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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 1 NOVEMBER 2022

(Continued from 31/10/2022)

Transcribed by:
EPIQ

DR DWYER: Your Honour, I've been asked on behalf of the Walker, Lane, Robertson family, if they might ask three questions, so this morning. I don't think that's going to take any length of time. But Dr Freckelton would prefer that that happened first, so thank you.

THE CORONER: Yes.

JODY NOBBS, on former oath:

XXN BY MS PINCUS:

MS PINCUS: Hi, I'm Julie Pincus, I'm one of the lawyers representing the Walker, Lane and Robertson family?---Good morning.

Hello. So you heard from Ms O'Neill yesterday?---Yes.

But just following the evidence yesterday, we just had three more issues we just wanted to put to you if that's okay?---Certainly, thank you.

The first one is you gave evidence yesterday that you regarded the IRT as a very well trained, disciplined cadre. And her Honour has heard evidence over the course of this – this inquest, that a Constable Sykes was actually deployed several times, perhaps even by you, as part of the IRT, and despite him being a probationary officer, who had not completed the IRT training course. And only ever ended up on the call-out list, because Rolfe had obtained permission from Bauwens. Is that news to you?---Yes it is news to me, I'm afraid, yes.

And does – does that concern you, that someone like that was included in the IRT team?---Agreed, the IRT, if I had cause to call the IRT out, identifying a need for an IRT deployment, I would expect that the IRT team, in its totality, would be the trained, endorsed team that I expected.

And had you been aware of that fact, would that necessarily have changed your view as to whether to deploy the IRT in the situation with the arrest of Kumanjayi Walker?---So I'm not certain – well I am certain, Sykes wasn't part of the IRT deployment.

No, no but you don't – when you – when you agree to deploy, or when you're recommending to deploy them, you don't necessarily know who's going to be part of that team?---No, agreed.

Okay?---I think, to answer your question broadly, if – if I had some knowledge that there was concessions provided to people that were outside of the spirit of the structure of the unit, yes I would have some concerns, but they would be concerns that I would address with the sergeant in charge of the unit, and then the division superintendent in charge of the unit, if – if I wasn't satisfied with the outcome at that level.

Mm mm, okay. Secondly, you gave evidence yesterday about the importance of Alefaio being involved in the arrest. And I just – I just wanted to canvas with you why it was that more effort wasn't made for ACPO Williams to be involved? Because there's – we've had a lot of evidence about how he was really the appropriate person. He was well trained. He had the power of arrest. He'd arrested Kumanjayi before. He was his uncle. He was aware of his various cognitive impairments. And also, he knew acutely of the issues with the relationship with Rakeisha, and the need to protect her. So do you accept that that arbitrary line in the sand that you drew should not have only been fixed around Alefaio's availability and perhaps should have looked at Derek Williams' availability?---Potentially - my understanding - and I'm not sure if, you know, reflecting back on what my thoughts were at the time or what

I have subsequently thought over the last three years, but my understanding at the time, Derek Williams wasn't available and my knowledge of Derek Williams and the volume of matters out there is such that I think we tried to regulate or limit the burden on Derek Williams, given the volume, but certainly I accept there would have been a value to have Derek Williams involved in this particular arrest but my understanding was he wasn't available at the time.

And if not involved in the arrest, involved in the planning of the arrest?---Certainly, I agree, yes.

Because I think there is evidence that Frost actually asked him, you know, to contact her to be involved but - and then because he was at the funeral he didn't actually reply to that?---Correct, but I certainly agree that he would have been a critical component within the planning of the arrest, notwithstanding his obligations - cultural obligations at the time which rendered unavailable at the time as far as I can recall.

Thanks. Finally, I just want to touch on the issues around the concept of after the funeral and - because your lived experiences as a police officer - a Northern Territory police officer includes the recognition that it's essential to engage with family and Elders to formulate a peaceful arrest plan and you agree that any communication to Kumanjayi through the family or indeed needs to be very clear and unequivocal and I am just - what has come out from the evidence is that there has sort of been a number of different recollections of that communication. One from Frost where, about the - you know, after the funeral an ACPO Williams and then thirdly from Lottie Robertson, so Frost used the word "after" as meaning any time after the burial on 9 November but you said yesterday that Kumanjayi could be handed in any time before 5 am on Sunday and Williams and Robertson understood it to mean a day or two after. So I suppose all I am wondering is can you accept - if we accept the sincerity of these recollections including yours, would you accept that this communication was inadequately expressed and comprehended?---Yes, acknowledge the communication deficit there, yes, correct. But my understanding at the time through my engagement with Sergeant Frost - it was just Sergeant Frost, not with Williams or anyone else, was that there was a clear understanding on the part of Mr Robertson in terms of what after the funeral looked like and the reference

I made yesterday in terms of any time before 5 am wasn't necessarily the arbitrary line in the sand but it was an obvious acknowledgement of the fact that we weren't going to engage in the tactical action until 5 am the next morning.

Thank you, no more questions.

THE CORONER: Mr Hutton, did you have one?

MR HUTTON: I did, thank you, your Honour.

THE CORONER: Sorry, Dr Freckelton.

XXN BY HUTTON:

MR HUTTON: Superintendent, you gave evidence yesterday regarding the unacceptable risk you considered to be posed by the withdrawal of the health service in Yuendumu?---Yes.

And are you aware of a document known as a "vulnerable persons list"?---I'm not sure I'm aware of a document per se, I presume there would be a document but I am certainly aware of a vulnerable persons list, yes.

Were you aware of how many people were on that list in around or in November 2019?---No, I'm afraid I don't.

Were you aware of how many people in Yuendumu either that were on that list or off it were considered by the health service to be acutely unwell at that time?---No, I'm afraid not.

In your role as superintendent do you have any understanding of how regularly or how often people are required to be retrieved from Yuendumu for medical reasons? ---Not definitively but certainly as a relatively regular occurrence, given the extent of health issues inherent within that community, yes.

That's not data that's made available to you though, it doesn't come across your desk ordinarily?---No. There may be something that is highlighted within an inter-agency integrated meeting, potentially if we're - so the Vulnerable Persons List you refer to is something that I'm aware of through the Emergency Management Lens so if we are preparing for cyclone, fire, flood disaster - certainly not a cyclone in Yuendumu - but I think you get where I'm going with this, but that's where there's some actions inherent within the plan that require us to do certain things with vulnerable people, so that's my understanding of the list and so it's regularly updated, so one of the actions that I might have preparatory to, you know, an event is review the Vulnerable Persons List, make sure it remains current and then identify what our actions are to support the vulnerable people on that list.

And finally, you gave evidence yesterday about concerns for overflow (inaudible) as you describe them and once the clinic staff had been withdrawn. Are you aware of

whether the police station at Yuendumu receive did receive any such overflow calls?---No, I'm not aware if there was any overflow calls.

Thank you, your Honour.

THE CORONER: Can I just ask one question before you, Dr Freckelton, again because it might give rise to something?

MR FRECKELTON AO KC: Of course.

THE CORONER: Just referring again to the snap order, have you go that in front of you there?---Yes, your Honour.

THE CORONER: That is exhibit 14 in our proceedings?---Yes, your Honour.

There are two aspects. The first is what you would expect of an officer who receives this document. Obviously we can see that it is - who it has been sent to, which includes watch commanders and your cc-ed in as is Superintendent Vicary. So I don't know, would that influence someone's understanding of the importance of this documents, the fact that so many people are included, including officers of high rank?---I think that's a fair inference to draw, your Honour, yes.

The first page, although the task includes the providing a local presence, is heavily concerned with the arrest of Walker?---Agreed, your Honour, yes.

Do you - even though that is heavily concerned with the arrest of Walker, would you nevertheless expect the whole of the document to be read and understood?
---Correct, certainly.

Under the "task" we've got "The arrest of Walker" and then "Provide a local presence". Why is the word "armed" included in the "local presence"?---I can't comment, your Honour. It's implied, it's unnecessary, it's not - yes, I have no idea.

Does that have any particular meaning for the IRT?---No, not by my reckoning, no.

Dr Freckelton?

XXN BY MR FRECKELTON:

MR FRECKELTON: Just following up on her Honour's question again, Superintendent, does the fact that there is reference to people being armed denote an expectation that long arms would necessarily be carried in the community in any work done by the IRT members on this mission?---No, I would say that that's a very long bow that I would draw, but no.

Is this the situation then, long arms should only be carried in community if there is a good and sufficient reason to do so?---Agreed, yes.

You've been asked a number of questions about the IRT and you have said variously in your evidence yesterday and today that you assumed that they were - "their members were highly trained, skilled, endorsed and disciplined, is that right"?
---Correct, yes.

Was the principal source of such information as to their status that which came from Sergeant Bauwens to you?---Not in isolation, but yes.

Did you receive information that was incompatible with the proposition that the members of the IRT were highly trained, skilled, endorsed and disciplined?---No, never, your Honour.

If you had received information that suggested that that there were deficits in the SOPs, that there were limits to their training, that some persons who worked in the IRT were not endorsed, and that there were shortfalls in discipline, what would you have done about it?---Would have actively engaged the command structure in which they operated in, to address those deficits, and made sure that they were fit for purpose, and capable of deployment.

Sergeant Bauwens was an experienced officer?---Agreed.

To your knowledge?---Agreed, your Honour.

With experience, generally, but also in TRG and also in his role with the IRT?---Agreed, your Honour, yes.

And you relied upon his expertise, and assumed he would communicate to you, anything that you needed to know, in respect of the IRT?---Yes, your Honour.

You've been asked some questions again today, about the role of Derek Williams. And her Honour has raised with you again the content of the snap plan. As you said yesterday, it was vital for the effectiveness of that snap plan, that there be someone who knew Kumanjaya, so as to communicate with him to identify him, and to reassure his relatives and him, after he was taken into custody?---Agreed, yes.

Did Mr Alefaio fit that set of requirements?---Yes, my understanding of Alefaio at the time was that he had a very good repour with the family and Kumanjaya Walker, and such, very adequately fit that descriptor as far as I was concerned.

So accepting all the positive qualities of Senior ACPO Williams, was he essential, given the contribution that Constable Alefaio was able to make?---No not necessarily essential, no.

Was there also an issue, in terms of the use that could be made of Senior ACPO Williams, given his relationship with Kumanjaya?---I don't think I turned my mind to that at the time, but certainly was aware that he was involved in cultural matters, and wasn't available.

In terms of the use that can be made of ACPO's, and also ALO's though, is one of the constraints, that they of course are related to, and live in the community with, certain of the persons who become of interest to the police?---Sometimes a constraint, sometimes an opportunity. I acknowledge quite often inherent conflict, but in the case of Senior ACPO Williams within Yuendumu, it's – there's – he has broad linkages to the whole community, from an immediate and distant family context, so.

Yes. But of course he has particular linkages to persons within his own close family?---Correct, yes.

And in some situations, at least, that can create conflicts of interests, or at least significant discomfort for him, in terms of provision of information, of direct involvement in apprehensions?---Certainly, and we endeavour to regulate his involvement around those matters.

Now you spoke to her Honour yesterday as well, about your regret in respect of the role in which Senior ACPO Williams was placed in communicating with members of the community, and having withheld from him, information that Kumanjayi at the relevant time, had passed, is that right?---Yes.

And you identified to her Honour that the issues that arose on that night, have created dilemmas of trust for the police force in respect of the community?---Yes.

And that includes, with Senior ACPO Williams, does it not?---I haven't engaged Senior ACPO Williams, but I would assume so, yes.

What can you say to her Honour about the efforts that have been made since the tragedy, to re-engage with the Yuendumu Community, by the Northern Territory Police Force?---It's probably a better question for those that operate within this command. I operate within the Northern Command, but certainly acknowledge that you know, my – the senior police officer that took over the role after me, Superintendent Prowse regularly engaged with the community. Attended there quite frequently. Established good relationships and connections. We've tried to do a lot more within the mutual respect frameworks. We – Sergeant Jolly transferred out to Yuendumu shortly after the – this incident, or certainly the next year. She also had a substantial connection and relationship with the community. And has been pivotal in terms of rebuilding some trust and respect there. You know, from a policy perspective, we continue to grow our ALO frameworks. We've established, I'm not sure, I think it was after this event, that we established, and certainly grown our Community Resilience and Engagement Command. As I indicated in my evidence in chief, we're the highest represented police – so – the highest Aboriginal and Torres Strait Islander represented police service in Australia by far. And we continue to – to grow there. The implementation of the ALO program has been a substantial game changer for us, as conduit between the community and police. So there's been a whole lot of multifaceted approach to – to engage within Yuendumu. But I guess the nuance, the day to day on the ground, is probably better, you know, presented by the Southern Command.

You were asked yesterday a number of questions about the concept and reality of payback?---Yes.

There is a traditional law form of payback, which can involve formal, calm, imposition of community etcetera, traditional measures, to effect punishment and deterrents, is that right?---And – and what I've seen of that is it is very powerful and structured, and yes, short answer.

Have you also seen angry, vengeful, retribution on occasions, by communities, which has been loosely designed payback?---I'm afraid more occasions than not. That's the prevalent attitude in terms of most violent interactions within Central Australia. The – the assertion on part of the – the aggressor, that it's necessary, as a mechanism to facilitate a cultural payback.

And was it that form of spontaneous, vengeful retribution that you were fearful about taking place on the evening of 9/10 November?---My predominant concern, yes, that was looming very large in my mind at the time.

And can that phenomenon just erupt with little notice, on the basis of spontaneous phenomena triggers that are unintended?---Respectfully, I won't go through the matters again. But I think highlighted a number of Warlpiri related matters yesterday that demonstrate that quite clearly, but it's not, and again probably not fair to just highlight the Warlpiri matters in isolation. It's – it's an unfortunate pervasive and reoccurring issue across the Territory. You know, I won't name communities, but I think it's commonly accepted that there's a lot of communities that have the same – same propensity for a rapid – sorry, escalation of violence, descending into chaos, with mob mentality ruling.

And of course, a shooting dead of a community member by police, is a particularly sensitive and emotive phenomenon, isn't it?---Certainly, yes.

After the tragedy, were there episodes of violence and damage elsewhere in the Territory that came to your attention?---Yes. I was the incident controller for the next five days, and an INT established – it may have been five days, it may have been six. But certainly around that period of time, ran an INT established to address the multiple police stations within Southern Command that were targeted by communities in port of the Yuendumu Community. Willowra Police Station, for instance, was completely destroyed days after this event. But it wasn't limited to Willowra Police Station. There was police stations across Southern Command.

Were there problems at Kintore, for example?---Kintore was one of them, yes. The police had to barrack themselves within the police station there whilst a group of around 200 descended on the police station. It was quite substantial across the whole Territory. There were many, many locations for the next five days and that was my role to coordinate the response to that.

And was what happened at Willowra one of the – afterwards, the kind of eruption

that you were worried about on the night on 9 and 10 November?---Certainly was, yes.

You were asked about the use of negotiators and in general terms, I think you've accepted that having persons skilled in communicating well with Indigenous people would have been a welcome asset on the evening?---Agreed, yes.

However, if the situation was that even a highly trained negotiator was instructed not to communicate about that which the community, entirely understandably, most wanted to know, namely the wellbeing of Kumanjaya, how useful could a negotiator have been at that stage?---I don't think very useful at all, although in that very narrow context, but certainly, the utility value of a negotiator for any eventuality that may have occurred could have been beneficial, but certainly, our negotiation capabilities is somewhat limited within the Northern Territory.

And is it the situation that public trained negotiators are extremely uncomfortable, like talking Northern Territory Police, if they're given an instruction not to be forthcoming or to answer questions which understandably oppose to them by persons close to a member of the community?---Yes, I would say so. I've never participated in negotiation training, but I would suggest that would offend any principle that they had within their training in terms of - - -

THE CORONER: Look, I'm not going to take that opinion - - -?---Okay.

- - - Dr Freckelton.

MR FRECKELTON: Yes?---I withdraw that, sorry, your Honour.

THE CORONER: No, no, that's okay. I'm happy that you – I don't – it doesn't worry me that you have an opinion, but it - - -?---Yes.

- - - it's not informed by training or experience, so it doesn't add - - -?---Yes.

MR FRECKELTON: Thank you, your Honour.

THE CORONER: - - - anything to my knowledge.

MR FRECKELTON: Would the presence of a well-trained communicator, nonetheless, perhaps have been of assistance in communicating with members of the community about the passing of Kumanjaya?---Typically not. It's something that – a role that negotiators generally don't participate in. You know, a communication strategy developed for the purpose of conveying a death message would sufficiently be something that a relatively senior police officer within a remote community could certainly deliver without the assistance of a negotiator. But we're certainly well-trained within that space, so - - -

Is it preferable that a person delivering that very difficult news be someone whom members of the community know and respect?---Agreed, yes.

You interacted with Sergeant Frost throughout the evening of the 9th?---Agreed, yes.

And you've described her as "stressed at times". But how, in general terms, was the professionalism of her communication with you?---Very professional. Very measured. Whilst I wasn't there, it appeared to be factual and current. She complied with every direction that I provided, notwithstanding some of which she didn't agree with. She engaged me in respectful and robust conversation around some of those matters and she was capable of providing sufficient contemporary local knowledge to help inform my decision-making at the time, so highly competent; highly professional notwithstanding the stress levels that were quite apparent to me, yes.

So, was there any indication that you saw that she was panicking, overly emotional or so stressed, she could not discharge her duties?---No, not at all.

You were asked a number of questions yesterday about your use of the description, "apathetic" in respect of the Yuendumu community. Do you recall that?---Yes, I do.

That is a word that you regret utilising now?---Yes, it's an emotive word that wasn't necessary in the context of the questions that I was asked.

You were talking about, in that context, participation in certain committees with which you had involvement though. Is that right?---Correct, yes.

Did that include the Yuendumu Community Safety Committee that you started in March of 2018?---Correct, yes.

And ultimately, that was a committee which was not so well attended in spite of the aspirations that you had for it?---Agreed, yes.

However, do you say to her Honour that you'd accomplished a number of the objectives that you had for it?---Yes, I did, yes.

Now, you've been asked by our learned friend, Mr McMahon, about some of the other committees, including the CSAP framework. Your understanding is what, in relation to the involvement of community members and Elders in particular in that?---It's openly welcomed, encouraged. It's probably our – not probably, it's the police's primary framework, recognising our mandate. But, notwithstanding that, it's our aspirational objective that not only do community members participate in it, but at some stage, we will hand the control of it over to community members. So, it's certainly critical in the context of really drilling down onto some of the challenges, current or emerging, within a community to bring about some meaningful action. It's an action-orientated framework.

And you were optimistic about the evolving role of that committee?---Certainly, it's – yes.

You were asked too about the Central Desert Regional Council and its subset of the local authority which has meetings about a variety of, in effect, local government issues. Is that right?---Correct, yes.

There's limited involvement and invitation only involvement for police in that. Is that right?---Agreed yes.

But your involvement, your understanding is that there is significant local community buy in, in respect of the work done by that council?---That is my perception based on the very limited times that I've attended by invitation. When I'm engaged within that framework, really, really robust; really, really considered and constructive conversations.

From what you said, it sounds as though the police have a significant role sometimes in convening these committees and frameworks, and in other times, participating in them, but the most important role is that of local community members and representatives?---Agreed, 100 percent.

Is it ultimately the responsibility then of government and communities to work toward further self-determination in respect of all of these entities which play a significant role in how communities function and in addressing issues which were difficult within communities?---Yes.

And the role for the police to facilitate that engagement and to provide their informed perspective, when asked?---Correct. And be flexible in the facilitation of that, that the framework in which we're trying to draw is acceptable by the community, but yes.

Do you have any suggestions which you would like to offer to her Honour about facilitating – how the police can facilitate the movement toward greater self-determination in respect of how the challenges of communities like Yuendumu can be expedited? Big question, but it goes to the role of police in assisting the assumption of autonomy by local communities?---Well, I guess the underpinning and first realisation needs to be that the rigid framework in which we operate in is not necessarily the framework which the community operate in. And, you know, encourage and inspire the community. So I guess we are very rigid in our approach. And when I say "we" I mean government, the bureaucracy of government as a broad – broad group, not police in isolation. So I guess, that's the starting point. But you know, the next step I guess, is – is broad empowerment. And within that, it's acknowledging the substantial work that the community do. I certainly see, and it's certainly not insincere, but when you are constantly acknowledging the benefits that flow from interactions with the community, and they see tangible, meaningful changes, that has a perpetuating result, in so far as it encourages and inspires. And it doesn't take much to then from that, build resilience, and so I guess that's another point. I'm thinking on my feet at the moment. But yeah, I think there needs to be broad community consultation, to find out what it is that they think they need, and not what we arbitrarily say is the government structure that they need to be dragged into. So – and it's not a one size fits all. And our policy framework generally denotes a one size fits all model. There's too many nuances and intricate complexities at

different locations. So it's recognition of that as well.

And is it important not to have proliferation of – of committees and meetings and bureaucratic involvements?---Agreed, 100 percent.

Is it also important that there not be unhelpful overlap between various entities of government which are involved with communities, and that they coordinate effectively?---Agreed, yes. It's also important that wherever we land on a framework, whilst acknowledging the importance of continuing to iterate and evolve and grow and develop, but a framework needs time to mature and – and be embedded. Not sort of a knee jerk perception that it's yet something else that hasn't work and need to come over the top with yet another one that fundamentally is the same in any event, but generally driven by another agency.

And is it your impression, from interacting with the Elders at Yuendumu, that there is good will and commitment toward those objectives?---Not a doubt, yes.

And is a good will commitment on behalf of the Northern Territory Police Force for their own objectives?---Yes, and I'll say my Northern Territory Government partners that I've had the pleasure of working with in the these communities as well, yes.

Thank you for answering those questions, Superintendent?---Thank you, doctor.

THE CORONER: Dr Dwyer.

DR DWYER: Thank you, your Honour.

REXN BY DR DWYER:

DR DWYER: Superintendent, you'll recall that you were asked some questions about the Command Management team meetings?---Yes.

And Superintendent, when I'm asking you questions, please sit where you're comfortable. Her Honour's the most important - - - ?---Thank you.

- - - person. So please have a look at her if you will, but otherwise, just be comfortable?---Thank you.

In relation to the Command Management team meetings, you were asked some questions by my learned friend, Mr Boulten, Senior Counsel, about the – your attendance at those meetings. And whether you recall any discussions of Constable Rolfe. You recall those questions?---Agreed, yes.

And I think you said something like, it's quite possible there may have been conversations to that effect, but you genuinely don't recall, sitting here in the box, some three years or so after. Is that correct?---Correct. It's – you know, Constable Rolfe doesn't fit within my chain of command. So I'm sure there was conversations,

but I can't genuinely recall if, or what the content of those conversations may have been.

And it's – is it fair to say that in terms of the discussions of individual officers, you would have been more focused on those in your command, because you're responsible for following them up?---Agreed, yes.

We have on file a statement from Virginia Reid, who at that stage, held the rank of Detective Acting Commander, and was in Professional Standards Command. Do you recall Commander Reid?---Yes, I'm aware of Commander Reed, and her position at the time, yes.

And she was the Divisional Superintendent for Ethics and the Integrity Division, with oversight of investigations into complaints against police investigations. Do you recall that she would attend those CMT meetings?---From time to time, yes. Certainly, if it's not her, her team.

