigned to them, on the basis of issues which trouble them about a member or a category of member. What is your attitude toward that kind of involvement for- - -? ---Your Honour, I admire the intent. The practicalities of delivering that is complex and difficult. And at the moment, it's not achievable. What we – is highlighted within my affidavit, though, are the variety of things that we can do to work more collaboratively with the community itself around those that are deployed to remote locations to become better integrated with the community. And I think some of those issues have been highlighted in here, in terms of the additional employment of additional ALOs. So we've got far better community engagement models, so those new members that turn up at a location can integrate better and get to know who's who in the zoo, who they do they got to work with, who they got to communicate with. All those factors becomes really, really practical and on the ground and we can do it via other methodologies, other than just having the community itself screen those individual members. Further to that, we would encourage any community member who has an issue about the conduct or otherwise of a Northern Territory

Police Officer to take some action. They can either raise that with the individual officer themselves, if they want. They could refer that to the remote sergeant. They could refer it to ICAC. They could refer it to NAAJA. There's a number of bodies that regularly provide information to – to us about conduct of police. But at the moment, within the industrial framework that we operate, it would be impracticable. One of the things that is relatively apparent to me with the inability to secure additional housing, for example – we have a number of officers, when they go on recreational leave and others – we provide a relief. And it provides a great opportunity for other officers to get to see that community before they may decide they want to become a permanent member at that location. And that has been very effective thus far for us, for individual members as a transition right across the Northern Territory, to see – you know – somewhere where they like to be. And it's – it's often a great method of recruiting police officers to those locations.

Deputy Commissioner, could I take you to par 180 of your third affidavit, please. You – picking up on what you have just said, you identify in that paragraph five different ways in which police can be familiarised with their temporary or longer-term environment. Can you say a little more to your Honour about – to her Honour about these options in terms of introducing a member and enabling the community to learn more about the individual and have input after that, if necessary?---Your Honour, that paragraph articulates my views on what we can do. But again, as you work through those issues I've identified on there, we do work with members of the community. I think that's the first, foremost function of every officer that is posted to a remote location, where you get to know your community when you're out there. Often, police attending the community prior to their – commencing their service there, I've talked about how reliefs often provide that first catalyst for junior – more junior members – or even senior members, for that matter – who have had exposure to that community and they decide, "Well, I want to go there. That's a place where I want to further my career." We have heard evidence from Derek Williams and others around the role they played in building the bridge between the local police and the community itself, so again, local police officers are getting to know the roles and function of ACPOs and ALOs is really fantastic. At 4, there's a program. It's yet to be rolled out, your Honour, but we're optimistic that this will be very – not far away. Adopt a Cop – and we really think that will be a significant ability for a community - - -

You're going to need to explain that, Deputy Commissioner?---Sorry, the community can then adopt – by introduction to various community members, you adopt that – that person as a key – key person that you can then communicate with, show them around the community. It's going to take a strengthening of their community engagement model with the community itself, but I think there's great opportunity that with the goodwill we've heard – already on the evidence we heard, so Lajamanu yesterday, you know, of the relationships they build on the ground. And it's an opportunity for the community to embrace their local police. And we would support that. It's a great initiative.

At par 47, to which you made reference in that 180 number 4, you say that the Adopt a Cop program will sit under mutual respect agreement framework- - -?---Yes.

- - - as the introduction process?---Yes.

These mutual respect agreements are in early stages. A few of them have been formalised so far, and I think there's an attempt to negotiate others with local communities, utilising the elders or groups such as Parumpurrua, is that right?
---That's correct.

Could you tell her Honour a little bit more about this mutual respect agreements and their potential?---So they're – your Honour, I will touch more upon their potential than their effectiveness as it exists today. But it is an opportunity for individual members to reach agreement with a community about things that are important to the community, and that will then shake the response from police and a whole raft of factors that, by negotiation – by respect – a mutual respect agreement, we can effect meaningful change and how we operate with that community. I think they offer great potential and we would encourage their use, moving forward.

