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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 23 SEPTEMBER 2022

(Continued from 21/09/2022)

Transcribed by:
EPIQ

JULIE SHEREE FROST, on former oath:

THE CORONER: Sergeant, how are you today?---I'm good thanks, your Honour, thank you.

All right.

And who is starting with the examination today? Mr Murphy?

MR MURPHY: Yes, Your Honour.

THE CORONER: And everyone's allocated their time so that we can finish in the time that's available. I won't have any stress then. I'll just let you go, and I'm sure your colleagues will keep you to the arrangements.

MR MURPHY: Yes.

A PERSON UNKNOWN: Your Honour, I just raise a matter out of courtesy. A couple of us will have to leave at a certain time - - -

THE CORONER: Sure.

A PERSON UNKNOWN: - - - even if it's in the middle of proceedings.

THE CORONER: All right.

XXN BY MR MURPHY:

MR MURPHY: Sergeant, my name's Julian Murphy, and I'm one of the lawyers for NAAJA, can you hear me okay?---Yes I can thank you, yes.

I probably expect to only be about 20 minutes in my questions, and I'll roughly run chronologically, from shortly after the axe incident, until through until the night of the fatal shooting. So could I first ask you about the conversations you had with Eddy and Lottie Robertson on the sixth and 7 November 2019, after what we've called the axe incident. You said, in your first recorded statement, and in fact, I think you said something similar on Wednesday, that "You said to Eddy and Lottie 'We're getting members from Alice Springs, and they will go in a lot harder than we do.'" Do you remember saying that to Eddy and Lottie Robertson?---Yes. It was something along those lines, yes.

What did you mean by "harder"?---I don't think I meant anything by it, and I don't – when I made that comment, I didn't even think – it wasn't a matter of thinking that the Alice police would go in harder. It was along the lines that once – if Kumanjayi's doesn't hand himself in, it was my way of (inaudible) family to bring him in, otherwise, you know, we don't have to (inaudible) from town and then things are out of my control after that. But it was a – more of a way of pleading, to explain to Eddy

and Lottie how serious this had become, and please, please, bring him, in a more of a pleading tone.

Did you think yourself, that the Alice Springs police officers might be more prepared to use force than community police officers?---Not – well I mean I think – community police officers are very reluctant to use any level of force, because we understand the repercussions of doing so. But I didn't think the Alice Springs police would use force either, if we had enough resources, and we have a good plan put in place, I didn't think that we would need to resort to the (inaudible) force.

Sure, but when you say community police officers are very reluctant, relatively speaking, you'd agree that community police officers are, as you've said, to use your words, "Are more reluctant to use force than Alice Springs police officers", is that right?---That's correct, yes.

Could I ask you now about some of the things you might have heard said about the way that your two members handled the axe incident. In your second recorded interview, you said that you'd heard criticisms of them to the effect of "Why didn't they shoot him?" Do you recall hearing criticisms like that?---Yes, I first heard that just before I gave my first statement.

Were those criticisms, as far as your know, from town police, or remote police?---Town police.

Now in contrast to that, you said, on Wednesday, that "You were very impressed with the way they handled it." Is that a correct statement of your appraisal of the way that they dealt with it?---Yes it is, yes.

Why do you think that some town police officers, might just have been mine I'm not trying to put words into your mouth, have such a different response to that incident to what you had?---I don't think town police, or certainly the town police that have never worked out bush, I don't think they understand the repercussion of using any level of force out bush.

Thank you. I'll move to another topic now, which is the withdrawal of the clinic staff from the community. You said on Wednesday, in response to questions I think from counsel assisting, talking about the clinic staff, that "There wasn't a lot of discussion with us", and you also said "They'd made their mind up." Did that surprise you that by the time they spoke to you it'd sort of seem to be set in stone?---I – I was surprised they left. Yes, I was surprised that they left.

Thank you, but my question's slightly different. It's not just whether you were surprised that they left, but were you surprised that they'd made that decision, before even engaging in discussions with police?---I can't remember how I felt it now, at that time. I think there was a lot of – there was a lot going on, so that was one, you know, another thing that was sort of happening in the background.

I might – I'll just I completely appreciate that. Thank you for the answer in that you can't recall what your response was then. Could I just ask you then, what your response is now, looking back, how do you feel about the fact – or how would you feel in the future about the fact that health staff making a decision to withdraw, without consulting with police?---I think, having what happened take place, I would think that there's a lot more consultation now and consideration of the repercussions of them leaving.

My next question, in relation to that incident – beg your pardon, in relation to the clinic withdrawal, is you said in your first interview “They have threatened it before in relation to or in response to um, unlawful entries.” Could I just ask you what you meant by the word “threatened”? That the health staff had threatened this before?---Oh I – when I said that it was more along the lines of having a discussion that if this keeps going, we're just going to leave the community. Just general conversation. So it wasn't necessarily a threat. Just we're going to leave the community if this type of thing continues.

Do you – if it wasn't a threat do you call – recall then why you used the word “threat” or “threatened”?---No I don't, no.

Is it true that in the past, the provision of health service, or the continued presence of clinic staff, had been used as a sort of bargaining chip, as in you stop these unlawful entries, or we'll – we'll disappear from the community?---No I don't think so. No, I think that – no I don't think so. I think they've just – you know, they were sick of the unlawful entries taking place.

And their withdrawal was a response to that. Is that right?---Yes.

Could I just ask you about a different topic now, which is the use of Senior ACPO, Derek Williams. You said in response to questions on Wednesday that, “Derek's mere presence has really helped to calm a lot of people.” That's – I'm just providing that as a reminder of your evidence. But then in response to a question from counsel assisting as to why Derek Williams was not used in the arrest of Kumanjayi Walker, as I understood your evidence, and this is at page 715 of the transcript for anyone following, there were two reasons that you gave. The first was, “Primarily because he was related to Kumanjayi.” Is that correct that that was the main reason that you didn't want to use Derek Williams in the arrest of Kumanjayi?---It wouldn't be the main reason. It was just a consideration; one of the few considerations we had.

You're aware that Derek Williams was Kumanjayi Walker's uncle?---Yes.

Were you aware the, in fact, an uncle can be an appropriate person to discipline a young man in Warlpiri culture?---Yes, yes.

So, in what way was – I beg your pardon, I'll retract that. So, don't you agree that in fact, that might have made it appropriate to use Derek, if he was willing to be used in the arrest?---Like I said on Wednesday, Derek wasn't available for me for that arrest

on the Sunday morning. And I had a safety consideration for him as well, so I didn't want to put him in that position, even if he was available to me.

I will just ask you about those things. So, in terms of the safety consideration, you certainly never asked him, as in, would you feel safe or are you prepared to participate in this arrest. Is that right?---For my experience in the last – in the past two years out there, we never really used Derek in a physical arrest. Sometimes, he was in the background, but it was generally us that would go hands on, because to put Derek in a position where he might have to go hands on could be detrimental to him for, you know, ongoing relationships.

But isn't the point that if Derek's used, it can sometimes mean that you don't have to go hands on at all, and that the person might be willing to come into the station?---It depends on who the person is and because we knew Kumanjayi was very much like – it was particularly after the escalation on the Wednesday night. It was clear to me it wasn't appropriate to have Derek there anyway. Maybe in the background for calming after we had arrested him, but for the actual arrest, no.

I will just move on to another topic now, which is the presence or possession by police officers of long arms in the community. Now, you might recall giving evidence on Wednesday, and I'll just use a few of your words, it was in a longer answer, but the presence of long arms and AR15s in the community was "not necessary", "very threatening", "quite very confronting" and you agreed that it might affect community's trust in police. Do you still agree with all of that?---Yes, I do.

Do you also recall in giving evidence in the Local Court committal proceedings explaining that you told the IRT members, and this is at page 27 of the transcript, that there were "very little firearms" in the community. Do you remember saying that?---Yes, we had that discussion.

Now, you've been taken on Wednesday to the ops order or the arrest plan, now I understand that part of the words in that document were not yours. Is that correct?---That's correct, yes.

But you agree you did send that ops order and it contained reference to beanbag shotguns and to AR15s?---Yes.

I think you said in response to a question where you might have agreed with counsel assisting that you didn't actively turn your mind to whether those weapons were necessary. Is that right?---No, I didn't. I didn't think they were necessary, but if that was part of the kit that they would ordinarily bring out, it wasn't a concern that they wanted to bring them out, and I didn't think that it would be a concern.

If you think police carrying AR15s and beanbag shotguns in the community is not only not necessary, but threatening, confronting and erodes community trust, don't you agree that even bringing them out just for the potential that they might be held or used probably, in hindsight, wasn't a great idea?---In hindsight, it wasn't a great idea, because of the fact that they actually did carry them on that day into the community.

But again when TRG, for instance, comes out, I don't dictate to them what equipment they bring out and I felt at the time that the IRT would be the same. I wouldn't have dictated to them what they would have brought out. I don't expect that professionally and yeah, I wouldn't have expected that that would have taken place.

I'll just move to another topic now and that's the use or planned use of the police dog in the arrest. Do you agree that – and this is from the chronology that you've prepared, that when you spoke to Lottie and Eddy Robertson, you conveyed to them to the effect of, and I'm quoting from your chronology, "If he did not do this, I would be seeking resources from Alice Springs including the dog." The witness is nodding for the record. And do you recall, or if you can't recall, do you agree with this proposition, it's from your committal evidence at page 21, that the dog could be used as a sort of "bargaining chip." That's a quote from you, "bargaining chip"?---Yes, I do recall saying that, yes.

And that's because of the fear that the dog can inspire in someone who is trying to be arrested. Is that right?---Yes, that's right, yes.

In your committal evidence at page 21, you said and I'll read out the whole answer, but I will emphasise the bit that I'm going to ask you questions about. The question was in relation to the use of the dog, which was, "Because he was quicker than most of the officers." And your answer was, "Yes, yes, and also I knew that if and when we had to do this, if I had to arrest him again, I would have that bargaining chip, because I know that they don't like dogs. So, I've used that tool, basically, please surrender yourself, otherwise, we will have to get that dog out again." Could I just ask, when you said, "I know that they don't like dogs", who was the "they" that you were referring to?---Community members, and that's my experience in the eight years that, if we had any dogs in the yard, generally they would – the community members would be very scared of them. And they – I know that the police dogs, they're very fearful of the police dogs, more importantly.

But do you agree that when a dog is planned to be part of an arrest, it's on the understanding that they might not just be a bargaining chip, they might actually be deployed to chase down an offender. Is that right?---Yes.

Do you recall having conversations with Superintendent Nobbs about the reason to which you intended to use the dog in the arrest?---No, I don't recall any conversations other than that - because he might run, I'd really like the dog unit there.

I might just ask to bring one document onto the screen for the witness and that is the statement of Superintendent Nobbs which I understand has been provided and we will just bring up one page which I think is page 7, 146 of the statement. Sergeant Frost, if you could just bear with us, I am trying to bring up a statement of superintendent Nobbs which, as I understand it, records Superintendent Nobbs' understanding of your conversations?---Right.

And I will just ask you to read that and whether that jogs your memory as to the content of those conversations. Just down to the bottom of the page please. That's great, thank you. Sergeant, can you see that?---Yes, I can, yes, thank you.

Could I just ask you, Superintendent Nobbs there says, in the third-to-last bullet point;

"Advice from Frost during our conversation, Walker is known to run. As such the dog unit will be critical in any arrest arrangements."

And this is the bit that I am focussing on,

"Advice that any arrest plan developed at local level will be heavily reliant on letting Walker run and then round up by a dog unit".

Do you recall saying words to that effect to Superintendent Nobbs?---No, no I don't, no.

That can be brought down. If you don't recall that then I just put some things that you said in your two interviews in the committal and ask you to recall whether that was your intention in using the dog in the arrest plan. So first, in your first interview you said,

"I knew that the dog would've been the best - probably the best to chase him down".

Do you recall that being part of your intention of using the dog?---Sorry, can you just repeat that bit?

Sure, and this is from page 40 of the first interview. Quote:

"I knew that the dog would've been the best, probably the best to chase him down."

End quote?---I - I knew that if he ran, we would have no hope in catching him.

And so the intention was to have the dog chase him down, is that right?---If - if he ran, yes.

And at another point - this is in the second interview, you say, quote;

"Allow him to run and then have the dog available that can be - um - that can be -grab him."

End quote. Could I just ask - - -

THE CORONER: What page?

MR MURPHY: I beg your pardon, your Honour, the second interview at page 15.

Could I just ask, when you said there "grab him" what did you mean by the dog grabbing Kumanjaya Walker?---Well, if the dog is deployed it would've been the dog would grab him once - once he caught up with him.

And dogs don't have hands, what do you mean by "grab him"?---Well, with your mouth.

Latch onto him - bit him - with the dog's mouth, is that right?---That's what would have happened, yes.

And that was part of the plan?---That was if Kumanjaya ran.

So if he ran part of the plan was the dog would chase him down and bite him and latch onto him?---Well, ideally he would grab his clothes and drag him down but I don't know how they - I have never actually used the dog unit in a deployment, I've never really seen them being used.

Could I just ask you some questions now, and I think I will only be about five minutes - for everybody's benefit. Which is just about risk assessments and safety considerations in arrest plans and the like. You gave some evidence yesterday that some of the alerts that are entered into police intelligence or police systems in respect of an offender, can be helpful sort of in developing risk assessments planning an arrest. Is that - I am summarising but is that about right?---Yes, yes, that's correct, yes.

And I think some of the risks, some of the alerts that you included were that in respect of Kumanjaya was that he might be a risk for running or resisting and I think I've also seen an alert that he might do some self-harm, is that correct?---Yes, I think so, with the self harm but yes, definitely the first two.

Some other things that you said in response to counsel assisting yesterday that I am not sure were included in alerts but that were also information to you about Kumanjaya Walker was that he'd been through a lot of trauma and that he had learning difficulties. Do you recall saying on Wednesday that you knew those things about him?---I don't recall it but I do know those things about him, yes.

Do you think that in the future, going forward, it might be helpful in risk assessments and profiles of people who are trying to be apprehended, to have details about, you know, any mental health issues, learning difficulties, cognitive issues, trauma and the like?---Yes, I think so, particularly - if it's a diagnosed illness, yes, and we get that information whether a family member or clinic we get that information, it would be pertinent to have on an alert but it has to be diagnosed I think.

Can I just ask you about that. I mean, even if it's not diagnosed, if police have interacted with someone, have observed impulsivity or perhaps that difficulties

hearing or potential delay in responding, wouldn't those be helpful things to have in a person's profile - an alert?---Yes, they would be.

The last - I have just got two topics left to ask you about I think. The first - and we are skipping forward to after the shooting when you were in the police station. I want to ask you some questions about the potential for an air retrieval of Kumanjaya Walker. In your first interview - this is at page 18, you said that in one conversation you had on the phone you said, quote, "We need the medical plane here now." And you also said, quote, "I was having conversations with the air retrieval about getting the plane in." Could I just ask, do you recall - could you just tell the court a bit about - as best as you can recall, who you were having conversations with and where they went about this medical retrieval?---I know I - no, I couldn't recall. I know I just tried to appeal to them, "Get out here now - we need you now". But I don't even know whether it's a male or female that I spoke to - I really don't remember what the content or the context of it but it was just "Get out here now".

And do you recall any sort of follow-up or update that came to you on that air retrieval?---I recall at some stage - and I don't know how it came about, whether I organised it or whether someone else did, the doctor had contacted - the doctor had - we put him on the speaker phone and I think they were - the IRT team who were doing the CPR but other than that no, I really don't.

In - I think it was then Senior Constable - but I might be getting his rank wrong now - Hand's statement it says that, quote;

"Later on RFDS won't land, they won't come to community because they can't be sure of the safety of their aircraft and their crew."

End quote. That's at page 32. Do you remember anything like that being communicated to you?---Look I - I don't actually recall now, no. I - it - it does - there is some memory of it, but I don't remember now what the context was, or what was actually being spoken of. It was the pretty (inaudible).

Understood, thank you, sergeant. My final topic is just in relation to this use of the ambulance to go out to the airport. Do you recall saying, in your first interview, "We'll go in convoy, under the pretence of going out there to pick up medical staff."

That's at page 21 of the first interview.

Do you remember saying that?---Well yes - well - yeah, I don't remember it, but yes, obviously I did, yeah.

Do you agree, to use your words, that it was a pretence, having the ambulance travel out to the airstrip?---It - it was twofold. One was so we had enough vehicles to house all of the - I suppose all the members coming off the plane. I knew they'd have a lot of equipment. So we needed enough vehicles to put the members in, and to put all of their luggage and their swags and that sort of thing in. And it was - the -

the other part was, of course, what I acknowledged on Wednesday, was that there was some level of hope that I would expect that – I would think that the ambulance going out there might make the community feel comfortable knowing that perhaps a doctor was coming on board as well, were coming out there.

Was it just wanted to make the community think that a doctor might be coming, wasn't it also trying to make the community think that Kumanjayi Walker was still alive, and he might be in that ambulance?---No, no. No it was more the doctor coming out, that was my thought. They might think a doctor's coming out to help him.

Certainly, but by that stage, Kumanjayi Walker was dead, is that right?---Yes.

THE CORONER: But you wouldn't need an ambulance to collect a doctor?

MR MURPHY: That – that probably should have been my question, but –

Do you agree that the view from the community member's perspective, and I appreciate you viewing it from a different perspective at the time, but viewed from the community members perspective, seeing that ambulance go out to the airport, the most logical thing they would have thought is that it's got Kumanjayi Walker in it, and not that it's going out to pick up a doctor?---Yeah, I'm sure they did, yes I'm sure.

And do you agree with the Coroner's question, that you wouldn't need an ambulance to pick up a doctor?---No, but it was more of a case of we needed to space. We needed vehicles out there, because I knew that the members would have swags and equipment, and luggage, and I knew there was seven of them. So I needed enough vehicle space to be able to house everyone that came off that plane.

Okay. And whilst you use the word "pretence" in your first interview, shortly after the event, do you agree that nowhere in any of your evidence, that is, two recorded interviews, committal evidence, evidence at trial, nowhere, did you ever talk about needing the ambulance to store things, until your evidence-in-chief on Wednesday?---No I haven't ever mentioned that.

No further questions.

THE CORONER: Yes, Mr Boe.