In a general sense, and I'm obviously not asking to you to name any names, but were there any occasions when Commander Reid, or someone in her position would say to you, Superintendent Nobbs, I want you to keep an eye out on this particular officer who's within your command?---It's – it's a collaborate of engagement process. So, you know, we – we're all trying within that CMT construct to change behaviours, identify risks. So it's a collaboration. So it's quite appropriate and possible that – and regular, that the CMT, PSC representatives would – would highlight things. Particularly if they're seeing emerging trends or patterns, in a different CMT. And I might say, a) this is an isolated matter here, but we've seeing a prevalence of it there, and then we would turn our mind to, you know, what – what we need to look at, to ensure parity, early intervention and corrective behaviour.

We can look for the minutes of CMT's, but can you just give us a general understanding of who in Alice Springs, as in what ranks, would attend the CMT meetings?---So generally just – so it's chaired by the Commander. At the time that was Bradley Currie. The then three superintendents from the command. So Southern Desert, Alice Springs, and Barkly would attend. And quite often, but not always, the senior sergeants from those respective areas would also attend. But that's where it ended.

Okay. Not sergeant? Senior sergeants, is that right?---Yes, senior sergeants. OICs, not sergeants.

And in terms of the three commanders in 2019, that was Commander Vicary for the Alice Springs?---Three superintendents.

Three superintendents, I beg your pardon. Commander Vicary for Alice Springs. Yourself for the Southern Desert, and can you recall who it was for Barkly?---May have been Superintendent Kylie Proctor, potentially.

I – and just in terms of the – of Commander Reid’s statement. I’ll just – you may not have seen that, is that right?---Correct, yes.

In her statement, she says this.

And I’m reading from par 7 for the benefit of my learned friends.

“On 12 June 2019, she met with the Ombudsman.”

I’ll just summarise this bit. And she had some concerns about use of force matters for Constable Rolfe. She says:

“It was about this time, or following -”

So sometime around June or afterwards, that she says:

“I spoke to Commander Currie and Superintendent Vicary during a Command Management Team meeting, and advised them that I was reviewing a number of the complaints referred to me from the Ombudsman Officer. Where NAAJA had raised concerns with the complaint outcomes, and that it was likely they would be re-categorised, and further investigated. I further conveyed that I was concerned about Constable Rolfe’s non-appearance to the body-worn video policy, and that this was the third occasion that I’d become aware of people fleeing from him and injuries occurring when apprehended.”

I just pause to note two things. In that paragraph, she refers to speaking with Commander Currie and Superintendent Vicary about those things. And if I just ask you to recall that the decision of Judge Borchers in relation to the Malcolm Ryder matter, where Constable Rolfe was criticised, was 9 May 2019. She then goes on to say:

“On Wednesday, 17 July 2019, I was in Alice Springs with Commander Bacon. During the visit, we discussed with Acting Commander Jody Nobbs, and Acting Superintendent Peter Dash, PSC, concerns relating to the excessive use of force, and officers not activating their body-worn cameras. Noting that this was something we have specifically identified as an issue in Alice Springs. To highlight these concerns, I raised the complaints of Ryder and Walker, where the same subject officer was accused of similar actions, by separate complainants, and there was some evidence to substantiate these claims.”

She’s referring to Cleveland Walker.

“The subject officer, Constable Rolfe, continually failed to activate his body-worn camera and there was no evidence to negate these allegations.”

And that's 17 July 2019. I appreciate I'm asking you to cast your mind back. But does that trigger any memory of that?---I do recall participating in a conversation with Commander Bacon and Commander Reid at the time. Again, I acknowledge what she's saying in her statement in terms of specifically highlighting those two matters. And accept that that may have been raised at the time, but I – I think my recollection was – was more around, firstly brain storming what we could do around trying to address the more broader prevalence of non-compliance with body-worn. But also to inform us, at a command level, that PSC were again, drawing an arbitrary line in the sand in terms of what their expectations were going to be around discipline for non-compliance with body-worn, particularly repeat body-worn instances and then from that I think it was a matter for Superintendent Dash to then start, I guess, communicating some expectations with the sergeants within the police stations around that - but that's my very vague recollection of that conversation.

Do you recall that earlier in the year there had been some emails that went round to the - to officers throughout the commands in relation to the use of body-worn videos? ---Yes, we quite regularly sent out - broadcasts through the email system in terms of agency expectations.

Superintendent, you gave an answer yesterday, I think to learned senior counsel for NAAJA about the things that you can do if there are concerns brought to your attention about a particular officer and you said something like, "There's a multitude of things from welfare to remedial to placement in an administrative position while investigated to a first person management plan" - a whole range of things depending on your assessment as to the causes of that behaviour, is that correct?---Correct, yes.

If this had been a matter drawn to your - I will go back a step. You understand what happened in relation to the Ryder hearing matter?---Very vague understanding of it, yes.

Just to remind you, there was a complaint made by NAAJA about Malcolm Ryder on 5 June arising from his interaction from police on 11 January 2018. In a hearing, in front of Judge Borchers on 9 May - I withdraw that. In his findings resulting from a hearing in the local court in May 2019, Judge Borchers found the evidence provided during the hearing by Constables Rolfe and Zendelli to be unreliable, contrary to body-worn video footage and he found that Constable Rolfe and Zendelli had not turned on their body-worn, there was only one officer who had done. He said in those findings:

"I found that Constable Rolfe's evidence lacks credibility. He lied. He has lied in a statutory declaration about what happened in the bedroom. Nobody can say how Malcolm Ryder was knocked out but him and he surmises that Ryder may have hit his head while being tackled to the ground."

Pretty extraordinary for a Local Court judge to make that statement about a certain police officer do you agree?---Yeah in my career I have very rarely heard that ever occur.

And it would be of great concern to you, wouldn't it, if a local court judge made those findings in relation to an officer in your command?---Certainly, yes.

Do you recall any discussion at the CMT about the findings of the Local Court Judge and what should flow from it - if anything?---As I indicated, I do have a very superficial at best, an appreciation of that particular matter in a broad sense, that some of the highlight dot points that you've just outlined, but I wasn't aware of the intricacies but certainly would expect that the superintendent in charge of that portfolio responsibility and command of that member would have been aware of the intricacies and would have been working towards what end to end response they would be provided in relation to remedial through to disciplinary outcomes.

I just want to read to you something from the Proctor Report, that is the overall investigation report that has been provided by Officer Proctor - Commander Proctor, I should say. It's 170 pages long and it is in the first volume of our brief. He says at page 123, picking up on what Detective Superintendent Virginia Reid has said, he notes that;

"In her capacity she managed the complaints against police reports and noted that Constable Rolfe was repeatedly engaging in concerning behaviour including not operating his body-worn video. She had cause to meet or otherwise discuss issues pertaining to Rolfe's alleged inappropriate behaviours with the Alice Springs Command Management Team on at least three occasions. Superintendent Reid noted Constable Rolfe's non-adherence to the use of his body-worn and his failure to activate body-worn during the use of force episodes."

And she says this:

"No record of any action taken by the Alice Springs Supervisors is recorded in the minutes of the Alice Springs Command Management Team meetings held in June, July or October when these issues were directly raised by Detective Superintendent Reid. A check of the blue team records and Rolfe's 'My Career' profile also shows no evidence or any indication of action being taken."

Does that surprise you?---Yes, it does surprise me but again, I can't provide any meaningful commentary in respect to that. It's - the person that is in charge of and owns the open blue team case is Superintendent Vickery and equally the - owns the open "My Career" plan, although she would be a second-removed manager. So yes, I'm surprised that there was nothing of any substantive value within those two platforms.

And you are anticipating my next question, Superintendent. Helpfully, Commander Proctor explains what the blue team is and also what the "My Career" is. He says:

"The blue team is when a complaint against a police officer or an internal matter requires some form of PSC notification or oversight, an entry or a job is created in blue team.:

You've done that with some of your officers previously, is that right?---Many times, yes.

And then "My Career" is the career management system used by Northern Territory Police, an IT system that requires supervisors to engage with their members to assist in career development. They use the system to enter commentary in relation to a member's development. Examples of good or positive actions, behaviours and also exemplars of behaviour that is poor or remedial, actually if remedial action is required. I imagine that's an extremely useful tool for management of police? ---It's certainly an extremely useful tool, generally wouldn't be used and contain great detail around disciplinary matters because that would be a duplication of the blue team system and the nature of the "My Career" means that it's open and accessible and viewing - capable of being viewed by other people so whilst there still should be some things in there in terms of triggers or identifying issues of a supervisor to turn their mind to, it wouldn't be what captures any sort of disciplinary response.

Can I ask you to imagine, just in terms of a constructive way, that this was an officer who was in your command. You thought highly of his tactical skills and you wanted to encourage him within his job to be able to manage those tactical skills but avoid unnecessary use of force and make sure he turned his body-worn on. How would you respond?---Again, through a sort of multi-faceted approach. It's - firstly we don't have an appreciation of how we'd got to where we had got to but - and I can't say definitively but it's - I think it's a product of behaviours that have been modelled and emulated, so you know, it would be about identifying good, constructive, solid mentors and, you know, certainly I've mentored and taken under my wing members as well. It's about having frank conversations and highlighting what are the inherent risks in what is occurring. Perhaps it's around, again, potentially well-intended but misinformed appreciation of what he does and why he does it. Perhaps there may be such a narrow focus that there's no appreciation of alternate ways, you know, I must concede it took a long time in my career to identify the substantial - the importance of community engagement as opposed to what I, as a young constable, considered a traditional policing model, which was overt, forward-leaning policing tactics, so - and that's a prevailing attitude across front line police, that highlight, you know, the sort of the erosion of small things lead to big things. It's a multi-faceted sort of response but its through honest, robust respectful engagement and mentoring and guidance.

And so you would, in your position, speak to those who were directly supervising Constable Rolfe and make sure that they were having those - they were being able to model that behaviour as well?---Correct, yes.

And what you tell us there is in this job of policing, is it the case that you have experienced a number of young people in particular, might I suggest particularly young men who need to have guidance in terms of managing front line policing?

---Correct. I was that young man once - a long time ago.

And what might be the case is that if you've got somebody where behaviours are being reported about excessive use of force or not turning on body-worn, there might be anything from not coping in the job, mental health issues, anger management issues, to actual wilful disobedience. Is that right?---The list is endless that could be a contributing factor, yes.

But you need to get to the bottom of it to make sure that you stop it right then and there, don't you?---Certainly, yes.

In terms of what you've just told us about the importance of leadership and mentoring, how important is the role of sergeant in that for a young person like Constable Rolfe in his job?---They're the most critical. They're who influence on a day to day basis. They are who I looked up to as a young constable and modelled my behaviours on. They're who again, sort of as I expressed in my evidence-in-chief, picking the good qualities of each of the sergeants that I admired is what has shaped me today in terms of my policing methodologies.

I've asked you about the text messages and I don't want to have to read them out to you again on the record. We understood your response to them the first-time round. But I put MFI C in front of you, which is a document with a number of those text messages on. I just want to ask you for your reflections now about the role of the sergeants in these exchanges, starting with Officer Bauwens, if I may, on page 4. Officer Bauwens was not just in that sergeant role, but he was also the head of the IRT. Correct?---Yes.

The head of the outfit that you regarded as operating in a way that was professional and disciplined?---Yes.

Correct? If you have a look at the language, it's been referred to many times, that he uses on page 4 and the exchange that he participates in with Constable Rolfe?---Yes, noted.

Contemptuous of community police, bush police and blatantly racist. Would you agree?---Agreed, yes.

What do you think about that in terms of modelling behaviour for young officers in the IRT?---Well, that's modelling poor behaviour. It's highlighting that that's what's accepted and acceptable. And there is generally a perpetuation of that behaviour, as I have seen in my career. So, I find it extremely disappointing for the reasons I outlined in the – in my evidence-in-chief in terms of Sergeant Bauwens as a strong advocate of the IRT concept, and this has certainly taken away any momentum that we would have in that regard.

And then, if you might just also have a look at one other sergeant. His text exchanges appear firstly at page 3. I'm referring to Sergeant Kirkby?---Noted, yes.

Do you see the bottom of the page there, racist text messages. You agree?---
Agreed, yes.

And then if you have a look at page 6?---Yes.

Text messages where Sergeant Kirkby is saying that he “lost his shit” on an occasion sometime prior to 3 September. Constable Rolfe wrote back:

“Bro, there was literally no stress about it. I’m all for that shit. I’ve done the same thing to you more than once before. I’m always ready to make my camera face the other way and be a dramatic cunt for the film, ha ha.”

And Sergeant Kirkby, “And the Oscar goes to - ha ha.”

You put that together with – there’s Commander Reid, she’s raising, she says at three different meetings in the CMT, problems with Constable Rolfe, a pattern of behaviour on – about use of force and she’s highlighting concerns where he has continually failed to activate the body-worn camera. And there’s a sergeant specifically responsible for modelling good behaviour who is laughing with him about firstly, asking for forgiveness for losing his shit and then saying – accepting that it’s okay to misuse your body-worn video camera, that’s it’s all a big joke if you make your camera face the other way and act up. What do you say about that Superintendent, in terms of leadership?---Well, I just echo the comments I said a moment ago. It’s well below what you would expect for a supervisor in that regard and I don’t know if I can say much more than that, that I haven’t already said.

No, it’s an abject failure of leadership, isn’t it?---Correct, yes.

And it’s seriously letting the Northern Territory Police Force and the people of the Northern Territory down, isn’t it?---Agreed, yes.

There’s language that I’ve referred to and you have agreed is blatantly racist, there’s a particular – and there’s also foul language which I haven’t asked you to comment on, there is a particular film that had some publicity last week which involves a gentleman with the surname of Walker. I don’t need to ask you to see it, but it involves police entering a house. Three police had their Glocks out at the time and they shout at a man, “Get on the ground. Get on the fuckin’ ground” is what Constable Rolfe says. And it’s accepted that that was a situation where police were attending a house when they had a phone call that someone was in danger and had locked themselves in the bedroom (sic). What – is that language acceptable in circumstances where police are exercising their tactical commands?

A PERSON UNKNOWN: Well that actually impacts the whole context of what that leverage, that property was found (inaudible).

DR DWYER: I will take it back a step. I was just trying to save time, but I accept my learned friend’s objection and the nature of it. I will go back a step and see if this cures it.

Have you seen that film?---I think I've seen snippets of that, yes.

DR DWYER: All right. Have you seen that film because it was broadcast or has somebody directed it to you?---No, broadcast.

All right. You've seen – you're aware of the fact that there was a phone call to police on the radio where somebody indicated that they were hiding in the bedroom (sic) and that someone else had a knife.

THE CORONER: Hiding in the bathroom.

DR DWYER: Hiding in the bathroom, I beg your pardon.

Someone - another person had a knife?---Yes, I had a broad awareness of the factual circumstances that led up to it.

I'm not going to ask you to comment on – we heard from Sergeant Meacham King that he doesn't have a difficulty with the fact that three Glocks were drawn. I'm not going to ask you to comment on that. I'm asking you about the use of language and discipline within the police. That's the reason why I specifically asked you about the terminology used when Constable Rolfe entered the house, "Get on the ground. Get on the fuckin' ground." Is it acceptable now for police to use language when they're using tactical - - -?---Perhaps I won't – and respectfully, if it's okay, I won't talk about this one specifically. But as a broad proposition, it's one of the things that grate me more than anything in terms of this overuse of offensive language under the guise of, it's necessary as a tactical action. That's – and I'm afraid I'm in the minority in terms of my attitudes towards that. It's unnecessary. It's – it portrays us, sometimes, in a fashion that's worse than the offender which we're dealing with. I see it far too frequently. And I'm not saying this from my ivory tower, I was a constable that used that as well in my young days because that's what everyone did and this sort of notion that it's – and every time I engage an officer in respect to it, they inevitably say to me, you've got to communicate with the people in which – in a manner in which they recognise. But then what I rebut that with is that I've done defensive tactics now 24 times over 24 years. And every single time I do defensive tactics when we engage in our rapid intense specific and competent training framework, not ever do we use or is it taught to us to use that language within an impacting verbal command. We use, "Police, get back. Get on the ground." Whatever tactical action that we want to convey, "Drop the weapon." "Knife, knife, knife" "Gun, gun, gun" Things such as that. Never within the training environment do we feel the necessity to use the language, yet on the street, that's the go to and that's – in my mind, it's not acceptable. It's – when a constable looks at it, they generally look at it through the lens of that response, that matter. But what – obviously the passage of time and maturity for me had identified is that the community see this. It erodes confidence. They see us looking worse than the offender in which we're dealing with. It's – as I said, it's – I'm probably ranting a little bit now, but it's a passion of mine. I don't think it's necessary. It has no benefit. You could sufficiently convey quite extensively and impacting – impactfully, your verbal dynamic commands without the use of the

language.

And I don't want to come from an ivory tower either, Superintendent. But last time I checked, yesterday, under the *Summary Offences Act*, defensive language is still an offence in the Northern Territory, isn't it?---Correct, yes.

And so isn't there a hypocrisy in allowing police to scream at – or to shout at somebody "Get on the fucking ground." And yet if – if that language is used toward somebody else, it may well be an offence?---Agreed, yes.

It sends the message that there might be two standards. One for police, and one for the rest of the community?---Agreed.

There is a video that's come into – that has been shown to another witness.

I just want to ask that that be played. If anybody's got anything that arises out of that, your Honour might allow any questions.

This involves a young person, who is 14 years of age, Master – I won't say his surname, because there's a non-publication order of it. And Bec's just going to play it to you. If you can – if I could just tell you before that's played, Superintendent, this was Constable Rolfe, and a number of other officers, who were looking for this young person, after he had breached his bail.

DVD PLAYED

DR DWYER: Bec, that – can't probably stop that now.

Superintendent, child, 14 years of age. What are your views about the use of force there?

A PERSON UNKNOWN: Your Honour, I raise an objection to this matter. At page 35 of the Proctor Report, this (inaudible) wasn't really being reviewed having found that there no excessive force (inaudible) matter was discontinued to – to revisit it with a different (inaudible) and goes nowhere (inaudible).

DR DWYER: Your Honour, I press the – I press the – and I'm grateful, I think it's fair enough that the Superintendent understand that that was the outcome.

THE CORONER: Yes.

DR DWYER: I press the question. This is a superintendent, who I anticipate submitting to your Honour, has got enormous experience, has been a reflective witness, and has given careful and considered evidence. And has in excess of 20 years working in the Northern Territory. And has very important reflections about standards of policing, and how we might learn from any of the issues that emerged. That's a child of 14 years of age. And I am – I intend to ask him about the way in which that was dealt with. And about his reflections, knowing, and having worked

with that – with many Aboriginal people, over what long term implications there might be, for someone in that young person’s position, in terms of their attitude towards police. And how we might train officers, in Constable Rolfe’s position, about those issues.

THE CORONER: Yes, so I mean the issue is the effectiveness, and the appropriateness of the reviews of use of force, and how that is dealt with. And whilst, certain opinions have been expressed, and actions taken, the question is, where do we go from here? Were those responses and actions appropriate, and adequate? And that is what we are now considering. And I will allow the question.

DR DWYER: May it please the court.

Superintendent, what are your reflections when you view that video?---I guess through the narrow lens that you’ve provided, I concede and acknowledge right from the outset that there’s probably a plethora of information that I’m not privy to. But, prima facie, looking at that, through that narrow lens, it – it certainly doesn’t – it looks prima facie, excessive, for the lack of a better term. It’s – on reflection, I can see the small statute 14-year-old contained in a bin. And so he was contained. Wasn’t going anywhere. Alternate options were available in terms of engaging the youth. Advising at that time, whilst contained, you’re under arrest for – I think I heard breach of bail. So I’m presuming that’s at the highest what it was, and certainly not trivialising breach of bail, but that appears to be what it’s for. It’s highly necessary in our mind, whether it’s an offender, an injured person, to engage in a constant – continuing to articulate what we are doing, and why we’re doing it, to ensure that there’s no miscommunication. And then the flow from that is potential injury. So as an alternative to what it would appear to be, a forceful pulling of the bin to the ground. It could have been, I’m now lower going to lower the bin. When you come out of the bin, you’re going to be handcuffed. You’re going to be placed on the ground. When I pick you up, it’s going to look like this. So again, based on the narrow lens that you’ve provided me, it prima facie looks. Certainly doesn’t look to align with our training framework.

First thing that he – that Constable Rolfe does, as depicted in that video, when he looks in and sees the child in the bin, is make a noise “Click click” and then slam the bin lid down on the child, for a number of seconds, before he opens it. What do you think about that, as an - - - ?---I may have not captured the noise. I’m not quite sure the context or relevance to that. But slamming the bin down, could have had a – have had a resulting injury being sustained.

I just want to play that bit again - - -

THE CORONER: It’s humiliating isn’t it?

DR DWYER: He slams the bin lid down?---Correct, yes.

Bec, could you just play that again.

I've been asked to play it until the bin hits the ground.

DVD PLAYED

DR DWYER: Superintendent, you see what her Honour asked you about. It's humiliating - - - ?---Agreed, yes.

- - - Constable Rolfe - - - ?---Yes, your Honour.

THE CORONER: And you'd be familiar with the sound?---I only picked it up then, your Honour. It – I'm not familiar with that sound, but it appeared to be something to draw the attention – I don't quite know what the context was, but appeared to me, it was to draw his attention to the fact that police were there. I – I think. I'm speculating completely there.

DR DWYER: And then he slams the lid down and pulls the bin over. And the child says, "I'm sorry sir", repeatedly, before he's – a number of times, before he's even spoken to. Do you see – you saw that?---Yes.

And then says, "I'm sorry for running, there's no need to be rough"?---Agreed, yes.

And do you – do you have any comment to make about the type of communication then, with the child, in response to him saying sorry repeatedly, and sorry for running, and there's no need to be rough?---Well there was no meaning for other than dismissive commentary.

We know that that child has intellectual difficulties. If that's you're dealing with police, in those circumstances, what do you think might be the long-term implications for building a trusting relationship with police?---Certainly – certainly doesn't lean towards a positive interaction and a positive relationship with police, going forward. I often use the term, you know, you can't be what you can't see. And unfortunately, in some dysfunctional locations, all kids see is dysfunction, and there's generally a perpetuation of that dysfunction from that. So you know, I say to police all the time, "Every opportunity you get, have that mantra front and centre to try to influence that someone is capable of being something else other than - and you have some value but it certainly doesn't lean with what I have observed just there.