Could you turn to par 33 in this third affidavit? You say more of that mutual respect agreements, and I'm going to ask you some more about CREC in due course. But you say there that these agreements are two-way, of course, where both the police and community commit to mutual respect. And that's the respect word again. Improved cultural awareness, including cross-cultural trends specific to the region and improved community interaction with community members, being an integral part of the terms of the agreement. Is that right?---Yes.

And the – such agreements exist, as you say, in your par 34 at certain places. The idea is to have CREC – which was only established after the new Commissioner took office, I think. Is that right?---Correct, yes.

Is to have CREC facilitating these agreements and also making sure that those which do exist are updated as necessary. Is that right?---Correct.

Is it your hope, for instance, that perhaps liaising with Parumparru in Yuendumu, that a mutual respect agreement might be able to be negotiated in due course there?
---Yes, your Honour.

And in par 35, you speak about ALOs being an integral part of that process, that they will assist working through and implementing such agreements. Could you say some more to her Honour about how you envisage the ALOs having a role in that?
---Your Honour, the ALO model and the concept of our operations with ALOs is fundamental really to the community engagement model that we're trying to develop for remote regional and right across the Northern Territory. They will become – they are recruited based upon their respect by the local Elders who nominate them and support them into that process. They become somebody of value to the community that they bring hopefully to us as the police, so we can engage with them in a really fundamental way. And they can then help drive those mutual respect agreements by better understanding community needs, as opposed to a 22-year-old policeman with six months' experience from Melbourne, for example, you know. They give that interaction to enable the community to have a greater voice with the police.

At par 307 of your first affidavit, I'm sorry to do this to you, your Honour.

THE CORONER: That's all right.

DR FRECKELTON: But we're trying to give you a comprehensive view of what's been done and what is being done. You made reference to the Northern Territory government's local decision-making principles and the volume of prep and also, I think mutual respect agreements are part of that local decision-making set of principles. Is that right?---Yes.

So, this is a broader issue than policing, but mutual respect agreements are an aspect of implementation of those principles?---Correct.

Do you – if those agreements can become more widespread in terms of a local community identifying what it does want and what it does not want, is that going to be a constructive reach to fashioning the tone and nature of policing, especially in remote communities?---I think it can, your Honour. I think it can be that foundation stone to which we build going forward. There was always going to be complexities around delivering a policing service in a highly legislated operating environment the use of discretion and cultural sensitivities, but the foundation stone would be the abilities of the ALOs and our ACPOs and better understanding to help shape our operational activity and policing model. And you know, I'm of fervent belief, your Honour, that what works at Yuendumu may not work at Wadeye. We have to have local plans that suit the local community and the local community needs.

I would like to move to a related issue.

Your Honour, please guide me when you'd like a rest for the day, otherwise, I'll just keep going.

THE CORONER: I think we'll – if everyone can manage, I think we'll sit until 4:30.

DR FRECKELTON: All right, well let's move to (inaudible), like a flatmate that stays (inaudible) early tomorrow. I'd like to raise with you the fraught issue of policing in the context of a range of social challenges, including alcohol consumption in the Northern Territory. How does the document Stronger Futures link into that issue, first of all?---Your Honour, I think you probably have far more detailed knowledge of it than I possess, your Honour, but it relates to the legislature framework that followed the intervention in earlier – prior to my arrival in the Northern Territory and it legislated initiatives around access and purchase of alcohol.

Now, at par 128 and following of your first affidavit, you give the history of the repeal of the *Northern Territory National Emergency Response Act* of 2007 and it's replacement by stronger fixtures in the Northern Territory legislation in 2012 which continued alcohol prohibitions in what were protected areas and it gave the Commonwealth government powers to amend Northern Territory legislation in certain respects meant that in alcohol-protected areas, alcohol was completely

prohibited, such a deterrence that created a range of offences. Now relevantly, you say in par 131, "On 16 July 2022, Stronger Futures ceased" and tell your Honour, just in broad terms, what that meant?---It meant that alcohol restrictions in APA communities stopped, although some alcohol restrictions remained in place pursuant to the *Liquor Act* and alcohol consumption is restricted in the areas known as "general restricted areas".