MR BOE: Thank you, your Honour.

XXN BY MR BOE:

MR BOE: Sergeant, my name is Andrew Boe. I'm one of the barristers who have been asked by the Walker, Lane and Robertson families to appear at this inquest. That includes Lottie and Eddy who we've heard you speak about. Rakeisha, as well as ACPO Derek Williams' family, and senior members of the Papunya Community, like Joseph Lane, and his wife's family, the Dixons from Kintore. Even though that

doesn't cover all the families connected to Kumanjaji, I'll just refer to them as the families when I'm speaking about things that they wish to find out from you?---Sure.

I – and can I mention also, that Eddy and Lottie Robertson, haven't been able to get to court here, but they are watching and listening to what you are saying from a facility in Yuendumu?---Okay.

There are other members of the families in court behind me as well. Now, as you can imagine, over the last three years or so, we've been fielding enquiries from our clients, as to matters which concern them. And matters that – which are still not clear, despite the criminal trial process. Do you understand?---Yes.

So some of the questions that I will go to will be broader than your experience in relation to this event, but to encapsulate all of your experiences that we heard about on Wednesday, extensive as they were, both as a nurse and a police officer. Do you understand?---Yes I do.

The purpose is to get information that may help us make submissions to the Coroner, to see how some of the disconnects that I'll go through, might be addressed. Do you understand?---Yes I do.

Now, you know that you're represented in this inquest?---Yes I do.

And can – may ask you, you feel safe right now, to speak your truth about these matters, do you?---Yes I do.

Now can I just tell you the things I will not be covering, so just so it helps you get a sense of comfort on matters I'm raising. I will not be focusing on what you did or did not do, after the shooting. We understand that to be covered, and others may ask further questions. I will not be seeking to question you to make submissions about your recollections about the operational order, or arrest plan, was in fact handed to the IRT, or making suggestions as to why your version or their versions might be preferred. Do you understand?---Yes.

There are, however, six issues that the family wish for me to particularly interrogate. And I might just run through them so you know what's coming. And then we can speak about them in a – in an order that helps us frame our consideration of the matters you raise?---Okay.

The first interaction, I'll call them, is the decision, at about 6.30 on 6 November, when you were off-duty, which led to Lanyon Smith and Chris Hand, to go to Lottie and Eddy Robertson's house to attempt Kumanjaji Walker. Do you understand?---Yes, yes.

The second interaction is their communications to you, that is the Robertson's communications – I'm sorry, I apologise. Lanyon Smith and Chris Hand's communications to you, of what happened, including what they told you, of their assessment of the risk posed by Kumanjaji, after the axe incident, okay?---Yes.

And then in that same phase, your communications with Superintendent Nobbs, arising from those communications, okay. The third interaction, are your communications with Lottie and Eddy, on 6 November, after the axe incident. The fourth, is your interactions with Lottie and Eddy the next day, with ACPO Derek Williams, after you learned of a funeral from being in the community that week, okay?---Yes.

The fifth is – are your communications with senior command, and police in Alice Springs. In particular, Superintendent Jody Nobbs, and Sergeant – Acting Sergeant McCormack, about the situation, after the axe incident. And the final, are your communications with the IRT members, and Dog Handler Donaldson, as the OIC of Yuendumu Station, but not touching that conflict in evidence I referred to earlier. You understand?---Sure, yes, yes.

And can I say from the outset, that I'm very aware from the evidence that you gave on Wednesday, that many of the matters that we have to talk about, were decisions and actions you took, whilst the whole station was under a lot of stress and fatigue from unrelated and other matters. And I'm not going to be – to try and nit-pick you about memory, and things like that. I want you to feel comfortable to just tell us exactly what I'm misunderstanding when I ask a question. I'm not challenging you. Do you understand?---Yes, yes.

Now, before I go to those six issues, there are some matters generally in relation to your training and cultural experience as you commenced your elevation to be the OIC at Yuendumu?---Yes, yes.

Now, yesterday or Wednesday, you referred to having some induction documents for Yuendumu before you took up that post?---I know there's induction documents. I'm not sure if I saw them before I went out there, but I know they exist.

Well, I won't overly correct you, but my understanding of your evidence at 679 was that you had seen some induction documents and that you had taken them into account. But leave that aside, there are three documents which should have been given to you, which were provided to counsel assisting by Dr Freckelton's team. Have you got them with you?---No.

Did nobody send them to you?---No.

Maybe if we can put them up on the screen. I thought that had been arranged, your Honour, I'm sorry.

DR DWYER: As I understand it, your Honour, we were asked by Dr Freckelton's team to redact certain matters in the subject of public interest immunity and that doesn't happen quickly. We just have to try and organise the technology to do that. And so, we can do that after morning tea, if that would be appropriate.

MR BOE: Are the documents given to me the unredacted or the redacted versions?

DR DWYER: The redacted versions.

MR BOE: So, they're in existence. I got them from – by email yesterday.

THE CORONER: Sure.

MR BOE: I'm not being critical, I'm just saying - - -

THE CORONER: They might not be redacted in the electronic form.

DR DWYER: I think they've been served on the parties, there just wasn't an opportunity to send them through to the witness beforehand. So, I think they can go on the screen. They can go on the screen.

MR BOE: Thank you.

MR FRECKELTON AO KC: That's so, your Honour. There were some personal telephone numbers, emails.

THE CORONER: Sure.

MR FRECKELTON: So, I don't that they would be the subject to focus on today.

MR BOE: That is concerning this document, just this one and this one. There is a fourth, I'm sorry, all right.

DR DWYER: So, if we just – which document would you like up?

MR BOE: It's called "Yuendumu Old Station brief", 18-18.

Sergeant, can you see that document?---Yes.

Take your time. I don't need for you to read the entire document, but can you give us any idea whether this was one of the documents you were referring to?---Yes, it would have been.

I just want to be precise, when you say, "would have", do you actually recall that document?---No, I don't remember the contents or recall it, but that would be what I would have seen as a – something similar to an induction document.

So, that's a four page document. Is that correct?---I'm not sure how many pages.

I'll proceed on the basis that you have no disagreement that it's a four-page document. You will see a section that says, "History Culture" on the second page. Can you see that section now?---Yes.

And would you agree that that's the limit of any cultural information that is contained

in the document?

THE CORONER: I doubt she can recall the document to that level of accuracy.

MR BOE: That's why I asked for it to be provided to her yesterday, but - - -

THE CORONER: Right. I think the parties will agree if that's the content of the document.

MR FRECKELTON: Yes, your Honour.

MR BOE: Yes.

The question is, Sergeant Frost, that there is no information in there of important cultural factors that affect policing that we've been talking about in recent days. Would you accept that?---I'd have to read it again to - - -

Okay. It's only four paragraphs, if you take your time?---Yes, I've read it, thank you.

And do you accept what I just put to you that there's no information in there at all about cultural factors that we now have been discussing for several days that have an impact on policing?---I'm not sure what type of cultural factors. We get a lot of the cultural stuff from Derek.

I understand. For example, the issues to be taken into account if a person with whom police are to have formal dealings with, like an arrest, was likely to be attending a community funeral, for example?---No, there's nothing like that in that document.

And any issues suggesting gender-appropriateness in dealing with arrestees or people being formally spoken to by police, for example?---Well, in relation to general-appropriateness, I don't think we've got a lot of options to be gender-appropriate.

I understand that, Sergeant, would you mind just focussing on the question? I'm just asking you that nothing like that is in that document?---No.

And finally, what I might do on the other induction document is make sure you get it at morning tea. I will give counsel assisting the specific page that I would like you to read and then I can pursue that question after you've had a chance to familiarise yourself with the document?---Okay, yep, sure.

But before I do that, maybe this might shortcut it, if the front page of that document could be – what number is it, 18-17, Bec?

You might be able to quickly tell us whether or not this document was one of the documents provided to you prior to going to Yuendumu. The document itself is not dated and I don't really know when it came into existence, so it may be that it's irrelevant to you.

MR FRECKELTON: That's a 2020 document, your Honour, so it's - - -

THE CORONER: All right.

MR BOE: All right, well I won't persist with that.

Now, when you took on the position as OIC of Yuendumu in 2018, I think your predecessor you mentioned as now remote Sergeant Lanyon Smith. Is that correct?---Yes, that's correct.

And you had been aware that Sergeant Jolley had also been there before as well?---Yes.

Now, the appointment for you was a step up in rank for you, was it not?---Yes, it was.

And in addition to rank, the designation of officer in charge really means what it says, you were now responsible for making the majority of policing decisions in Yuendumu, subject to you consulting others, when necessary?---Yes.

Now, we've heard from Lanyon Smith his experience, of which I'm sure you're aware, so I won't go through it chapter and verse. He agreed at transcript 403 that in effect that it was necessary to have a high level of inside and appreciation of Warlpiri culture in order to effectively police in places like Yuendumu. Now, you would agree with that, would you not?---Yes, I would.

And in your case, you had the further experience of working in these communities as a nurse. You had even a broader appreciation of the sorts of interactions and issues of communication with people who are Warlpiri?---Well, 2108 was probably my first exposure to Warlpiri people, other than maybe in the intensive care unit when I was nursing. But I didn't have a lot of exposure prior to that with Warlpiri people.

Okay. This is a question, I assume you don't speak Warlpiri, I'm not saying you should. I assume you don't speak Warlpiri?---No.

So, as you stepped into Yuendumu, did you think you had a sufficient understanding of the sorts of factors that Lanyon Smith was talking about in order to adequately and safely police this community, or did you think you had to learn more?---I think you always have to learn more. When I first went out there, that's when I started to learn.

Insofar as learning more, was any information provided for you by those who preceded you that might have assisted or shortened that exercise of acquiring specific information about policing in Yuendumu?---There would have been, yes, yes, between Derek and Lanyon, yes.

No, I meant really, at the moment, about documented material. I don't mean things they're telling you along the way?---No, not that I recall, no.

And certainly, up to that point, is it the case that you didn't have a clear appreciation of the significance of sorry business for the purposes of policing decisions and when you would affect policing arrest warrants et cetera?---I was aware - - -

MR EDMONDSON: Your Honour, I wonder - just a moment - I wonder if my learned friend could be clear so that we just can understand what he means by "up to that point"? I am assuming that he means at the time that the witness commenced her duties as officer-in-charge.

THE CORONER: Mr Boe?

MR BOE: I do mean that, your Honour.

THE CORONER: Thank you.

MR BOE: And I apologise for the imposition.

Do you understand the point in time I am talking about? When you first - - -?
---Sorry, can you - - -

When you first stepped into Yuendumu as the officer-in-charge, all right, and I will now ask the questions and break them up to make it safe for you to speak freely. Firstly, you had not undertaken any policing in Yuendumu before you became the officer-in-charge, is that correct?---That's correct.

Nor had you policed in Alice Springs, is that correct?---That's correct.

So at that point in time were you aware of the importance of funerals in - or sorry business I should say, and I will be precise about that in the future - about the effect of sorry business on policing actions in Yuendumu?---Not specific to Yuendumu but I was aware of the importance of sorry business in general.

Where did you get that knowledge from?---I think my eight years working in different communities.

You may have been aware about a general need to be sensitive around sorry business but the evidence we've heard in these proceedings from others such as Sergeant Jolley, Lanyon Smith and including from you at various points, is that the fact of knowing that the community was going through sorry business meant that it required you to make specific decisions of assessing urgency before determining whether or not to delay an arrest. Do you understand what I mean?---Yes.

I mean, that level of insight - did you have that knowledge and insight into that issue when you started as the OIC?---I don't recall. I'm not really sure.

From who do you say you received information to achieve that level of insight?
---It would be Derek I think was probably the most insightful person.

Aside from him, you say - sorry, I withdraw the question. It certainly wasn't as part of some command direction to you from above, was it? That level of insight?---No.

It's likely that you acquired that insight from conversations and information given to you by ACPO Williams, is that fair?---Yes, that's fair.

It's just that at one point in your evidence on Wednesday - and your answers were not that clear, if I may say, but did I hear correctly that you had never had to take into account sorry business in relation to an arrest situation prior to November 2019, whilst at Yuendumu?---Not that I recall, no, not that I recall.

Do you think it's unlikely that there would not have been funerals in the community in the 18 months or so before November 2019?---There were definitely funerals in the community but I don't recall having any arrests around the time of those funerals.

So the issues, as it were, never arose for you to have to take into account in terms of policing duties?---No, it didn't.

Now can I just move to another topic before I get to my six issues. Just in terms of the logistics that you confronted when you arrived in Yuendumu, they weren't only related to cultural factors, were they? Logistics? I mean, I will take you through them. There's a geographical dislocation from primary government amenities isn't there? There's no court there. Court sits only - what, once a month or twice a month or once every two months, is that correct?---Once every two months, yes.

And there are no rehabilitation facilities in Yuendumu?---No.

No youth detention centres or gaol houses?---No.

And so those logistical factors, whether or not you were policing in an indigenous community, were matters that you would need to take into account to make sure you properly serve that community. Is that fair?---Yes.

And just to use the example, you mentioned, that if somebody was arrested it may take two of your officers to transport them to Alice Springs, which affects your capacity to police the community, for example?---Yes, it would take two members and if it was a high-risk, perhaps three members.

And you would also be mindful that any incarceration at the point of arrest will - and then movement to Alice because of the different facilities, means that there's a particular impact on people being dislocated from their country and their family? ---I would, yes.

Now, another factor from the dislocation and other factors is that there's no readily available legal service in Yuendumu, is there?---No, but - - -

I'm - sorry to cut you off?---No, once we arrest someone though we are obligated to contact the custody notification service.

Yes, but in that sense it's really once you've had contact with somebody who you may be taking into custody - you have taken into custody, you have the contact person at NAAJA I think it is, to let them know about it, is that correct?---That's correct, yes, that's correct.

The members of the community certainly don't have access to barristers and senior solicitors to help them facilitate communication with you before arrest, do you?---No.

Your experience in - say in Darwin - would include if there is dialogue between lawyers and arresting police officers, you can facilitate a regime to make appointments to hand themselves with the lawyers present et cetera?---You could do, yes.

That sort of facility is simply not available in Yuendumu, is it?---No.

Now, another factor - logistical factor - is that most police officers, to your knowledge, don't speak or function in Warlpiri, do they?---Sorry, can you please repeat that question?

Most police officers that were under your command at any stage in Yuendumu did not speak Warlpiri, is that fair?---No they don't. No, that's correct.

And many of the people you are serving and protecting in that community, if not most, speak either Warlpiri or other languages as their first language at home? ---That's correct.

So you would immediately recognise that in terms of communication, there needs to be a lot of precision so that there are understandings when you speak in English and they hear in English and try to understand what it is you are saying and vice versa? ---Yes.

Communication is critical in policing these communities, is it not?---It is.

Now, you would have also become aware that there are particular aspects of this community who have accumulated traumas, for example, from the Coniston era? ---I'm not sure whether anyone ever discussed that with me but no doubt there would be traumas (inaudible).

Yes, thank you for your candour on that, but I understood at some point in your evidence - I can take you to it, that you were at least aware of the fact of the general circumstances surrounding the Coniston Massacre?---Yes, I was, yes.

And you would have understood that one of the features of trauma were in fact interactions between police and the Indigenous community, which resulted in a really awful outcome?---Yes, yes, definitely.

And so that would be something you would take into account when seeking to have formal communications with – with members of the community, and for them to be involved in panels or teams, to discuss policing issues. You would be mindful that there may be a reluctance for them to participate, until you broke the trust, is that fair?---Perhaps, yes.

There is a – and the final two points of – of logistical issues, I wanted to ask you about, is that there's an obvious and significant difference in the standard of living for members of the community, than those professionals who are going there to work?---Yes.

Both in terms of their backgrounds before they came there, that is the doctors, nurses, police officers, etcetera, and also how they are accommodated in Yuendumu itself?---Yes.

There's a stark difference isn't there?---There is, yes.

And you would have also recognised, and I can take you to numerous recognitions of this by you, that you were aware that the Warlpiri people are very proud of who they are, notwithstanding the living conditions that they have to endure. And they are very connected to that land, and have a high desire to live in that area?---Yes.

Thank you. Now can I just deal with two more specific issues.

I just wonder whether it's a convenient time, your Honour to - - -

THE CORONER: I think we can get through two more before the - - -

MR BOE: Thank you, thank you.

THE CORONER: - - - the break.

MR BOE: The first topic is in relation to our wanting to get some precision in understanding of the notion of sorry business, and to the extent of which you understood it, and policed around it, okay?---Mm mm.

As at November 2019, did you appreciate that when Yuendumu people use the words "sorry business", that they are referring to a period of mourning, associated with a death?---Yes.

So the word – the words "sorry business", you accept is a form of Pidgeon Aboriginal English, rather than precise English?---Yes.

And there's a – the sorry business is not limited to the date of burial. Do you accept that?---Yes, that's right.

It includes time following a death in the community, correct?---Yes. Yes.

And it includes time before and after a burial?---Yes.

And depending on who the person is, and how many people are connected in – to that person in Yuendumu, the periods of sorry business can extend for several days, or even weeks, both around the death, and around the planned burial?---Yes.

Now the second proposition is that you accept now that it is necessary for police action – interaction with the community to be very cautious during any period of sorry business?---Yes.

It requires an assessment of whether a police interaction, such as, but not only an arrest, is so urgent, as to be – so as to be executed during sorry business. Is that fair?---Yes.

Because it would be viewed, as you say, as being highly disrespectful to do that, unless it was necessary or urgent to do so. Is that fair?---Yes.

And you recognise that it is also likely, that is, the time of sorry business, to be a period of high emotional distress for the families - - - ?---Yes.

- - - involved in sorry business, is that correct?---Yes, yes.

And that – and that – did you experience that the way in which people in the community mourned, might be more vocal, and I'm not going to be disrespectful, but theatrical and loud, than what you might have experienced attending funerals in capital cities?---Yes.

There's very demonstrable, physical, and audible expressions of – of distress, feeling guilty or sorry about the circumstances surrounding that person's sorry business. Is that fair?---Yes.

And in so far as this absolute importance of the impact of sorry business on policing, was there any system in place at Yuendumu, before you arrived there, so police could be aware that there was a period of sorry business going on?---No, no, other than by virtue of the fact that a lot of community members would come into the community.