And a final couple of questions, Superintendent. You said in response to senior counsel Dr Freckelton, that words to the effect of, "There's goodwill from police working in Yuendumu with the community, there's good will from the community to move forward" and that's accepted and it's certainly clear from your evidence how much you care about these issues. This inquest has exposed issues including racism. You said in response to Mr Suttner, "There is no place for racism, sexism or dishonesty in the Northern Territory Police Force. Have you thought about where you go - where the Northern Territory Police Force goes from here in terms of addressing some of these issues with officers?---Yes, I have, constantly. And you know, they are wicked problems here in some of these and there's no set solution,

I guess my considerations for - or my advice to your Honour for your consideration is, you know, there's probably a half a dozen broad areas that we probably need to look at. You know, one is there clearly needs to be some cultural reform, particularly within the leadership space and I guess what underpins that is the acceptance that culture drives behaviour and the erosion of little things, whilst may not have substantial consequences, when you increase the risk profile the erosion of standards and practices have the potential to have catastrophic consequences, so I know that's just a sort of a broad assertion that doesn't lean towards how we resolve culture - the cultural constraints but - sorry, the cultural challenges but that's a fairly substantial problem to address. The second one I guess where I could actually provide some meaningful dialogue is, you know, around the command and control frameworks, greater - in terms of incident response - critical incident response management, so you know, every year we do our defensive tactics training and we are deemed competent within that framework but we don't do enough, I don't think, in terms of incident - critical incident response management and accepting or assessing competence against that, you know, around developing orders, delivering orders, holding briefs, what's the composition of an IMT, what's the interplay across the 10 functional groups inherent within the ICCS system structure, so I truly think that there needs to be some serious consideration as to how that links into our defensive tactics and that our NCOs - so non-commissioned officers and commission officers are assessed in terms of their competency across that, to that's a critical one as far as I am concerned. We need to do more with the interpreter space - utilisation of interpreters, but probably - I won't say more within the sort of governance sanctioning, sort of organisational interpreters, but more about establishing a cadre of people within communities that can be relied on and called upon to assist in interpreting. That's certainly something that is required and we need to do a lot more within our sort of induction space, particularly with a leaning towards cultural competency as it relates to a particular location. So they are, I guess, some of the sort of broad topics that I think needs some substantial reform.

Superintendent, they were four issues that I was noting down at the time. There will be some draft recommendations that are circulated, no doubt you will be interested in reviewing them and contributing to any further reforms that you think are necessary?---Certainly. Sorry, your Honour, probably one more. Again, back to the fist area around leadership, and this is by no way making excuses but the administrative burden place on supervisors these days is extreme. I recall as a young sergeant in the early to mid-2000s I had - working in Alice Springs I had the opportunity to shadow and attend jobs within Alice Springs - not to micro - or certainly not to try to micro-manage but as someone that can mentor or oversight or provide some guidance, I just don't think that opportunity is as available these days, given the administrative burden that the sergeant seems to have - and I'm not saying it doesn't happen but probably doesn't happen to the extent that it should, so you know what that looks like as to whether there's an increase - the increase of an establishment around the sergeant rank to have someone that fulfills that role specifically within - on the front line or whether some of the administrative burdens are stripped back to allow the supervising sergeant to do that role, as something that is worth some consideration.

Are you aware - I can certainly raise this with Assistant Commissioner Smalpage but are you aware of whether sergeant have any leadership training?---Yes, so within our rank qualification framework there is, you know, your transition from the front line to leadership roles, there's training within the requalification. When you go for promotion they're assessed across their leadership qualities and we're in a constant stage of development and mentoring, so inherent within the command structure is the expectation that we are constantly developing and growing our talent and - on the front line to - in a real term environment and - so - in an operational environment to upskill them within the leadership space, so that's predominantly where most of my sort of leadership development was achieved.

Thank you, your Honour, those are my questions.

MR BOULTEN SC: I'd like to ask a few questions about the video that has just been played, if that is okay?

THE CORONER: Yes, and it looks like Mr McMahon does as well.

MR BOULTEN: I'm not sure about that. Is that okay?

THE CORONER: Yes.

MR BOULTEN: Thank you.

XXN BY MR BOULTEN:

MR BOULTEN: I didn't announce yesterday that I appear for NAAJA. The young man in that video you just watched was one of NAAJA's clients and NAAJA framed his complaint which was investigated by PSC. It was factually inaccurate because the boy didn't say that he was in a bin for instance, when the incident occurred. The PSC found specifically that Mr Rolfe should be commended for wearing his body-worn video camera footage and that the complainant's complaint was inaccurate because he didn't mention being in a bin. But put that to one side for a second, the PSC looked at this video. The PSC would be comprised of people with at least your level of experience policing methodology surely?---Correct, yes.

It's obvious. But irrespective of the 14 year-old boy's inaccuracies, that there was something wrong with what happened there, right?---Prima facie based on the narrow lens that I've been provided, yes.

The complaint led to a commendation. Do you think that was necessarily the full picture?---Look, I - - -

I know - - -?---I say this with the greatest respect, I don't know how I can adequately comment on a PSC investigation in its totality but again, prima facie I don't see any commendable actions there.

So no-one knows what Mr Rolfe knew about that fellow but he was 14, an Aboriginal teenager and as it happens, with significant cognitive impairments, spent significant time under the care of Territory Families. And they are significant issues in his life that led to significant trauma. What training did people like Mr Rolfe get, on the job, about childhood trauma in Aboriginal communities, and about how to deal with teenagers with their having to arrest for things like hiding in bins in abandoned school play grounds?---Is a – I guess that – if I could break that up. It's probably a two-fold question. If I talk about the first part first. It's highly acknowledged within our operational environment, that almost every person we deal with, Indigenous or otherwise, generally have a cognitive issue – or sorry, one or some of the following. Cognitive issue, behaviour issue, some mental health issues, effect of alcohol or drugs, substantial and persistent trauma. So the realisation that they are the people that we deal with, day in and day out, everything that we have within our policy and operational framework, recognises that as a fundamental reality. So inherent in that is how we approach people, compassionately, sensitively, with a prevalence towards negotiating and communicating, as opposed to overt force. So I hope that answers your question.

It sort of does. But could you give us a few details. How does this training be impart, and then how much training is there in these central issues in your job?---I think you've got a witness to come, in terms of training. So they'll probably give you a greater appreciation for that. But at a superficial level, we spend six months in college. Again, every module that we do in there recognises that unfortunate reality of the clientele in which we deal with, so every single element within that. And at – whether it's in relation to a traffic apprehension, or in response to a domestic violence situation, or a response to a highly intoxicated individual. That realisation permeates through everything we do in terms of how they're instructed and coached, as to respond to that situation. Does that?

Yes, that's helpful. And Superintendent, in analysing complaints about use of force, how does a victim's or alleged complainant's trauma, life experiences, and vulnerability, get factored in to an assessment of seriousness of the handling of the complaint?---Well again, I consider my Professional Standard Command colleagues very skilled, very competent, and also have a substantial lived and learned appreciation of those fundamental challenges that are inherent in all of our – well not all of our, but the majority of our clientele. So they will be matters that would loom large in their mind as well, in terms of how we sensitively respond to and investigate a matter – and investigate a matter.

The vast majority of complaints though, are dealt with through the Police Complaints Resolution Process, are they not?---Correct, yes.

And they do not go to the PSC, do you agree?---All matters go to PSC. And PSC oversight the response. But it's not uncommon. So if I have – so if you're talking about the complaints resolution process, just to give some clarity around that. That's generally speaking, and I'm certainly not trivialising them, but minor complaint matters. Where it could be about a misinterpretation of the law, or – or things such as that. So they then come to me, as a generalised sense, within my portfolio.

I then need to deal with them myself, or allocate them to my senior sergeant. But within that framework is multiple checks and balances. So if I undertake the complaint resolution process investigation, that is – the outcome as arising from that, are assessed through PSC and then ultimately assessed by the Ombudsman's Office. Equally, if that starts at the senior sergeant level, then that's assessed by me, and then so on and so forth, as we proceed through. Ultimately oversighted by the Ombudsman's Office.

So eventually of course it makes its way up the chain, but the primary investigation for most complaints, low level, standard complaints, dealt with by the Complaints Resolution Process, where the primary responsibility for investigating the complaint, is an officer in the police station, who is slightly above in most circumstances - - - ?---Again - - -

- - - in terms of rank, the subject of the complaint?---Sometimes yes. But in most cases not. And again, I probably didn't say it, and I don't know what's necessary, the categorisation of the complaint resolution process is done by the Ombudsman's Office, in consultation with the Professional Standards Command. But ultimately, by the Ombudsman's Office.

I think that's all I want to ask.

THE CORONER: Mr McMahon, did you have another question?

MR MCMAHON AC SC: (Inaudible), thank you for that opportunity to question on that video.

FXXN BY MR MCMAHON:

MR MCMAHON: Sergeant, I just want to put a couple of propositions to you about the huge cultural shifts that seem to be needed in the Northern Territory Police. And I suggest to you that the video we just watched, showed an act of unnecessary cruelty when the lid was slammed down on the little boy. A slight 14-year-old. Do you agree with that?---Prima facie, yes.

That the way the bin was slammed to the ground, was very violent, you agree with that?---Agreed, yes.

And completely unnecessary?---Well on my assessment, yes.

And completely and absolutely unacceptable to smash a bin to the ground with a child in it, in that way?---Agreed, yes.

And yet we hear from Mr Boulten, and from reading the Proctor Report, which Mr Rolfe's counsel, referred us to at page 35. That the matter was closed after investigation from the OO which I take it is the Office of the Ombudsman?---Correct, yes.

And that there was a commendation involved for using a body-worn video. So can I suggest to you that both those final outcomes, closing the case, and the commendation, suggest that part of the huge cultural shift, which is needed to deal with some of the problems identified in this inquest already, are that the process of reviewing alleged use of force inappropriately, that process itself, needs a radical overhaul?---Look again, I say this with the utmost respect, I – I don't think I could adequately provide commentary around the Professional Standards Command Investigation. As I've said, prima facie - - -

All right, I understand?---That that doesn't look good from my perspective, but I have no appreciation of the full factors considered within that, and ultimately what I presume reached the determination and findings.

THE CORONER: What do you – what, like just in your wildest imagination, what are the kind of factors that might change your initial viewing?---I have no idea, your Honour. I generally can't think of anything that could potentially have influenced such an outcome, but I'm not the author of the report, nor was I the person that undertook the investigation. And I'm perplexed as to how that was an outcome reached. But, again, that's not a fair statement for me to make, based on the limited
- - -

But it's difficult to imagine what information you might have had, that would have - - - ?---I've seen a lot, your Honour, in – in my day, and I'm struggling to see what potential additional elements would have impacted that response. But again, it's – I don't think it's a fair question for me, your Honour.

Sure?---I say that with the utmost respect.

MR MCMAHON: Thank you, your Honour.

THE CORONER: Nothing further?

MR FRECKELTON: No thank you, your Honour.

THE CORONER: Superintendent, thank you very much. I have expressed my appreciation each day. I'll express it again. You have come here and provided your information and expertise over many issues, and from all the various counsel, it is important information that will be deeply considered during the course of this inquest?---Thank you, your Honour.

WITNESS WITHDREW

THE CORONER: We'll adjourn for the morning tea break.

ADJOURNED

RESUMED

THE CORONER: Mr Coleridge.

MR COLERIDGE: Thank you for the time, your Honour. There is a matter I will discuss once we have concluded with this witness, but for the time being, your Honour, I call Acting Senior Sergeant Alistair Gall.

THE CORONER: Acting Senior Sergeant, thanks for coming to court today.

ALISTAIR GALL, affirmed:

THE CORONER: Thank you.

XXN BY MR COLERIDGE:

MR COLERIDGE: Senior Sergeant, can I ask you to restate your name, for the record?---Yes, Alistair Gall, Senior Sergeant, Alice Springs Police Station.

And I asked you the question just before we commenced, your current is - - -?---It is Acting Senior Sergeant.

And what is your substantive rank?---Sergeant.

Okay. I take it that you'd been in the Alice Springs command for about three years in 2019. Is that right?---Correct.

And had you been in Alice Springs for some time longer?---So, I arrived in Alice Springs from Darwin in January 2017 and I've been here since then.

Where had you been previously?---Prior to that, I was in Darwin.

And what was your rank and station in Darwin?---In Darwin, I was a sergeant at Casuarina Police Station. Prior to that, I was in Darwin watch-house, also as a sergeant.

What I want to do, if I might, Senior Sergeant, is ask you some general questions about the role of a sergeant and a senior sergeant in a busy station like Casuarina or Alice Springs?---Mm mm.

I'll then ask you some questions about 9 November 2019, and then finally, some questions about some use of force incidents that I think you were involved in auditing. Just starting with the first of those topics, what role does a senior sergeant or watch commander play in the overall management and supervision of a police station like Alice Springs?---So, a watch commander who is primarily in Alice Springs is attached to a patrol group and the patrol group would comprise of the general duties members that operate out in the community in Alice Springs. There is also a sergeant attached to that patrol group. As well as the general duties response, a

watch commander also has oversight of other assets within the organisation. For example, we have our point of sale, our police officers who stand at the bottle shops. We have foot patrol units that operate in town. We have southern traffic that operate here in Alice Springs. Now, as well as being responsible and having an oversight of events within Alice Springs, we also have an oversight of the southern desert region as a whole. So, part of that role would be liaising with staff in our bush stations, and essentially the shift sergeant would generally run the patrol group. You have the station sergeants that run their stations. I would be a – I would have oversight of their responsibilities and also be a conduit to the executives, or the senior management.

In terms of the work that you do supervising an individual patrol group in Alice Springs, do I take it from your last answer that most of the time, you would be rostered on with the same patrol group?---That's correct.

Okay. And most of the time, that patrol group would be rostered on with the same shift sergeant. Is that right?---Correct.

So, as best you can, you try to ensure that a group of constables and potentially senior constables are overseen by the same sergeant and senior sergeant each time they come to work?---Yes, of course, for the purposes of being in a team and for continuity and to get to know your staff, yes.

Okay. Now, her Honour has already heard evidence from quite a number of police officers, junior police officers and very senior police officers about the importance of supervision to junior police officers, like constables, working the beat in Alice Springs. Has that been your experience that supervising junior police officers as a sergeant and senior sergeant is important?---Yes, absolutely.

Why is it important?---So, in Alice Springs I would say it's - not more important however there's probably more of a focus on the supervision of Constables in Alice Springs, from a watch commander and perhaps from a shift sergeant, the main reason being the - that may of our staff - in fact most of our staff historically have been very junior, so the members on the ground, the members attached to the patrol groups, at the moment they have very little experience, so they are not able to gain the experience or the mentoring or leadership guidance from senior constables that they may be partnered with or that may be part of their team so that would fall down to - or that responsibility would then come to the shift sergeant.

Another witness who has given evidence, Senior Sergeant Sean Furniss also arrived in Alice Springs I think in around about 2017 and gave evidence that he was surprised by how junior the Alice Springs workforce was compared to the Darwin workforce. Is that a sentiment you would agree with?---Absolutely, yes, your Honour.

And you'd agree that in the absence of those more senior general duties officers, like Senior constables, that increases the need for supervision from the sergeants and watch commanders?---Yes, correct.

You may not be able to comment on this but there has also been some evidence from a number of police officers who were constables in the 1990's that since that time the workforce has become more junior in Alice Springs. Is that something you have any knowledge of?---Look, I have heard those comments as well, perhaps from the same people but however, I would not have any first hand experience of that.

Okay. Now, one of the other pieces of information we've received only this morning from Superintendent Nobbs was that also over time the administrative burden on sergeants and senior sergeants is increasing?---Yes, I'd agree with that.

Could you explain to her Honour what is meant when you talk about the administrative burden?---Yes, so in an ideal world, your Honour, the shift sergeant - the supervisor - would like to spend a healthy percentage of the shift out on the road assisting constables, attending jobs, mentoring the constables, administering a quality control if you like, however, much - much of our work now is office based so the opportunities to get out on the road are limited or are certainly reduced compared to what they were several years ago.

Is that something that you're aware of, you know, as an issue that's been tackled at an institutional level, this issue that at the same time that the workforce is getting more junior and you'd think more in need of supervision, there's less capacity amongst the senior officers to actually provide that supervision?---Look, I would agree that there is a lot of competing interests, a lot of demands on the supervisors, the shift sergeants primarily. As an organisation we are trying to get back to a - call it back to basics and bring it back to our core role as a police service, your Honour, however we do seem to be burdened with other tasks that link in with other organisations that link in with other service providers whereby we have considerable input and that often takes us away from our core duties and certainly takes us away from the management of our members.

One of the oversight or supervision tasks of a watch commander in the Southern Region is attending at CMT meetings, is that correct?---Sorry, did you say "watch commander"?

The senior sergeant - would the senior sergeant ordinarily attend at CMT meetings? ---No. So the only meeting that a watch commander would ordinarily attend would be the Monday morning TCG meetings.

And what is the TCG meeting?---So it's a meeting that's held on a Monday morning by the head of each group within the police station, so for example you would expect to find the OIC of the police station, the superintendent of the police station, somebody from intel, somebody from community policing, somebody who is responsible for the point of sales service, also Tennant Creek, we'd have the OIC from Tennant Creek, the superintendent from Tennant Creek would be involved as well, so essentially it's - I understand it to be the previous week's issues - matters - are discussed and any goals for the following week.

When you say "matters" are these active policing matters or would they also include matters like the need to address problem behaviours or supervise individual officers? ---So, I haven't been at a TCG meeting where the issue of discipline or - sorry, you'll have to comment in terms of supervising members. I haven't been at a TCG meeting where that has been involved. Most of the meetings are in relation to crime trends, significant events that may be happening within the division, events, incidents, the deployment of resources, statistics, et cetera.

If complaints were being made about officers within a patrol group over which you were the senior sergeant, how if at all, would they be communicated to you? ---Sometimes not at all. On other occasions it may be the OIC of the station or the superintendent of the police station so it may be verbally, it may be via email, it may be via PSC in Darwin. There's a number of different ways.

But I take it that there isn't some formal process according to which you, as a senior sergeant, ensure that, you know, once a week, once a fortnight or once a month you are up to date on all of the disciplinary matters pending for the officers under your command?---That's correct.

Correct in the sense that there isn't any formal process?---There is no formal process, that I am aware of, your Honour.

I want to ask you some questions briefly about November 2019. I won't linger on this subject for very long. At around 7:35 pm you received a call from Superintendent Nobbs, is that correct?---Yes, I did.

I am going to pass over the events earlier in the day and you were told that Kumanjaya Walker had passed away?---Yes.

To the best of your memory, what did he tell you?---It was a very brief conversation, your Honour. Mr Nobbs asked me to like - or source a number of police officers and facilitate them boarding a plane and sending them to Yuendumu. So that was the gist of the conversation and yes, he advised me that Kumanjaya Walker had passed away.

You mentioned that he asked you to send some members to Yuendumu. How did you identify those members?---So we have a - we have rosters, essentially I look at the roster, I saw what patrol groups were off duty, I saw other units within the station were off duty and I used our text messenger system to send text messages to those relevant officers to request that they attend the police station.

Now, one of those officers was Sergeant Terry Zhang, is that correct?---That's correct, your Honour.

And did you identify Terry Zhang at that point as the officer who was to serve as forward commander?---No. When I - when I sent the text messages I didn't have the intention of - I didn't have the intention of sourcing a forward commander. Essentially it's a case of send a text message out and see who you get, see who

attends. And then whoever attends, your Honour, that assessment is then made with whoever attends for the overtime. Which is – would be based on the seniority of that member.

So just to clarify, you sent out the text message. You got effectively, an expression of interest back, and at that point in time, you selected from those officers, the officer who was to be the forward commander. Is that right?---The forward commander was selected. I don't recall having any – having any involvement in that myself. However, yes, that is how it happened. So Terry was – Terry's name was selected as the forward commander.

Okay. Was that communicated to you at any point in time?---I don't remember, sorry.

There's been some evidence from Senior Sergeant Meacham King, that he was surprised that Sergeant Zhang was selected as forward commander. In fairness, he was very careful to say that he didn't want to be critical of Sergeant Zhang, but felt that probably an officer of superintendent level, or higher, was justified, given the seriousness of what had occurred?---Mm mm.

Perhaps you've already answered this. But do you have any comment on that? Can you recall any of the decision making around identifying Sergeant Zhang as the forward commander?---I can't, sorry, your Honour, no, no recollection of that. I generally – when Mr Nobbs attended the police station to take control of the incident, he operated in an office next door to my office. So essentially, Mr Nobbs took control of the incident at Yuendumu. I remained in control of the other matters affecting the rest of the Southern Desert Region, and also Alice Springs.

The next conversation I wanted to ask you about was a conversation that you had with Sergeant Julie Frost. Can you recall - - - ?---Yes, I – I briefly recall that conversation.

Now, at page six of your recorded statement, you give an account of that conversation. And you say that "Sergeant Frost described the situation in Yuendumu as volatile." Can you recall that?---Yes I can, your Honour.

Can you explain to her Honour what – what Sergeant Frost said?---Look my –my recollection of the exact conversation is almost non-existent, your Honour, unfortunately. She – she recalled to me – or she expressed to me that the situation was volatile. The situation was dangerous. I believe at one stage, she expressed an interest that the matter of evacuating the police members from Yuendumu was being considered.

Did you have any further conversations with her or Superintendent Nobbs about evacuation?---No.

Any further conversations about level of risk on the ground?---None what so ever, your Honour.

And did she explain what she meant by dangerous? What was it that she thought was dangerous?---She didn't explain to me what was dangerous, however, because of my – my position and my experience, and my – my brief knowledge of events, or – or what can happen in a community, on occasions such as this. I – I really – I pretty much knew what she was talking about. So, by that I mean, it was possible that there was unrest in the community, that posed a potential danger to the – to the members within the police station.

And was that based on your experience in Yuendumu, or other Indigenous communities, or in urban areas of the Territory?---So it's – historically, to my knowledge, Yuendumu can often be a volatile community. And unfortunately continues to be. I have worked at a remote station previously, many years ago. And I am aware that certain decisions around people getting arrested can – can have an impact on the residents. And that on occasions, that can cause unrest.

What was the remote station, can I ask?---That was Ramingining in Arnhem Land, your Honour.

That's a Yolmu - - - ?---Yes, correct.

I won't ask you any more questions about that, but I want to ask you some questions now about some of the use of force incidents that you audited as sergeant, or shift sergeant. Before I do, I just want to put this to you. The statistics that have been gathered and analysed by Commander Proctor, suggest that of the 46 use of force incidents that sergeant – sorry, that Constable Rolfe was involved in, over the three year period that he was a police constable, you were senior sergeant for 41 percent of those?---Look I can only take your word for that, your Honour. It – it sounds about right, but I don't know the statistics myself, no.

And if I put it to you that you were the sergeant for approximately 11 percent of those use of force incidents, would that sound about right?---Sounds about right, yes.

If that's correct, you were on duty for over half of the entirety of Constable Rolfe's use of force incidents?---I accept that.

And would that be a fair reflection of the amount of time you spent rostered on with Constable Rolfe, when he was a part of patrol group five, you tended either to be, sergeant or senior sergeant?---Yes, that would be a true reflection, yes.

Would it surprise you to learn that if those statistics are correct, you were on duty more than any other senior officer, while Constable False – sorry, Constable Rolfe, used force?---Yes I would accept that.

The first matter I wanted to ask you about was a matter that occurred on 1 April 2017.

Bec, we can have doc 1.

This was an incident that occurred outside Bojangles. I'm not sure if you recall it. The use of force case note entry, which I've just put up on the screen. Can you see that in front of you on the computer, Senior Sergeant?---Yes I can.

Perhaps if we scroll down just a little bit?---Mm mm.

Now, I'll paraphrase, but a narrative of the incident is there provided. And in effect, Member Rolfe and McCormack, Senior Constable McCormack attended Bojangles in response to a fight outside in the street. They identified one of the males and placed him in the cage. The other male, however, was disorderly and argumentative. And then ran from the area, and was chased by Constable Rolfe. Constable Rolfe then tackled him to the ground. And I believe that the individual might have suffered minor grazes, but no more significant injury. Can you recall auditing this case note entry?---No I can't, your Honour.