Now, I'm just going to change to that situation about a month ago, but from a policing perspective, what was the consequence in terms of crime and social disintegration during the period when those restrictions were significantly reduced?---Yes, your Honour, there appears to be a correlation between the cessation of Stronger Futures and an increase in property crimes and assault across the Northern Territory. However, we're doing much more work in deep dive around analysis of the data to give us a deeper understanding of exactly what's happened and why.

You provided some statistics here in your par 138, but to just give her Honour a flavour, was there a significant increase in property crime, domestic violence and a reduction in school attendance during that period when Stronger Futures was repealed?---Yes, that's my understanding, your Honour, coupled with a significant increase in the prison population.

Yes. And the prison population already in the Northern Territory is significant, is it not?---Your Honour, at capacity.

And – yes, full capacity, yes it's at capacity right now?---That's my understanding, yes, your Honour.

And that leaves a major problem in terms of enforcement of criminal activity conduct, if straightforwardly, there's just not room to house those who are arrested. Is that right?---That's correct, your Honour. I think the correlation, people don't surrender themselves to prison, all of the activity that's resulted in that is generally the work of police officers responding to those increases in demand on policing services to respond through law enforcement to those crimes, particularly serious harm offences and family – generally it may result in remand, for example, as opposed to bail which further contributes to the increasing prison population. So you know, the effort of the Northern Territory Police Force has been extraordinary, your Honour.

Policing cannot fix the multifarious social problems generated by the use alcohol, can it?---No, I don't believe so. The Commissioner has made a public statement, I think every police officer in this room would acknowledge, we cannot arrest our way out of this problem.

Well, if it's – if I describe it to you as fundamentally a health issue, is that something with which you would agree?---I fundamentally believe, yes.

It's been about a month since new measures were instituted. Are you able to identify trends at this early juncture in terms of a reduction in crime?---My advice, your Honour, from local commanders and assistant commissioner is that there has

been a dramatic improvement in the social amenity of Alice Springs in particular. And I haven't got the data yet to get any formal analysis of that information, but anecdotally that's what's provided to me as recent as this morning.

Is it fair to say that there needed urgently to be a change in the social amenity of Alice Springs for the safety of residences and visitors to maintain tourism within Alice Springs and to inhibit the antisocial conduct which is problematic for everyone in the community, including (inaudible)?---It is, your Honour, and I think you're well-versed in the crime activity, the type of crimes, the social dysfunction, the issues that are faced by the Alice Springs community, Commissioner of Police ordered 45 additional police to Alice Springs which, when we provided that response, clearly it has a ripple effect on everywhere else in the Northern Territory police force as we scramble to put additional members on the ground. And those activities that they've been undertaking, predominantly around high visibility policing, public reassures. You know, we've had horses roaming the streets, we've had lots and lots of high visibility. But the impact has been, I'm advised, as beneficial. The community have provided good feedback to our officers about what they're seeing in terms of we have a visible police presence. As I mentioned before, your Honour, one of the difficulties is the lack of band is so big and we have resourcing issues that are difficult to manage.

In the meantime commercial damage has been done to the area, reputational harm, and a significant number of persons during that period have committed offences and awaiting trial and (inaudible)?---Yes, that's correct, your Honour. By tomorrow I could get the arrest data if that's – or charging data from Strike Force Viper but I know already it's significant. So post – after the investigative phase and the apprehension phase the police are very effective. But we just don't have the capability of putting a police officer on every street corner to be that visual deterrent, and we were clearly looking for other social cohesion to help us. It can't be a policing problem alone.