Yes. So in a sense, again, observations, not criticism, you were reliant on being told of the existence of sorry business on an ad hoc basis?---Usually by Derek, yes.

Well, can you – try to listen to my question. Because I will get to Derek in a minute. You mentioned that members of the community came into the station. So what I was trying to summarise, that you were in the end, reliant on ad hoc information coming to you, that there may be a period of sorry business. Is that fair?---Yes.

And one source of that ad hoc information, would be that coming from ACPO Williams?---Yes.

Once that information was received by one or other officer, is there any system of putting information up for permanent members, or relieving members, to be aware of the fact that there was sorry business taking place?---Whoever found the information out would pass it amongst the members. So it was – we all knew, if sorry business was happening, one of us would tell the other in the squad. If I found out, I would automatically tell my members.

I really want to get into some precise information of how that worked, so we can look at whether or not there needs to be an improvement. Because the fact is, is it not, that there was a funeral occurring in November, that none of the police knew, as at 6 November. Is that fair?---That's correct.

So what I'm looking at, how we get past reliance on individual efficiency, rather than it being clear as a bell, that this is a time in which we need to correct our policing decisions. Do you understand?---Yes.

So what I'm asking is, is there a formal process that a police officer is required to send out a written alert, or post a written alert in the station, that there's a period of sorry business being experienced?---No.

And do you think that that would be, given its utter importance to policing, should be a mandatory step to be taken, when information is received by you, as the officer in charge, that sorry business is taking place?---It's something you could implement, on a station level.

Now you acquired the information about the importance of sorry business after you got to the station, and from the sources that we've spoken about. To what extent was there education or discussion, amongst the members under your command, about this important feature that may affect their policing duties? Was there ever any discussion?---Not that I can recall specifically, no.

How would you know whether or not members under your command, executing search warrants, or doing formal interaction, in fact had the necessary appreciation, of what to do, and what not to do, during sorry business?---Can you just repeat that question please?

Okay, I'm sorry to make it - - - ?---No, no.

- - - too complicated. I – how would you know whether or not any member, that might be undertaking police interaction in a formal way with the community, knew that they had to give all those considerations that we've been talking about in decisions about policing, how would you know what they knew?---I'm not quite sure how to answer that, but if - - -

Well, can I help you this way?--- - - - if we knew there was sorry business – if we knew there was sorry business going on, we would all know about it. It's a very small station and those members that were working at the time would know about it.

I'm being imprecise. I've accepted your answers as to how you would each know that sorry business was being undertaken, what I wanted to know is, how did you know what level of understanding your members had about what they should or should not do during sorry business. Unless you had discussions about it or documents about it, how would you know what they knew and did not know?---I'm not sure.

Well, let me put it another way, did you not know what level of appreciation they had of that significant issue?---No, I had members in there that had – the members I had there at the time when I first started had a lot of experience out there.

So, did you assume that if a police officer had experience in communities, they would and should know the level of insight that we've been talking about? You made that assumption?---I did make an assumption, I suppose, yes, yes.

And you did not, in fact, know how they regard that factor should affect their policing decisions?---Well, any decisions like that would be made by me, whether there was going to an execution of a search warrant or an arrest, so because I'm the officer in charge of the station, unless I was out in the community, or (inaudible), I would know about it.

You see, we've heard evidence from now Sergeant Hand that he said that even if he knew that there was a funeral that week, he would still have proceeded to arrest Kumanjayi. Do you understand?---Mm mm.

Does that give you some insight into the level of differences between how you would approach it and how Sergeant Hand said he would have approached it?---I can't speak for how he would approach it. I don't think they knew that there was a funeral. I didn't know that there was a funeral until the - - -

Sergeant, I apologise. It's difficult sometimes talking on video, as you can appreciate. I'm asking a slightly different question, okay; I'll break it down. There is evidence before this inquiry that Sergeant Hand said that even if he was aware, not that he was aware, even if he was aware, he would not have proceeded – still with proceeded with arresting Kumanjayi. Do you understand?---Yes.

I'm not asking you to accept whether that's right or wrong, I'm just telling you that's what he said?---Yes.

Okay. Do you agree that that is different deference given to a funeral than you believe should be given?---Whilst there's a lot of cultural significance surrounding funerals, it really depends on the person and the ending as to what we actually do, and the level of risk that that person, yeah, is to the community.

No doubt. And I really don't want to go chapter and verse into the absolutely wide discretion that goes. I mean, we have heard a lot of evidence about that. But in a non-urgent situation, which we were talking about when speaking to Sergeant Hand, his view, do you accept, is different to your view as expressed in this court about the

deference and the process of consideration of the impact of sorry business on whether or not to arrest?---I – sorry, can you just repeat that, please?

I'll leave that, thanks.

Is that a convenient time, your Honour?

THE CORONER: It is, thank you.

ADJOURNED

RESUMED

JULIE SHEREE FROST:

THE CORONER: Mr Boe, returning to your six points?

MR BOE: I will get there.

THE CORONER: That would be good, because we do have a number of other counsel - - -

MR BOE: So the arrangement that I understand, that they are all content for me to go until lunchtime.

THE CORONER: Okay, perfect.

MR BOE: Your Honour, may I just immediately take full responsibility for the confusion about the documents not going to the witness.

THE CORONER: No, no, that's fine, Mr Boe.

MR BOE: And I apologise to Ms Walz in particular, if it was thought I was criticising her.

THE CORONER: No, no, I don't think the sergeant thought you were criticising her. Or Ms Walz.

MR BOE: Not the Sergeant, Ms Walz.

THE CORONER: I don't think she did either. It was just - we will move on and hopefully the documents are available to those who need them.

MR BOE: Thank you, your Honour.

Before I get to those six issues, Sergeant, there's just two further questions think. Insofar as the specifics of Kumanjayi Walker's relationship with his grandfather and the cultural role that he had in relation to attending the funeral, did you have any information at all about that?---Sorry, could you just repeat that question?

Insofar as Kumanjayi Walker's relationship with his grandfather, who was being buried that week, and whether or not he had a cultural role in relation to the funeral, did you know anything at all about that?---Not that I know of, no.

You told Mr Murphy who appeared from NAAJA this morning, in relation to the role that you perceived and had experienced Derek Williams undertaking, as not usually being involved in an arrest, do you recall that?---Yes.

You do know that he had the statutory power to arrest, correct?---Yes, correct.

And this belief that he should or would not be involved in an arrest, where does that come from?---That's the experience that we've - I've had with him in the two years. He would step back as much as possible and wouldn't be involved in - that's what he would automatically do and wouldn't be involved in the actual arrest.

And did he say that to you? Or was that just something you observed him doing or not doing?---That's just something I observed him doing.

And for that reason, would you make the decision never to allocate an arrest to him? ---No, I don't recall ever allocating him to do an arrest. It's usually the constables.

Do you recognise in that he wasn't involved in the arrest itself, that he was an essential component in devising an appropriate arrest plan to make sure you have a peaceful arrest?---If he was available, yes, definitely.

We will get to that later. What do you say from what Sergeant Jolley told us at transcript 338 that her view was it is almost essential that any arrest attempt should involve the active participation of an appropriate ACPO?---That's not always - that's not always available to us.

I'm not talking about availability. We're talking about what is - if you can put it - a gold standard. Her view was that he was essential. Do you agree or not agree. We will get to availability in a moment. Do you agree or not agree with her in that it is almost essential?---I wouldn't say "almost essential". But it is good to do, yes, in a gold standard.

We will get to the first of the six issues, and just to remind you it's around the decision of Lanyon Smith and Chris Hand to go to Lottie and Eddy's house on 6 November, do you understand?---Yes.

I have got two propositions with some questions around that issue. You were completely unaware that Hand and Smith had tasked themselves to arrest Kumanjaya until after the axe incident, is that fair?---Yes.

You were off duty, correct?---Yes.

And was it the system in your station that when you're off duty, that somebody else could take those sorts of decisions by themselves?---Yes, that would be correct.

Now, you now know from the evidence, and I can take you to it, we now know, I should say, from the evidence, that they did not have information concerning the circumstances surrounding the breach of a condition of the suspended sentence at the time they went to arrest him, okay? I'm just putting that to you. You don't have to comment, okay. And you've, I think, told us that there was no official system in place as to what cultural factors should be taken into account to attempt an arrest?---No.

Okay. You now know that they say that neither of them knew about the funeral, correct?---Yes.

And you now know that they did not attempt to or involve ACPO Williams in relation to either devising a plan or attempting the arrest, correct?---Well, ACPO Williams was off duty, so yes.

But being off duty doesn't mean they couldn't be called. Is that right?---You wouldn't generally call someone who was off duty. We wouldn't call Derek if he was off duty, unless it was absolutely urgent.

And do you now know that the decision to arrest at that time was premised due to a suspicion, without any evidence, that Kumanjayi was in fact involved in break ins that they were policing at that time?---That's after the - they both came back from the axe incident, that's when they told me that – about (inaudible).

Thank you. I'm just going to the second interaction and to remind you, it's to go through their communications to you of what they had experienced during the axe incident. Do you understand?---Yes.

Now, I've got again two propositions of which I have a number of questions. Firstly, the sources of information you had about this incident were twofold, firstly, what you could see on the body-worn video, correct? That's one source?---I believe so, yes.

The second source is what they told you, correct?---Yeah, well that's what they told me, yes.

Now, in making an assessment of what to do at that point, you evaluated the information they gave to you, correct?---Yes.

And you took into account what they said because they are people you respected and you could rely upon them to give you a better picture of the dynamics during that arrest. Is that fair?---Yes.

Now, from that, may I suggest that these are the conclusions that you have expressed about what you understood was the risk assessment or the information to take into account for the next stage, okay?---Right.

Firstly, whilst the wielding of an axe is, of course, objectively serious, you viewed that in full context, that is, in knowing everything you had been told by Hand and Smith that there was still, at that stage, no urgency to arrest Kumanjayi. Is that fair? I'll take you - - -?---I think that had he been there, we would definitely have arrested him.

Well, may I take you to page 26 of your first interview where you said, "We knew we were going to get him. It didn't matter when to us when we were going to get him, but it did matter that we did arrest him because of the seriousness of what he did. So, it made no skin off my nose when it happened." Now, you were taken through

this the other day. You said that you may not have used that expression, but may I suggest that the sentiment that you're conveying to police investigating this matter is that the need to arrest him was not urgent, even after the accident – incident. Is that not fair?---Well, there was some urgency around it, but we had to – I know I had to put a plan in place because I knew it was going to be a very difficult arrest.

So, why did you say what you said in that interview that it was “no skin off my nose when it happened”?---I don't – in that interview, I have to say that I probably didn't think through a lot of things at the time.

On that, Superintendent Nobbs, in his evidence, and I will take you to that in a minute, recorded that you had suggested in your first report to him that you understood that Kumanjaya was wielding either an axe or a machete. Now, did you ever suggest to Nobbs that a machete was involved?---Certainly not that I can recall, no.

He's got that wrong, as far as you're concerned?---I'm not sure. I don't recall saying that.

Now, in the context of – sorry, in the information given to you by Smith and Hand separately, both of them expressed in different ways that they perceived that Kumanjaya could have, but did not, use the axe other than a display of deterrence. Is that fair?---I'm not sure whether we discussed it at that level. No, I don't remember discussing it at that level, but they both told me that he had come at them with an axe.

All right?---And then we just - - -

I'm sorry, we just lost something in translation there. Would you mind please repeating what you just said.

THE CORONER: I think she just said they both told us that he had come at them with an axe.

MR BOE: So, are you saying that they did not qualify the objective seriousness of that description with their perceptions that they did not feel that they would be hit by him and that they did not think that he would actually use the axe?---I don't recall. It's a long time ago now.

All right. But from what you had heard from them, and we don't have an accurate consistent record of that, so I'm sorry about that, the – you still perceived that the greatest risk that was involved was that he would attempt to further evade arrest and run. Is that fair?---Yes, I knew he would be very difficult. We would have to put in a proper planned operation to make sure that we got him safely.

To address that issue, that is that he might run?---And with – yes, that's correct.

And that's - - -?---And also that he could potentially use violence towards members

when we went to arrest him.

All right. Hence in particular, a particular focus of your request to Nobbs was for the utilisation of a dog handler and dog. Is that fair?---Yes.

Now, just on that, in your answers to Mr Murphy this morning when you were asked some questions of how you envisage that a dog would be utilised, you said that you have never utilised a dog involved before in an arrest, correct?---That's right, yes.

And I think implicit, if not explicit, in what you then said was that you didn't actually know how they would go about it, how they would physically utilise the dog. Is that fair?---I would rely on the dog handler.

Well, you may or may not rely, but you, yourself, did not know how they would do it?--Well, the hope was that the dog would, whether through deployment or whether just the mere presence of the dog in a negotiation manner if that's what it came to.

No, I'm sorry to be – attempt to be precise about this question I'm asking, you did not know how a dog handler would utilise a dog in an arrest situation?---No.

You were relying on the hope that they would have the skills to do that, correct? I'm not being critical, I'm just trying to get to factually - - -?---Yes.

- - - what you knew, okay. You did not know, you were relying on them being particularly trained to do it as they would, correct?---Yes.

And you described what your expectation might have been to Mr Murphy earlier, correct?---Yes.

Do you think, going forward, that before a person in command seeks the utilisation of a dog and dog handler, they should do at least one of two things. One, know in fact, how a dog is utilised?---Yes.

And secondly, have a conversation with the dog handler about how they are intending to utilise it?---Yes.

Because that would then fit in with your assumption that the utilisation of a dog was both appropriate and effective, given the plan you were overseeing. Is that fair?---Yes.

Now, just to finalise that second issue, do you accept that from what you've told us - or told everyone before that incident, that even before knowing of the pending funeral and even knowing everything about the axe incident that we've spoken about, you still decided that it was appropriate to seek to arrange an arrest by appointment?---Yes, because I knew it was going to be very difficult for him to - for us to get him, so I was hoping the negotiation strategy would be effective and could be used.

So if in having made that judgment about which I am not at all critical, do you accept that there is a significant tension that that assessment and a depiction which was later made that because of the risk assessment - because of the axe incident, he was viewed as a high-risk offender? There's a tension there, isn't there, between a system in place, or an arrangement in place to allow that person to be arrested by appointment against the expression that he was at that point, a high-risk offender?

MR EDWARDSON: You Honour, I object to the question, it's had the components and it's two manifestations, there are tensions, there are depictions, there's use of a high-risk offender which hasn't previously been canvassed with the witness. I would ask that the various components be broken down and pursued one by one please.

THE CORONER: Sure. I just don't now that I consider that there necessarily is, and maybe you can identify that, MR Boe, but if he handed himself in then that is one way of dealing with a high-risk offender without elevating the risk or exposing other officers to the risk. So a high-risk offender could still hand themselves in and that would be a very peaceful and helpful resolution, but if they don't then the arrest is likely to have to factor in what we know about the axe incident and running.

MR BOE: Thank you for that. I am mindful that they may be findings your Honour may make. I just want to ask some questions about that as to what this witness saw, given - - -

THE CORONER: I just don't see that there's a tension there.

MR BOE: Well, your Honour, it depends on what a recipient of information from command that a person is a high-risk offender means.

THE CORONER: Okay. I am happy for you to ask - - -

MR EDWARDSON KC: Your Honour, could I just flag for the court's assistance, there are issues which flow from designation of a person or an arrest as being high-risk. Colloquially it's easy to utilise that term. Within the Northern Territory police force it has particular ramifications in terms of the suitability of the TRG's involvement. And so when high-risk is utilised and it needs to be done with specificity, because it is a term of art.

THE CORONER: Are you using it as a term of art, Mr Boe?

MR BOE: Yes, your Honour, I was trying to be concise but I am failing.

THE CORONER: No, no.

MR BOE: There's material that the language used by Nobbs in communications following conversations with this witness where Nobbs refers to him as a high-risk offender and I wanted to get to what she understood.

THE CORONER: So you're - okay, are you suggesting that Sergeant Frost used those words "high-risk offender"?

MR BOE: I don't know, because - - -

THE CORONER: Okay, so you're going to ask her if she used those words?

MR BOE: Yes, (inaudible).

THE CORONER: All right.

MR BOE: Sergeant Frost, do you know of the usage of the term 'high-risk offender' in policing communications?---Yes, I do. However, it means different things in different work units.

I will get you - can you go through your understanding of how it's used and - - -

THE CORONER: I really don't think that would be helpful. I think what would be helpful is did she use those words and if she did, what did she mean by them.

MR BOE: May I ask it in this way, whether or not that term was used in any conversation she had with Nobbs rather than whether she used it only?

THE CORONER: You can, yes.

MR BOE: Sergeant Frost, did you hear that exchange?---Yes.

In your communications with Nobbs - Jodie Nobbs, was that term used in your conversations with him about Kumanjayi Walker?---I don't recall.

I will leave it there. Thank you. Now, may I just go to the third interaction, which is interaction 3 and they are about your interactions with Lottie and Eddy on 6 November after the axe incident but before your awareness of the funeral issue. Do you understand?---Yes.

Now, I've got - as it turns out - seven issues and a number of questions on this particular interaction. And I am going to summarise and if you want more context I will give it to you if others at the Bar table want me to put to you the context. I am assuming you had some sort of a similarity with my recollection to what you have said, do you understand?---Yes.

Firstly, you were wanting to make clear the absolute seriousness of the behaviour of Rakeisha and Kumanjayi in that interaction, correct?---Yes.

And secondly, that you were still proposing that you would deal with him in a fair way because you are a community police officer, correct?---Absolutely, yes.

And that for that reason, you would give him two hours to come to the station and hand himself back in. Is that fair?---Yes.

And you were urging that Eddy bring him to the station for that to occur?---Yes.

And I take it this was your assessment of the - a possibility, if you like, or if not a hope, that you could negotiate a peaceful arrest, is that fair?---It was the hope, yes.

Now, they, in their communication to you, said things that suggested you to comprehend that they couldn't guarantee getting him but they would try?---That's what Eddy said, yes.

And now the second issue on this, I will be careful in how I ask it and may I make clear that there is no criticism of you or my clients about this, I just want to know exactly what was happening, okay? Now, despite that conversation you, in fact, doubted their sincerity of what they were proposing to do, is that fair?---Yes.

And that is because you believed that Eddy had, "harboured Kumanjayi before", is that fair?---Yes.