Bec, perhaps if you could go down a little bit further. The next page please. It's the third page. Right to the bottom. All right, can we stop there.

You'll see a couple of inches above – sorry below the top of the page, there's a bold heading, "Supervisor details member"?---Yes, that's me.

And the name is Alistair Gall?---Correct.

That suggests that you audited this case note entry?---Yes it does.

And underneath that heading, there's another heading that reads "Supervisor details comments." And those comments are the comments that you typed in to the PROMIS case note entry while you audited the job, is that right?---That is correct, your Honour.

Now, are you aware that this is one of the use of force incidents that Detective Senior Sergeant Barram reviewed for the purpose of giving a statement in these proceedings?---No I'm not, your Honour.

So you weren't aware that his opinion was that the force that had been applied to this individual was not reasonable, necessary, proportionate or appropriate?---I – I wasn't aware of that, your Honour.

And that he suggested that because the offender had only been given an infringement notice for fighting in a public place, a better response would have been not to pursue, in the circumstances? I take it the answer is you weren't aware that that was his opinion?---That's correct, I didn't know that.

I want to ask you some questions about your opinion in a moment, but in fairness, I also want to put to you the opinion of Assistant Commissioner Porter, also reviewed this incident, for the purpose of giving an affidavit, and indicated that it was not

possible to determine whether the force was reasonable, necessary, proportionate and appropriate owing to a lack of information?---Okay.

But agreed with Detective Senior Sergeant Barram that the choice to pursue led to force being used when it could have been avoided. I don't want you to venture into the debate about whether or not the force that was used on this occasion was reasonable or excessive. But can I ask you to reflect on the comments of Detective Senior Sergeant Barram and Assistant Commissioner Porter that the choice to pursue led to the application of force when it could have been avoided?---Yes, your Honour. I acknowledge that it was a low-level offence and if the offender hadn't been pursued, then there would have been no application of force.

In other words, whether or not it was a lawful application of force, this was a matter that might have warranted some guidance to Constable Rolfe about exercising discretion and making different choices in the context of using force. Would you agree?---Yes, I would accept that, your Honour.

Constable Rolfe had been an active police officer for about five months at that time?---Okay.

Wasn't it critical, given the reliance on more senior officers, for guidance that someone take Constable Rolfe aside and say look, while what you did was probably lawful, you had a choice here. And a different and potentially safer choice might have been to let this man run away?---Yes, I accept that.

Now, one of the other things I want to ask you about that document is the final line. It reads, "Body-worn was but activated in time before the male fled police." Now, perhaps I'll let you interpret that before I do?---Yeah, so it's clearly a typo on my behalf. I believe that should say "Body-worn was activated, but not in time before the male fled police." So, I think the gist of what I'm saying there is that it probably was not activated at the start of the incident.

And that would explain why, for example, Assistant Commissioner Porter ultimately found that he couldn't substantiate this allegation that excessive force had been used. There was no objective record of what had occurred?---That's correct, your Honour.

Can you recall whether you gave any guidance to Constable Rolfe at that time about his failure to activate his body-worn video?---Look, I can't recall giving him any specific individual guidance in relation to the activation of his body-worn video. I know I had several conversations with Constable Rolfe, as well as the patrol group as a whole, on several occasions. But the conversation specifically in relation to this, your Honour, I don't recall.

Can I just clarify that I understood you. Your evidence is that while you can remember having conversations with Constable Rolfe about the issue of body-worn video at different points in time, you can't remember if you had a conversation on this occasion. Is that right?---It's correct that I – I'm confident I had the conversation, but

I do not remember the conversation, if that makes sense, your Honour.

THE CORONER: Sure.

MR COLERIDGE: So, you're confident that, following this incident on 1 April 2017, you provided remedial advice to Constable Rolfe?---I'm confident I did, your Honour, yes. However, I do not have that documented anywhere.

And that's despite your evidence that you can't recall reviewing or auditing this use of force incident?---So, clearly, I did review the use of force; I wrote that. So, initially, when - several moments ago, I did not recall reviewing the use of force, however, having read the use of force in my report, it's clearly me that's written it. So, yes, I definitely reviewed that use of force.

And what is it that makes you confident that you provided the remedial guidance? Certainly, you say that body-worn video wasn't activated, but as I read it, the case note entry doesn't say, remedial advice to be given, or Gall to speak to Constable Rolfe. Is it an assumption or - - -?---You're correct, it doesn't say that. At that time, it was - sorry, what was the date of this; 2017. I wouldn't say body-worn video was in its infancy, it had been used for a period of time. I can't recall for how long, but it was a - it was something that was continually on the agenda and that was to make the members aware that they were activating their body-worn video and that's why I'm so confident that I would have spoken to Constable Rolfe about this. It was always on the agenda, the use of body-worn video.

In fairness to you, there is definitely evidence that you did provide that remedial guidance to Constable Rolfe on a number of occasions, or at least, there are notes that you provided that guidance. There are also notes that you provided guidance to the patrol group as a whole. So, I'm not suggesting that that didn't occur at some point in time. I suppose what I'm getting at is, if we wanted to find some objective record of when remedial advice was given, where would we look?---There would not be any.

Okay. So, that wouldn't end up on Constable Rolfe's, My Career profile?---No.

Okay. I want to ask you some more video - sorry, some questions about body-worn video in a moment, but what I'll do is I'll turn to the next use of force incident you reviewed.

Bec, could I have document 2 please?

Yes. Senior Sergeant, this case note entry concerns the arrest of a Cleveland Walker on 1 April 2019. Can you recall auditing this use of force case note entry?---Yes, I can, your Honour.

Just briefly, you can recall that Cleveland Walker was chased by Constables Rolfe - sorry, Constable Rolfe and Sergeant Kirkby. Correct?---Correct.

Constable Rolfe had activated his body-worn video, but deactivated it during the pursuit?---Yes, that's correct.

His apprehension of Mr Walker was not captured on the body-worn video?---Correct.

When Sergeant Kirkby arrived, Kirkby stated that he saw Constable Rolfe with his knee on Mr Walker's back, ground stabilising him?---Yes, correct.

Mr Walker had blood on his face and forehead?---Yes.

And during the apprehension and while being transported to the cage, Mr Walker complained on the body-worn video that he had been assaulted by police. Can you recall that?---Yes, I can, your Honour.

Specifically, while lying down on the ground, he said, "I want to speak to my lawyer. You banged me against the rock."?---Yes, I recall that, your Honour.

Now, I just want to take you through this document.

Perhaps, Bec, if we could go to page 4?

Again, your name is at the top of the page. Take it from me that on the final page, there is a subject heading that says, "Supervisor details"?---Yes.

And that's your name, Alistair Gall?---Mm mm.

Is this what's written in this part of the document under "Supervisor details: comments", was that put into the document by you?---Yes.

So, these are your findings, in effect, of what had happened, whether the complaint was substantiated, so on and so forth?---It doesn't relate to a complaint, your Honour, it relates to my assessment of the use of force.

Okay. But certainly, you've accepted a moment ago that the body-worn video – I withdraw that. You reviewed the body-worn video?---Yes, your Honour.

And you accept that on the body-worn video there was a complaint of an assault by Mr Walker?---Yes I do.

And he had injuries consistent with the mechanism of injury, which was that his head had been bashed into a rock, you'd agree?---Yes, I agree.

Now, the third paragraph read "Injuries, when arrested, Walker had an injury to his forehead. This had been sustained most likely, when he went to ground, when trying to evade arrest, shortly before arrest, or during the foot pursuit on Anzac Hill, when he may have fallen over due to rock terrain and darkness." You can see that?---Yes.

That in effect, is a finding, that injury was most likely to have occurred in a particular way, correct?---That is correct, yes.

And no reference is made in that passage, or anywhere else in the comments, you inputted, to the complaint of assault that this individual had made, is there?---No there's not, your Honour.

And indeed, did you know at that time, that Cleveland Walker went on to give a record of interview, in which he said, consistently with his contemporaneous complaint, that "The coppers just plant me and grab me by the hair, and just bang, bang, bang against the rock, keep going. I just didn't get treated right at the time when I got arrested." Were you aware of that when you audited this use of force entry?---No I wasn't, your Honour.

Okay. How could you offer an opinion about what had happened in those circumstances? What basis was there to prefer the account of, I'm assuming Constable Rolfe, to the account of Cleveland Walker?---It was based on the account of the risk assessment provided by the – by the officer.

I see. So when auditing a use of force case note entry, if a person who's been apprehended says that an officer assaulted them, but the officer says that they didn't, you assume that they were not assaulted?---No, look upon considerable reflection, it is something that I should have taken into account, your Honour, upon reviewing the use of force.

Indeed, you say, "The actions of Rolfe and Kirkby and the force used, was minimal, justified and necessary to prevent the escape of Walker," you agree that that was your conclusion?---Yes.

Assuming that Constable Rolfe had bashed Cleveland Walker's head into a rock, would that have been minimal, necessary and justified force?---No, your Honour.

So in a sense, in order to audit this use of force case note entry, you assumed that nothing wrong had happened, and then gave it the tick of approval?---Look, it does – it does read that way. I understand Cleveland Walker was intoxicated as well, at the time. That's something that I – I later learned. But in essence, look I should have taken into account his commentary in relation to his allegations on the body-worn video.

In circumstances where you had directly conflicting accounts, between Constable Rolfe and Cleveland Walker, and where there was evidence that Constable Rolfe had not just failed to activate his body-worn video, but had turned it off, while pursuing Mr Walker, do you think that this was a case note entry that needed to be escalated for review by a more senior officer?---Look, at the time, I didn't feel the need for that to happen. However, on reflection, it's possible that I should have escalated the matter.

This at the time, and I know that hindsight is 20/20, this at the time was a run of the mill case note entry, correct?---It's something that I do, or a supervisor would do, frequently. Perhaps most – or often most shifts, every other shift, from different members.

And your approach – and your approach to this case note entry would reflect your practise on most shifts?---Yes, that's correct.

Finally, your summary does note that the issue of turning the camera off, and instead using covert mode, is to be discussed with Rolfe. Now, I understand that Detective Superintendent Lee Morgan asked you whether you could recall giving that remedial advice. Can you recall whether you did, or whether someone else did?---Look, I – I don't recall if anybody else did. Again, I – I cannot recall the specific conversation, however I did have a number of conversations with members, with Constable Rolfe, and the patrol group, as a whole. Because it was such a topical matter. And that's also not recording anywhere, where I did have a conversation with him.

So I take it, you couldn't recall what you said to Constable Rolfe on this occasion, if you did give the remedial advice?---Unable – unable to recall that.

Are you aware that the Professional Standards Command ultimately found Constable Rolfe's claim that he had de-activated the body-worn video to arrest Walker covertly, was not credible?---No, your Honour.

Okay. Would you, in your conversations with Constable Rolfe, have tested the credibility of his account of why he de-activated his body-worn video?---There would have been questions in relation to why he did that, yes, your Honour.

Okay. Questions you can't now recall?---Yes, correct.

And that aren't recorded anywhere?---Correct.

Now, were you aware that one of the reasons that the Cleveland Walker incident was re-categorised for the purpose of disciplinary investigation, was that it bore similarities to another allegation that had been made – been made by another individual?---No I wasn't aware of that, your Honour.

Are you aware of the allegation that a Mr Malcom Ryder had made that in November 2018, Constable Rolfe had smashed his head into the ground?---No, I wasn't aware of that.

Have you since become aware of that incident?---Look, I've become aware of the name Malcolm Ryder, due to my observations and following of this inquest, your Honour. However, I have no, without being reminded, I have no recollection of that name, or any incidents involving him.

Have you – were you aware then, or have you since become aware, that there are in fact at least three other use of force incidents, in which after applying false force, or being involved in the application of force, arrest targets ended up with head injuries?---No, your Honour.

Would it concern you to learn, cast your mind back to let's say, October of 2019, would it concern you to learn that a junior officer under your command, had been involved in at least three incidents in which following an arrest by Constable Rolfe, the arrest target ended up with quite significant head injuries?---Yes, if I was aware of that, that is something that would flag with me. And it would certainly be of concern, yes.

But I take it that your evidence is that you really didn't have an awareness of these other use of force incidents?---That's correct, your Honour.

You were only aware of the use of force incidents that you were auditing personally, is that correct?---Correct. It – as the watch commander, you don't – and you're probably already aware of this, however, when the shift sergeant used to audit the use of forces, if they were deemed to be appropriate, justified and necessary, etcetera, then they wouldn't come to my desk. I would not hear about those uses of force, your Honour. Unless I had – unless I had heard about them on the – the radio, or through other conversations, through debriefs or – or from the custody sergeant, for example.

Were you making day to day decisions about how Constable Rolfe was deployed?---On occasions, I would your Honour, yes.

Do you think that it was important as the senior sergeant, who oversaw patrol group five, for most of Constable Rolfe's service in the Alice Springs Police Station, that you had a better degree of insight into his use of force incidents across the board?---If I had become aware. If it had flagged with me that the use of force being administered by Constable Rolfe was a concern at the time then certainly that would - or that may - reflect my decision-making in terms of his taskings.

For example, it might affect your decision as to whether he was suitable for deployment with a tactical team like the IRT?---Look, if I had grounds to believe or suspect that maybe he wasn't suitable for being a member of the IRT then yes, that would be my responsibility to flag that with the management of the IRT, yes.

Well why don't we just - you certainly knew in January of 2020 that Constable Rolfe was very keen to seek out arrest targets but also had had a number of complaints of late?---That's correct, your Honour.

And indeed, you told investigators on 20 January 2020 and this is at page 48, your Honour, 30 January 2020 - that for a couple - the last couple of years he'd had a couple of complaints in relation to excessive force. You were then asked the question, "Tell me about any affect that that has had on how Zach Rolfe might be utilised if any?" And your response was, "It hasn't"?---That's correct, your Honour.

You were then asked, "Why not?" And your answer was, "Because I have faith in Zach's work ethic and the way he operates and I know him generally, he will always get the job done, you know, some people you give a job to and it doesn't get done but you give him a job and it gets done"---That's correct.

And that reflected your thinking at the time?---That's correct, your Honour.

I want to ask you some questions about what you knew in November of 2019. You certainly knew that he had a number of complaints in relation to excessive use of force, is that correct?---That's correct.

You knew that he had been consistently provided with remedial advice for failing to turn on this body-worn video, correct?---That is correct.

And you, in fact, had provided him with that advice on a number of occasions?
---Correct.

Cleveland Walker is one example?---Yes.

But if I put it to you that we have a number of other PROMIS records that conclude with, "To be provided remedial advice by Alastair Gall" would you accept that that's something that - - -?---Yes, look, if you have that on record than I would accept that, yes.

Now, I think you gave evidence that you were not a regular attendee at meetings of the CMT, correct?---That is correct, your Honour.

Were you aware that issues relating to Constable Rolfe's use of force and his use of body-worn video were raised on one view at meetings of the CMT in July and October of 2019?---No, I am not aware of that, your Honour.

Okay. You gave some evidence that you were aware of the Malcolm Ryder matter - you had become aware of it?---Yes.

Now, did you hear in May of 2019 that a sitting Northern Territory judge had said that Constable Rolfe had lied while giving evidence?---Now, this is something I have come to hear about in the last year. Sorry, the date you mentioned was May 2019?

The transcript of his Honour's reasons is 9 May 2019?---So I am not aware of that - or I wasn't aware of that at the time. That's something that I've only become aware of in the last year.

Have you since become aware that that same Northern Territory judge suggested that Constable Rolfe had fabricated evidence?---No, I am not aware of that, your Honour.

And are you now aware that Constable Rolfe was giving evidence defending an application of force - or justifying the use of force against Malcolm Ryder?---No, I'm not aware of that.

Do you think that that's something that it was important that you, the senior officer who was making decisions about how Constable Rolfe was utilised, knew?---Yes, I do.

Do you think it was something that you needed to know in order to make decisions about whether or not Constable Rolfe was suitable - and by "suitable" I mean safe, for deployment with a tactical team like the IRT?---It would certainly have been helpful to know that, yes. However, if he hadn't been - if it was the case that he hadn't been deemed suitable for use in the IRT I would suggest you could also argue that he wouldn't be deemed suitable for use as a general duties officer.

So in fact your answer is that had you been aware of that it might have been your view that Constable Rolfe was not suitable for deployment as a general duties police officer in the Northern Territory? At least pending the resolution of an investigation into - - -?---It's possible, your Honour, but I - I couldn't categorically say yes or no.

It's a pretty extraordinary allegation isn't it? An allegation by a sitting judge that an officer had fabricated evidence justifying a use of force?---Yes, it is, your Honour.

A PERSON UNKNOWN: I object to the form of the question. A number of questions have been put about the findings of Judge Borchers and consequent or subsequent investigations being conducted by PSC and I wonder out of fairness to the witness whether exhibit 16 should also be brought to his attention.

MR COLERIDGE: Your Honour, the purpose of this questioning is not to ask the officer to comment upon whether the investigation - - -

THE CORONER: In hindsight.

MR COLERIDGE: - - - was ultimately substantiated or resolved in a particular way. What we do know is that the investigation was ongoing at the time of Constable Rolfe's deployment to Yuendumu and in fact that Crime Command was preparing a memorandum to the Department of Public Prosecutions seeking and advice in relation to a potential prosecution for the offence of perjury. What I am asking is whether the systems that were in place at that time, on the information that was available at that time, were appropriate or operating effectively. Now, in fairness to the witness, I will point out that following an investigation it was ultimately determined that there were insufficient prospects to charge Constable Rolfe with perjury but the questions I am asking are really directed at what was known at that point in time.

THE CORONER: And if it had been known, what actions might have been available or should have at least been considered.

MR COLERIDGE: That's right.

THE CORONER: Yes. I will allow the question.

MR COLERIDGE: I take it that you did not know that in the lead up to his deployment in November of 2019, that Crime Command was preparing a memorandum to the Director of Public Prosecutions seeking and advice in relation to an offence of perjury?---I did not know that, your Honour.

That would be a very significant investigation, would it not?---Yes, it would.

In our view, irrespective of how it was ultimately resolved, is that a matter that could have affected your decision that Constable Rolfe was suitable for deployment in any capacity?---Possibly. There have been instances of members being under investigation for various matters - offences - that have been stood down, have been relieved of general duties but it - certainly if I was aware of that it certainly would have been a consideration at the time, your Honour.

A consideration that you would have taken into account along with your knowledge at the time that there had been other complaints of excessive use of force, correct? ---Correct.

And that you would have taken into account along with your other - your knowledge - that remedial advice had consistently been given regarding Constable Rolfe's failure to activate his body-worn footage?---Yes.

All right. Is the effect of the evidence you gave to investigators on 30 January 2020 - - -

THE CORONER: Can I just - before you go on, and I take it you weren't aware that one of the issues in the Ryder matter was Constable Rolfe's failure to activate his body-worn video?---I wasn't aware of that, your Honour.

And if you had been aware that there was another incident of failure to activate a body-worn video that was under investigation, is that a matter that you would have taken into account?---Taken into account in to which decision, your Honour?

In determining whether or not, it was for Constable Rolfe was suitable for deployment in – as general duties or any other role?---Yes it is, your Honour. That would have been a consideration.

A significant one?---Yes perhaps.

Given the number of times you'd spoken to him about that?---Yes.

MR COLERIDGE: Would it concern you to learn that no one seems to have sat down and considered all of the information that was then available, that might have

borne on the decision about whether Constable Rolfe was suitable for ongoing deployment as a general duties police officer?---Yes.

Were you aware that the IRT Standard Operating Procedures, provide that members of the IRT will, or as a matter of discretion may, become ineligible for deployment, where they're being performance managed, or where they're subject of disciplinary investigations?---No, your Honour. I had no awareness of the SOPs in relation to the IRT.

But certainly that contemplates that someone is meant to be considering these matters on an on-going basis doesn't it?---Yes.

Do you think that's a pretty powerful argument for why senior sergeants should be involved in the CMT meetings, so that they have a – a kind of more holistic awareness of how their constables are travelling?---Yes, I would agree with that.

Are you aware that the Northern Territory Police Force conducts psychometric testing of new recruits?---Yes, your Honour.

Were you ever made aware of Constable Rolfe's performance during that psychometric testing?---No, your Honour.

You weren't aware then that Constable Rolfe was identified as someone who had an above average aggression score?---No.

A PERSON UNKNOWN: I object to these questions, your Honour. What this witnesses opinion is on a psychometric testing - - -

THE CORONER: I don't – I don't think he's being asked for an opinion on the testing. I think it might be an additional factor that he's going to be asked whether or not that kind of information might be helpful in his position.

A PERSON UNKNOWN: The extent to which that psychometric testing is helpful, because all we've got so far in the evidence written in brief is some results from some minor question. Questions which I haven't certainly seen unless they're in the brief and I haven't seen them in that. What possible relevance - - -

THE CORONER: I guess the - we have to add an assumption, which may or may not be formed now by the evidence, I don't know. Assuming the psychometric testing has a level of validity.

A PERSON UNKNOWN: Sure, but in - - -

THE CORONER: And that may or may not be borne out, I don't know.

A PERSON UNKNOWN: But in the psychometric testing itself, which is attached to the statement of Sharma, it has a period of time in which that assessment is valid. And it's for a period of 12 months. What possible opinion this witness can offer the

court, in circumstances where we're now two years, three years on from Constable Rolfe's acceptance into the police force. When I don't know how that psychometric testing works, with the exception of what we've got. Questions that were asked (inaudible) and how on earth it – sorry, I withdraw that. How (inaudible).

THE CORONER: Sure, if it's – if there's evidence that it is no longer a valid basis for the conclusion, if there's a timeframe on it, I – you might be – you might (inaudible) - - -

MR COLERIDGE: Your Honour, I can rephrase the question if it assists?

THE CORONER: (Inaudible) relevance.

A PERSON UNKNOWN: I will, your Honour. The report attached to statement of (inaudible) - - -

MR COLERIDGE: In fairness, I concede that the cut off, was I believe February 2017 - - -

A PERSON UNKNOWN: 28 February 2017.

MR COLERIDGE: - - - so that's a reasonable point, your Honour. I can come at the question in a different way.

THE CORONER: Sure.

MR COLERIDGE: I can put - - -

THE CORONER: I think that is a reasonable point. If there's a limitation as to the validity, that's why I said at the beginning, if we assume there's some validity to it, then maybe it's relevant, but if you can't ask for that assumption, or you don't think it's going to be made out in the evidence.

A PERSON UNKNOWN: Yes, thank you, your Honour.

THE CORONER: (Inaudible).

MR COLERIDGE: Assuming that there was valid and current psychometric data about a recruit, who became a police constable, and was serving under your command, would you agree that that kind of information might be relevant, when considering other information, like the use of force history that suggests that they might not be suitable for deployment?

THE CORONER: Well if this is based on an assumption, and so it's going to whether or not at some point in time, if there's that evidence available, and it's thought to be – or there's – that there's belief in its validity, whether that is the kind of information that sergeants and senior sergeants, and supervisors, should be aware of, when the supervising members. So it's more general.

MR COLERIDGE: Your Honour, I think I have created the problem by asking these questions in the context of a consideration that occurred in November 2019. So I accept my friend's point. But I anticipate that the evidence will be (inaudible) from those who are responsible for recruitment, that once the recruitment phase has completed, this material is never provided to those who supervise constables in their early years, as police officers. And while the data is – is current.

THE CORONER: So would that data, on its face, have been current as at April 2017?