The arrangements at the moment in Alice Springs, for instance, are that alcohol cannot be purchased I think on Mondays and Tuesdays. It can be purchased – and please correct me if I get this wrong – between 3:00 and 7 from Wednesday to Saturday I think (inaudible) Sundays, that would be right?---That's my understanding. Varied operations, and take away restrictions on the Monday and the Tuesday, and varied hours of operation other days of the week.

And you have auxiliaries still present at that (inaudible)?---That's correct. Police Auxiliary Liquor Inspectors, PALIs, yes.

Yes. Now, drawing upon your experience and your perspective as a Deputy Commissioner do you have other recommendations or insights which you would like to share with your Honour about what might be done to improve the situation, in the southern region, Alice Springs, yes, but places like Yuendumu as well?---As a general principle, your Honour, clearly the Northern Territory Police Force will support anything that helps reduce the level of alcohol harm in the Northern Territory. I think there are some opportunities, your Honour, around technological

solutions as a link to the Banned Drinking Register and the ability to perhaps regulate to some extent volume sales.

If we get the first one first, the Banned Drinking Register is a list of people who are not permitted - - -?---Correct.

- - - (inaudible)?---Correct.

- - - (inaudible) to purchasing alcohol, is that right?---Correct.

It has limitations because persons on that register can simply ask others to purchase on their behalf?---Secondary supply becomes an issue that we have to contend with, yes.

Can you tell your Honour what you're thinking of in terms of technological solutions (inaudible)?---I think in terms of, your Honour, about volume metric sales, for example, Adelaide jurisdictions have the ability to join up licensed premises so when you present you can buy whatever the agreed amount is, but you can't go to multiple locations, for example, and buy, you know, volumes and volumes of alcohol and then secondary supply to others. That's a restriction on volume. And I think that's been efficient, or effective in other localities. I think there are some biometrics stuff that can be perhaps looked at in terms of individuals, so if it's you or me, you know, you can't then – and you get – or you leave a licensed premises for whatever reason for anti-social behaviour you just can't walk down to another hotel and just gain access. They are all interconnected so they know – I think that's why they're used in a number of nightclub areas right across Australia now, so you can't get turfed out of one pub and then walk down the road and get into another one when you're drunk and full of bad manners. So they are two – you know, there's I think a number of solutions with greater exploration around technology that may assist.

Is it fair to say that there are (inaudible) essentially a health problem, there are health initiatives and education initiatives which are also worth pursuing in the broader context to try to reduce consumption of alcohol as a socially acceptable phenomenon?---Yes, your Honour. And I think ancillary to that counselling, health services, sobering up to a greater capacity, sobering up shelters, anything to reduce those people ending up in police custody, which is an option of last resort.

I indicate to your Honour, but I was going to raise the subject of CREC with you. Could you turn please in order to facilitate that to par 305 of your first affidavit. Now, CREC stands for Community Resilience and Engagement Command?---That's correct.

And the Police Force Emergency Services created this entity in October 2020, is that right?---That's correct.

I'd describe this as something particularly generated by the Commissioner, would that be accurate?---Very much so, yes.

You describe it as having a set of aims, which we don't need to read out – but to improve decision making, provide various forms of engagement, and employment opportunities, et cetera?---That's correct.

Can you tell her Honour some more about the CREC, please? Who does it? What it's doing? Do you have anything it's achieved so far?---Correct. Your Honour, from my perspective certainly it has been fundamental in shifting our thinking. It's been fundamental for the Northern Territory Police Force to come up with culturally appropriate solutions, answers. I think it provides a greater engagement opportunity than we previously had because it was not under a single command, it was a bit fragmented. We have a really strong team in there who are shaping the future direction of the Northern Territory Police Force around a whole raft of things. And whilst it's only relatively new it's delivered some outstanding results already and we see 50 ALOs already recruited, in place, located across the Northern Territory, helping us. They are on board with our – assisting us with our cultural inclusion programs, educating recruits, police officers of every rank for a more culture inclusive police force.