Third on this issue, before you went to go speak to the Robertsons, you still had not had the opportunity to consult Derek Williams as to how the very serious situation might be resolved. Is that fair?---He was off duty.

Yes, I know, so you - whether or not he was or not, you certainly hadn't had any assistance from the ACPO that ordinarily you would obtain assistance from. Is that fair?---That's fair.

Now the fourth thing is you - despite putting in this arrangement, you felt it was necessary to post alerts and make case notes on the PROMIS system, is that fair?---Yes.

And I won't go through what the detail of that was, other than in one respect, but you did that because it was necessary to report to higher command of an incident of this kind. Is that fair?---Yes.

And you did that by picking up the phone to Jodie Nobbs?---Yes.

And as I said before, this is not a memory test but you don't have a great recollection of the detail of what you said to Superintendent Nobbs, is that right?---No, that's correct.

And I'm not going to be critical about that. I understand that things were happening at a crack in the pace at that time. Now did you become aware, around that time, and I can't be precise about it, that Senior Constable Hand had had communications with Assistant Commissioner Wurst, about these issues?---No, no, nope, at that - - -

There was - - - ?---At that - sorry, on that night?

Yes?---No, I don't think so.

No, did you become aware by – the – you do now know that – now, Sergeant Hand's view was that Kumanjayi "Didn't want to chop us up. He just wanted to escape." And that's a phrase you've heard before isn't it?---I – I've since seen that – some email I think in the trial I saw that email come out.

Did that expression, "He didn't want us to chop us up, he just wanted to escape" is that the sort of thing that Hand told you, shortly after the axe incident?---I don't really – like – like I said before, I don't really recall the exact details or the conversation we had.

The fifth issue, is that in your communications with Nobb, at that time, you didn't make a request, but you foreshadowed a request for further resources from town?---Yes.

And as of that night, it was not yet a formal request, is that fair?---That's correct, yes.

It certainly wasn't a request yet, for the involvement of an IRT, correct?---That' – that's correct, yes.

The real issue operating in your mind, may I say, at that time, was your perception that there may be reasons to preclude Smith and Hand, and even yourself, from further involvement with Kumanjayi because of the issues we've discussed before?--- I don't know whether I considered that at that time, on the Wednesday night, I'm not quite sure, so.

You didn't have a sense – had Smith – had Hand not told you then, that he did not want to be involved in further arrest attempts with Kumanjayi, at that time?---I don't recall when that we had any conversation about that.

The alert that you placed, you accept, did not include that you had in place no arrangement for an arrest by arrangement?---That's correct.

And do you now accept that that might have been an omission on your part, that that information was not included?---No, because I included that – I concluded those alerts primarily to the effect that if Kumanjayi had got someone to take him to Alice Springs, he would then be an active target in Alice Springs, and they would have to become aware of that information.

Okay. One of the purposes of these alerts is to give members who may have future involvement with the person, to have a good idea of what to expect if they're going to respond to the alert. Is that fair?---That's fair.

And it's important to keep updating these documents, as information comes to hand. Do you accept that?---Yes.

As the officer in charge, up to that point, were you physically involved in many arrests of members of the community? Or was it done by the members under you?

THE CORONER: Or if – or was it done by?

MR BOE: Members under her command.

THE CORONER: Okay?---Bit of both. Depends on who was on duty.

MR BOE: Okay. So Sergeant Jolley told us of her experiences included sometimes would take up to an hour to properly inform an arrestee or their family, to make sure that the reasons, and the purposes for the arrest were understood, and to facilitate the most likelihood of a peaceful arrest. You understand that?---Yes, if possible, yes.

Yes. I'm saying that's one of her experiences she speaks about in her statement, do you accept that?---Mm mm, yes.

Yes, and that's perfectly in order isn't? I mean time's not much of an essence if you can achieve a peaceful outcome, is that fair?---I think from my experience in the last two years of being at Yuendumu, any arrest we made, had to be very rapid and very quick. Most people don't want to come into custody.

But you don't have any adverse view to a police officer taking a long time, up to an hour, if that was available to them, to take steps to ensure a peaceful arrest, do you?

A PERSON UNKNOWN: Your Honour, I object to the question, because my recollection is that when Sergeant Jolley spoke of the extended periods, that that comprehended communications with the person afterwards, and with family members afterwards. It wasn't that she was saying that the arrest should be an inordinate amount of time. It was the overall process.

MR BOE: That's not my recollection, your Honour. I'll dig up the transcript. I understood that we were talking it sometimes takes a long time to negotiate the arrest.

THE CORONER: Sure, I'm not sure if that was the evidence of Sergeant Jolley. But it was certainly the evidence of, for example, ACPO Derek that he had taken - - -

MR BOE: Yes, of (inaudible), yes.

THE CORONER: - - - time.

MR BOE: Yes, I was going to take – I'll skip over Jolley for the moment.

ACPO Williams told us on one occasion, in arresting Kumanjayi, it took him about 40 minutes to undertake that arrest. Do you understand?---Yep, okay, yes.

There'd be absolutely nothing wrong with a police officer taking that time, would there?---Depends who the target is. Most people – most people would not want to come into custody, so that you know, it is very difficult to persuade someone for over an hour, to come into our custody.

Right, I'm not - - -

THE CORONER: Can I just correct - - -

MR BOE: - - - going - - -

THE CORONER: - - - myself, Mr Boe. I think Sergeant Jolley gave an evidence – gave some evidence about taking time when the frying pan was greased.

MR BOE: Correct. Correct, and the whole negotiation took over an hour - - -

THE CORONER: Yes, no I recall it now, Mr Boe. So not only has Sergeant Jolley given some evidence about taking time, and ACPO Derek as well – has as well.

MR BOE: Thank you.

Have you been provided Sergeant Jolley's statutory declarations at any stage before now?---No.

You don't know the contents of her second statement, where she speaks about what she thinks might be the – if I can use the term "gold standard approach to policing"?---No I haven't been provided – I haven't seen anything.

All right, (inaudible). One of the things that Eddy said to you, when you went and spoke to him and Lottie, after the axe incident, was he asked "Why are you chasing Kumanjayi?", do you recall that?---Yes I do.

Now did you listen to what he might have been meaning by saying that to you?---I – I took it to mean why are you always chasing Kumanjayi.

No, he was also – do you think he might have been also asking you to tell him what was the reason for arresting Kumanjayi on this occasion?---Sorry, can you please repeat that question.

Did you take it a complaint by him, that you were – police were "Always chasing Kumanjayi", or did you take it as a legitimate enquiry, from his grandfather, to want to know why in fact Smith and Hand were wanting to arrest him?---Probably the former of your two.

Do you – do you think that's an example of sometimes when you're speaking to a non-English speaking person, that there may be misinterpretations on what the other is meaning?---I – no doubt there would be, definitely.

Yes, I mean Dr Dwyer carefully took you to an interaction with Lottie Robertson the other day. And I won't go through the detail, where even if you accept the sincerity or recollection of both of you, that there was in fact a disconnect in understanding of what each was saying. Is that fair?---I think I understood Eddy fairly well.

No, not Eddy. When you were speaking to Lottie, on the Sunday, and you had another – Jean(?) – yes, Mitchum King(?) was present, and you had a conversation with Lottie, about which Dr Dwyer carefully took you through, the different recollections between Lottie and you, of what had been spoken by you. Do you know what I'm talking about?---Yes, yes.

So if I may say, both of you were sincere in your recollections, that's a great example of a disconnect in understanding between you and Lottie?---Yes, definitely.

And is that something you're alive to? Because even you and I are having miscommunications, even though we're speaking in English?---Yes.

And there is a special need, is there not, when you're talking to, in particular, Indigenous people, but not only, but there's a real need to make sure that you leave the conversation with a clear understanding. Is that fair?---Yes.

That's one of the difficulties for any policing where there are different languages involved. Is that fair?---Yes, it is.

So, if I may say, you often appear to be very certain that your recollection as understood what somebody has said to you. Now, I just want to move forward here; take into account this sort of miscommunication as to why I'm asking you about precision. Do you understand?---I think so.

All right. Another miscommunication. Do you think that in your communications with the Robertsons, both the - especially before the knowledge about the funeral, should have included your imparting upon them everything you might be able to find out about what would happen to Kumanjaya once he was arrested.

THE CORONER: So, I think Mr Boe is asking, should you have also told them what you would have done with Kumanjaya after he was arrested or after he handed himself in, what the process would be?---If we had arrested Kumanjaya, we would certainly explain the process to Eddy and Lottie, yes.

Okay, but the question is, should you explain that process at an earlier stage before an arrest, rather than simply wait until after an arrest to explain the process?---I'm not entirely sure what we actually – whether we did discuss that.

MR BOE: All right. I guess the question from both her Honour and I is that do you think that that's something police should do?---Yes.

Now, I'll go to interaction 4 and I'm very confident of finishing within my time, your Honour.

THE CORONER: If I don't interrupt too often, Mr Boe.

MR BOE: Not just you, your Honour. I find myself interrupting myself.

Interaction 4 are your interactions with Lottie and Eddy with ACPO Derek Williams after you learned of the funeral from him on the morning of 7 November. Do you understand?---Yes.

Now, I have three issues I want to tease out with some detail, if I may. So, when ACPO Williams walks in and you have the conversation, is the conversation initiated by you because of this serious incident or was it something else that brought you to speak to ACPO Williams?---I can't recall now how that came about.

You certainly knew that Derek was Kumanjayi's uncle - - -?---Yes.

- - - at that point?---Yes.

And he, ACPO Williams, told you, listen the reason why he's not going to hand himself in is there's a funeral of his grandfather that week. He's the one that - - -?---I'm not sure whether - no, I'm not sure whether that was the case.

Well, who told you? I don't want to go to detail. It doesn't probably matter. My understanding was that ACPO Williams told you that Kumanjayi's grandfather had a funeral that week?---He did tell me about the funeral, yes.

Okay. I don't know what you were confused about. So, him having told you that, did you immediately recognise without him saying any more, why that was an important piece of information, or did he have to tell you?---No, I recognised that as an important piece of information.

And that immediately prompted you, if I may say appropriately, to go and revisit the conversation with the Robertsons. Is that fair?---Yes, it is, that's fair, yes.

Because up to that point, you had set 10 o'clock that previous night or 11 o'clock that previous night and Kumanjayi had not handed himself in by arrangement and you were going to be moving to a particular step to go and arrest, or devise a plan to go and arrest him. Is that fair?---Yes.

Once you got this information, you adjusted the timing of what would happen to him? Is that fair?---Yes.

Because of your insight as to the absolutely disrespect that that might cause to everyone if the arrest went ahead before the funeral as at that time. Is that fair?---Yes, and it also gave me time to obtain resources and put a planned response in place.

You may have done that, but it was critical to you in your decision-making that you

would take actions which were culturally appropriate. Is that fair?---Yes.

So, that resulted in the communications, which I won't go to unless your Honour wants me to, but the essence of the decision was that the police would not be actively chasing him until, "after the funeral"?---Yes.

I want to get to the meaning of what you meant by "after the funeral" in some detail. But can I provide some context as to why I ask that question, okay? Do you accept that most people in Yuendumu don't keep precise track of times in terms of arrangements?---Yes.

That is, many of them – most of them don't wear watches, do they?---No.

And they don't have clocks in their houses and the like?---No, that's right.

And you – there's often been sometimes not very funny jokes, but this idea that they're on black fella time, or things like that. You understand that?---Yes, yes.

Whether used properly or not, it's a recognition that the issue of time is not always of precision by reference to an analogue time or digital time. Is that fair?---Yes, that's fair.

So, the notion of something being "after", that is the word "after" used by you may be interpreted in different ways by the recipient of that word or hearing that word if they're Warlpiri. Is that fair?---Yes.

And the notion of "after" could be minutes after or could be hours after or even days after. Is that fair?---I think at the time I made it clear that as soon as the funeral was finished, he must hand himself in.

I'll get to that in a minute, all right. I'm just using the usage of the word "after"?---Yep.

Given what we've been taught in this inquest about what they call "Two-way learning". So, there's – you need to know what word to use to make sure the person understands you. Is that fair?---Yes.

And you're very mindful of this issue that it may be misinterpreted, unless you go to more precision and follow up conversation. Is that fair?---Yes.

Now, when you said "after the funeral", did you have in mind that that meant that there would not be an arrest attempt until the next day?---That's what I had in mind, yeah.

You see, there's evidence before this court that Derek Williams, having been present when you were talking to him – talking to the Robertsons and it may be from something you said to them after, but his understanding was – that's at 7-139 at page 26, "To bring him in – yeah. So, just to bring him in, but – um – Lottie and

Eddy said, 'oh, leave him for the funeral.' So, me and Julie said, 'well we'll leave him for after the funeral, but not straight after the funeral, but Sunday or Monday, you know, to grab him and that's what we said there.'" I'm telling you that that's what Derek Williams' perception of what the communication by you was to the Robertsons. Do you understand?---Yes.

And the – your take out was, it would be definitely the next day. Is that right?---Yes.

And do you now accept that what you said to them was understood as being even possibly the day after?---No. No, it was always going to be as soon as the funeral have finished, that next morning was when I was planning to – if he had've handed himself in overnight that's when he was going to be arrested.

I know that's what you had in mind, we've covered that, okay. Given that Derek Williams perceived, on that conversation, that you had communicated that police would not grab him, perhaps not even till the Monday. Do you understand that that's what he took from the conversation?---Okay.

Do you understand what I am saying now?---Yes.

And do you recognise that that disconnect was a failure in cross-communication between you and the Robertsons?---Well, it sounds like it, yes.

Part of the communications involve that if, in fact, Kumanjaya did not hand himself in after the funeral, whenever that was, that you would text Derek to, quote; "Formulate a plan for arrest"?---The plan was, was Eddy was going to text Derek if Kumanjaya had returned to House 577 and then Derek would text me.

Yes, but failing him not handing him in, did you have in your head that you would then formulate a plan with Derek to then take the next step?---Yes, I think so.

Yes. I am not criticising, I am just observing that that seems to be what you had in mind?---Yes.

And you've all recognised that Derek would be, even at that stage, a valuable resource to devise a safe means of arrest, is that fair?---Yes, if he was available, yes.

Now I want to go to a slightly separate issue in these communications. In your communications with Superintendent Nobbs, you viewed Felix Alefaio as having a critical role in further arrest attempts after the funeral. Is that fair?---Yes.

And that that was because he knew Kumanjaya, correct?---Yes.

He had arrested him before?---Yes.

Was a member in your team who you would have viewed as being very confidently appropriate in how he managed interactions with members of the community?---Yes.

And it may not have been significant but he was also a person of colour?---I'm not sure whether I took that into consideration but.

All right. You contemplated that he should, quote, "Leave the arrest to you"?---So he should be present, for his knowledge.

I understood - and I will get the reference - that you had said earlier, that you anticipated that he would lead the arrest and the IRT members and dog handler would go in support. Am I not correct in that reproduction?---I don't think I've said that. If I did say it I would not have said that correctly if that's the case.

Sorry, was- - - ?---Because he was there for his local knowledge and intelligence.

That he would be part of the people attending the arrest, surely?---Yes, of course.

Because I remember there was reference to him recognise his face, so that would be - he would be able to identify Kumanjaya at the point of arrest?---Yes.

Isn't that right?---Yes.

So it was not just being present, active involvement in at least the initial verbal interaction and physical interaction with Kumanjaya, is that true?---Yes, yes, it all depends on how it fanned out.

The evidence that Alefaio gave to us in this court was that he understood that his role was simply to be present, but in fact, not be at all a part of the arrest interaction? ---Well, it depends on how it all panned out. If it got to the point that he had to be present - the thing with Felix was that he knew the principal location, which was 577 and the entry and exit points for the IRT Team and a bedroom. That's what primary - his primary was, the intelligence side of it.

On Wednesday at transcript 702 you were asked - - -

A PERSON UNKNOWN: What was that page?

MR BOE: 702.

You were asked - your answer was, because I don't think it's responsive to the question, and you said, quote, "I really wanted Constable Alefaio to be present during the - during any arrest." So that fact that he was in Nyirripi, given a number of riots over there, I knew that come the day of the funeral, those people involved in the riots would be coming to Yuendumu for the funeral and that enabled Alefaio to be present before we could (inaudible) Owens". There is another reference your Honour while the main one is (inaudible) people want me to, but the issue I'm trying to get to is not a criticism of any decisions. You contemplated, did you not, that it would be very useful if strangers to the community - that's police strangers -

were coming to arrest somebody, it would be ideal to have somebody that could actually physically recognise Kumanjayi, correct?---Yes, yes.

And secondly, somebody that Kumanjayi knew?---Yes.

That would help, wouldn't it?---It would help, yes.

So your contemplation - and of course it depends on how things pan out, but leave aside that direction in your contemplation was he should be at the front step of dialogue with Kumanjayi at the point of arrest, that was what you contemplated? ---He should have certainly been present and very close to the arrest, yes.

Be part of the conversation of arrest?---Definitely, yes.

And you knew the cultural competency of Alefaio, correct?---Yes.

But you had no idea of the cultural competency of the IRT members coming. That's fair isn't it?---I would have expected a reasonable amount of cultural competency from them.

You may have expected it - - -?---But I didn't - but I didn't know, no.

Now, if he was to be involved in the way that we sort of agreed to, do you not think it was critical that he be part of the briefings once the IRT arrived?---No, because part of the briefing was more around the fact that what was happening in the community, which Constable Alefaio already know and also what I expected the IRT to do overnight. I'd already spoken to Constable Alefaio for the plan for the next morning and I would've expected that come 5 o'clock in the morning when they all get together, they would formulate a plan. But, in hindsight it probably would've been a good idea.

That's what I 'm really trying to get to here is about things that - what happened and id not happen so we can look at what should happen. Do you understand?---Yes, absolutely.

And with great respect, please don't be distracted by my tone, I am just trying to be precise about what I am putting to you, okay?---Yes.

You would think that if Alefaio was to be involved in this arrest, he should be part of the debriefing or the briefing with the other people who were going to be involved in the arrest, surely that is obvious. I know it didn't happen - but surely that should have happened?---Well, again, I think because the arrest wasn't going to take place until 5:30 in the morning, I would expect the members who were conducting the arrest would have discussed how they were going to go about it.