MR COLERIDGE: No, your Honour. I withdraw the question.

Can I suggest to you that the approach that you took in your recorded statement on 30 – sorry, 30 January 2020, was that because you had faith in Zach's work ethic, and his capacity to get the job done, you weren't concerned about his – or the growing number of use – use of force complaints he was involved in?---Look when I – when I used that term, "To get the job done", it – it related to Zac Rolfe's reliability across a number of jobs, across a number of requests that I had of him. So I had identified in – in Zac Rolfe that he was intelligent, he was a good communicator, and if I ask Zac Rolfe to do something, he would do it. Whilst – whilst managing a patrol group, either in the position of a shift sergeant or a watch commander, you identify who on your patrol group has certain skills. You become aware of the – the abilities and the limitations of the staff that – that we work with, and on occasions, you may or I may assign a task to someone, and it may not be done satisfactorily, your Honour. So, yes, so the gist of those comments in my statement were and still remain that he was reliable and he did of him what I asked and what I tasked.

When you use words like reliable, satisfactory, what you're saying is you told him to go arrest someone and he came back and the person was arrested. Is that right?---That's correct, yes.

Okay?---But it didn't just relate to tasks involving arresting people. It related to a number of different tasks where his skills were utilised, your Honour.

Okay. And because he was a useful police officer, a skilful, useful and intelligent police officer, it didn't concern you that there were a growing number of use of force complaints. Is that right?---Look, I was aware of those use of force – or I was aware of a couple of use of force complaints. If – reflecting upon it now, if I – if at the time of the deployment to Yuendumu, or for that matter, any occasion when I'm tasking him to a specific tasking, if I had been aware holistically of every single one of his use of forces, where there may have been issues, yes, that may have impacted on my taskings of Zac Rolfe.

Your evidence is that you were aware of a number of excessive force complaints over the years prior to November 2019?---So one of them would have been the Cleveland Walker matter, your Honour. I don't recall what the other one – I don't –

I don't recall what the other one would have been when I provided that statement, but, yes, I was aware of at least a couple.

It's possible that what you were saying was that you had heard about these matters, but you didn't know the details. Is that correct?---That's correct, yes.

What steps did you take to find out?---I didn't take any steps, your Honour.

Okay. Did you not want to know whether Zac Rolfe was developing problematic reputation for use of force?---So if it had been flagged at CMT meetings, for example, or by other means, if it had been flagged that he was developing a – sorry, what was your – how did you describe it? If he was developing – you know, if he was using - - -

A reputation?---- - - a reputation, thank you. If he was developing a reputation of using excessive force, I would want to know about that, yes, and that would – that would impact how he was used.

But you weren't attending the CMT meetings where it might have been discussed?---Correct, your Honour.

And you didn't take any other steps to find out?---Correct.

Okay. Detective Sergeant Barram gave the opinion following his – Detective Senior Sergeant Barram gave the opinion following his review of all of the constables, Rolfe's use of force incidents, that Rolfe demonstrates a tendency to want to "get his man no matter what and pays little or no regard to the consequences of his actions, which has resulted in quite severe and totally unnecessary injuries to subjects in some cases." Can you see the consistency between that conclusion about Constable Rolfe's use of force history and your faith that because – sorry, and your decision to keep deploying Constable Rolfe notwithstanding the complaints of excessive force, because he always got the job done?---I can – I could see the connection between those two, your Honour, yes.

There's a connection in the sense that if you don't proactively address excessive uses of force, and reward people who get the job done, they may very well think that it doesn't matter if they're a little bit rough, because the institution they work for rewards results?---There was no reward for his results, your Honour. I think I know where you're coming from with the question, yes, but there were certainly no rewards for – for his results.

THE CORONER: Your respect, though, was a reward?---Yes, I would acknowledge that, yes.

MR COLERIDGE: And you would have commended him when he did a good job, correct?---Correct.

No further questions, your Honour. I note the time.

THE CORONER: Yes.

We will break for lunch, and we will come back at five to 2:00.

WITNESS WITHDREW

ADJOURNED

RESUMED

MR COLERIDGE: Your Honour, just before we continue the examination of Senior Sergeant Alistair Gall, the next witness on the witness schedule was Superintendent Sachin Sharma. I was informed this morning that Superintendent Sharma is a hearing judge in a live disciplinary matter. And in those circumstances, it's not proposed to call him this afternoon.

THE CORONER: Yes.

MR COLERIDGE: We'll give some consideration to whether or not the evidence can be adduced through one of the two other members of the recruitment panel who are scheduled to give evidence tomorrow and on Thursday. I think an email has gone out to the effect, but I just wanted to formally note it.

THE CORONER: Thank you.

Yes, do any of the parties have – Mr Boulten?

MR BOULTEN: Yes, thank you, your Honour.

ALISTAIR GALL:

MR BOULTEN: Detective Senior Sergeant, my name is Phillip Boulten. I'm a barrister and I'm appearing in the inquest for NAAJA, and you would be aware of NAAJA?---Yes.

Some – just to lay our cards on the table, NAAJA were the solicitors for Malcolm Ryder and for Cleveland Walker and others. I will ask you about those two gentlemen eventually, shortly. By the time you were spoken to in January 2020 about your knowledge of the events leading to the death of Kumanjayi Walker, you had time to think about your association with Zachary Rolfe and how he had performed as a police officer under your command and you had a prefixed view that he was a very reliable and effective police officer under your command?---Yes.

That's clear from your statement. But I would like to give you an opportunity to describe some of the reasons why you had that view, and you've touched upon it in your statement. But you had a lot of contact with him, didn't you?---As much contact that one would ordinarily have as a shift sergeant or a watch commander.

We're aware that you had a lot of paperwork and office-bound duties, but on any particular shift, would you go out on patrol?---Yes, as often as I could, your Honour.

So, on any – on every shift, would it be normal for you to be on patrol?---Yes, so every shift, I would – when I was a shift sergeant, I would be patrol at certain times. There was no fixed length of time that I would be out on patrol and there was no specific time when I would go out on patrol. It varied from shift to shift.

For how many years was it that you were Zachary Rolfe's sergeant or senior sergeant?---I think it was about 18 months, your Honour, all up.

Would it be right to say that you saw him just about every day that you were on duty?---When he was attached to my patrol group, your Honour, I would have seen him every day, yes.

But how long was he in your patrol?---So, approximately 18 months, your Honour.

Okay, got it. So, for about 18 months including the period up until 9 November 2019, you saw him at work. Is that right?---Every day that I was at work and every day that he was at work, yes.

And it would be common for you to be – like it was usual for the two of you to be at work on the same shift?---Yes.

Every day, it would be usual for you to spend time in the field with him. Is that right?--No. As discussed, my time in the field was limited. We generally have six members on a patrol group. Zach could have been one of them. I would attend certain jobs for certain reasons, if I could and when I could, but I would not see him – I would not see him executing his duty every day, however, I did see him every day when he was attached to the patrol group.

When you saw him every day, whether it was in a car or outside walking or in the police station - - -?---Correct.

- - - he was on duty?---Yes.

So, you saw him every day on duty, right?---Yes.

So, would it be correct to say, if he'd asked you to say, well can you vouch for me in any particular set of circumstances, you would have been able to truthfully say, I have worked with this fellow closely as part of my group for a year, 18 months, whatever it might have been at that time?---Yes, that's correct.

By the time he was stood aside from duties following the shooting, you had formed the view that he was an exceptional member of your patrol?---I'm not sure if I used that word "exceptional".

No?---It can be - - -

Well, what word would you use?---Very reliable, efficient, effective, your Honour.

Better than the average?---Yes, I would agree.

You thought that he was one of the best in your group, if not the best?---I did think he was one of the most competent members on the patrol group, yes.

He was a good communicator?---Correct.

Very well-educated?---Correct.

Very fit?---Correct.

Very athletic?---Correct.

Very proactive?---Correct.

Very keen to arrest?---Correct.

Very keen to seek out opportunities to arrest?---Correct.

You told Acting Sergeant Allan Welfare and Detective Acting Sergeant Paul Morrissey in your interview that, now and again, you would get a job that comes up and it's a curly one, for want of a better word, and you would often send Zach out to those jobs?---Correct.

What did you mean?---So, as I've alluded to previously, Zach was a fairly well-rounded police officer, highlighted in the attributes that you just mentioned. He was a good communicator, intelligent, well-spoken, articulate. So, as I was the watch commander, you see that jobs – they would pop up on your – on my screen, jobs that need to be allocated to certain groups(?). Now, if there was a certain job that needed someone or needed the attendance of a member who was - who had the skills, who was able to deal with that matter effectively - - -

Like what?---Yes, I can't actually give you a specific example but one that would require good reasoning, good communication skills, where fairness is involved. Other members of the patrol group didn't have the maturity or skill to deal with such events so yes, I would - I would choose Zach to attend those jobs.

Would these jobs involve arrests?---Some certainly would.

Yes?---And others certainly wouldn't.

So the curly jobs involving arrest?---No.

I will just ask you about curly jobs and ask you if any involved arrest?--So the curly jobs I was referring to are the ones that required sensitivity, diplomacy.

Like what? Give us an example?---If there was - okay, let me say, here's an example and this isn't - I don't recall this being specific to Zach Rolfe but on occasions we - our customer service is not as good as it could be. On occasions sometimes victims in relation to offences, say an unlawful entry for example, may wait - may have to wait for a number of hours. As a result that complainant may be upset, they may be angry with the police that they're not getting the service that they required from us so knowing what I do about Zach Rolfe, I would choose him to

attend such events knowing that there's going to be someone that's angry at the other end because I know he has the skills to deal with that type of complainant.

When you told the officers who interviewed you that; "He is also very fit, he is very keen - he is very keen to seek out arrest targets and I also know he's had a number of complaints of late in relation to excessive force" were you talking about particular memories that you had of him being keen to get a chance to arrest people?---Not specifically, but - - -

Why did you say that?---What I did in my statement?

Yes. That bit?---Because he was enthusiastic, keen and yes, he - he liked the challenge of arresting offenders.

Were you ever with him when he arrested anybody?---No, not that I can remember, your Honour.

Well, how do you know how he performed when he arrested people?---PROMIS cases, feedback from sergeants.

Which sergeants?---Whoever the shift sergeant would have been at the time.

But you were the shift sergeant for some of that time?---Yes.

Okay, and you never saw him arrest anybody?---Look, it's quite possible that I did. I don't recall any specific events when I saw him arresting but it's quite possible that I did see him arrest people.

Did he ever talk to you about how he arrested people?---I cant' remember.

Did he ever talk to you about how he felt when he was arresting people?
---No, your Honour.

Did you ever talk to him about how he arrested people?---No.

When you told the police interviewers that you were aware that he had a number of excessive force complaints over the last couple of years how did you know that he had a couple of complaints?---Well, I was aware of the Cleveland Walker matter because that matter came through to me.

In what capacity did it come through to you?---In the CRP, so the Complaints Resolution Process, that came to me for investigation.

That was at the direction of the PSC?---Yes, I believe so.

So you were his supervisor?---Yes. I was the watch commander at that time.

But immediately - so above him in the line of command?---Correct, yes.

Would you regard him as a colleague and a friend?---Primarily a colleague.

Yes?---Secondarily as a friend.

So you regarded him as a friend?---Yes.

It's very difficult for anybody as a manager to critically review their colleagues' performance in a disciplinary context. Do you agree with that?---Yes, I agree.

And not easy of anybody, but when they are your friend it is particularly difficult is it not?---Correct, yes.

Did you find it difficult to review your colleagues? Not just Mr Rolfe, but other younger people who worked side by side with you, day in day out, months - years at a time? Is that a hard thing to do?---No, no, it wasn't.

It's not hard?---No.

It sounded hard when you answered the first few questions about this topic. Isn't it difficult for a manager to cast judgment on a friend who is their subordinate?---Yes, it is but the actually reviewing the evidence before you is not a particularly demanding task. The demanding task then comes after you review the evidence and there is a decision to make as to what is required as to what to do next in relation to that particular use of force or what action is required with that officer.

So counsel assisting has taken you through part of your assessment of the Cleveland Walker incident. I just want to go a bit deeper into that now. Perhaps by way of a case study for the Coroner's benefit. What you knew when you were referred this job was that there had been some body-worn footage, right?
---Correct, your Honour.

You located the body-worn footage?---Can I just confirm that we're talking about the axe incident as it has been known?

No, the Cleveland Walker?---Sorry, Cleveland Walker.

Cleveland Walker?---Yes.

The man who was detained - or arrested at the bottom of Anzac Hill?
---Correct, yes, I was aware of that, yes.

That was the subject of questioning before lunch?---Yes.

One of your audit documents?---Yes.

Described as audit document but this was a referral from the PSC for you to carry out complaints CPR - what's it called - complaints?---CRP.

CRP - Complaint Resolution Process?---Yes.

So you got hold of the body-worn footage, did you?---Yes, I reviewed the body-worn footage, yes.

You reviewed it, right?---Yes.

Did you get a statement from Mr Rolfe?---I don't remember. I believe I received an email from Zach Rolfe.

Did you ask him what happened?---Yes.

Did you talk to him about what happened?---Yes, I spoke to Zach, I believe a couple of times in relation to this.

Did you take notes - apart from the eventual document that's been put into evidence in this inquest?---No, I didn't take notes, your Honour.

Did you get him to sign a version?---No, your Honour.

We already know you didn't talk to Mr Walker, did you?---Not at that stage, your Honour.

Did you talk to Mr Walker at all?---I spoke to Mr Walker at some stage during the complaints resolution process.

And this was to tell him what - the result of your investigation?---Yes.

And what did you tell him?

MR COLERIDGE: Your Honour, could I just rise, this is not an objection but I am rising to clarify something. It isn't entirely clear to me whether the PSC referral occurred prior to the audit of the PROMIS case note. Or whether this referral occurred after this witness had audited the use of force, and in effect, there was an additional investigation.

MR BOULTEN: Appreciate it. So I wasn't aware that there was - - -

MR COLERIDGE: I don't mean - - -

THE CORONER: I don't know and I don't think Mr Coleridge does either - - -

MR COLERIDGE: If it's not an objection, I'm just - - -

MR BOULTEN: No, I'm glad that you raised the issue.

Do you know? Can you answer that question?---Yes, so the CRP process was initiated after I had reviewed the use of force.

Okay. So you'd already reached - - -

THE CORONER: And that was referred back to you?---Correct, your Honour, yes.

MR BOULTEN: Right. So you'd already reached the view, in your audit process, then the PSC referred this incident to you, as part of the complaints resolution process, with your job being the investigator, is that right?---That's correct.

So did you go back and look at your audit?---Yes.

And so did you change your mind, in the second process, about the appropriateness of the use of force that you'd reached when you audited it initially?---No, I didn't change my mind.

Did you look at anything extra?---So there was – I don't recall there being much extra evidence or material to view.

But did you ask Mr Walker for his view about what had happened?---So without having the – the CRP documentation in front of me, your Honour, I can't recall what additional documents were on there. So there would have been an account from Mr Walker somewhere on the investigation.

So did he participate in an EROI?---I don't think so. Certainly not with me. He was – I know when I was – when I had a conversation with Mr Walker, he had transferred to Darwin. So I don't think I had any interactions with him prior to that.

When you had dealings with him, that was at the conclusion of the complaints resolution process, to advise him about its outcome?---Correct.

As a form of conciliation, as it were?---Correct.

That was not part of the fact finding exercise it seems?---Sorry, what was not part of the fact finding exercise?

Your discussions with Mr Walker - - - ?---Yes.

- - - was not part of your fact finding?---Correct.

Your Honour, I'd like to ask the witness some questions about what we can see on the video. Can we have a look please at the Cleveland Walker arrest video, which we've asked to have lined up.

Thank you, Bec.

MR COLERIDGE: Just for the record, your Honour, the Cleveland Walker record of interview is also on the brief at 3-51.

DVD PLAYED

MR BOULTEN: Now just stop it there I think.

You were asked about things that were said on this interview this morning. And it's quite clear that Mr Walker was accusing one of your officers of having hit his head against a rock. And he wanted a lawyer?---Yes.

And I want to suggest to you that when he was interviewed by the police, he said something very similar, what do you say about that?---I'm unaware of his requests during interview, your Honour.

No. He said something similar about having been assaulted?---I'm not aware of that.

When you were asked this morning about why it is that you concluded in the audit, and now it seems you also concluded in the complaints resolution process investigation, that Mr Rolfe had not used excessive force in this incident, you suggested that there was really only one version. That was Mr Rolfe's. There were – there was a contrary view here that was evident from the complainant in the video, at least, right?---Correct, yes.

Why didn't you ask him to tell you what happened?---Look, from reflection it's – it's something that I should have done, your Honour. I should have asked him for his version.

Is that something - - -

THE CORONER: That's not the question though?---I'm sorry?

That's not the question?---Apologies.

The question is why didn't you?---Because I – I took Constable Rolfe's version as being the – the accurate version.

MR BOULTEN: Because he's a police officer?---Yes, possibly, yes.

How many times have you investigated fellow police officers, through the complaints resolution process?---Perhaps three or four times, your Honour.

Have you ever invited the complainant to meet with you, or to give you a version about the issue?---Yes I have.

How many times have you done that?---At least twice, your Honour.

In this case, with Cleveland Walker, there was an obvious problem with Constable Rolfe's use of his body-worn video, wasn't there?---Yes.

The fact that he had no good reason to have turned the video off, should have been a factor that you weighed in the balance, in determining what to find had actually happened, shouldn't it?---Yes, I agree with that.

It wouldn't have assisted you to accept Mr Rolfe's version. It would have been a factor weighing against accepting Mr Rolfe's version?---Yes.

The reason he gave you, about turning the footage off, was based on an assertion that he needed to maintain a covert presence?---Yes.

How well did you know that part of Alice Springs?---Anzac Hill - - -

Yes?---I know well.

Yes?---However, in the dark, at night, I'm – I'm not familiar with it, the foot paths etcetera that go up the hill.

There's a lot of ambient lighting around Anzac Hill - - - ?---Yes.

- - - isn't there?---Yes.

And in any event, there was a facility in the operation of the body-worn camera to facilitate covert use?---Correct.

Do people get trained on the use of body-worn video?---Yes they do, your Honour.

Including how to switch the blinking light off, or the red light, or whatever it is?---Yes they do.

Okay. So, Zach Rolfe, the intelligent, resourceful, reliable police officer told you why he didn't have his body-worn footage on. Did you believe him?---Yes, I believed him at the time.

Did you question him?---There was a discussion that I had subsequent to the interview with Zachary Rolfe.

But what about during the interview with Mr Rolfe. Did you say to him, look Zach, you can turn that thing off?---Yes, so in like my case note entry, I state that - something along the lines of, Rolfe to be spoken to in relation to using covert mode. So, yes, I don't recall the specific conversation, but during that conversation, as it states in my case note entry, I would have addressed that issue with Constable Rolfe.

Well, if you did, and it doesn't sound like you remember actually doing it, but if you did, are you in a position to tell the court what Mr Rolfe's response was to that

obvious question?---No, I can't, your Honour.

Did he have a response or an excuse?---I'm sure he did, your Honour, however, I can't recall that.

Was it convincing, or did it convince you?---It must have had some sort of impact on me, but again, I can't recall that conversation.

Okay. On 6 November 2019, there was a nasty incident at Yuendumu that eventually led to, indirectly, the deployment of IRT members on the afternoon of 9 November. Do you know the incident I'm talking about?---Yes, I do.

Okay. So, I want to ask you about your appreciation of that particular incident through your viewing of the body-worn footage that was captured by the officers who were involved in the incident?---Yes.

You saw it?---Yes.

You saw it shortly after 6 November?---Yes.

You saw it how many times?---At least once, possibly twice.

You saw other people looking at it too?---Correct, your Honour.

You've described this in your interview. Whereabouts were the people watching that footage?---They were in the – what I would call the constables' dayroom. It's where the constables have their computers. It's where they do their administration.

Who was there?---I'm confident that it was almost the entirety of patrol group 5, which is the patrol group that I was attached to, and possibly some members who – some other patrol groups.

So, that would include Constable Rolfe, Mr Eberl – sorry, I'll withdraw that, Mr Kirstenfeldt?---Yes.

Mr Hanson?---Most likely, yes.

Yes. Were you with them in the room when they were watching it?---My recollection is that I was in the – either in my office - - -?---Yep.

- - - or in the sergeant's office. So, I don't recall being in the room with them.

I think you described the issue as being a "hot topic" at that time in the police station?---Yes, I did.

And by that, do you mean there was talk about it amongst quite a few police officers?---That's correct, yes.

And you're not backwards in describing what your colleagues were making of it. They had a very poor view of the efforts of the police officers that took part in that attempt to arrest Kumanjaya Walker, right?---Correct.

"Shoddy police work", "piss poor performance". Who was saying that?---Look, I think I've said in my statement, I'm unable to put those words to any particular member out there. That description that I gave reflected the theme or the sentiment in the room that was being given off by the constables.

Did you get the impression that this was a unanimous view?---Yes, I did.

Did it accord with your view?---Look, my initial thoughts upon reviewing the video did accord with the sentiment in the room. However, I didn't let that be known to the constables in the room. So, yes, that did accord with my view at the time. That doesn't accord with my view now.

When did you change your view?---Well, look, I've subsequently heard evidence, become aware of evidence provided by certain members involved that they have a certain relationship with Kumanjaya Walker, they'd had previous dealings with Kumanjaya Walker. They had, I believe - may have arrested him before. So, I think perhaps my initial thoughts were a little bit hasty, just based on the evidence that I had in front of me on the body-worn video.

So, you're saying you changed your view as a result of hearing evidence that was given in this inquest?---Not in this inquest.

When?---So, it would have been in the last – probably in the last couple of years, since – yeah, probably in the last two or three years.

We're coming up to the third anniversary?---Correct.

So, can you be a bit more precise? When did you start to factor in the sorts of issues that you just spoke about in your evidence? When was that? Was that before Mr Rolfe was charged?---No, it was subsequent to that.

Was it before Mr Rolfe was committed for trial?---Quite possibly. It's difficult for me to put a timeframe on it.

Well, what was it that changed your mind? What, did you hear someone say something, or did you read something in the newspaper, or did you hear some evidence because you're in the courtroom, or did you read a transcript?---No, no, so the Northern Territory Police is a – it's a small police force. You hear – you have numerous discussions with people who work out bush, you have numerous discussions with constables, with supervisors. You hear people's accounts, so as a result of that, my – yes, my opinion softened somewhat.

Well, who told you these things?---I can't tell you who told me those things.

Because you can't remember?---Correct, yes.

Okay, right. When you heard your junior colleagues criticising your fellow officers, did you suggest that they keep an open mind about it, or did you say anything to stem the criticism?---So, that – all the opinions that were being aired were on the 6th, 7th and 8th, no I did nothing to do – to quell the sentiment, no.

All right. I want to show you another piece of footage. It's not to do with Yuendumu in that context, but it is about Zachary Rolfe looking at a computer. So, I want to show you the next footage, please.

DVD PLAYED

MR BOULTEN: All right, just pause there.

Have you seen this before?---I've seen it recently, yes.

Okay. So you know what it is?---Yes.

First question I have about it, have you got any idea where this is happening?---Yes.

Not the – not the footage that's being filmed, but the interaction between the police who are watching it?---Yes. I think it's known as Araluen Park, near the Cultural Event Centre - - -

Yes, so actually - - - ?---Larapinta Drive.