That said, in par 7 of your third affidavit you make a point that CREC on government funding and there's a very modest number of members that you've described in that par 7, is that right?---That's correct. Your Honour, it's headed up by a non-sworn member. It's headed up by an executive director, Karen Elligett, widely respected in the Northern Territory Police Force for her work. A business manager, manager Aboriginal Development, one senior sergeant, two constables, Aboriginal community police officer, AGPAL in the northern division. They're based in Darwin. They have an acting sergeant, AGPO, three senior ALOs, and the ALOs in the southern division. These are based in Alice Springs and they are regularly out the front here during the course of this process providing support to the community and providing a bridge between whatever community we need and the Northern Territory Police Force.

Now, I'm going to go into what CREC does straightaway, but is that enough members to (inaudible)?---It's largely been funded internally. It's an initiative that has been undertaken by the Northern Territory Police force regardless of any other support from anywhere. We've just initiated it. And I think we are actively planning to expand it, and there are plans afoot with support from government that we will increase the size of our CREC and we'll increase the footprint of the number of Aboriginal employees through ALO employment and other ways across the Northern Territory.

Just keep your voice up, if you would?---Sorry.

Without active financial support from government, that will be (inaudible) possible? ---We are actively seeking support, your Honour, through government and Commonwealth to drive those initiatives forward.

Now, you identify in par 8 the recruiting and mentoring of ALOs by CREC?---Correct.

And you identify in par 9 some additional staffing, specifically that is aspired to for it. Is that right?---That's correct. They will include additional positions. Director, executive assistance, manager, stakeholder relations and partnerships and a project officer. And we're seeking funding for that.

Sorry to introduce you to another acronym, but you make a reference in par 15 to Community Safety Action Plans?---They're a requirement for every remote sergeant to develop in partnership with his community. They - - -

What do they- - -?---Well, they're a plan so they can actually – well, there's a regular meeting, basically. So it enables us to hear what community issues are. Provide a forum, you know, about what the community concerns, as opposed being driven by a central-based model. These are our policing priorities and they're not commensurate in what the local community are seeing as their problem. So they provide an avenue to meet and for the local police to be responsive wants and how they police and what their problem is – what's the significant issue facing the community.

And CREC attends those, on invitation, as much as they can?---Subject to their availability, yes.

THE CORONER: We heard a little bit about those meetings and they were often less than well-attended.

DR FRECKLETON: Yes, they were.

THE CORONER: Have we got any update on whether or not they're actually meeting the needs of the community and engaging?---Your Honour, I think in – to be brutally honest here, we're trying to build a bridge and I think the commensurate start we've got – whether it's as effective as it should be, that's certainly up for ongoing negotiation between us and the community.

Well, let's just talk about Yuendumu?---Yes.

How many meetings have there been in the last six months?---I haven't got that data here.

DR FRECKELTON: Your Honour, can we – can we make enquiries for the - - -

THE CORONER: Sure.

DR FRECKELTON: - - - the Deputy Commission to tell you tomorrow?

THE CORONER: Sure.

DR FRECKELTON: Thank you.

THE CORONER: Just some specifics.

DR FRECKELTON: Yes.

You – you raised some of the difficulties in your par 17. Can you undertake to obtain some information for her Honour on that subject?---Yes, your Honour.

Right. In par 17, you raise some issues in terms of, for instance, the absence of ALOs in various places?---Yes.

That, of course, impacts upon their capacity to input into these community safety committee meetings. And how they – the Community Safety Action Plan negotiation place?---Yes.

Paragraph 18, you identify how ALOs contribute to the meetings and also the other roles of ALOs contributing in various ways to communities with the support of CREC?---Well, everything is with the support of CREC.

Well, what does that mean? Because there are ALOs, I think you said?---Yeah, so -
- -

Yes, spread right throughout the Territory, assigned to – usually places where they have some background, is that right?---Ideally, recruited from the community.