You were, despite the arrival of the IRT, the person in command of all operations in Yuendumu, fair?---Yes.

And it's your responsibility that the arrest of Kumanjaya should be done in the way you believed it should be done, is that fair?---Yes.

And you had conceived in your mind the need for Alefaio to be involved, correct? ---Yes.

Can I suggest to you that it should have been the case that it should have been made clear in speaking to the IRT, of the role that you envisage for Alefaio?---I did tell the IRT team that Constable Alefaio was going to be present during the arrest because of this local knowledge and his - the knowledge of the houses and also his knowledge of Kumanjaya .

In hindsight, that communication should have been done in a joint conversation, surely?---Yes, in hindsight.

And given what Alefaio – Constable Alefaio has said, it's quite apparent that his perception of his role is different from what you believe you told him. Is that fair?---Okay, yes.

Another breakdown in communication, if I may say?---Okay.

Do you accept that?

DR DWYER: Well, your Honour, the difficulties is that there are transcript references to what the other witnesses said. So it won't be – it won't have weight unless there are, and there's a clear understanding from Sergeant Frost about what was said.

THE CORONER: Mm mm.

MR BOE: Well - - -

A PERSON UNKNOWN: Put it another way, your Honour, in fairness, so this witness can actually respond in an informed way, she needs to know exactly what Alefaio has said, so that she can commentate upon whether there's a difference between what he's said, and what she intended.

MR BOE: That's fair, I'll find the transcript, and I'll - - -

THE CORONER: Sure.

MR BOE: - - - two questions, I'm being told to hurry up. Same time. People are not correcting (inaudible). I'll just be a minute.

May I just come back to that. My team is going to find the reference. I'll move to the next point. Are you okay with going out of sequence for the moment, sergeant?---Yes.

Apparently the internet's down, which is making it difficult for people to access the transcript so they say.

Let me just go, because I'm mindful of time, to the fifth issue. And that is the issues – the communications you had with Nobbs and McCormack after the axe incident. Do you understand the point in time I'm talking about?---On the Saturday, yes.

Well not just Saturday, in fact following the axe incident. So in the days leading up as well. Now firstly, you accept that whilst you didn't necessarily update the PROMIS alert, you were having reasonably extensive discussions with Jody Nobbs, about the Kumanjaya issue?---I can't recall when and what they were of now.

Okay, but you accept that you had a number of conversations with Jody Nobbs, about the policing situation, in Yuendumu, in the days following the axe incident?---Yeah, I would have, definitely.

Yes, and there's quite a number of issues which overlapped in some respects, is that fair?

THE CORONER: Nodding - - - ?---Yes.

MR BOE: For example, by – during that period, you became aware that Hand did not want to be further involved in the arrest attempt of Kumanjaya, is that right?---I think I told him I didn't want him to be part of it, if possible.

Okay, well we don't have to resolve that disagreement. Smith was scheduled to go on leave, correct?---Yes, he left Thursday night.

By then, you knew ACPO Williams was off duty on the Saturday, because he's attending the same funeral?---That's right.

And you had the issue of uncertainty of what further support you could get from Parbs and Alefaio?---Yes.

But during the course of those conversations, and let me make it clear, none of this is in your statement, okay. But do you accept that there were reasonably extensive discussions with Jody Nobbs, about not arresting Kumanjaya at the funeral, but after it? I'm summarising what he has said to investigators. He's suggesting that there were extensive discussions with you about an issue, and it's unsurprising, because it was something you were thinking about?---We had – we had a number of discussions, yes.

The fact that that agreement had – well that understanding had been reached between yourself and Nobbs, was that – that is, the arrest after the funeral, and not at the funeral, should that not have become a part of an alert for other members?---Well I – if – if Kumanjaya had gone into Alice Springs, he was obviously not going to attend the funeral, and therefore he would still be an arrest target.

So your focus is on the date and time of the burial, and the place at which it was going to occur, as opposed to the respect to be shown to a person, who may be a likely attendee at the funeral and undergoing sorry business?

THE CORONER: I don't understand that question, Mr Boe.

MR BOE: I'll – long winded.

MR EDWARSON: It's a false dichotomy your Honour, that's all.

MR BOE: Well I thought we were playing fair here.

You raised the issue that if he was not in Alice Springs – in Yuendumu, or in fact if he was in Alice Springs, then the cultural deference to timing, was not relevant. Is that a fair observation of what you just said earlier?---Yes.

So I have asked the question, as to why you might not post that agreement with Nobbs on the PROMIS system, and that was your answer, was it not?---Yes, I didn't feel it necessary to put an alert on the fact that he was not to be arrested until after the funeral.

All right I'll just leave it at that. I just want you to comment on an excerpt of what Superintendent Nobbs has given, as to his understanding of part of your communications, okay. "This aligned with the broader conversation I had with Julie at the time, around establishing what our intent was, what our sort of broader plan was, and then – and the plan predominantly, was a high visibility presence providing just general duties type activities throughout the course of Saturday night. A coordinated action on Sunday morning, if intel was presented throughout Sunday night. And then a further refinement – and a further development of our plans were on the Sunday, on a as-need basis." Okay?---Yes.

Now did you hear what I said?---Yes.

That broadly reflects what ultimately became what was in the arrest plan, broadly, didn't it?---Yes.

Then so you would accept that that was the nature of the discussions with Nobbs, as to what you were needing, and his agreement as to what he would hope to provide to you, as support?---Yes.

The focus of your need was having more numbers on the ground, by that time. Is that fair?---Yes.

To bring in general duties men and women power, as police officers, to assist you to – to implement that general plan. Correct?---Yes.

It wasn't a case where you thought, at that point, there was a need to bring in the specialised skills of a TRG team, or an IRT team, at that time, is that fair?---I think I asked for the IRT to come out if possible.

And your request for an IRT involved what knowledge as to what an IRT was? What did you – what did you know they could bring?---I believed they were a good cordon and contain team, and had experience in that. And I knew that they had experience in (inaudible) so you know, riskier arrests.

Okay. The first attribute, cordon and contain, that's a concept generally of numbers of people to be able to surround a place, to ensure that people don't run away, etcetera, is that fair?---Yes.

And to provide assistance from around, if necessary, during the interaction, correct?---Yes.

Now you certainly weren't needing more assistance to be able to be culturally appropriate on these people coming, that's fair? That – that wasn't what you were seeking from an IRT?---No.

Did you think about that whoever was going to come with these further skills, they should still have an understanding of the culturally appropriate way to arrest Kumanjayi?---I would have expected them to have an understanding of some cultural competency, particularly given – or having that fact that they worked in Alice Springs.

Yes. Whether or not you had the understanding, you were going to rely upon your capacity to be in charge and to educate whoever was coming of how to go about this arrest appropriately. Is that fair?---I just – I expected however they went about it, it was in the safest manner possible.

And you would be the person to give the on the ground information of what they should take into account. Is that fair?---Yes. And myself and Felix, yes.

Well, Felix maybe, but what I'm saying is, you were still in command of the station, correct?---Yes.

No matter who came, you were in command?---Yes.

Now, your Honour, may I keep going to 1:00, or is that too - - -

THE CORONER: No, but you can keep going until quarter to 1:00 and then we're taking the lunch adjournment and that is the end of your time, Mr Boe.

MR BOE: Thank you.

May I just go to interaction six, your communications with the IRT members and dog handler Donaldson in your position as the OIC, okay?---Yes.

You had no verbal communications with any of the IRT before they arrived. Is that correct?---That would be correct, yes.

The only conduit was Acting Sergeant McCormack. Is that correct?---Yes.

And the dialogue that you were having with him was intended to provide the framework of what you believed the IRT should be doing. Is that fair?---No, the dialogue, I think, between us was he was to provide me with what the IRT, who the members were and what they were going to come up with.

So, identification of who was coming, correct?---Yes.

And any other information concerning their deployment at the direction of McCormack. Is that fair? I'm summarising and paraphrasing to get through, but you understood from Nobbs that you should speak to McCormack about what was coming?---About who was coming, yes.

And that meant that the two of you were constructing what the operational plan would be for the IRT to follow. Is that fair?---No, my communication with Superintendent Nobbs was (inaudible). I'm not sure whether I spoke to – sorry, I was very clear in respect of the fact that it was for high visibility policing overnight and then an arrest in the morning. I'm not entirely sure whether I had that discussion with Constable McCormack.

Was it a part of your communications in formulating the plan, the important cultural factor that the funeral was still not finished as of Saturday?---Not really, because the arrest wasn't going to take place until Sunday morning.

But the reason for it not taking place on Sunday morning, because that was, in your thinking, after the funeral. Is that fair?---Yes.

Okay?---Yes.

The fourth point on this last issue is that at transcript 727, you told us that, "I would not have allowed the IRT members to take long arm rifles, et cetera, into the community." And you said that this would be very threatening and very confronting. Do you accept that?---Yes.

Now, you were clearly aware that part of their kit, that is the IRT's kit, is to be able to carry and utilise such weapons, correct?---That's part of their kit, yes.

And that certainly is not equipment that is usually used when constables are undertaking general duties. Is that fair?---No – yes.

You would agree with me, yes?---Yes.

The fact that they were being brought was self-evident in the arrest plan?---Yes.

But you did not have any specific conversation with any of the IRT that they should not be taking any long arms into the community, did you?---No, I didn't.

Given your very strong words which I started in the beginning on this issue, do you think that you should have, in hindsight?---I didn't think I would have needed to, but in hindsight, yes.

Now, the fifth point is that by the time you knew the IRT was coming, you knew that the medical centre was not being staffed. Is that fair?---Yes.

In your communications with Nobbs, did you discuss how that might impact upon bringing in an IRT who may likely use more force, as to what would happen if either a member or a member of the community was somehow injured, given that you knew there were no nurses going to be there?---I don't recall whether Superintendent Nobbs and I had that exact discussion, but the point of bringing more resources in was to ensure that the arrest can be very quick and avoid any use of force.

You see, I'm going to suggest to you - - -?---So, it might - - -

Sorry, keep going?---That's okay.

I'm going to suggest to you that in fact there is no explicit consideration in the conversations recorded or record by Nobbs about that possible eventuality, that somebody might get hurt. What do we do if there's no nursing staff here. Is that fair?---Yes.

In hindsight, do you think that that was a critical piece of information or consideration to take into account before the deployment of the IRT into the Yuendumu community?---In hindsight – in view of what's taken place, most definitely.

Just excuse me for one moment. I'm told it's at transcript 650, but my junior's computer's just gone on the blink on the side, 615? Is it 6-5-0? Here we go. Your Honour, I'll just leave it; it may be a matter for submissions.

THE CORONER: Sure.

MR BOE: I just do remember when Mr Officer was asking questions, there was a – my perception was that Alefaio was saying that he understood that he wasn't to be actively involved in the arrest. But I will leave it at that.

May I just go to one final issue in the four minutes and 12 seconds I have left. Just from your accumulated experience of policing in Yuendumu, I just want to ask you some questions which I have raised with other police officers that were under your command about the notion of guns in the community, okay?---Yes.

Do you understand there is significant community sentiment about they're not wishing for police to wear their Glocks patrolling the community of Yuendumu. You

understand that?---Yes.

And you understand that that's a sincere position being taken by many members of the community, including many Elders. Is that fair?---Yes.

You don't at all doubt their sincerity do you?---No.

And do you also understand that they reported that members of the community are frightened when police carry their Glocks as part of their accoutrements?---I'm not sure. We've never had anyone raise that with me on any – on any jobs that we've gone to.

Would you accept it from me that there's evidence in this inquest - - - ?---Okay, yes.

And would you accept – if that was said, would you accept that that would be a sincere expression of their concern?---Yes.

Now, have you ever drawn your Glock whilst policing in Yuendumu?---No.

So it would follow that you've never discharged a Glock during interactions with people in the community, correct?---Yes.

Have you been issued with an armoured vest?---Yes.

And do you wear it when you patrol in Yuendumu?---Not routinely, no.

Is there a reason why you don't wear the vest?---It's very hot and heavy, and the – generally there's no – no need for it.

Have you ever deployed your Taser in the community?---No.

Have you ever even drawn it?---No.

Have you ever deployed the capsicum spray?---Once in Nguiu(?).

In – sorry, I didn't hear you?---At Nguiu in Bathurst Island.

Yes, but not in Yuendumu?---No.

You've already spoken that your perception is that there are very few guns in the community?---Yes.

Now, so is it fair to summarise that you have never felt it necessary to use any of those weapons on your belt, including the Glock, to safely and fully discharge your duties as the officer in charge, at Yuendumu?---No I've never required anything like that in my time.

Are you aware of provisions in the legislation that concerns policing, that you can seek an exemption from senior command, for you not to wear a Glock whilst undertaking your duties?---No I'm not.

Your Honour, thanks very much. That's the end of my questions.

THE CORONER: Thank you, Mr Boe.

We will take the lunch break. And I think we'll come – it's quarter to 1:00, is it okay if we come back at 1.30 or very close to 1.30.

ADJOURNED

RESUMED

THE CORONER: Yes, who is next?

MR EDWARDSON KC: Me.

THE CORONER: Thanks, Mr Edwardson.

MR EDWARDSON: Thank you.

XXN BY MR EDWARDSON:

MR EDWARDSON: Sergeant, for the purposes of the evidence, do you still have with you your two statements, or interviews, and also what's called "Chronology of events"?---Yes, I do.

And I presume, quite properly, you would have read through all of those documents to prepare yourself to give evidence today?---Yes.

And likewise, did you read through the evidence that you gave at committal?---Yes, I did.

And also the evidence that you gave at trial?---Yes.

Now before you provided the two interviews, or statements, you prepared, I think at the direction of your lawyer, the document described as chronology of events. It's document 7-38?---Yes.

And that's something you, yourself, typed?---Yes.

And it's a document that you used, as an aide-memoire, when you came to actually be formally interviewed?---Yes.

And it deals with the events on the sixth, seventh, eighth and 9 November 2019?---Yeah.

Now I want to – I don't want to trawl through the whole history, as we had to at trial, but there are some certain topics that I need to cover. And I want to deal firstly, if I can, with Kumanjaji Walker. Now Kumanjaji Walker was a person that was known to you before the so called axe attack?---Yes he was.

And you certainly knew, didn't you, that he had an extensive criminal record?---Yes, I did.

Comprising of some 66 pages?---I'm not sure how many pages.

In any event, would it be fair to say, that in the lead up - - -

THE CORONER: Can I just check that, Mr Edwardson, and I'm really sorry. Is that his antecedent report - - -

MR EDWARDSON: Yes.

THE CORONER: - - - or his criminal history?

MR EDWARDSON: Criminal – well I would call criminal history.

THE CORONER: Right, well there are two different documents that we have.

MR EDWARDSON: I'll - - -

THE CORONER: Antecedents have a lot of information, which is not criminal history.

MR EDWARDSON: Yes, your Honour.

THE CORONER: So that often leads to many more pages, than actually reflects the criminal history.

MR EDWARDSON: Thank you, your Honour.

Leaving aside the number of pages, certainly you were aware, were you not, of his criminal history?---Yes.

And would it be fair to say that progressively, he was becoming a problem, in terms of criminal offending?---Yes.

But there's no doubt that the dramatic and significant change which obviously caused great concern to police, was the axe incident itself?---Yes.

And the axe incident itself was, on any view, a quite terrifying event?---Yes.

And no doubt, it was terrifying to the two officers who were involved?---Yes.

And indeed, it was your understanding of the axe attack, that gave rise to you attending at House 577 to speak to Eddy and Lottie, as you've told us?---Yes.

And that was on the evening of the 6th, wasn't it?---Yes.

And when you got there, Rakeisha Robertson was there, wasn't she?---Yes, she was.

And you knew by that stage that she had obstructed Officers Hand and Smith in the axe attack?---Yes.

And so, you approached her and spoke to her, didn't you?---Yes.

And you told her that she would be going to court for what she did and that her actions could have got your members killed and also Kumanjaya killed?---Yes, something to that effect, yes.

Well, they're the words that you used in your chronology, aren't they?---Yes.

Which, of course, accurately reflected the exchange that took place between you and Rakeisha that evening?---That's – yes.

And Eddy, at the time that you first arrived, wasn't there, was he?---No, he wasn't.

And he returned and he was actually quite angry towards you, wasn't he, because he was blaming police for what had happened by chasing him?---Yes.

But Lottie intervened, didn't she?---Yes, she did.

And she told Eddy that Kumanjaya Walker had come at Chris and Lanyon with an axe which made Eddy back off, and he subsequently apologised?---Yes.

You did say, however, didn't you, that you are a community police officer and accordingly you treat community in a fair manner?---Yes.

And that the actions of Kumanjaya Walker were totally unacceptable?---Yes.

And to use deadly weapons against armed members of the police force could have got your members killed and that Kumanjaya Walker was very lucky that he didn't get killed?---Yes.

And that's how you expressed yourself in that exchange?---Yes.

Because you wanted to make it very clear the seriousness of his position because of what had happened earlier that day?---Yes.

You stressed to them, didn't you, that this did not need to escalate further?---Yes.

And if Kumanjaya Walker was to present himself to the police station within the next two hours, you would guarantee that he would be dealt with in a fair manner?---Yes.

So, this was an opportunity by you, as a community police officer, to convey to those who knew Kumanjaya Walker, this was a real chance and opportunity for him to resolve this matter peacefully?---Yes.

Despite the seriousness of the event that had occurred earlier that day?---Yes.

And you went further though, didn't you, because you told Rakeisha that if she was able to get Kumanjaya Walker to the police station, you would consider not prosecuting her for hindering police?---Yes.

Plainly, she did hinder police as is self-evident from the video?---Yes.

And you were told, weren't you, by Eddy that he would, if he could, get Kumanjayi Walker to the station?---Yes.

And you then returned to the station to prepare a file for aggravated assault; those being the – that being the further charge or charges that would be laid against Kumanjayi upon his arrest?---Yes.

He didn't surrender in the two hours that you put before him?---No.

And the following morning, you went back to House 577, didn't you?---Yes.

And again, you spoke to Eddy and Lottie?---Yes.

And as soon as you approached, Eddy apologised profusely, didn't he, to you for what had happened the night before; that is, the exchange that had taken place?---Yes.