- - - you understand that somebody has dropped the footage up on a computer, and is – has filmed it, on a camera, more than likely a phone, and that they're reviewing it. Mr Rolfe is almost certainly one of the people reviewing this footage. And there's another person in his presence, it seems?---Yes.

So the question is, do you know where these people are, Mr Rolfe and his colleague, as they're looking at this footage?---I'm pretty confident it would be the constable's day room.

So this is the same day room that you've been talking about, where the people watch the footage of the incident of 6 November 2019?---I believe so, yes.

Okay. How common –

So that can come down, thanks.

How common was it for your colleagues to be in that room, or in other parts of the police station, sitting around watching sort of body-worn footage?---It's very common, your Honour.

How come?---It's often required to refer to for evidential purposes. If the members who utilise the body-worn footage, they may need that footage as a reference for writing briefs of evidence, prosecution files, for compiling their statements, to refresh their memory. That – that's generally the main reason it's referred to.

The incident that was filmed on 6 November 2019, was being reviewed by your whole patrol, or thereabouts, but not for those reasons, was it? They were not reviewing it for brief of evidence, or to get their statements correct, or anything like that - - - ?---So - - -

- - - were they?---The – my recollection that – of the reason they were reviewing the footage, was because Kumanjaya Walker was now an arrest target, and they wanted to see the actions of – of Mr Walker.

And were they called on, between that time and the night of 9 November, to participate in attempts to arrest Mr Walker?---Yes, there was an attempt to arrest Mr Walker on the Thursday I believe.

At Warlpiri Camp?---Correct.

And were members of your patrol involved in that - - - ?---Yes, yes they were.

And they all attended there, whether – with the idea that their colleagues from Yuendumu had performed badly in their attempts to deal with Mr Walker?---Yes.

It seems?---Yes.

You're not allowed to film body-worn footage for any purpose are you?---I – I'm not aware of there being any General Order, or any official restrictions, that relate to filming body-worn footage, your Honour.

Are you allowed to do it?---So if there's no restrictions, your Honour, then you can do it.

Why would you do it? Well first of all, have you heard of anyone doing it?---So you may have - - -

Have you heard of anyone doing it?---Yes I have, yes.

And how common is it?---I think it may happen from time to time.

Have you ever criticised anyone for doing it?---So I think people may have different reasons for doing it. If they need to record the body-worn, if they need to send that file to someone via phone, say to prosecutions, or they need to send it to a member in the field, or take images or stills from that, I think it's in those circumstances that it's been happened, or that it has happened.

If they - - -

THE CORONER: So evidence.com is obviously in existence now?---Yes.

So you wouldn't need to do that now for police or prosecutions?---Correct, yes, there's a better way of doing it now.

MR BOULTEN: And how common is it for people to review their arrests and have a laugh and a joke about it?---Well it seems in this case that is the case.

Have you heard of that happening before?---So not – so the actual recording of it in this instance, I don't know why it would have been recorded. If you want to review your evidence, or your body-worn footage, all you have to do is log on to AXOM and then review your footage.

Yes, but what about joking about it? That's entirely inappropriate isn't it?---Correct, yes, it's inappropriate.

And while we're on it, you would regard what happened to those two fellows, at the hands of your fellow officer, as being unnecessary?---Yes I do.

And dangerous?---Yes.

Especially if they were intoxicated?---Correct, yes.

Did you ever hear Zachary Rolfe express enthusiasm for the way he affected arrests?---No, your Honour.

You know, and a lot of people know, that Zachary Rolfe engaged in the exchange of racist comments?---I do know about that, yes.

And I dare say you know what some of them are now too?---Yes I do, your Honour.

Clearly, no police officer should engage in that sort of banter, should they?---Correct, agreed.

They should not be police officers, whilst they do that?---If they – if they harbour those opinions, yeah that's not the sort of behaviour, they're not the qualities that we – yeah, that we have in the Northern Territory Police.

Did you not pick up that Zach Rolfe had these sorts of exchanges with your work mates?---So I can only account for what happens, what discussions I've become aware of, or what I may overhear, when I'm in their presence. And I can assure your Honour, that the words that we've heard in this inquest, I've never heard being said at Alice Springs Police Station, by any member.

You've never heard one single police officer in Alice Springs say anything derogatory or offensive, about an Aboriginal person?---So that's not what I said and - - -

No, well answer that one then?---So I've heard comments relating to all sorts of – all sorts of people. So Caucasian people, Aboriginal people, but certainly not relating to race.

Well, we heard some pretty sexist and misogynist comments in the last video that we just heard - do you hear those sorts of comments a bit at the police station in Alice Springs?---Not - not to the extent of what we've heard here at court, your Honour.

Well, we just heard it here in court?---So the extreme language that I have become aware of that has been aired at this - this inquest, I have not heard at the police station. I am not saying that that conversation doesn't - hasn't occurred in the police station. I sit in an office which is a fair distance from where the constables sit.

I've got that, yes?---Well, it's moved since. It's certainly - in the office where I sit I can't tell you that I haven't heard any language of that sort.

Not even bad attitude to women?---No.

Do you really think that female police officers get treated differently than male police officers in Alice Springs?---On occasions, yes. An example would be if there are two females in a van together and they are attending an incident which involves a particularly violent offender or a number of offenders, crews may assist that crew and back them up. But certainly no negative opinions or attitudes towards females.

Okay, you were asked this morning about what, if anything you were told about Zachary Rolfe's issues as dealt with at the Complaints Management Team meetings and you said zero - you heard nothing. Are you sure you've never heard a single thing about the Complaints Management Team consideration of Zachary Rolfe? ---I'm pretty confident that I haven't heard anything from them.

What sort of a relationship did you have with Superintendent Vickery in the relevant period?---So Superintendent Vickery was the divisional superintendent at the time. So it was typical relationship that you would have with a divisional superintendent.

How well did you get on with her?---Yes, fine. We got on - - -

A good line of communication?---When communication was required. It wasn't an issue to communicate to her.

What do you mean by that? That sounds a bit stilted?---What is a good line of communication - all you have to do is pick up the phone or email. It's as simple as that.

I am asking you whether you talk to her regularly - did she talk to you regularly and there was no block between you?---There's certainly - there's certainly no block between us, no.

All right. So she never once said anything to you about her concerns about Zachary Rolfe?---I recall having a conversation with her during one or two briefings. She came down to a couple of briefings in relation to body-worn video, to - it was more of a reminder for the members to continue to activate their body-worn video.

But that wasn't about Rolfe?---Well, that would have included Rolfe.

No, I'm asking you about Rolfe?---I don't recall it specifically relating to Rolfe.

What, she just came down once and said to the patrol group, "look, make sure you've got your videos on" - something like that?---Clearly something - there has been an incident which has caused her to do this. Whether that is in relation to Rolfe or not I don't know for sure - it could well have been.

Did Rolfe ever say anything to you about his attitude towards Superintendent Vickery?---No. From memory.

That she hates him?---No, your Honour.

That she's picking on him or anything like that?---That what - sorry

That she is picking on him or anything of that nature?---No, I don't recall any of those conversations.

So you never heard of Malcolm Ryder's court case until this inquest? Is that what you're saying?---No. I - I was aware - sorry, is this - can you refresh my memory? I'm - in relation to that one.

So Malcolm Ryder was an Aboriginal man who was charged by Zachary Rolfe with a criminal offence and the proceedings were heard in Alice Springs local court before Judge Borchers in 2018 and a judgment ultimately delivered, I think on 9 May 2019 where Mr Ryder was found not guilty of the charges but where his Honour, judge Borchers, concluded that Zachary Rolfe had given false evidence in the proceedings, so too had another officer and that evidence has been fabricated that was contradicted by some body-worn footage and that Mr Rolfe had turned off his body-worn footage?---So I became aware of the - Mr Borchers findings but I wasn't aware, I think until most recently that those findings were made against Zach Rolfe. I was aware that - and had become aware of this as long time after the event but I didn't know it was Malcolm Ryder involved. I was aware that there was something going on but certainly the findings - I wasn't aware of.

So you're saying that at or about the time of the court case you were aware there was something going on?---It was after that.

After what ?---After that court case.

After the court case?---A considerable - yes.

So before Zachary Rolfe was arrested and charged?---I can't be sure.

Well, what did you learn?---Look, all I heard - well, I didn't hear it - I didn't hear it from any reliable source, it would - I certainly never received any emails from any senior management, I never had any discussions from anyone advising me of this.

What did you hear?---It was - it related to an incident in a house involving him and a couple of other officers.

And?---Yes, I can't add an awful lot more to that, sorry.

THE CORONER: Wasn't it a hot topic?---No. Well, whether they were keeping it to themselves, your Honour.

It was all over the news.

MR BOULTEN: Eventually it was over the news?---Eventually, yes, and even when it was in the news it's something that I did not really follow.

But Acting Senior Sergeant, a short walk from here to the police station?---Yes.

People walk out of here, go back to the police station and talk about their day, do they not? They talk about the judge, they talk about the prosecutor, they talk about the defendant, they talk about the defence lawyer. No-one ever in your - - -?
---Yes, yes.

- - - in your hearing talked about - - -?---Yes. Yes, they did.

- - -what Judge Borchers was saying and doing about Zachary Rolfe?---Look, I very - from that time, I had very limited knowledge, almost no knowledge of that matter, your Honour.

By the time Zachary Rolfe was stood aside, having killed Kumanjaya Walker, you still regarded him as a close friend and colleague, right?---No.

You - - -?---I never - if I could finish. I never described him as a close friend.

Sure?---I described him primarily as a colleague and then as a friend.

And somebody who you thought, and you had good reason to say this, was an excellent, proactive, athletic police officer?---Amongst other things, yes.

It was all of those things, wasn't it?---Yes.

And that his approach or arrests were not to be criticised?---Upon reflection, it appears that, yes, they could be criticised.

But I'm talking about - let's say the time after Mr Rolfe was stood aside, when he

was charged with murder and he was bailed and went back to Canberra, you rang him to offer your support. Agreed?---Agreed.

You told him, "We are behind you 100 percent", right?---Correct.

That was your view, right?---Correct.

Have you seen the body-worn footage of Kumanjayi's death?---No, your Honour.

When you said, "We are all behind you 100 percent", were you talking about the people you worked with in Alice Springs?---I was talking about his colleagues who, yes, primarily are in Alice Springs.

In those days after he was charged, did you hear anyone in the Alice Springs Police Station express the view that the charging of Mr Rolfe was inappropriate?---Yes.

How many?---Look, I recall a meeting being held which involved a large proportion of the membership of the police station.

Where was that meeting?---That was in the constables' dayroom which I mentioned earlier, just – actually, it was on the other side. It was where the – it was where the (inaudible) operate. Same floor as the POSI officers. So, the police officers that stand at the bottle shops.

Yes, right?---So, yeah, ground floor of the police station.

How many people at the meet?

MR OFFICER: Your Honour, there is a side question going on, our post-incident, post-charging, what benefit is this to your Honour in assisting you to make findings and recommendations post-9 November 2019.

THE CORONER: I think it's to do with actions before and after, and whether there's been any change in attitudes.

MR OFFICER: Attitudes about what?

THE CORONER: Well, Mr Boulden, I suspect will - - -

MR OFFICER: The main issue is it's generic.

MR BOULTEN: When you've finished. What's your objection.

MR OFFICER: Just a generic, what do you think, what's your feelings, what did you talk? Before putting a message we're behind him 100 percent. I just don't see the right (inaudible). (inaudible) Mr Boulten's getting to it, it seems to be irrelevant to your Honour's statements.

THE CORONER: Mr Boulten?

MR BOULTEN: As your Honour, I think more than half anticipated, the questioning is about general attitudes to use of force in Alice Springs and in particular, the type of use of force that has been the subject of questioning of this officer in the last hour. And then more generally, in the aftermath of the charging as to what the attitudes are and as they continue to be towards the use of force generally in the arrests of Aboriginal people?

MR OFFICER: Your Honour, (inaudible) further. That might be right. Every use of force in which this witness has been taken to involved the use of a firearm, had you not, that involved the situation where Constable Rolfe had been assaulted, had you not, they are completely separate both in time, in location and in circumstances.

It might be fine in some respects to express an attitude about a use of force involving empty hand tactics, but that's completely different, in my respectful submission, to a situation captured on body-worn video which was the use of a firearm, now found the lawfulness of the firearm in circumstances where it was an attempt to apprehend Kumanjaji Walker.

We've had the trial. We've had the incident. They're completely separate attitudes about one particular type of use of force compared to another, in my respectful submission, cannot be joined.

MR BOULTEN: Your Honour, I don't wish to dissect every aspect of that submission, but to assert that an acquittal of murder/manslaughter and unlawful homicide is the equivalent of a finding that use of force is legal, is legally incorrect. But in any event, we've had this argument in a quite different and broader context.

THE CORONER: I think we're losing sight of the fact, Mr Officer, this isn't simply about Mr Rolfe or Constable Rolfe. It's a lot broader and deeper than that. And this is going to the other aspects that are important aspects for this inquest in relation to the whole attitude of people working in that patrol group in particular, and their attitudes towards Aboriginal people and their attitudes towards use of force and I am going to allow the questions.

MR OFFICER: As it pleases.

MR BOULTEN: Court pleases.

Officer, how many people were at the meeting?---Perhaps 30 to 40 persons – people.

Was there any contrary view expressed?---So, the meeting involved a – one of our members essentially advising everybody that was in attendance at the meeting that Zachary Rolfe had been charged and the sentiment being expressed around the room was incredulity, surprise and sadness.

This meeting occurred before you rang him up in Canberra?---Yes, I think it did. Yes, so I believe the meeting happened on the day that he was arrested.

Were you aware of a public meeting that was had on the lawns outside this courthouse where people protested - - -?---Yes.

- - - about the death of Kumanjaji Walker?---Yes.

What was – did you hear any discussion about that meeting at the police station or amongst your colleagues?---I’m sure I did, yes.

Of what nature?---Just that the communities are protesting about the death of Kumanjaji Walker.

That much was obvious from the news, but were police sympathetic to the organisers and the speakers and the people who rallied at that meeting?---No, not particularly, no.

Would it be fair to say that the tension was real in Alice Springs in the period after Zachary Rolfe was charged, where there was a large body of opinions, especially held amongst Aboriginal people, that there needed to be justice, and serving police officers, that you worked with, who thought that it was completely inappropriate that their fellow member be exposed to criminal prosecution.

MS OZOLINS: Well your Honour, I do object. The - - -

THE CORONER: Yes.

MS OZOLINS: - - - the basis on which the questions were put, as an outline by Mr Boulten were that the attitudes were related to the use of force generally. This witness is being asked to comment about attitude of unnamed and unknown police officers, in relation to a rally, which in my submission, your Honour would be aware, and can take judicial notice of the fact, that there were a number of issues arising from that rally, which caused public outcry and comment, both from members of the Aboriginal and Yuendumu Community, and from police members.

So, in my submission, it’s somewhat unfair to ask this witness to comment on the attitude of police towards those launching the protest when there was so many reasons apparent for unrest on, I hate to say it, but both sides. This issue has been quite divisive, and there were public figures making very public comments, which has also caused division in the community.

THE CORONER: Yes.

Mr Boulten, unless it’s directly relevant to the issues that we’re considering, I’m not going to allow you to continue to ask - - -

MR BOULTEN: Yes, all right.

MR COLERIDGE: Your Honour, I'm just rising to note the time. It is 3.15 and we do need to get through this witness today.

THE CORONER: Yes.

MR BOULTEN: Well I'm nearly finished.

THE CORONER: Well we might just finish with you then Mr Boulten - - -

MR BOULTEN: Yes, good.

THE CORONER: - - - and then we'll take the afternoon break.

MR BOULTEN: Yes, all right.

Officer, with time, have you formed a different view of Zachary Rolfe's arrest techniques?---Yes.

What different view?---So I've now become more aware of more complaints that he has had in relation to the use of force. Although is use of force – I'm sorry, although his arrest techniques were effective, I would suggest that perhaps some more robust intervention earlier on, may have – may have assisted to reduce his – any further use of force that he may have used upon arrests.

Did you see his use of force as being significantly different than his colleagues use of force?---Not significantly different, your Honour.

Did you see your colleagues use of force in Alice Springs, as being significantly different than the way Mr Hand and his colleague affected, or attempted to affect the arrest of Kumanjaya Walker on 6 November?---Yes.

Your criticisms of bush police, if I might cut to the chase, as they might have been several years ago, they no longer exist?---Well those criticisms were not of bush police. They were criticisms of those particular members. However, as discussed earlier, yes, I no longer hold those criticisms.

You understand there's a difference in policing techniques - - - ?---Yes.

- - - between Alice Springs, in the town, and in the town camps, compared with Aboriginal communities some hours away from Alice Springs?---Yes.

And you think that should continue? Those differences of approach?---In an ideal world, we would approach our policing in Alice Springs, as we would in the communities, out bush. However, I don't think it's entirely possible. I think with the – the amount of jobs we attend within the Alice Springs area, I don't think it's possible to obtain the model that is used out bush. However, it may be something to strive for.

Thank you, your Honour.

THE CORONER: Thank you, we'll take the afternoon adjournment.

WITNESS WITHDREW

ADJOURNED

RESUMED

ALISTAIR GALL:

THE CORONER: Ms O'Neill?

MS MORREAU: It's Ms Morreau, for the Brown family.

THE CORONER: Sorry, sorry.

MS MORREAU: That's okay.

THE CORONER: Ms Morreau.

XXN BY MS MORREAU:

MS MORREAU: Senior Sergeant, if you could face me while I'm asking questions, so that I can understand you better?---Okay.

I'm Paula Morreau. I act for the Brown family. I wanted to start with some questions about the review of use of force incidents process. And just pick up on a few areas that you've already covered under questions from Mr Coleridge. Can we take it from the conclusions that you were taken to, in the audit notes, the case notes, before, that you never escalated that by way of a review above you, when you were conducting audits on Constable Rolfe's use of force?---That's correct.

Now of course, you were promoted to senior sergeant. And there were then sergeants underneath you, who also had supervisory responsibilities in relation to Constable Rolfe, and other officers in your team, correct?---Correct, yes.

Now were you ever, once you'd reached the senior sergeant level, asked to review their audits of Constable Rolfe's use of force case note entries?---No.

Now you're aware of course, that the General Order, in relation to use of force, requires supervisors to conduct the audit, and then escalate matters, if matters require attention, relating to that?---Yes, so that is the state-wide direction, your Honour. However in Alice Springs, we have a – a local direction now, that every use of force is escalated to the senior sergeant.

I see. When did that come in, Senior Sergeant?---It came in I think - - -

Was it before or after this death?---It was after. Yeah, this would have been in the last year to 18 months, I would suggest.

I see. Now, if I can understand the situation correctly, at least as at the time, up until 2019, that a position in – a person in the position of sergeant would review the case notes for use of force. So they'd be aware of those use of force entries, correct?---Yes.

They may not know, from what you were saying earlier, about complaints made in relation to the people that they are supervising, correct?---Correct.

The senior sergeant may know of an audit of use of force case notes, correct, but not necessarily know?---Correct, yes.

And of course, whether the senior sergeant is – knows about the case notes about use of force entries, would depend upon the sergeant considering in a matter that required review at a higher level?---Yes, that's correct.

Right, so the senior sergeant may not know about use of force entries, in case notes, correct?---Correct.

And the senior sergeant, as well, may not know about complaints that are made to external bodies, or internally, in relation to the officers that they're supervising?---Correct.

So essentially, there's zero capacity, I'd suggest, for the most direct supervisors, being the sergeant, or the senior sergeant, to be able to know holistically, about patterns and issues that might be arising in relation to the officers they're supervising, and their use of force?---Yes I would agree.

All right. That's a problem isn't it?---It appears to be a problem, yes.

Well it's a massive problem isn't it?---Yes.

Because the information being passed up the chain, goes through those officers who have more direct supervisory responsibilities, doesn't it?---Yes.

Now, in relation to guidance and policy that you've been given in this area, have you received any guidance as to – and I suppose when you're conducting audits and reviews, as to what would prompt escalating the matters up the chain?---I haven't received any guidance on that no. That's – that's generally left to the individual to interpret what would require escalation.

And what's your individual position, about when matters require escalation up the chain?---Look, if there was, I think you heard the term, reasonable, proportionate, justified, if it – if it steps outside of those parameters, very obviously, then I'd suggest that would require escalation. If the matter is not so serious, then the watch commander can in theory, or the senior sergeant, in theory, can – can deal with that by providing remedial advice. However, yeah, if it's so serious as to not, then yes. It would be escalated.

Did you receive any guidance by way of policy or instruction, as to how to – how to resolve conflicts in the evidence in relation to the use of force matters that come before you for consideration and determination?---No.

And it may be self-evident, but is it the same answer, that is no guidance by way of policy, or instruction, or – I should say – sorry, by way of policy or instruction, in relation to identifying patterns of behaviours or repeated instances of behaviours might lead cumulatively to concerns being held?---So no guidance on that, no.

All right. Now I've spoken about policies and procedures and guidance. Have you received any training around those three areas that we've just talked about, to your memory?---No. No, your Honour.

You spoke about, moving to a different topic, the viewing of the events that occurred in Yuendumu on 6 November. And I'm talking about of course, the viewing of the body-worn camera footage of those events, within the Alice Springs Police Station, all right?---Yes.

Now, you said before that you saw this occurring on the 6th itself and the 7th and the 8th November, is that correct?---You mentioned that earlier in your evidence?
---Yes, it's likely - yes, it's likely that it was viewed on a number of occasions during those days, yes.

Yes, and you told investigators that it was viewed numerous times?---Yes.

"Hot topic" was your words. Can you tell us how many officers you saw viewing these videos over those three days?---No. So I think - - -

Ball park?---Well, I think we've mentioned earlier that most of the patrol group I was attached to were viewing it so that would have been five or six, possibly some members from other patrol groups, so the following day it could've been the same members, it could've been different members, so it's very difficult to say because it could've been the same members re-viewing it or viewing it on consecutive days.

I see?---Or on different patrol groups.

But you are speaking about group viewing episodes that you observed?---Yes.

Over those several days?---Yes.

Would you agree that it had become a form of entertainment within the police station?---I wouldn't agree that it was form of entertainment. It could be conceived as being a form of entertainment. I would - I believe it was - the viewing of it was for the purposes of Kumanjaya Walker being an arrest target and providing the knowledge to those members viewing it as to what they required and the potential danger as and when they went to arrest him. I would be disappointed to consider it as being entertainment.

But you said that's your individual belief but you would accept, wouldn't you that others may have taken a different view, given what you observed the video being watched?---Look, it's possible.

It was a bit of blood sport wasn't it?---Well, in terms of body-worn video, a lot of body-worn video gets viewed which - which shows similar or even more violent incidents, so in terms of the - the viewing of the Yuendumu footage when you break it down - I mean certainly there's no blood.

You know the concept I'm describing?---I think so. I think I know what you're getting at, yes. Look, possibly.

Now, when you were describing the response of police officers to this video did you hear views being expressed that the officers involved ought to have drawn their firearms?---No.

Did you hear views expressed that firearms could have been discharged in that situation?---Yes, that it - potentially that could have been an option.

Was there views expressed that they should have been discharged?---No, not that I recall, your Honour.