Yes?---So they are culturally-appropriate. They are respected by the community for which we're at. And they're people that are endorsed by the community to be their ALO, to be their conduit to us. So that's - - -

That – that said, it's a – it's a complex role, one that's not always comfortable and one in respect to which, presumably, they need mentoring and support?---And that, your Honour – yes, that's right, Mr Freckelton. That - - -

Does that come from CREC?---That generally comes from CREC to provide that greater support, because they deal with their complex issues right across the Territory. They're familiar. They helped – helped us recruit them. We use – whilst we get local members to go into the community to seek out if there's anyone they want CREC, through their own cultural connections, can go and help us find the right people to try and recruit into those roles. And they – they do provide - - -

In your par 24, you refer to the role of CREC also in assisting in adding to the skills of ALOs so that they can perform their various functions, for instance, and getting more accustomed to using computers?---That's correct. Yes, your Honour, training the – you know, it's very hard to come straight into a police station and think you're going to settle in nicely, then it's – it takes some exposure and some development and some, you know, endorsement by our members. I – even as a sworn police officer, first time I walked into a police station, it was a daunting place, so I can imagine how difficult it would be for others.

Now at par 28, you talk also about the role of CREC in implementing the mentoring program for Indigenous employees generally, and provision of mentoring for – for all Indigenous staff, sworn and unsworn within the force. Is that right?---That's correct, your Honour.

That's quite a substantial role, given the various number of persons working within CREC. How effectively are they able to fulfill these aspirations?---Well again, I think what the paragraph talks to is other who – who agree to assist CREC to provide that mentoring role as well. So it spreads beyond CREC, so we've got other – as I said, even up to the rank of Assistant Commissioner who provide that mentoring role to others so they can assist them with their future development and a career with the police, but just their future development as a human being. What can we do to assist?

You talk about par 38 about the creation of an agency-wide cultural responsiveness framework, established in the cultural protocols and culturally-appropriate induction programs for new staff. Now, what are the changes that have been initiated in initial training and cultural sensitisation for police utilising CREC over the last two years? ---I think – and again, as well articulated in that affidavit, your Honour – but again, obviously, around training – I mentioned even as early as this week, we've had CREC come down and assist us with a cultural induction program for the latest new recruits or constables that graduated to Alice Springs. They went through a smoking ceremony – the whole raft of day-to-day induction by local, respected, Aboriginal community members in Alice Springs. For example, I heard even as this week, one of our brand-new recruits say, you know, he – he learnt a huge amount that – beyond that from a sterile office environment, when you get lectured and reading paperwork. So they provide a whole raft of activity. Again, I can read it out verbatim, your Honour - - -

No, no. We won't have you do that. At paragraph 49, you refer to the cultural awareness program that goes for three days and has been the subject of evidence by Sergeant Allen, who is now part of CREC, I think. Is that right?---He is the new senior sergeant there, your Honour.

Yes. Now, how is that cultural awareness program different from what existed prior to CREC?---I think it – it just provides greater in-depth knowledge. From the evidence that was provided before, certainly those who received it didn't seem to have a very detailed, valued opinion of it. I think the new program is far more in-depth and much more appropriate and responsive to the needs of the Northern Territory Police Force. What we want.

(inaudible) for instance, a basketball game and a barbecue?---I think so. I think so, your Honour.

Again seriously, the – the contrast between those efforts that were made in earlier days to introduce persons who might not even be from the Northern Territory to Indigenous culture, from then to what's taking place now?---Correct, your Honour. You know, as recently as last week, we had senior police from across Australia here

who were out, looking at our ALO program with – with – green with envy, from right across Australia. From WA, South Australia, New South Wales and Queensland, all of which face similar issues that the Northern Territory does around crime, crime patterns, extreme levels of social dysfunction, juvenile crime and they were very happy to come and have a look at our efforts to make a significant difference. And it's not tokenistic. I think, when I look – from when I arrived to what I see today, it's markedly different. And hopefully, the benefits of that are immediate, but I think they're ongoing, your Honour.