And you then said, look, you raised your voice and apologised again, but you reiterated that the actions of Kumanjayi Walker were totally unacceptable?---Yes.

And he could have severely injured your members?---Yes.

And again you told them, did you not, that he, that is Kumanjayi Walker, was very lucky that he wasn't shot by your members?---Yes.

Now, by that stage, you knew that there was a funeral?---Yes.

And so, you thought it was appropriate to give him yet another chance, that's Kumanjayi Walker, to surrender himself peacefully, hopefully with the assistance of Eddy and Lottie?---Yes.

And so you told them, didn't you, that if – sorry, you would allow him the liberty of not actively chasing him until after the funeral. However, in return, he had to present himself to the police station immediately after the funeral was completed?---Yes.

And that's what you conveyed to Eddy and Lottie?---

And so, to re-enforce the seriousness of his position through those two persons, you told them, didn't you, that you would be seeking resources from Alice Springs?---Yes.

Including the dog and specialist team?---I believe I said about the dog, but I said Alice Springs police will come.

Didn't you say this, "I would be seeking resources from Alice Springs, including the

dog and specialist team and they would be --", sorry, "they would go there taking a zero-tolerance approach"?---No, I didn't actually say they would be taking a zero tolerance approach, I said they would "go in harder".

Didn't you say they would be taking a zero-tolerance approach?---No.

What did you record in your chronology?---A zero-tolerance approach.

Did you record in your chronology the first document that you committed to writing of the events which occurred, did you not say, "I would be seeking resources from Alice Springs, including the dog and specialist team"?---No, to Eddy and Lottie, I said, "Alice Springs police will come and the dog."

Sergeant, can you concentrate on the question, please. In your chronology, and if you need to look at it - - -

THE CORONER: I don't think she has it in front of her.

MR EDWARDSON: Do you have your chronology with you?

I wonder if that could be put up on the screen, if possible, please. I think it's 738 on page 2.

Do you have your chronology in front of you?---Yes, I have.

On page 2, you're dealing with the events which occurred on Thursday, 7 November 2019?---Yes.

And you there recorded, did you not, in the second paragraph, "If he did not do this, that is, surrender himself, I would be seeking resources from Alice Springs, including the dog and specialist team and that they would go – be taking a zero-tolerance approach." Is that what you recorded?---That's what I've recorded.

And presumably, it accurately reflects what happened. That's what it was for?---That's what it was for, yes.

And it does accurately reflect, does it not, what you said to Eddy and Lottie?---No, I said to Eddy and Lottie, "We'll be getting police from Alice Springs and they will go in a lot harder."

All right. You also discussed with Eddy, did you not, that he would need to text you on the night of the funeral to let you know that Kumanjaya Walker was there?---Yes, that's the arrangement we came to.

And the arrangement was made that he would text Derek and Derek would text you so that you could formulate a plan for arrest?---Yes.

That was all conditional upon another opportunity being extended by you as a

community officer to allow Kumanjayi Walker to peacefully surrender himself?---Yes.

But you knew, didn't you, that Kumanjayi Walker was not going to present himself after the funeral?---I had a very strong feeling that he wasn't, no.

Well, you did record, did you not, in the last sentence of your chronology, "I knew that Kumanjayi Walker was not going to present himself after the funeral, so I went in to work around 11 am." Is that what you recorded in your chronology?---Yes, that's what I recorded.

And that's what happened, isn't it? You went to work around 11 am, because you knew that he was not going to present himself after the funeral?---Yeah, I said – that's right.

And so the position, at least at that point in time, that's 11 am the following morning, is this, you knew that a specialist team was going to be resourced for the purposes of apprehending Kumanjayi Walker?---Yes, at that time, yes.

And you knew that that was necessary because, from your perspective, Kumanjayi Walker was not going to present himself, despite having been given multiple opportunities to do so?---That's correct. I didn't feel like – I didn't feel that he was going to, no.

By that stage, you knew, didn't you, that the nurses or medical staff from the Yuendumu clinic had left the township?---Yes.

You knew that Kumanjayi Walker was potentially a violent and dangerous offender?--He had escalated in his risk, yes.

Well, your plan, if we call it plan - the arrest plan - in whatever form it takes in the various email exchanges, you actually describe the event as an arrest of a violent offender, do you not?---Yes.

And that's what he was, and that's what you were planning to do - arrest a violent offender?---Yes.

And it was a potentially high-risk arrest because of the circumstances that had occurred on 6 November in the axe attack?---Yes.

And so you were clear in your mind that at least you would try and do the right thing, as you did, that is give him an opportunity with the help of others in the community, to surrender but if that did not eventuate it would require the services of a specialist team, namely the IRT?---Yes.

And because they have a different skill set from what I will call "run of the mill" police officers?---Yes.

They are better equipped to deal with violent offenders?---Yes.

And that's why you specifically requested Superintendent Nobbs to resource that team?---Yes, I - I wanted the IRT but I was happy for any resources that came out to me because resourcing is always difficult.

That may be so but you specifically requested the IRT?---Yes.

And you got that resource, didn't you?---Yes.

And when you made the request, you identified, didn't you, the equipment that they should have?---Constable McCormack told me equipment they were going to bring out, yes.

Yes, Constable McCormack told you what equipment they would have but you embraced that equipment, didn't you, in your - and incorporated it into your arrest plan?---Yes, I did.

And indeed, we saw - we don't have to pay it now, but we can see on the CCTV footage that when the members of the IRT arrived at the police station they are carrying longarms?---Yes.

And they are placed, I think on a table or a desk of some description whilst the briefing or discussions take place with you and others?---Yes.

And we; know, don't we - and you knew that they were bring that equipment because they were specifically identified and specified in your arrest plan?---Yes.

The arrest plan that was emailed to the members of the IRT when they were in transit?---Yes.

And which you say was placed on a table - and I think you identified a document which had that document or a version of it at least, as we saw on the CCTV footage yesterday?---Sorry, are you talking about the plan?

Yes?---Yes.

So it would appear that whatever was on the desk remained there when they were deployed?---Yes.

And we don't see any of them carrying a piece of paper, do we, with the exception, I think, of the dog handler, Donaldson, he is the exception?---I can't recall now.

THE CORONER: I don't know that this witness would have gone through everything. You're asking if she recalls seeing them carrying it not asking her to provide an opinion on what is shown on the CCTV.

MR EDWARDSON: Yes.

Well, I don't need to take you to the transcript of the trial but you were specifically directed, were you not, to Mr Donaldson, the exchange which took place with him?---Yes.

You may not remember - if you don't remember? Sorry?---Yes. That's okay. I do remember the CCTV footage of me handing it to Constable Donaldson.

In any event, what we do know is that the members of the IRT took their equipment, the equipment that's specified and identified in your arrest plan, with them when they were deployed?---Yes.

And they were deployed by you at 7:05 or thereabouts, weren't they?---Yes.

And you were the officer-in-charge?---Yes.

And you didn't say anything to them at all about the appropriateness or otherwise of taking those pieces of equipment identified in your arrest plan into the township of Yuendumu?---No, not that I recall.

Now, the basic plan for that night was that the IRT, those members that are identified in your plan, together with the dog handler, were to provide a high visibility policing service in the community?---Yes.

Whilst collecting intelligence as to the whereabouts of Kumanjayi Walker?---Well, I think it was the - Constable Kirstenfeldt that mentioned the intelligence, but they were familiarise themselves with the community.

Well, I am using your words, am I not? Can I direct your attention to page 3. In the last paragraph of your chronology, the document you prepared in advance of the interview. Did you not record this:

"The basic plan for that night, that the arriving teams would provide a high visibility policing service in the community whilst collecting intelligence as to the whereabouts Walker was"?

---Yes.

And that's true, isn't it?---Yes.

And indeed, it's true also isn't it, that whilst you knew that the axe incident had occurred in House 577, by that stage, when they were deployed?---Yes.

House 511 was not mentioned specifically or expressly in your arrest plan?---Yes it was.

Where? Can you show me in the arrest plan?---No, so that was - I wrote "512" and that was what corrected at the time of the briefing.

My question was, and I'll ask it again. Do we see any reference in your plan to House 511?---My apologies, no.

No. And it's true is it not that they were - that is the members of the IRT, were told expressly and specifically by you, that whilst doing their high visibility policing service in the community and whilst collecting intelligence as to the whereabouts of Kumanjaya Walker, if they did happen to locate him along the way they were to arrest him?---At the end of the briefing I believe it was Constable Kirstenfeldt said to me, "What do you want us to do if we come across him?" And I said, "By all means, arrest him."

So that was said in the presence of the others?---Yes.

And so they would have understood, from you as the investigating officer, that when they were deployed at 7:05 pm, if they came across him whilst intelligence gathering, they were to arrest him?---Yes.

And that's exactly what happened, isn't it?---I'm not sure - I'm not sure.

Well you know - - -?---They weren't - they weren't meant to be actively searching for him.

Where do we find that in your arrest plan?---We don't. The arrest plan was (inaudible) for a 5:30 arrest.

What we do have though, don't we, is your evidence that you gave at trial on the last occasion and the evidence here, and this is what I suggest is at page 206 of the cross-examination at the trial, I asked you this, did I not,

"When you prepared your chronology, is this what you said, 'The basic plan was for that night that the arriving teams would provide a high visibility policing service in the community whilst collecting intelligence as to the whereabouts of Walker?---Yes'?"

I asked you that question and you gave that answer, correct?---I - well, I can't remember but it would have, yes.

And that is the position, isn't it, you just confirmed that from your chronologies.

DR DWYER: I object. Can I ask that my learned friend read the next sentence as well with - - -

MR EDWARDSON: I am coming to it - I am just dealing with one - this current - this sentence first.

DR DWYER: Terrific.

MR EDWARDSON: I will start again. I asked you, did I not, when you prepared your chronology is this what you said;

'The basic plan was for that night that the arriving teams would provide a high visibility policing service in the community whilst collecting intelligence as to the whereabouts Walker was?---Yes"

---Right.

Do you agree?---Yes.

And that is - those words are the exact words that you incorporated on that topic into your chronology?---Sorry, can you repeat that question?

Do you have your chronology in front of you?---Yes.

If you look at your chronology, on page 3, the words incorporated into that question reflect accurately, do they not, your record of the basic plan?---The chronology I - - -

Could you grapple with the question please?

DR DWYER: She is grappling with the question, and that actual line, "Can you grapple with the question?" is replete throughout her examination in other forums. In this forum, in my respectful submission, she should be allowed to give evidence in a way that is fair and accurate and allows her to tell the story as it was.

THE CORONER: And there is no pressure on her to respond quickly to the questions that are being asked - - -

MR EDWARDSON: No, your Honour, but there is an obligation on the witness even in this forum, to answer the questions being asked - not something else.

THE CORONER: Sure, but I am still looking for the question in the trial transcript. You took me to page 206.

MR EDWARDSON: I did.

A PERSON UNKNOWN: A third of the way down the page, your Honour.

HER HONOUR: Thank you.

MR EDWARDSON: Now, I'll start again, if I may, sergeant. The words "The basic plan was for that night that the arriving teams would provide a high visibility policing service in the community, whilst collecting intelligence, as to the whereabouts Walker was." They are your words from your chronology, are they not?---I believe so.

Well you've got the chronology in front of you. You can see it, can't you?---Do you want me to read the whole thing so I can refresh my memory on it?

Just have a look at the third page, the very last paragraph, the first sentence?---Yes.

Thank you. And you were then asked, "If they did happen to locate him along the way, they were to arrest him, otherwise the plan was to wait?---Yes." I asked you that question and you gave that answer at trial?

THE CORONER: She probably - - - ?---I think at trial I clarified what I actually – how that answer came to be.

She doesn't have the trial transcript in front of her.

MR EDWARDSON: No.

THE CORONER: And given the number of questions that were asked at trial, it's not reasonable to expect her to remember that.

MR EDWARDSON: I'll put it another way, your Honour.

Sergeant, do you agree that Kirstenfeldt, in the presence of others were told, that if they, that is the members of the IRT, did happen to locate him along the way, they were to arrest him?---Yes, Kirstenfeldt asked me what do you want us to do if you – if we come across him. And I said by all means arrest him.

Otherwise the plan was to wait?---Definitely.

Yes. Because in a perfect world, as is set out in your – what I'll call your arrest plan, you hoped that they would be able to identify where he was, and arrest him while he was asleep at 5.30 in the morning?---We knew that at 5.30 in the morning, Kumanjaji Walker, we knew he would be sleeping.

Where – is it not the case, and was it not your sworn testimony, that you didn't know where he was, at the time these men were deployed?---When the men were deployed, I think it stands to reason that I wouldn't know where anyone was at any given time. However, like I've explained, at 5.30 in the morning, I know that he would have been at 577.

Do we have that anywhere in your plan?---577 was in my plan, yes. And that – and it's marked "Primary residence", I believe it was primary or principle.

No, do we have anywhere in your plan, the notion that he would be in that house at 5.30 am, the following morning?---No, but that's what was told.

Why, if he was going to be there at 5.30 in the morning, would you deploy the IRT to intelligence gather as to his whereabouts?---Intelligence gathering could mean a lot of different things, but it doesn't mean actively searching for him. If I wanted to use the element of surprise in an arrest, the last thing you would do would be to attend 577.

Right, in any event, you've accurately recorded, as you've told us, the basic plan, as set out in your chronology, you've confirmed in evidence today?---The chronology was very rough.

Are you suggesting that it's inaccurate?---I'm suggesting that it wasn't word perfect. It was more of a chronology of times and dates – dates and when things were taking place.

But - - - ?---It was more for an aide-memoire. It wasn't specific – or word perfect.

What I'm suggesting to you is that this is the first document that you recorded the critical events for the sixth to the ninth, true?---Yes, but it was only to assist me to get my mind straight when the time came – it came time to make my statement.

And it could only assist you to get your mind straight, if it accurately reflected the events, as they unfolded, on all of those days?---I didn't actually refer to in my – when I actually gave my statement in the end. It was just a process that enabled me to get the – the version of events in my head correctly, for the purpose of giving my statement.

I want to ask you a little bit if I can about the – well first of all your nursing experience. You've told us that you'd been a nurse before a police officer, quite some years?---Yes.

And because you were a nurse, you obviously had some skill set, and you were able to, consistent with your evidence, see the way in the which the members of the IRT were seeking to medically assist Kumanjayi Walker after the shooting?---Yes.

And just bear with me.

Page 736 of the transcript, your Honour - - -

THE CORONER: Trial transcript?

MR EDWARDSON: - - - trial – this – no, in this hearing.

THE CORONER: Thank you.

MR EDWARDSON: Page 736. I'll just remind you of what you said in answer to questions by Dr Dwyer.

Excuse me, your Honour. My apologies,730.

At page 730, you were asked this question, "I'm not going to show you it, because it's distressing." Referring to the video footage. "But in the brief of evidence, her Honour has the CCTV footage, and body-worn footage, that shows members of the IRT performing first aid on Kumanjayi after he was taken into

station” – “The station”, sorry. “Did you assist in that at all?” And your answer was “No, a very small part of it. I could see – I knew the members that were performing CPR were military, had a military background, and I knew they, what they were doing, that they were doing a fantastic job. As good as you could do with the equipment we had. So I knew the medical side of things were being covered, and they had four members to rotate the medical side of things, and that allowed me to continue planning resources, ensuring the safety of my members, and all members. Compound, making sure that the town wasn’t” and we couldn’t catch the word, “That type of stuff.” Do you remember giving that evidence?---Yes.

So you had the advantage, did you, because of your past experience in nursing, of being satisfied that they were doing anything and everything they could possibly do, to medically assist Kumanjaya Walker?---They did a brilliant job. They did very, very well.

And the one person that was primarily involved, it was a collective thing of course, was indeed Constable Zachary Rolfe?---Yes I – yes, he was principally providing first aid.

Thank you. Now the tragedy of this, amongst many things, was that of course there was no medical assistance, because the nurses had left?---Yes.

And you simply didn’t have the wherewithal, the equipment, and the like, to attend to the very dire position that he was in?---No.

No. You knew, when you deployed the IRT, that there was no medical staff in the township?---Yes.

You knew that Kumanjaya Walker, as you’ve told us, was potentially – was a violent offender?---Yes.

You knew that two days before, he had deployed an axe against two police officers, one of whom is your partner?---Yes.

So you therefore knew that he was a real risk of doing the same thing again, if confronted by police?---Yes.

And you also knew, from your vast experience, that when people deploy weapons, as he did, there is, or can be, a potential for a violent conflict?---Yes.

And if somebody does deploy a weapon, as he did with an axe, and as you told Lottie and Eddy, he was lucky he didn’t get shot on that occasion?---Yes.

So if you know all of those things, did it occur to you that there was always the potential for a violent conflict at the time of arrest?---No, that’s why we – that’s why it was imperative that 5.30 arrest be made, because it would get the element of surprise. Where we don’t give him the opportunity to react if there’s (inaudible).

I understand that in an ideal world, that's what you hoped would happen. But as you have told us, not just in this enquiry, but at committal and at trial, they were to intelligence gather as to his whereabouts – I don't want to go over all this again, but that's what you told us, correct?---Yes.

And if they came across him, they were to arrest him?---Yes, so like I said, when Constable Kirstenfeldt asked me what do you want us to do if we come across him -
--

Yes?---And I said by all means, arrest him.

So, it must have occurred to you that it was at least on the cards or a real possibility that they may come across him shortly after leaving the Yuendumu Police Station deployed by you at 7:05 of thereabouts?---I didn't think there was any possibility that they would come across him.

I mean hindsight's a wonderful thing for all of us, we can all reflect and see how things unravelled in a way that you didn't predict. Is that fair to say?---Yes.

I want to ask you a little bit about the community and the perceived threat that you've had in very difficult circumstances after the shooting. As I understand your evidence from yesterday, you felt that there was a very real threat from the community to your members inside the police station?---Yes.

It was real and certainly real to you?---Yes.

You've mentioned that there were rocks being thrown on the roof?---Yes.

You were concerned that they were going to storm the police station?---Yes.

You were concerned that the occupants, that is the police officers themselves, would be at serious risk?---Yes, and the community, yes.

Yes. And you knew that it was a high probability that members of the community were armed or had armed themselves for that purpose?---Yes.

Now, one thing that seems, as I understand your evidence, to have, in large measure, assisted you particularly was Derek and Warren Williams?---Yes.