And it's those views that, whilst at the time you held consistent views, you have since reviewed and reversed your position on?---Yes.

Now, you told investigators in your interview that you had numerous conversations with the IRT members who came back from Yuendumu after this tragic death but you did not speak about the incident itself, with them?---So without referring to my statement I had numerous conversations with numerous members of the membership of the police station, in terms of the IRT members being - - -

Being Eberl, Hawkings - - -?---So I never - I can't recall discussing it with Eberl, Hawkings, didn't discuss it with Rolfe, Kirstenfeldt was - I believe he was back with us the following day but I don't recall, yeah, discussing the - the incident with him.

No, I wasn't suggesting that you discussed the incident with him, I took from what you said to the officers that you had, in fact, spoken to the IRT members who had been out there but not - post the event - but not about the event itself?---Yes, quite possibly.

And I think that's because you would appreciate that the retelling of events can have - can taint memories?---Yes.

Even if there's no intention of distortion going on?---Yes.

Did you at any point tell Constable Kirstenfeldt or any of the IRT members that you spoke to that they should not be speaking about those matters?---No.

Wouldn't that be a prudent thing to do?---Look, in hindsight yes, it would have been prudent.

As the senior officer of their team?---Yes, yes, so at the time I was under the impression that the senior investigator or the ranking members at Yuendumu on the night, would have fulfilled that requirement. However, yes, it certainly would have been helpful if I was to reinforce that.

Would you see it as part of your job to do that given that - - -?---Yes.

You have?---Yes.

Now, you candidly accepted in questions from Mr Boulten SC, that you believed Rolfe when he told you his version of his use of force incident that you spoke to him about doing that - obviously before Kumanjayi Walker's death - the previous use of force incidents that you were reviewing, correct?---Correct.

And of course you've candidly accept that he was a colleague had become a friend to you over the period of time you worked together?---Yes.

Can you see how, to a lay person, a non-police officer standing outside this situation, that that - those features would give cause for concern about your capacity to remain impartial when you are determining complaints about use of force committed by Constable Rolfe?---Yes, I can, I can understand that interpretation.

Right?---And I acknowledge that it's not an ideal scenario that a sergeant or senior sergeant that is the direct supervisor of that member should have carriage of an investigation of a complaint into one of those members.

Do you now, with the benefit of hindsight, believe that you were able to bring an impartial mind to the determination of these complaints or issues that arose and required your consideration and response?---Look, it's possible. Look, my - - -

That is it's possible that you were affected by those features that we've just discussed in your determination of those - - -?---it is possible, yes. My friendship with - I think I've mentioned earlier, was primarily professional. Zach Rolfe is not the type of person that I would have texted frequently in a social capacity but yes, it is possible that that could have tainted the way I viewed the use of forces.

Thank you, Senior Sergeant.

Thank you, your Honour.

THE CORONER: Ms Pincus?

XXN BY MS PINCUS:

MS PINCUS: Hello, my name is Julia Pincus, I am representing - I'm one of the lawyers representing the Walker, Lane and Robertson families. I have just got a small number of questions. One of the things I wanted to go through is on - in your statement you talk about the assigning the arrest targets in a meeting that is called a

"read out" it is called - interchangeably called a "muster" or a - - -?---So it's - it's essentially it's a briefing that's held at the start of every shift, so our shifts are day shifts, evening shifts and night shifts. At the start of every shift, the patrol group gets a briefing essentially by the shift sergeant. It's commonly known as a muster, a briefing, a read out, yes.

And at that meeting, is that where you have these – the document that's attached to your statement annexure B, which is the arrest targets?---Correct, yes.

Right. And is that handed out as a document that has all the photographs?---So, that document is emailed to every member of the police station.

Could we possibly get that one, thank you.

So, it's not printed out?---It's often printed out, yes.

All right?---So, it would be emailed to every member of the police station and that's a document that the shift sergeant would refer to during the pre-shift briefing.

Right, okay?---And I have seen it being handed out before.

Right?---Yes.

And you talk about, in terms of the allocation, people either take on someone or they're allocated by COMMS, is that – so, do people sort of volunteering?---So, in this instance, it's not allocated by COMMS, because we haven't actually started the shift yet. We've hadn't actually gone out on the road. So, the targets on this arrest target document here, yes, they are allocated to the crews that are attending the briefings.

Right, okay. So, people don't volunteer? You - - -?---Yes.

You would - would you be doing that allocation?---So – well, yeah, generally that's up to the shift sergeant. Each patrol group may do something different.

Right?---Depending on the - - -

But would you take into account the skills or otherwise of - - -?---Yes.

Yes, okay?---Yes.

So, people who would be better or worse at that?---Yes.

Okay. And so, on this one, so you'll see Walker, Kumanjaya Walker, is circled?---Mm mm.

So, it's got – there's a little bit that says links – and it has the two addresses, one in Warlpiri Camp and - - -?---Yes.

- - - one in – a house in Yuendumu?---Yes.

So, would you be – would there be a discussion then about the process and where – who's going where, and what sort of preparation is done in terms of - - -?---Sorry, are you talking about Kumanjayi Walker specifically?

In particular, yes. As an example of how you would deal with that?---So, on this occasion specifically in relation to Kumanjayi Walker, the whole PG was mobilised with the shift sergeant to attend Warlpiri Camp to attempt locate and arrest Kumanjayi Walker.

That was on 7 November?---Yes.

Right, okay. And before the PG went out, did – would there have been any other sort of background research done in relation to him at the time of - - -?---Yes, so the – I wasn't actually part of that research, however, before the patrol group attended Warlpiri Camp, a number of checks would have been done by certain people; perhaps the shift supervisor; perhaps by the other members of the patrol group. So, it would have been background checks.

Is that on PROMIS?---Yes.

Yes, okay?---Possibly IJIS. So, background checks in relation to any warnings or alerts he may have, any other additional addresses that we may find him, any associates that he's been recently linked with, so – which may give rise to us attending other addresses, any vehicles that he may be linked to.

Right?---Essentially, it is all part of the risk assessment of - - -

And that would always be done before you head out?---Yes.

Yes, okay. And in this case where there are two possible places and this one is Warlpiri Camp, so that's under your command?---Correct.

And then in the event that they went out to Yuendumu, then you had very little to do with that?---Correct.

Even though it's your patrol group?---So, two members of my patrol group attended Yuendumu as part of the IRT compliment that attended - - -

Right?--- - - - from Alice Springs.

Right, okay. You talk this morning just about the arrest in relation to Zachary Rolfe, that there were no rewards for his results. I just wanted to get some – a picture of the culture that might have existed. Was there some sort of competitive atmosphere in terms of number of arrests that were successfully undertaken?---No. No, there wasn't, your Honour.

No?---No.

Okay, there wasn't some encouragement - - -?---No.

- - - on that basis?---No.

No? Okay. Just moving to your description of Zachary Rolfe, the first thing you say when you're asked about him is that he's ex-military. Can you just explain why you would give that as a first description?---Yeah, I can't explain that. Perhaps I was pre-empting the questioning by the detectives.

Was it something that was well-known about him or is it something about his - - -?---No.

- - - character that made you say that?---No, it – I think everybody knew that Zach Rolfe was ex-military, together with James Kirstenfeldt and a number of other people.

Right. And it's said by you as a positive description of his character?---Yes.

Yes. And are you aware of the concerns in the community about – potentially about the over-militarisation of police and as a result, understand how that, as a first description of him, may be difficult for the families to hear?---Yes, I'm aware of that now, yes.

Okay. Moving onto what has now been talked about at length about your phrase about him, "He always gets the job done", I'm just interested in – I know we've sort of discussed at length how you have, unprompted, you talked about how there were, despite there being a number of complaints, you were asked about whether or not that would affect how you utilised him and your response was, "He always gets the job done", correct. And I know you've confirmed in evidence today that you should have taken a bit more interest in the complaints and in retrospect, you would. Correct?---Correct, yes.

However, if we just go back to November 2019 for a while, there was no process in place to assist you with the assessment of at what point "getting the job done" was going to be outweighed by the number of – by the complaints. So, that was left to you to sort of make that assessment. Is that correct?---Yes. Yes, there's no matrix or anything that we can refer to in terms of complaints received or persons arrested or jobs attended.

In your own mind, what would have outweighed - - -?---Yes. So, that determination is up to – either the – yes, either the shift sergeant or me, the watch commander at the time.

So, there is a – in your mind at the time, there wouldn't have been sort of a certain number of complaints or perhaps only if there was hospitalisation or confirmation of

the veracity of the complaints. There wasn't anything that might have actually tipped it over for you?---No.

So, then the tragic reality is really that it was only after the death that you were forced to confront that reality, that the "getting the job done" had been outweighed?--
-Correct, yes.

Thank you. No further questions.

THE CORONER: Yes, Mr McMahon.

MR MCMAHON: Thank you, your Honour.

XXN BY MR MCMAHON:

MR MCMAHON: Sergeant, my name is Mr McMahon. I act for the Parumpuru Committee, which is the justice committee of Yuendumu. We're particularly interested in some things that have emerged, including culture at the police station. So, I just want to use a few particular examples to explore that idea with you. Firstly, looking at the incident of the – the axe incident of 6 November and the videos that emerged from that, in your record of interview – pardon of me, your interview with the investigators, when you spoke about that incident, you said a number of things about the way that the police out there in Yuendumu managed this situation was done very poorly, that there was incredulity at your station at the way that they handled it. I see you're nodding. You've read your own statement in recent times, obviously?---Yes.

Yes. But what they did evidence, piss poor performance and it was lucky no one was injured. He could have attacked the police. He could stabbed one of those guys and so on. Those were all your various assessments of the video, and I'm just quoting from your statement there. I don't particularly care to explore it, but you've given a variety of answers of how many people were standing around, and where you were, and so on, when the video was being discussed and analysed, and that it happened over a number of days, and a number of times. And as I understood from what you said to Ms Morreau, sitting behind me a moment ago, that it was also said, by people watching the video in the – in the constables room – is that what you call it, the constables room?---Yes.

Yes. That somebody, or some said that firearms could have been discharged?---Yes, I recall hearing a comment similar to that, Tasers.

But isn't it the case that in fact, that what was discussed by people watching that video is that firearms should have been discharged, and that the police in that incident, should have shot Kumanjaya Walker?---Look, it's entirely possible, those conversations took place. But they're not conversations that I overheard.

Well you've previously said today that – to Mr Boulten SC, that there was effectively an unanimous view as to how the matter was discussed by the people that you observed watching the video?---Yes.

In your interview, when you were asked about this, you had no such memory as to what was discussed. You had said – when it was put to you in the interview, taken through all those words that I just read out to you, about incredulity, piss poor performance, and so on?---Mm mm.

You were asked “Did you hear any commentary regarding what the members would have done themselves or would do?” And your answer was, “Cordon and containment was discussed, yeah I don't recall anything else.” But clearly your memory has improved since then, because now you remember at least someone talking about how firearms could have been discharged?---Yes.

And I'm suggesting to you that you well know that it was also discussed that those officers who were under the threat of attack from the axe, should have employed the strategy of shooting at the centre of mass, and should have shot Kumanjayi Walker?---So no, I do not recall hearing any conversation in relation to that.

Well I thought a moment ago you thought that you could have heard something like that?

THE CORONER: He said it's entirely possible, but I didn't overhear that.

MR MCMAHON: All right.

So at – over those days, of 6, 7, 8 November, did you hear anyone discussing the police practise of equating an edged weapon with a gun, in terms of danger to police?---It's entirely possible that those conversations were had, but I do not recall hearing those comments.

So the – in terms of firearms, the only thing that you do recall hearing, is at least one person saying that firearms could have been discharged?---Correct.

And as you know, when firearms are discharged by a policeman, or policewoman, who is under attack from someone wielding an axe, or something similar, the strategy that the policeman should employ, is to shoot at the centre of mass?---Correct.

And in fact, in your discussion in your interview, when you were talking about this same issue, and you are saying that the situation, the way it was managed, was very poor. You said, “Because they'd exposed – to the training thought was that there was a fellow with an axe, and they didn't appropriately deploy their resources to contain him”?---Correct.

Which, in the circumstances of what you've just described, and what we all know from the video means, to shoot him?---I - - -

(Inaudible)?---Sorry it could have – it could have meant any accoutrement that they police officer was in possession of, so - - -

Well when he's coming at them with an axe, it doesn't mean a baton, does it?---No.

And I mean, let's not muck around here. There's someone coming at you with an axe, and you're complaining of the police haven't employed the right strategy, that they haven't appropriately deployed their resources. You're not talking about spray or Taser, you're talking about shooting at the centre of mass, aren't you?---Look every - - -

Nothing else - - - ?---Individual's different, every individual's perception is different. A Taser, I've seen Tasers used on offenders that have edged weapons.

We're talking about this incident, this video, which you were watching, and watching other people watch?---Mm mm.

When you say that they didn't appropriately deploy their resources, what you're referring to is, they didn't shoot when they ought to have, isn't that correct?---No, that's not correct, your Honour.

Okay, so what did it mean?---Resources, it means one of the use of force options - - -

And you're saying to this court, that in the circumstances of that video, with the axe raised, and officers backing back, with a space of less than metre, and the axe coming at them, what resources are you saying they should have deployed, other than the pistol?---I'm not saying they should have deployed any resources. I said they – that perhaps they could have deployed a Taser, OC spray, yes, a firearm is an option.

THE CORONER: So you can use a Taser at close quarters like that?---Yes.

MR MCMAHON: In the half second or so before the axe is wielded?---It depends how long it would take you to draw that particular accoutrement, either firearm, Taser.

And the effectiveness in a Taser in that half second before the axe is wielded?---Well it depends on the – that you have defend – depend on whether the prongs being deployed from the Taser, had adequate contact with the subject.

Just looking at this question which – you've been asked a few questions about it already, but there's an aspect of it I want to take you to. This question of there being complaints about excessive force with Zachary Rolfe?---Yes.

You follow that?---Yes.

You talked about how you've got a high opinion of him. He's ex-military. Gets the jobs done, and so on. He's very keen to seek out arrest targets. Then you say he's a number of complaints of late. There's been some complaints in regards to excessive force. That's all pretty straight forward, you've said all that, and you know about it?---Yes.

Then you're asked, "Tell me about any affect that's had on how Zach Rolfe might be utilised, if any." And you say, "It hasn't." Because you have faith in Zach's work ethic, and the way he operates. Can I suggest to you that the two ideas simply don't marry up? That the fact that somebody has had complaints about use of force of late, is – is an idea that obviously was in your mind, and should concern you. Do you agree with that?---Yes.

But it didn't affect him being deployed because of his work ethic?---So if – in my mind, if Zach Rolfe is still employed as a constable, in Alice Springs, attached to a patrol group, then there's no reason why he can't be deployed to Yuendumu.

But do you see there's a question of culture to say well because his work ethic is good, and because he's a brave policeman and gets the job done, I'm just going to not let the fact of complaints about use of force get in the way of deploying him whenever I can. Do you see that that's a cultural issue that you should be considering and addressing?---Possibly. There are a number of – at any one time, there are a number of police officers that are operating in the field effectively and effectively, who have complaints currently under investigation, including use of force. And I would not preclude them, I wouldn't have precluded them from going to Yuendumu. So I didn't – I didn't see at the time how Rolfe's use of force complaints would stop him going from – stop him going to Yuendumu.

Well by that time, you were aware of numerous use of force complaints against Constable Rolfe, that's correct isn't it?---Two to three I believe, yes.

They were all against Aboriginal people?---Yes.

Do you think the question – do you think the fact that the complaints were about Aboriginal people affected your assessment of the importance of the use of force complaints? In other words, that you regarded them as less significant than if they were complaints of use of force against young white children?---No, I disagree with that.

And I'm not saying to you in those tough questions that you're standing there deliberately being racist, in fact on that question where a number of people have been described as racist in this court, you were not one of them. You may not even know that. I'm not saying that about you. But I'm talking about a culture that where there are use of force complaints against Aboriginal people, do you think that the culture of the workplace, which you've identified to some extent in your answers, allows you to place too little weight on that reality because of the work ethic and the effectiveness of a particular police officer?---Look, I don't think I've ever viewed and completed a review on a use of force based on the ethnicity of the person that the

use of force has been used on. I'm aware that of all the use of forces that I review I would suggest 95 to – 95 percent would be in relation to the use of force on Aboriginal members of the community. And I would say that each review or assessment that I conducted on that use of force was of equal weighting and the ethnicity of the subject doesn't come into play.

Or alternatively it may come into play all the time but you don't particularly appreciate it. For instance, in the case of Cleveland Walker, I think that's his name, Cleveland Walker?---Yes.

You said a number of frank and candid things which don't reflect well on you and I appreciate you've said those answers anyway, but they do reflect, I'm suggesting to you, a culture, a culture which is unsatisfactory and a culture which places too little weight on harm that is done to Aboriginal people. For instance, in the Walker case, you've already conceded in this case that you should have taken his complaint into account?---Yes.

Now can I suggest to you that the sad reality is, not because you're racist and I'm not suggesting that to you, but because of the culture of the workplace and the problems that Alice Springs Police Station has in dealing with the issues it confronts, that the reality is that it is because the person complaining about use of force is Aboriginal, that less weight is given to it than ought to be?---No. Look, I would like to think not but I can understand how that – I can understand how that perception is arrived at.

Of course you might think not. Everyone wants to think as themselves as a decent person and I'm suggesting to you a harsh reality. For instance, in the Walker case you say that you took Rolfe's version as the accurate version because he was a police officer?---Correct.

Can I suggest that you wouldn't have given that answer if the person making the use of force complaint was a well respected white member of the community who was making a strong public complaint about the use of force against her by the Alice Springs Police Station?---No. No, I disagree with that.

In Walker's case, Cleveland Walker's case, did you listen to the record of interview?---No.

So frankly, that's an unexpected answer. You didn't listen to the record of interview and you didn't talk to him?---I didn't talk to him until the closing stages of the CIP process, correct.

Let's be blunt. You told him that his use of force complaint wasn't upheld. You didn't consult with him, you didn't interrogate him, you didn't get a statement from him. All that you did was tell him sorry, you lost, Constable Rolfe has been exonerated. That's the effect of what you told him?---Yes. Well that is the effect. Essentially - - -

(inaudible) works?---Look, I concur that in effect that was the outcome, yes.

Or to put it another it another way, you told him he had no voice in the entire enquiry. That's the effect of what you told him, isn't it?---Yes, it could be understood to be that way.

I'm not accusing you of malice or racism, you understand that. I am accusing you of being a participant in a culture which needs to radically improve. You follow?---Yes.

And that as I understand the evidence in the examination of that use of force you did not speak to the person making the complaint, correct?---Correct.

You did not listen to his record of interview, which also talks about the very same complaint. Correct?---Correct.

And then you've taken one version of events, which is the white police officer's and you've said I'm accepting that version without doing the proper enquiry. That's what happened, isn't it?---Effectively, yes.

And the culture underlying that is covering for your mates. It's not the height of your career and I'm sure you've got a distinguished career, but the culture underlying that incident is covering for your mates, isn't it?---I was not covering for a mate.
I wouldn't - - -

You wouldn't want it said that way but that's the effect of what happened, isn't it?---Look, I disagree it's covering for a mate.

Okay. Well there are other – and less palatable ways of characterising it. It's covering for a white police officer at the expense of whatever the black victim of violence might have to say?---It does appear that way.

Do you know that we've heard evidence in this court that extremely derogatory and racist terms about Aboriginal people in 2018 were being used freely around the Alice Springs Police Station including by sergeants who have been named – not you, but other sergeants who have been named?---I have become aware that racist language, yes, has been used.

Were you at Alice Springs Police Station in 2018?---Yes.

So different police officers have given evidence of racist words being used to different degrees. You follow?---Yes.

And perhaps the bluntest assessment by one witness was that racist words such as coon and nigger and other words were freely used around the police station during 2018 by people of rank, sergeant and below. You follow?---Yes.

And can I suggest to you that it is completely implausible that you never heard such a word being used while you were at the station. I'm not saying you used them, but that's completely implausible that you never heard such words being used while you were at the station?---It's entirely possible that those words were being used at the

station, your Honour. However, I can assure you I'd never heard the word nigger or coon spoken in my presence. It's entirely possible that yes, they were spoken. It might be that they don't say those words in front of the senior sergeant or a sergeant. We work in a very multicultural police station, your Honour. We have Aboriginals, Africans, everyone works at the station. There's many different cultures. Quite frankly, you'd be a fool to use those words in a – in the police station in any capacity.

Well a number of police have spoken about it just in questions, a question of degree. Not a question of if, simply a question of degree. Do you follow?---No.

The question of how often it was used, not whether it was used?---Okay.

You follow?---Yes.

Including sergeants and constables. Follow?---Yes.

So it may be the case that you are in fact a person known not to use those words and people simply chose to take care not to use them in front of you?---Possibly.

Thank you.

THE CORONER: Yes, Mr Officer.

MR OFFICER: Senior sergeant, my name is Luke Officer, I act for Constable Rolfe. How long have you been a police officer, I missed that at the start?---29 years.

You gave some descriptors to Mr Boulton SC when you were cross-examined him about my client, Constable Rolfe, to the effect that he was very reliable, efficient and effective. One of the most competent on the patrol group. Do you remember that evidence?---Yes I do.

That he was a good communicator, he was fit, and athletic?---Correct.

That he was intelligent, well-spoken and articulate?---Yes.

And someone who has the skills, good reasoning, and others – skills that others didn't have the maturity or the skills that he did, to that effect. Do you remember giving that evidence?---Yes I do.

And you're aware about his jumping into the river in the first couple of weeks of his career as a police officer to save two tourists who were at risk of drowning?---Yes I am aware of that.

Is that the type of incident that comes to mind when you give those descriptors about Constable Rolfe?---Yes, that's one of them.

There are others?---Look I – I can't give you specific examples, no.

Would you agree that Constable Rolfe is, in the way he approaches his job, polite to people he is going to arrest, or just generally to members of the community?---Yes.

And indeed, in his dealings with other members of the Northern Territory Police?---Yes.

And would you agree with the descriptor that he's courteous?---Yes.

Professional?---Yes.

Have you viewed the body-worn video from 9 November 2019 incident in question?---Yes I've seen that footage.

You've seen it. Have you seen Constable Rolfe's approach to House 511 before the shooting occurs?---Yes I have.

And do you have a recollection of that now as you sit in the witness box there today?---Yeah, it was a long time ago, however I do have a recollection that, yep, he was reasonably courteous and polite with the – with the persons who he spoke to on that day.

And professional in the manner which he approached his job on that particular day?---Yes.

Do you have your statement in front of you there (inaudible)?---Yes I do.

If I can ask you to turn to the annexures that you provided, commencing with annexure A, Alice Springs and Southern Desert Division Daily Synoptics?---Yes.

You gave some evidence to Mr Boulten, and indeed it's in your statement, that Constable Rolfe was keen to arrest and keen to seek out an opportunity to arrest, remember that evidence?---Yes.

If I could just take you through your annexures. This document, commencing with annexure A, which is the Daily Synopsis, sets out, is it the previous day's events?---Yes.

For a changing shift is it?---Yes.

And Daily Synopsis gives it an obvious meaning, you get one of these every day?---Correct.

Turn over to annexure B. You've got the daily TCG/(inaudible) TCG? Yes, the TCG targets.