You refer in par 1 – sorry, 53, third affidavit – to the work of CREC with the college? --Yeah.

Can you just say a little bit more about that?---Again, that will assist us with a new sergeant development course that we're doing, there will be a strong component in there around the role of CREC, how to engage, how to - how we can better be culture appropriate right down - particularly at the recruitment of future ALOs, what role they play. There's a whole raft of things that will come out of that training for the rank of sergeant. They are the first step and many will be in those supervisory roles where they will be required to recruit people, you know, and we're looking for that interface.

Now one of the other forms of input that is proposed for CREC in conjunction with officers in charge of local police stations is the generation of induction manuals, is that right?---That's correct.

Now, you refer to these at paragraph 139 and following of your three affidavits? And an example of a template if you like, is the manual that is provided as NSO6 to your affidavit?---Correct.

Now, does your Honour have that?

THE CORONER: I believe that I do. Yes.

DR FRECKELTON: Now that is a - it's a first attempt and generously those who are representing Parumpurrua provided feedback to the police. I don't have responsibility for the content of it at all but what they said was of assistance in terms of guiding some of the content that is in that manual. Is it fair to say that the police force is open to doing more and better in terms of these manuals, that this is a bona fide attempt to make a start?---And it is the template at the moment for us to look at what ways we can improve the previous and existing ones that were identified by us as lacking in sufficient detail and content, cultural sensitivity and awareness, so yes, they are an attempt by us, the Northern Territory Police Force, to do better.

Now, this manual, looking at exhibit number 6 then, provides a bit of a description for a new person coming to work at Yuendumu Police Station of where it is, what else is around it, it provides some history, is that right, on page 4?---That's correct.

So number 6 of the exhibits to your affidavit number 3?---Yes.

So page 4 of it, a bit about the history, which includes the Coniston massacre and a variety of documents, many of which are on line which persons moving there can have access to, plus some history is again on line and a description of the building program, specific attention to the Coniston massacre, other issues about which her Honour has heard in around the time in 2010, there's a short reference to the passing of Kumanjayi and that can be all printed when her Honour does her findings. Some information about demographics of the area, requirement, services and similar at page 9 community strengths and some description in a brief form of Warlpiri culture. Again that could be augmented but would you describe this as an attempt to provide an initial orientation?---Yes, your Honour, and a significant improvement on our first draft.

Some - a description of the - - -

THE CORONER: Which goes to how much learning is required, isn't it?

DR FRECKELTON: That's it, your Honour, but it's an initial induction document so people who walked in there barely knowing where Yuendumu is or anything about it, what is distinctive about it can get a bit of an idea and, if they want to, can do quite a bit of reading to acculturate themselves. So is that a - as you say, a template upon which more things can be built with the assistance of CREC in due course?---Yes, and is ongoing as we speak, it's being - - -

All right.

THE CORONER: Annexure D which is not included, refers to the Yuendumu community safety action plan.

DR FRECKELTON: That's what we are going to be doing (inaudible) and to assist your Honour with that tomorrow I think.

THE CORONER: Yes. You might even have some assistance now.

DR FRECKELTON: (Inaudible). Thank you. We will assist your Honour tomorrow.

THE CORONER: Okay.

DR FRECKELTON: Thank you, your Honour. That might be a convenient time to stop for the day?

THE CORONER: Sure. Just before we break for the day there are the issues that were raised yesterday morning. Because of the workload in relation to the witnesses and evidence that we are engaging with, what I am proposing to do is if there are any further submissions I will receive those in writing. A timetable for submissions be circulated by counsel assisting and if there is any request or need for any following submissions after receipt of the written submissions, some time will be set aside for that once we identify what issues are left to be resolved.

So you will receive something from counsel assisting, setting out some guidelines about when submissions would need to be received.

But otherwise we will adjourn until 9.30 tomorrow.

WITNESS WITHDREW

ADJOURNED