And that their communications between you on the one hand and hence the other members inside, and of course the community outside?---Yes.

Now, please correct me if I've got your evidence wrong, but I think your evidence yesterday was that it was actually Derek Williams that told you to lock the door and stay inside?---Derek had text - Derek had told Constable Alefaio that.

Sorry, he told to Constable Alefaio that the doors should be locked and the police should stay inside?---Yes.

That was for their own self-protection?---Yes.

All right. Now, I want to ask you – I'm now referring to page 371 of the trial evidence, Mr Felix Alefaio gave evidence at trial, and I just want to read some passages to you and see whether you agree.

DR DWYER: Could my learned friend just give us a moment to get those passages up.

MR EDWARDSON: Certainly.

THE CORONER: It was just page 371 of the trial transcript?

MR EDWARDSON: Yes, thank you, onto 372.

THE CORONER: Do you have a brief reference, Mr Edwardson, at all?

MR EDWARDSON: I don't know, to be honest. It's trial transcript. It's page 371 to 372.

THE CORONER: 19-26. That's 19-26.

MR EDWARDSON: I'm just going to read this transcript, well a portion of the transcript to you, if I can please, and these were questions asked of Felix Alefaio:

"You were basically helping at the Yuendumu Police Station?---That's correct."

"You never went out into the community with any of those members, did you?---That's correct."

"Nor did Constable Hand?---That's correct."

"Constable Smith?---That's correct."

"Sergeant Frost?---That's correct."

Now, that's all true self-evidence consistent with your evidence, isn't it, yes?---Constable Smith wasn't in the police station at the time.

Yes, that's right. But he never went into the community, he wasn't there. I understand that. None of those officers - - -?---Yep.

- - - went with the IRT?---No.

No. "In fact, no one from the Yuendumu Police Station -", the question goes on, "went out into the community to assist the four members of the IRT and the dog handler?---That's correct." Do you agree with that?---Yes.

All right. "You saw the body-worn video, so you had an idea and you've obviously said you were shocked, very surprised when you saw what you saw. Would you agree that that's a very confronting piece of footage?---I agree with that." That's the axe incident?---Yep.

And you would agree with that too, wouldn't you?---Yes.

It is a very confronting piece of footage?---Yes.

Question, "It was certainly a massive escalation from the way that you had dealt with him on earlier occasions?---That's correct." You would agree with that too, wouldn't you?---Yes.

Question, "And that's why it was regarded as being so dangerous and so serious?---That's correct." You would agree with that too?---Yes.

"Indeed, that's why the IRT were deployed?---I believe so."?---Yes.

And you've given evidence on all fours with that, haven't you?---Yes.

Question, "And they were deployed, we know, at 7:05 pm that evening on 9 November?---That's correct." Now, of course, your plan contemplated deployment at about 11 pm, didn't it?---Yes, it did.

But you deployed them, as it happens, at 7:05 pm?---Yes.

I'll continue on the transcript:

"It's true also, and again, I don't expect you to remember much of the fine detail, but would you agree with this much; it was obvious from all of the people who were involved in that discussion or briefing, call it what you will, that at that point in time just before they were deployed, they did not know where Kumanjaya Walker was?---That's correct."?

---Yes.

Question:

"What they did know, however, was that the last known place that they'd been seen - that he'd been seen by police was where the axe incident occurred and that occurred three days before on 6 November 2019?---That's correct."

Do you agree with that too?---Yes.

"At House 577?" He said, "I believe so." You agree with that too?---Yes.

All right, I said:

“Now, you were specifically told, were you not, by Sergeant Frost that neither you, Smith or Hand were to assist. You were to stay at the police station?--- That’s correct.”

You agree with that too?---At that time, yes.

“In other words, you were never told that you were to go out into the community with the IRT to assist in the arrest?---That’s correct.”?---I can’t answer for Felix, but that’s incorrect, if that’s what he said.

“You were told that you were to remain at the Yuendumu Police Station and assist once he’d been arrested.” He said, “That’s correct, but during part of the briefing, that for if Mr Walker is to be arrested the next morning at 5:00 or 5:30 in the morning, she wanted me to accompany them.”?---I can’t answer what Constable Felix – Constable Alefaio has said in his evidence, but that wasn’t the plan.

That was the plan?---That wasn’t the plan.

What I’m saying is that he’s correct, isn’t he, that you did tell him that he was to remain at the Yuendumu Police Station and to assist once he’d been arrested, however, if he was to be arrested the next morning at 5:00 or 5:30, he was to accompany the IRT for that purpose.

DR DWYER: I object. That – it is misleading if it’s suggested that Constable Alefaio did not know of the plan to meet at 5 o’clock the next morning for the purposes of an arrest at 5:30, because Constable Alefaio’s evidence, in this court and others, is that he knew of that arrest plan.

THE CORONER: What is being put, I think, is that there was also an arrest plan of some sort when the IRT were sent out on the evening before the morning arrest.

DR DWYER: Then, in my respectful submission, that should be put fairly and squarely and then that can be answered.

MR EDWARDSON: I’ll put the question to you this way, if I may, please Sergeant, and I think we’re actually, you and I at least, are on all fours in this sense, certainly Felix Alefaio, as were the other members of the IRT, they were told, were they not, that if Kumanjayi Walker was arrested the next morning at 5:00 or 5:30 am, you wanted Felix to be with the IRT when that happened?---No, that’s incorrect.

All right. I then asked:

“But I’m talking firstly about when they went out. You were told specifically that you were not to join them when they departed at 7:05 pm?---That’s correct.”

Do you agree?---No, I never asked or demanded specifically whether he could or

couldn't. It never came up.

All right. You certainly said that Hand and Smith would not be going out with the IRT members, because of the potential conflict problem?---No, I didn't. Constable Smith wasn't even there.

I understand that, but the same applied to both of them, didn't it? You didn't want them to have anything to do with the arrest because of the potential conflict problem?---With Constable Hand, that's correct.

All right. So you were told – so – sorry. All you were told, the question goes on:

“Was that if the arrest happen to occur the following morning, that on that occasion you might come on that shift at 5 o'clock and you might go out and help them?---That's correct.”

Do you agree with that?---No.

Okay. And by the time they were deployed, at 7.05 pm, what you did know, and what the other members knew from what they'd been told, was that House 577 was the last known place he'd been seen at?---Yes.

And the police did not know, when they left at that time, exactly where he was?---They – well no one would have had any clue where he was at that time.

And so it was against that background, as you've told us, that they were to conduct intelligence gathering exercises, to try and identify where he was, within the community?---No.

We've had some evidence from officers, and in particular, Sergeant Jolley, who I think is your successor, as the officer in charge of the Yuendumu Police Station?---Yes.

And without going into specific detail, she's given some very helpful evidence about the way in which police officers deal with Elders within the community. And certainly you've touched on that as well I think, haven't you?---I can't remember, sorry.

Well if you haven't done expressly, I'll just ask you some questions if I may?---Sure.

Certainly from your experience, in the lead up to this tragic event, this shooting, you'd had a lot to do with the community, hadn't you?---Yes.

And there is a different way of policing, generally speaking, between what we call town police officers, and if you like, community based police officers?---Yes.

And one of the ways in which there is a difference, as you have described, is that you, or other police officers would go into the community, speak with Elders, and try

and get their assistance to bring about a peaceful outcome?---Where appropriate, and depends on the target.

Of course. And that's the point isn't it. Where appropriate, and it depends on the target?---Yes.

In this particular case, the target, as you described him, that Kumanjayi Walker, was of course, he was (inaudible), we all acknowledge I think now, he was a high risk offender?---He was – he had escalated in his risk.

So much so, that you sought the resources of the IRT as you've told us?---Yes.

And he was properly described by you, in your plan, and various emails, as a violent offender?---That's what I've described him in my – yes.

Despite all of that, you tried your best, can I suggest, to engage members of the community that knew him, in the hope that you could resolve this matter peacefully?---Yes.

Without further conflict?---Yes.

And certainly without him deploying another weapon, another potentially fatal weapon, such as scissors, as we now know?---Yeah, yes.

You wanted to avoid, if at all possible, a repetition of what had happened on 6 November?---Definitely.

And so what you did, was you engaged, as you've told us, and I'm not going to go over it all again, but you engaged with Eddy and Lottie, in the hope that they might bring about his surrender?---Yes.

And you gave him, through your discussions with them, multiple opportunities for that to happen?---Two, yes.

Yes, so we've got the two hours, and then you go back the following day, and then you said, look, I'll – my words, not yours, effectively, cut him some slack, we'll let him go to the funeral, but as soon as the funeral's completed, he must surrender himself?---Yes.

And importantly, and appropriately, in trying to impress upon Eddy and Lottie, as you did, the seriousness of Kumanjayi Walker's position, you told them that things are escalating, and that's why he must surrender?---Yes.

And because what he did was very serious indeed?---Yes.

And importantly, you even went so far as to tell those two members of the community, that it was your intention, absent his surrender, to deploy a specialist team?---I think I said the Alice Springs police.

Well, in your - - -

THE CORONER: She does use that, but she's qualified that a number of times now.

MR EDWARDSON: She might have, your Honour.

THE CORONER: She's mentioned the Alice Springs police - - -

MR EDWARDSON: Yes.

THE CORONER: - - - and she mentioned the dog.

MR EDWARDSON: Yes.

THE CORONER: And she didn't mention some of the other language that she's used in that document.

MR EDWARDSON: It doesn't detract of course, your Honour, from the fact that that's the first record that she made of the events.

THE CORONER: No, but she's clarified that that's not exactly the language that she used. She prepared a document to assist her to recall the events, as best she could, and having reflected on that document, she has now been clear that the language that is used in that document is not necessarily precisely the words that were used with the family.

MR EDWARDSON: Yes, your Honour, accurately reflects the evidence that she's now given.

THE CORONER: Yes.

MR EDWARDSON: Sergeant, can I ask you this. If you didn't tell Lottie and Eddy, or use the word "specialised team", or "IRT", that you certainly intended to convey to them, that there was going to be an escalation in police response?---Sorry, can you just repeat - - -

If you can - - - ?---Sorry just repeat that?

Even if you didn't use the word "specialist team", or 'IRT", you certainly intended, and did convey to them, that if he didn't surrender, there was going to be an escalation in police response?---I don't know – I don't – I've never said there's going to be an escalation. I said we will get the Alice Springs police out, and they will go in harder than we would.

Well going harder, is an escalation, isn't it?---Yes. And I didn't say that because

I expected the Alice Springs police to go in harder, it was my way of pleading with Eddy and Lottie, this is serious, please bring him in.

What you were doing though, obviously, was explaining to Eddy and Lottie, the difference between a community response, community police response, as opposed to a town police response?---I was – yes, I was pleading – I was pleading with them, this is serious, please bring him in.

Yes. And all I'm simply putting to you is that you did everything you could possibly do, to try and get a message to Kumanjayi Walker, to put his hands up and surrender?---Yes.

In other words, don't ever do what you did on 6 November, take an axe to police officers, because the response might be fatal?---Sorry, say that again.

What you were telling them, because you said, didn't you, in your words, he could have been shot when he did the axe incident?---Mm mm.

Correct?---That's what I told them, yes.

Yes, and what – all I'm saying to you, all I'm simply saying is you were making it very clear that if he behaved like again, it could have fatal consequences. You wanted to make it really clear that people cannot deploy weapons against police?---Yes.

Thank you. When – you told us that – I can't remember the exact words that you used, but you certainly weren't flattering about the way in which Officer Kirstenfedt spoke to you?

THE CORONER: Challenging?---Right.

MR EDWARDSON: In other words, you – you didn't like the way in which he spoke to you?---No.

No. That was him – the way he presented to you and how you felt inappropriately he spoke to you?---Yes.

That's certainly not what happened in the case of Zachary Rolfe though is it?---Constable Rolfe didn't say a thing. I – other than hello, he didn't say a thing in the entire time.

All right?---And I actually believed he was listening to what I was saying.

Right, so you believed that – that Zachary Rolfe was being attentive to what you were saying?---Yes.

And your evidence, as you can now recall – recall it, is that he don't – apart from saying hello, he didn't say anything else to you at all?---No.

No, that's your best recollection is it?---Yes.

So there was certainly nothing about his manner, demeanour, conversation, or anything of that nature, that you thought was inappropriate?---No.

And indeed, when you next see him, after he's deployed at 7.05 pm by you, it's after the shooting?---Yes.

And you've already told us the efforts that he and the others were making to try and tend to Kumanjaya Walker?---Yes.

Your Honour, do you mind if we have a very short break? I don't think I've got much more. I just want to have a quick word with my instructor if I may?

THE CORONER: Sure, do you want me to take the afternoon break now?

MR EDWARDSON: May as well, your Honour, if you wouldn't mind.

THE CORONER: So 15 minutes.

MR EDWARDSON: Thank you.

ADJOURNED

RESUMED

MR EDWARDSON: Your Honour, may it please the court.

THE CORONER: Thank you, Mr Edwardson.

Mr Hutton.

MR HUTTON: Thank you, your Honour.

JULIE SHEREE FROST:

XXN BY MR HUTTON:

MR HUTTON: Sergeant Frost, my name is – can you see me?---No.

Sorry?---I can hear you though, that's fine.

THE CORONER: Do you want to come up - - -

MR HUTTON: Sure.

THE CORONER: - - - to the front table. Or, just stop for a second, apparently we can change the image and get it closer to you, Mr Hutton. I don't think we've done that yet, so - - -

MR HUTTON: I don't mind really, your Honour.

THE CORONER: It might just be that we can do this without - - -?---That's fine, thank you.

Thank you.

THE CORONER: If you just angle it back a little bit.

MR HUTTON: Sergeant Frost, my name is Tom Hutton and I appear on behalf of NT Health in this matter?---Hello.

Hi. I want to begin by asking you a few questions about your evidence on Wednesday. Firstly, you told Dr Dwyer that prior to the events of November 2019, there had been unlawful entries involving health clinic staff in the community?---Yes, that's correct.

Can you recall now the details of any of those incidents?---No specifically. Sorry, are you referring to the 7th?

Prior to those incidents?---Prior to those – nothing specific.

Okay. I'll see if I can prompt your memory. I understand that in 2019, there was an incident involving a health staff member who lived with her partner from WYDAC and they had their property broken into and a car stolen. Does that ring a bell?---Yes, sorry. Yes, it does, sorry, yes.

Thank you. And I understand her partner's wheelchair was also stolen from the house?---Yes, that's correct.

And there was another incident in 2019, as I understand, where a child health nurse awoke to find a man in her house and she awoke with him in the bedroom and he was standing over her. Is that consistent?---I – yes I believe that was the case, yes.

All right, thank you. And I understand from your evidence that you, yourself, were broken into earlier in 2019 in Yuendumu?---Yeah, I think it was actually the middle of 2018, yes.

I beg your pardon. Am I correct to say that you were alone in the community that night?---Yes, that's correct.

And so that made it into a particularly upsetting experience for you?---Yes, it did.

You told Dr Dwyer that monthly community safety meetings were held in Yuendumu in 2018 and 2019, as well as other communities?---Yes, that's correct.

And you chaired those meetings and I understand there were five standing agenda items, if you like?---Yes, that's right.

And break ins were one of those?---The kids, yes.

The kids?---The kids, yes.

And another issue was domestic violence. Is that correct?---Yes, that's right and traffic and drugs and alcohol.

Great, thank you. And at times, there were action items coming out of those meetings?---Yes.

Were there minutes taken of those?---Yes, there was.

All right. And there was a separate meeting called the Family Safety Meeting?---A family safety framework, that's correct.

I beg your pardon, thank you. What was the focus of the family safety framework?---It is where you identify – we have identified recidivous domestic violence offenders of a victim. So, those who continually come to note that you're serious.

Okay, thank you. And were the participants of those family safety framework

meetings similar to the same as the attendees at the community safety meetings?---No, not really. No, they were a tighter group that was more specific and targeted, such as Territory Families, the clinic the school. I think the psychologist, Kerri-Anne Chilvers had come to a few of them. So, it was more specifically targeted.

Okay, thank you. Were minutes also taken of those family safety framework meetings?---Yes, they were.

Thank you. On 8 November 2019, you were on-call with Senior Constable Hand?---Yes.

And I understand that the second call out for assistance that you received that evening was from Vanessa Watts?---Yes.

And Vanessa reported that there had been an attempted break in at her property and at the property immediately next door to her belonging to Luana Symonds?---Yes, I believe that was the case.

When you attended that call out from Vanessa, were you aware that there had also been a break into Luana's premise two days earlier?---I believe I was told that, yes.

And were you aware that one day earlier, Luana had also had her car window smashed?---I'm not sure now whether I was aware about that, but possibly.

All right, thank you. Luana was not at her accommodation that evening on 8 November?---No. No, she wasn't. However, you spoke with Vanessa at those premises, at her premises. I believe I would have, yes. We – I knew Vanessa, so I would have definitely spoken to her.

Okay. Do you recall your conversation with Vanessa at all?---No, I don't, no.

All right. Do you recall her demeanour?---No, I don't.

All right. And do you recall if Matilda Starbuck was also present?---There was another lady. I don't know whether I knew her name.

All right. Do you remember if you spoke with her?---I can't remember, sorry.

That's okay. And am I correct to say that weapons or implements were also found at Luana's premises?---Yes, from memory, it was a shovel.

A shovel, all right. And there were two nearby cars that had been vandalised near to Luana and Vanessa's premises?---Yep, right next door, I think it was. There was – we located a vehicle with the window smashed.

Yes, and that belonged to another – that belonged to the midwife in the community? That was a red jeep?---I thought he was a WYDAC worker. I could be wrong.

Sure. You're talking about the red jeep with the back - - -?---The red jeep, yeah.

Thank you?---Yes, that's correct.

And the clinic car had also had its belongings taken out and discarded around the car, as I understand it?---I don't remember that, no.

All right. Do you recall observing that the clinic car also had a window smashed?---I don't remember that, on that same night, are you talking, sorry?

Yes?---Yes, no I don't recall an ambulance that day being smashed.

All right. I understand that evening you then - a third call out occurred and you travelling to Yuelamu to respond to that call out, and that was a domestic violence request?---Yes.

But there was also further attempted break ins in Yuendumu that evening. Is that your understanding?---I don't recall it now.