What's TCG stand for?---It's the tasking and coordination group document. So every Monday there's a TCG meeting where these matters are discussed.

So is that document, the TCG, it says “Daily” or do you get that every day like the - -
- ?---Look it doesn’t come out – it doesn’t come out daily. I think this one comes out
weekly, yeah.

And you’ll see there that – to the left-hand side of that document, we’ve got
“Characterisation of issues.” And you’ve got “Property events, priority hot spots,
public housing”, et cetera?---Yes.

And we note there that current activity, there is unlawful entries and crime trends,
which there is three descriptions in that particular box?---Yes.

“Priority hot spots”, you’ve got eight addresses?---Yes.

And “Public housing hot spots”, which spill over to the next page, you’ve got about
10 addresses?---Yes.

If you turn over the page, at least on my copy, turning over the page, you’ve got
“Priority arrest target”?---Yes.

Now does that come out weekly, or is that daily?---I think that’s – I don’t think it’s
daily, and I think it’s more of a weekly one.

And if you turn to the next page, you’ve got “Arrest targets.” And there are six
individuals named there?---Yes.

Is that daily or weekly?---Look I think that’s weekly.

If you turn over the page, you’ve got “Warrant targets.” And there’s three individuals
there?---Correct.

Does that come out daily or weekly?---I think that’s weekly.

If you turn over the page you’ve got “Bail targets.” Of which there are five individuals
because that again, it spills over onto the second page?---Correct.

And is that daily or weekly?---I think this is weekly.

From my calculation, at least on the weekly basis, if that’s what – the way in which
this information is disseminated, there’s at least 15 people who are to be
apprehended or arrested by Northern Territory Police any given time?---Yes,
potentially.

And sometimes it could be less, sometimes it could be more?---Correct.

So when we talk about someone who’s keen to arrest, or keen to seek out an
opportunity for arrest, you wouldn’t – you wouldn’t say that that’s an unusual attribute
to hold as a police officer?---No.

And certainly, you'd agree that Constable Rolfe is proactive?---I would agree.

You were – or you had been taken ad nauseum to complaints against police. And in particular, my client. What's a PROMIS case, what does that actually mean?--- Essentially it's the – the crime reporting system that we use. Every police force around Australia, for the world, for that matter, uses a computer-based reporting system. So in terms of PROMIS, everybody has an account in the NT Police. We use it to investigate our investigations. So at any one time most officers within the police would have active investigations. And that is the main portal, from which we conduct that investigation.

So when we talk about complaints against police, it's not unusual for police officers to be the subject of a complaint?---Correct.

In fact, it's not unusual would you agree, that it's unusual for a police officer to be subject to two complaints, or multiple complaints in their career?---It's not unusual.

And it's really a fact of policing isn't it, that you are going to be, from time to time, the subject of complaints?---Certainly.

I think we lawyers all have an expression that if you haven't been complained about, you're not a real lawyer. When I mean is that police officers, you go in, there's an expectation that you're – part of your doing job, is that it will result in a complaint, substantiated or unsubstantiated, you agree with that proposition?---Look, unfortunately, it's – it is a bi-product of our work, that we do receive complaints from time to time.

So if someone's involved in 3176 PROMIS cases for a period of three years, on average, say three a day, that can be anything from, what, from being a witness at an incident, to taking a statement, to being involved in an arrest. Is that a correct characterisation?---Yes.

And if they're the case officer for half of those, what does that mean?---It means that that PROMIS case was held, and was dealt with, investigated, specifically by that member, who it's attached to.

And that number, for someone who's been in the force for three years, is that an unusually high number of PROMIS cases to be involved in?---Look I can't comment on that I'm afraid. I – I don't – I don't conduct those audits or assessments on how involvements a member may have over any period of time.

You've been told, I think by Counsel Assisting, that Constable Rolfe had been involved in 46 incidents where a use of force has been submitted, in a period of three years. Is that an unusually high number, for a police officer?---I don't consider it to be. Again, without having the – the figures or the stats in front of me, I really couldn't give you an accurate answer.

Sure. The information, or the evidence that her Honour has, is that of the 46 use of force incidents Constable Rolfe had been involved in, 22 occasions utilising the use of force options, such as handcuffs, baton, OC spray or firearm. That wouldn't be an unusually high number, do you agree?---It's difficult to say. Sorry, it's – I don't actually – I can't compare it with other – with other members. So I'm afraid I can't really answer your question, I'm sorry.

Sir, well – that's fine. When we talk about – well what's been suggested to you today, and you've been taken to a number of videos, that Constable Rolfe was involved in a number of complaints against police. But the information that I have, at least in front of me, in the document that we have, is that there was one complaint in 2017. That's a complaint against police, two in 2018 and two in 2019. Now that's quite different to some of the use of force incidents that have been reviewed by Detective Barram but I'm just focussing on the complaints against police for the moment. So on in 2017 and two in 2018 and two in 2019, as a police officer involved in 46 use of force incidents, would you agree that that is not an unusually high or unacceptable number of complaints?---Yes, I would agree.

So it's all relative isn't it, when a complaint is made against a police officer does not necessarily mean that they are a bad police officer or they would be substantiated?
---Correct.

So you've got to approach complaints against police with a level of common-sense?
---Yes.

Because if every complaint against police was accepted on its face such that they would nor perform general duties, you'd have a very light police force, wouldn't you?
---Yes, possibly.

You have been taken to the Malcolm Ryder matter and I don't intend to go over it much further than this, it seemed apparent that there was very little information shared with you about that matter. Are you aware - and this is document 3136 for those at the bar table - that the use of force which has been the subject of some criticism, was found in October 2018 not to be an unreasonable use of force?
---I'm not - I'm not aware of that.

Again, so we talk about a complaint against police where that particular finding, be as it may what it is now, was not an unnecessary use of force - - -

MR BOULTON: No, no - - -

MR OFFICER: It was not substantiated - it was not found to be unreasonable, which is different to a finding that it was reasonable?

THE CORONER: That was reasonable.

MR OFFICER: Not substantiated.

MR BOULTON: (Inaudible).

MR OFFICER: That's an example isn't it? Where complaints against police are all relative to the circumstances of a particular incident, what the member was involved in, how i was investigated, the ultimate determination about that use of force?
---Yes.

So again, the very fact of a complaint does not mean that they are a bad police officer or that in fact what is complained about is true?---That's correct.

Are you aware of any period of time between 2017 and 2019 of an increase in youth crime?---I am aware of excessive amounts of youth crime, yes. In terms of the figures or statistics no, but certainly I'm aware of a considerable amount of youth crime, yes.

Did that coincide with an increase in complaints against police offices?---Yes. It seemed to.

Particularly from NAAJA?---Yes.

And particularly in relation to a lawyer that was there at the time? Is that familiar to you?

MR BOULTON: You mean a particular lawyer.

MR OFFICER: A particular lawyer?---Yes.

And did those complaints decrease at the time that that particular lawyer left that particular role?---So I'm not aware - or I'm not aware of the particular time or date when that lawyer left the role but I'm aware that there was a reduction in the amount of complaints against police, yes.

So again, when a complaint is made against police officers or an individual they are to be investigated and determined on the evidence that is before those that are investigating it, be it through complaints resolution process of Professional Standards Command?---Yes.

That might take time and might not be substantiated at the end of it?---Correct.

In fact the complaint, on its face, is a matter of common-sense, it might not actually amount to misconduct or the use of excessive force?---Correct.

MR BOULTON: Well, your Honour, this sort of theoretical construct "It might be this" "It might be that", "It could be this", "it could be that" "There was a particular lawyer" "went down and went up" where is it all leading and - - -

THE CORONER: I'm not sure.

MR BOULTON: And in the course of it there's been wafted past the court suggestion that a particular lawyer mounted an unfair campaign of complaints against police. And if we want to have that out then let's have it out and if it's going to be said, let's see the brief.

MR OFFICER: Your Honour, I am simply referring to a statement, which is in the brief, the witness who will give evidence tomorrow about that particular issue.

MR BOULTON: (Inaudible).

MR OFFICER: The relevance is quite clear and we are talking about theorising the situation, hypotheses that might have done this in hindsight. What has been put, in effect, in my respectful submission, is that because Constable Rolfe had complaints against him, which I hasten to add in terms of excessive force, have not been substantiated, has somehow bearing upon the way he approached his role on 9 November that he had some sort of propensity or tendency that he was going to engage in the way which he did with Kumanjaya Walker. I am entitled to explore and put to this witness as I have put to him, my client's conduct, to demonstrate that complaints against police, or the fact of it, does not necessarily mean that constable Rolfe acted any different on the 9 November.

THE CORONER: Sure. I think it's - - -

MR OFFICER: It's probably a matter for submissions, your Honour.

THE CORONER: Probably. I think it's obvious that the complaint in and of itself - one complaint in and of itself obviously needs to be determined whether or not it is substantiated or made out or not. I guess there is the issue of where there are multiple complaints, whilst each of them in the end might result in a certain outcome, the fact that there are multiple complaints at a given time might be a matter in and of itself that is something that needs to be considered whilst the investigations are being conducted. But I take your point that (inaudible).

MR OFFICER: That is precisely the point, your Honour, it has been pitched that Constable Rolfe had all of these complaints but the numbers in the report that we all have is one in 2017, two in 2018, two in 2019, and this was accepted as not unusually high, that's the reports (inaudible) in response to the objection.

THE CORONER: (Inaudible).

MR BOULTON: The witness has.

THE CORONER: Yes, (inaudible).

MR OFFICER: Sorry, I've got one last questions, Senior Sergeant about the 9 November incident. You didn't see Constable Rolfe de-activate or turn his body worn video off in that footage that you watched, did you?---No.

No, that is all.

THE CORONER: Yes. Ms Ozolins?

MS OZOLINS: Your Honour, I have a couple of matters. I'm sorry, your Honour, I have no papers (inaudible).

XXN BY MS OZOLINS:

MS OZOLINS: Senior Sergeant, I just - sorry, my name is Sally Ozolins, I appear in this inquest on behalf of the Northern Territory Police Association. I just wanted to ask you about your evidence earlier when counsel assisting was asking you some questions about the administrative burden placed on senior officers and you indicated that in your view there is such a burden. Do you remember giving that evidence earlier?---Yes, I do, your Honour.

And you also indicated - and I am not saying these are your words, but you indicated that those administrative burdens are inhibitive of senior – that is non-commissioned officers - providing an active supervisory role to more junior officers in the field. Do you remember talking about that?---Yes.

And you indicated in response to questions by Mr Boulton that there's a lot of paperwork that often leaves you desk-bound but you do get some time, particularly as a sergeant, less so as a senior sergeant, to spend some time on patrol?
---That's correct.

Now, is that a situation that is being more desk-bound, is that something that has evolved recently or has that always been the case in your experience over 29 years?
---I think it's something that has slowly crept up to us. I think it's something that may be unique to Alice Springs to some degree. I think it may have something to do with the computer systems that we utilise.

Why do you say it's got something to do with the computer system?---Well, I've worked in other jurisdictions whereby there are more streamlined processes, as opposed to what we use now. There's – the burden on the shift sergeants and the constables on the road.

Administratively?---Administratively is excessive. We spent a lot of time at our computers. At times, it feels like we spend more times at the computers than we do actually fulfilling our role out in the field.]

When you say, "the systems", can I just get you to specify what – are you talking about PROMIS?---Yes.

IJIS and systems like that?---Yes.

Are there others that you - - -?---So, primarily, it's the PROMIS system, the IJIS system. In terms of the administrative workload for the sergeants, we'll receive

numerous enquiries, jobs from the hospital, jobs from the – so the women’s shelter, from Territory Families, other enquiries that we have to follow up, so any enquiries we have to complete. And those are the things that – yeah, inhibit us, that slow us down in terms of getting out on the road and providing supervision of the constables.

Sure. I’ll just digress for a moment, you’ve given evidence, or some evidence today about this complaint resolution process, and please correct me if I’m wrong, but my understanding is that – excuse me, that when there is a complaint against police, it’s for the sergeant or senior sergeant, in the first instance, to assess that complaint and then later, it may be investigated by PSC and it may be investigated by the Ombudsman’s Office?---Yes, so typically when – if a complaint was to originate at the front counter, for example, a sergeant would take the complaint. They would put the complaint on the – on another computer program that we use, the blue team program. That would then be submitted and then a decision would be made, I believe by PSC. Whether PSC investigate that or whether it comes down to the divisional level or if it comes back to the police station.

So, does that – the duty of the sergeant or the senior sergeant that you’ve just described, is that a new or a relatively new process that’s only existed for a period of a few years?---From memory, it’s been in place for a number of years. Obviously, complainants can also lodge – I believe they can lodge complaints with the ombudsman, should they wish.

And then are they referred back though?---Yes, yes. And they can lodge complaints via police communications.

Sure. Does that process – that assessment by a sergeant or senior sergeant, would you say that that contributes to the administrative burden that stops you getting out on the road, rather than a specialist unit like PSC dealing with those complaints?---Yes, very much so.

Sorry, I did say I had just digressed shortly, previously. Now, you gave evidence in relation to this administrative burden that – you said that the issue of having senior members tied to the desk, so to speak, I can’t recall if they were your words, but you said that the police organisation is trying to get back to basics, but is currently tied up in engaging with other service providers. Now, do you recall giving that evidence?---Yes, I do.

And were you referring to those things that you’ve just given evidence about, the enquiries or request for assistance from the women’s shelter, from the hospital, are there other service providers that you’re required to engage with?---Look, we liaise with partners from interstate, from other organisations from interstate, but yeah, they are, some of them, yes.

THE CORONER: You also mentioned Territory Families?---Yes, your Honour.

MS OZOLINS: And further to that, when you were talking about getting back to basics, you said that the organisation is trying to get back to its core role as a police

service. Now, what specifically were you referring to in relation to the core role of the police service?---So, specifically, protecting and servicing the community, being out in the community, liaising with the community, arresting offenders, putting offenders before court.

So, a holding law and maintaining social order?---Of course, yes.

Protecting life and property?---Yes.

Preventing, detecting, investigating and prosecuting offences?---Yes.

Managing road safety, education and enforcement?---Yes.

And managing the provision of services in emergency situations?---Yes.

In fact, they are the core functions set out in the *Police Administration Act*, aren't they?---Yes.

The other thing I wanted to raise with you, and it's just briefly, you were shown some footage earlier. It was Constable Rolfe chasing an offender on foot and you were asked some questions about whether or not he ought to have been counselled, and the question was put in a general term about whether a junior officer might be counselled in relation to the exercise of a discretion not to pursue an offender. Do you - - -?---Just to clarify, there was no body-worn footage of that incident.

Of which incident?---Are you suggesting that he was shown some body-worn footage.

I'll withdraw it. I just meant there was some footage shown and following the footage, there were some questions about officers exercising a discretion not to pursue offenders and there was a proposition put that it would be open to officers to make a safer choice and let the man run away. Do you remember those questions?--Yes, I remember.

So, I just wanted to ask you about what, if any, training or direction or orders exist in order to assist junior officers, as we were talking about in this case, to determine when it's appropriate to exercise a discretion not to pursue an offender, and we're talking about foot chases, not car chases or something more high risk?---Yes. So, to my knowledge, there is no general orders guidance, SOP's available to the members in relation to that specific subject.

So, particularly perhaps with reference to the evidence you've just given about officers at the commencement of shift being briefed on targets or arrest targets and how they're to discharge their duties. Would you agree that there's a real risk to officers in exercising a discretion simply not to chase an offender?---Yes. It's dependent on the reason they are chasing that offender - - -

Sure?--- - - - ultimately, the severity of the offence.

Sure. And officers on the ground obviously make those sorts of decisions as to whether or not to exercise a discretion on the ground, not with the benefit of hindsight?---Yes.

And of course, officers who exercise a discretion, there's a risk of failing in community expectations, given the publicity over increasing crime rates?---Yes, I agree.

And also, the officers are at risk of disciplinary action if someone later on assesses that they didn't exercise that discretion properly?---Yes, possibly.

And of course, when sergeants or senior sergeants at a later time are reviewing the exercise of discretions in relation to things like that, one officer, a prescribed officer, might take a different view than another prescribed officer?---Yes.

And it's the case that in the exercise of discretion, as you said, there is no direction or order or specific list of considerations given to officers?---Correct.

Yes, those are my questions. Thank you.

THE CORONER: Just before – Mr Hutton, I just want to ask this question. When you talked about the numerous enquiries from other service providers that you need to deal with, are they matters that require sort of police training and knowledge to exercise decisions or are they sorts of matters that are much more administrative and could be dealt with by an administrative officer rather than a police officer?---So a lot of the enquiries would initially start with some interrogation of our police systems, our PROMIS system for example, which could – yes, it could be completed by an administrative officer. However, it also involves a considerable amount of work out in the field, visiting addresses, knocking on doors, talking to people.

That kind of thing?---Yes.

Okay.

THE CORONER: Yes, Mr Hutton.

MR HUTTON: Thank you, your Honour.

XXN BY MR HUTTON:

MR HUTTON: Acting Senior sergeant, my name is Hutton and I appear on behalf of the NT Health. I just wanted to ask you about a document that Mr Officer took you to which is the first annexure to your statement. Do you have that there?---Yes.

The Alice Springs and Southern Desert Division daily synopsis?---Yes.

My understanding of this document, and please correct me if I'm wrong, is that it's intended to record the incidents that occurred overnight in the Alice Springs and Southern Desert Region for the purposes of staff commencing their duties the following day?---Okay.

Is that correct?---Yes, daily synopses will come out on a daily basis to assist the members on the ground, yes.

The incidents in this particular synopsis all appear to be after hours?---Okay.

You're not sure whether it was intended to include everything that's happened on 6 November or if it's just the overnight incidents?---I think it's a 24 hour period. Can't be sure but that would be my interpretation of it.

Perhaps we can take that up with another witness. We see in this particular synopsis that there are three reported unlawful entries in Alice Springs, which is on the first page. One is at an indoor volleyball court. The next appears to be a residential address and the third is at a hotel Alice in the Territory?---Yes.

And if we turn to the second page there's a subheading, Southern Desert Division and that records seven incidents of domestic violence and they're at six different communities in the Southern Desert?---Yes, correct.

And this records that there were zero unlawful entries overnight across all of the various communities in the Southern Desert Region?---Correct.

Yes, thank you.

THE CORONER: Yes, Dr Freckelton.

XXN BY MR FRECKELTON:

MR FRECKELTON: Thank you, your Honour. After the exchange yesterday I'm very conscious of the time but I have two topics, they can be done in five minutes.

THE CORONER: Okay, thank you very much.

MR FRECKELTON: Senior sergeant, you've been asked a number of questions which have in effect suggested deficits in your review of use of force allegations against Zach Rolfe. Do you recall those?---Yes.

Is it your opinion that a finding of excessive use of force is a serious matter in relation to a serving police officer?---Yes.

Do you require to be satisfied on the basis of reliable evidence before you reach such a conclusion that there is sufficient to justify such an adverse finding?---Yes.

Are there occasions where there are two accounts, one from the officer and one from the complainant which leaves the decision making on all – or the evaluation on your part difficult?---Yes.

And are there some circumstances where the content and the way in which an allegation is expressed lack a degree of plausibility which makes you circumspect about whether it can be accepted?---Yes.

And are there occasions when the response from the police officer is emphatic and clear and plausible?---Yes.

And in no circumstances are you loath to make a finding that an allegation of excessive use of force is made out?---Sorry, could you reword that?

Absolutely. Where the police officer plausibly denies excessive use of force, does that mean that you are loath to make such a finding unless there is strong evidence to the contrary?---Correct, yes.

Now you've been asked a number of questions about the initial view that you expressed in your recorded interview about the response of Smith and Hand in the face of a wielding of an axe by Kumanjayi Walker?---Yes.

And as I've heard it, your evidence to this court is that you have over the three years subsequent reflected on the issue and modified your views?---Correct.

And as a part of that process have you taken into account what you understand to have been said at the trial and at her Honour's inquest in respect of those matters by Smith and Hand?---Yes.

And amongst the factors which have influenced you have (inaudible). First, it all happened very fast?---Yes.

Next, it was in a confined space?---Yes.

Next, there were others in the vicinity including children?---Yes.

If a shot had been discharged there was a risk of a ricochet and an unintended consequence to a person who otherwise was not involved?---Yes.

And next – and I'll just quote you something said at – on 9 February this year in trial, at page 112, your Honour, by Mr Smith.

MR BOULTEN: Your Honour, I know how late it is and all the rest of it. But I mean is this sort of leading of the witness of any utility really? It's like spoon feeding the witness with responses that we didn't get from the witness so far.

MR FRECKELTON: I hear what my learned friend's saying but the – a lot has been made, your Honour – it's a matter for you ultimately (inaudible) but a lot has been made of the fact that this witness has changed his mind about critical comments - - -

THE CORONER: Sure. Then why don't you then ask him why he's changed his mind? What's he taken into account? Because feeding it to him does have little weight.

MR FRECKELTON: I'll do that. I understand.

What are the key features that have led you to change your mind - - - ?---So - - -
- - - after the responses of Smith and Hand?---So I understand that Smith and Hand had had previous dealings with Kumanjaya Walker.

Yes?---I understand they had – because of that, they knowledge of his character, the way he operated. I understand that perhaps one, maybe even both of Hand and Lanyon were – and Smith, may have arrested him previously, without incident. With that in mind, yeah that caused me to reflect and moderate as to – to how they dealt with that incident on the – on the sixth.

That completes my questions, your Honour.

MR COLERIDGE: There's just about 40 seconds.

THE CORONER: Sure.

REXN BY MR COLERIDGE:

MR COLERIDGE: The first question I had for you are you taught that there's a particular standard of proof that you apply when assessing a complaint against a police officer, or a use of force incident?---No, not to my knowledge.

Okay. Second question I had for you was, the Cleveland Walker matter was referred to you by the PSC for investigation, as a part of a complaint resolution process. Do you recall giving that evidence?---So the Cleveland Walker matter came from PSC. I think it came via the Divisional Superintendent to me. I don't think it came directly from PSC to me. There was a middle man, possibly the Divisional Superintendent.

In any event, when it came to you, that was in circumstances where you had already completed a CNE audit, correct?---Correct.

Was that normal at the time, for an officer who'd already in effect, rubber stamped a use of force, to then be assigned duties as an investigator into that use of force?---Yes, I believe that to be normal.

Okay. Can you see – you were asked some questions by Mr Boulton about at least an apparent conflict of interest - - -

A PERSON UNKNOWN: Time's up.

MR COLERIDGE: - - - that might arise, given your relationship with Constable Rolfe. Can you appreciate that there is at least an appearance of a conflict of interest in circumstances where you're not only reviewing Constable Rolfe's conduct, but you're in effect, reviewing your earlier conduct, in reviewing the audit?---Yes, I think in an ideal world, any investigation of that ilk, ideally would be by an independent party. So yes, I accept that.

I mean, if you concluded during the later independent investigation process, that Constable Rolfe had used excessive force, you would in effect be admitting that you had let one through to the keeper, wouldn't you?---Yes.

That you had sanctioned an excessive use of force?---Yes.

Thank you, your Honour.

THE CORONER: Thank you for coming and giving your evidence today?---Your Honour.

(Inaudible) questions that were on a number of difficult topics. (Inaudible) evidence.

WITNESS WITHDREW

THE CORONER: We can adjourn until 9.30 tomorrow.

ADJOURNED