All right. There is a PROMIS record that I understand you authored that indicates there were people on the roof of nurse John Altings' (? 2:57:55) house and on - - -?--
-Right.

Sorry, and on graduate nurse Lisa Meredith's roof. Do you recall creating that PROMIS record?---No, not really, no.

All right. But you didn't respond to their properties that night. You were otherwise required in Yuelamu?---That's right. No, we didn't go to anything else after that domestic.

Okay. Can you understand, given the number of incidents that were occurring that involved the health staff on 6, 7 and 8 November, why those staff might feel targeted by certain members in the community?---Yes, I can.

You gave evidence to Dr Dwyer that you also had concerns that there might be antisocial behaviour after the funeral concluded that Saturday evening in Yuendumu?---Yes.

And given staff may have felt targeted by going on and your concerns about antisocial behaviour that might follow that night, can you understand why health staff might have felt unsafe in Yuendumu at that time?---Yes.

On 9 November, you had a conversation with Cassandra Holland where she attended the police station, am I right to say, and that was - sorry?---No, sorry you go, I cut you off, sorry.

No, that's fine. Cassandra attended the police station and I understand she put the

ambulance, the Yuendumu ambulance inside the police compound?---Yes, that's correct.

Cassandra hasn't given evidence in these proceedings yet but I understand her evidence will be that you had a conversation with her to the effect of, you said, "I understand why the health staff have to leave. We aren't able to keep you all safe here in the community at the moment." Do you recall having a conversation to that effect?---No, not at all, no.

You don't recall that?---No, no.

Do you recall discussing with Cassandra that she either had or would be going around the community to give additional medication to people who needed it for the remainder of the weekend?---I don't recall that, no.

That wasn't something that you discussed?---I don't recall it.

You were taken to a passage in your record of interview where you referred to Yuendumu clinic as the withdrawal of the staff having left you high and dry. Do you recall saying words to that effect to Cassandra?---No.

Can I suggest that it's understandable that you would not have held that view at the time of the withdrawal because you wouldn't have anticipated that day that such an urgent health response would be required that evening, is that correct?---Yes.

Thank you. In your years in the police force have you been involved in any arrests where the person arrested has required urgent medical assistance?---Not that I can recall, no. No. Certainly not urgent, no.

No arrest where the person has been seriously injured?---No.

In your years working as a nurse were you ever required to provide a health response or an emergency response to a person who had been seriously injured during arrest?---No.

Your evidence on Wednesday was that you were shocked about the events that unfolded and I think we can all accept that?---Yes.

And that your expectation was there wouldn't need to be any use of force at all? ---Yes.

The additional resources that were coming in would, in fact, reduce the likelihood of a use of force, that was your view?---Yes, definitely.

Thank you. Just one final topic, Sergeant. You were asked on Wednesday about racism and you said, regarding community police, "I don't understand any member who would want to come out and live in the community if they held those racist views". Do I understand what you're saying there, Sergeant, is it would be quite

illogical for a person who held derogatory views towards Aboriginal people, to choose to live in a remote community. Was that what you were saying in that evidence?---Yes, it was, yes.

Yes, thank you. Thank you.

THE CORONER: Thank you, Mr Hutton.

Ms Ozolins?

MS OZOLINS: Your Honour I have about two questions.

THE CORONER: Do you want to do it from there or do you want to come over here and we'll leave the - - -

MS OZOLINS: I am happy to do it from here, I just wanted to check that Dr Freckelton is happy for me to go before him?

MR FRECKELTON: Yes, that's fine.

XXN BY MS OZOLINS:

MS OZOLINS: I can move, there's no drama?---I can - sorry - I can see you. I can see you.

Okay. Sergeant Frost, it's Sally Ozolins, I am appearing in this inquest for the Northern Territory Police Association. I just wanted to ask you about some evidence that you gave when counsel assisting was asking you some questions on Wednesday about resourcing and staffing levels in the community and specifically you said that in November 2019 you had a full complement of staff at that time because Senior Constable Hand was relieving there but you also made some comments about ongoing difficulties because even when you had full time members they would quite often leave the community during their days off or rostered days off and that that caused resourcing issues. Can you just explain what you meant by that?---So on days off - members days off, I can't tell people that they have to stay in the community and be available to me. I can't tell them what to do effectively, so that then the police who are resourcing if I need additional resources and at some - it's often been a fact that there's only been two of us in the community because of that.

So is it the case that if members who live and work in the community ordinarily, if they stay in the community for their rostered days off they will still be, effectively, on-call or make themselves available for back up if required and things of that nature?---Not necessarily now, in the consent agreement it's fairly clearly written that you only have to be reasonably available, so we don't get an on-call allowance so every night it is - we nominate two people who will basically be available. Now, if I am up another member and I need back up for instance, if someone doesn't answer their phone or refused to come to work, I don't have that ability to get any more resources.

So what do you do in that circumstance where you don't have anyone available to call on duty?---There's nothing you can do.

And as far as you're aware is the term "reasonably available" defined anywhere? ---I don't believe it is, but it's - I think it's well held amongst bush members that we - you know, it used to be when we got on-call allowance for instance that we were available at a moment's notice. Now, if those members who go on-call and not receiving an on-call allowance, if they want to go for a run or go out for dinner, to go down to Tilmouth Well for dinner, they are actually entitled to because they only have to be reasonably available.

And the other thing I wanted to ask you about, I think it has been referred to as the "relief pool" and I just wonder what is that - what is the relief pool?---Back then it was called the "Territory Relief Pool" and it was a group of members who were available to back-fill members' rec leave or if it's extended sick leave but primarily they also serviced the themas stations.

So those members wouldn't be attached or gazetted to a particular station position, they would just move around the territory where required?---that's correct. They might to out for three days, they might go out somewhere for three weeks. It's all very dependent on the needs of each community.

And you gave some evidence on Wednesday about how you were never reluctant to seek to have further resources allocated, but I think your words were, "I didn't get them too often". How often do you think in your two years at Yuendumu you sought additional resources or additional assistance and it was not made available?---It was fairly regular that I sought resources and it was reasonably regular that I didn't receive them. Having said that it's - there's only a limited amount of people and the requirement all throughout the Southern Desert Region was quite extensive.

Would you say - and I am not suggesting anything to you - I am just asking for your observation. Is it the case that something out of the ordinary needed to be happening in the community for resources to be allocated when they were requested? Is that how it was prioritised?---Yes, yes.

So if it was business as usual in the community, you just happened to be down a member would it be fair to say that that's when you didn't get additional resources? ---Sorry, there's quite a few times. I can't recall specifically now, there's quite a few times but generally it was whenever - I think - I think I've said on Wednesday that because I had relief members mainly, that left big gaps in who was out there, so it depleted my resource and it was also very fatiguing because it was the members that were left out there had to continue to take on that 24/7 on-call role.

Sure?---There was no ability to have a rest, you're basically on-call all the time.

Sure. In your view, in your opinion, do you think that the workload and the lack of resources is a contributing factor in the difficulty in getting members to work at remote stations?---Definitely, yes.

Thank you, Sergeant Frost?---Thank you.

THE CORONER: Dr Freckelton.

MR FRECKELTON: Thank you, your Honour.

XXN BY MR FRECKELTON:

MR FRECKELTON: Sergeant, until the tragic events of 9 September – November, I beg your pardon, had you enjoyed your time in Yuendumu?---Yes, I did.

What was some of the positives aspects of it?---Well I enjoyed getting to know the community and learning who the families were. And you could actually engage with people, because you knew who they were, to the point that you could probably have a little bit of banter here and there. And it was good fun. It was, you know, really nice people generally.

You've just been asked by Ms Ozolins about some of the difficulties in terms of staffing. What were some of the other challenges of the role of officer in charge at Yuendumu?---It's a massive role. I think just running a police station on its own without doing the human resource, the on-call, all the Family Safety Framework meetings, all the CSAPs. Just the day to day running of a police station was a huge – it was hugely – a huge time (inaudible). But then on top of that, I also had to attend jobs. And do the jobs.

And in terms of the jobs, there was – there were multiple incidents of violence, including domestic violence?---Yes.

And is it fair to say that the community is somewhat volatile with difficulties liable to emerge unpredictably at any time?---Yes, definitely.

And was there a significant incidence of property crime?---Yes there was.

And did that property crime particularly increase while you were there in 2018 and 2019?---I think in the summer months it seemed to increase a little bit, more than – more than by per year.

Now your attention's been directed to – by my learned friend, Mr Edwardson, to – no, by Mr Hutton, in fact, to a series of break-ins and incidents involving health personnel, on the sixth, seventh and 8 November. Do you recall that?---Yes.

Was the incidence of those crimes against persons who were working in the community a source of concern for you?---Yes.

Were you conscious that during that period, it was your understanding that Kumanjayi Walker had returned from CAAAPU?---Yes.

Did Kumanjayi Walker have a propensity to engage in property crime with younger persons who followed his example?---Yes he did.

Was that one of the reasons why you suspected at the time, that he may have had – may well have had some involvement in some of these crimes?---There was a consideration, yes.

And does it remain your suspicion, notwithstanding that the one set of fingerprints that were discovered was somebody else's, that he may have had some involvement in those crimes?---Sorry, can you just repeat that question?

Of course. You know, from later information, that fingerprints were taken of one of the properties, and those fingerprints were somebody else's?---Yes, yes.

Does it – notwithstanding that, does it remain your suspicion that Kumanjayi Walker may still have had some involvement in those crimes?---Yes, possible.

All right. Now you've been asked some questions about alerts that you placed on the PROMIS records of Kumanjayi Walker. Do you remember that?---Yes.

What are the options for placing alerts? What kinds of alerts is it possible, for a person such as yourself, to place on the PROMIS records of a person of interest?

THE CORONER: And can I just butt in, sorry. When you put alerts on, is it a freehand entry, or is there something like a drop down menu, I don't know?

MR FRECKELTON: Thank you, that's helpful, your Honour.

I think – I hope you heard the – the Coroner's question?---Yes I did, yes.

Tell her Honour about alerts and how they're put on them and what they are?---Yeah. So there's an – you – into the PROMIS system, there's an alert system, and so you can put a number of different alerts. It could be medical, or behavioural, warrants, and that – that type of stuff. You have freehanded ability to put free text on its own, and then the text box you've got the ability to actually expand on that alert, and say what it was all about. So let's say for instance, a domestic violence order between parties. Both parties would have the domestic violence order. What type of order it was; when it was put on; when it expires; and what the conditions of that order are; and who they've put active, for instance.

So in terms of putting on alerts, where you decide you want to put one on, is there a drop down set of options for you to utilise?---Yes there is.

And could you tell her Honour, as best you can from memory, what those options are?---There's quite a few of them. Like I said, domestic violence, medical, medical alerts, behavioural alerts, oh gosh, sorry, I can't think – there's quite - - -

Anything to do with drugs or disability, or a few things of that sort?---Yes. Yes, so that's the medical side, yes, all of that sort of stuff.

And in terms of – of those matters to which you've referred, behaviour, what if a person's suicidal, is there a drop down for that?---Yes I think there is, yes.

All right. What if they're – they're violent toward others or towards the police? Is there a drop down for that?---Yes.

And just – and is what you've told her Honour, that that then gives you the opportunity, in freehand, to expand upon that?---That's correct, yes.

Does that address what your Honour had in mind?

All right. And so what is the purpose of entering an alert in relation to a person of interest?---It's so the – whoever – the person that comes to attention of police can – or has got an understanding of what the issues are with that particular person.

So just so that we understand what you're saying, are you saying it's for the use of other police who have to deal with the individual?---Yes, that's right.

So that they can do so more informingly, and responsive to any alerts, for the persons safety, or for the safety of police?---Yes, that's right.

And just remind her Honour, which alerts you put on, as a result of the incident on the Wednesday, the axe incident?---I put a violence alert on for Kumanjayi and also an alert to the arrest.

You made reference in response to questions from my learned friend, Mr Edwardson, about intelligence gathering. And the note I took, and I'm content to be corrected about this, is that you said that intelligence gathering is not activity searching for him. "If I wanted surprise, I would not have wanted active searching for him." That may not be perfect, but could you tell her Honour a little bit more about what you meant in terms of intelligence gathering in relation to Kumanjayi Walker, so far as you were concerned, on that evening, before the IRT men and the dog handler left the station?

MR EDWARDSON: Your Honour, I object to that question in that form. It's not – It's not really important as to what she had in mind. What's important is what she conveyed to the relevant officers. There's a big difference between the two. She can have a notion of thoughts in her own mind, but unless that information was conveyed to the officers who were deployed by her - - -

THE CORONER: Well it goes – it goes to the issue, doesn't it, of effective communication, and people have assumptions in their mind - - -

MR EDWARDSON: If it's twofold, yes. We need to know, is it on the one hand, just an assumption that she had, or was in fact whatever was in her mind, was it in fact conveyed to the officers.

THE CORONER: Sure.

MR FRECKELTON: I accept that entirely, your Honour.

There are the two components of what was said, and what she intended to say, I apologise.

THE CORONER: Or what she thought she was communicating.

MR FRECKELTON: That's right, yes.

THE CORONER: I mean, there might be a shared understanding or there might not.

MR FRECKELTON: That's right.

THE CORONER: And we don't know until we hear from the various people - - -

MR FRECKELTON: Yes.

THE CORONER: - - - what they understood by the term "intelligence-gathering" and what that might include.

MR FRECKELTON: Yes. But what I'm seeking to elicit from her is what her intention is and then you will hear from others as to what they – how they interpreted what they learned from that.

THE CORONER: There might be some training on intelligent-gathering. So, you might – there might be a shared understanding.

MR FRECKELTON: Yes.

THE CORONER: I don't know.

MR FRECKELTON: . And I'm going to canvass that.

THE CORONER: Sure.

MR FRECKELTON: Thank you.

Now, (inaudible) of that, I'm going to ask you a few questions about the issues,

Sergeant. Let's start at the beginning. You referred to the term "intelligence-gathering", yes?---Yes. Can I clarify that though. I think when I said, "intelligence-gathering", that actually did come from Constable Kirstenfeldt. He said, "We are going to go out and gather intelligence." So, that's where that had come from.

All right. That's helpful, thank you. What though – is that a term that police officers use, gathering intelligence?---Yes.

What does it mean, so far as you are concerned?---In respect of this particular night?

No, just generally to start off with, please?---Familiarising yourself with a particular person, looking up information report systems, looking at their profile, looking at vehicles they may have; that type of stuff.

All right. Now, you're referred to what Mr Kirstenfeldt said. What did you say in answer to the issue that he raised with you?---He said that that's what he was going to be doing. And I said, yep good.

All right. When on the basis of that, what was your understanding of what he and his colleagues would then be doing?---That they would be driving around the community, familiarising themselves with the community, doing a discreet drive past 577 and 511, particularly while it was still daylight hours.

Yes?---Playing basketball with the kids and having general conversations, perhaps doing an RBT, a random breath test stationed, a myriad of things they could have done.

All right. Now, did you anticipate them going straight to 577 to gather intelligence as to whether Kumanjaya Walker was there?---No.

Why did you not have that in your head as what they would be doing to gather intelligence?---Sorry, I'm not sure if I answered that question correctly.

That's what I just – let's do it slowly. It's important that we're on the same wavelength. Mr Kirstenfeldt said to you that he was wanting to gather intelligence and you agreed. Correct?---Yes.

Did you expect Mr Kirstenfeldt and his colleagues to go straight to 577 to gather intelligence about whether Kumanjaya Walker was inside there and then?---I didn't expect them to go straight there, however, I would have expected them, while it was daylight hours, to do a drive past there.

Right. Why would you not expect them to go straight to 577 and ask people whether he was inside right there and then at about 7 o'clock in the evening?---Because then you've tipped your hand.

What's the problem about tipping your hand, Sergeant?---Well, then you miss the element of surprise for the 5:30 arrest.

And as it turns out, the five men went to 577?---Yes.

They were told he wasn't there. They cleared the house anyway. They received information he might be at or in the facility of 511 and they went there?---Yes.

Was it in your – was it your intention that they, having discovered he wasn't at 7 o'clock at 577, that they go to 511 and gather intelligence about whether he was inside?---No, no.

All right?---Again, you've got your – you've missed the element of surprise.

Now, you've been asked a number of questions by my learned friend, Mr Edwardson, about the conversation, I think again initiated by Mr Kirstenfeldt, about what the members should do if they came across Kumanjaya Walker. Do you remember that?---Yes.

And you accepted that you were asked by the members what they should do if they came across Kumanjaya?---Yes.

And your answer, just remind her Honour?---“By all means, lock him up.”

Now, what did you intend that to mean?---If he happened to be walking along the street and/or was in a car that they doing an RBT on.

Right. You've had some familiarity with the habits of Kumanjaya Walker, did you not?---Yes.

What did you think was the likelihood of them coming across Kumanjaya walking around the streets or going through shops?---Extremely unlikely.

Why do you say that?---He wasn't – because he was generally actively avoiding police, he wasn't one – if he saw a police car, he would hide and run, and he didn't wander around a lot. If he did, it was sort of at night-time.

So, was it in those circumstances that you did not have conversation with Mr Kirstenfeldt or others or about what they were to do if they came across him, namely, it wasn't very likely?---Very unlikely, yes.

Would knocking on the door of 577 or 511 to ask if Kumanjaya was there have been gaining intelligence or gathering intelligence in police language?---No, no.

Is gathering intelligence acquiring information often indirectly and then analysing its utility or significance?---Yes.

And so, might it have been that if the men were in a close part of town and they were in conversation with people there, they might have asked, have you seen Kumanjaya lately?---I probably would have been a little bit – sorry.

It's all right. A bit more subtle than that?---Very subtle, yes. Very, very subtle.

I see, all right. Now, you were asked questions also by my learned friend, Mr Edwardson, about the time that the IRT team was deployed. Do you remember that?---Yes.

What had been your intention as to when they should commence their high-profile policing in Yuendumu?---Sorry, are you referring to my initial intention or the one that was in my initial intention and plan or would it be - - -

Yes, I'm asking you about what Mr Edwardson raised with you. Initially, in your plan, you had a time that you stipulated as to when the IRT team was to do higher profile subject policing. What time was that?---11 pm.

How did it come about that the IRT team left the police station to commence their work at about 7 o'clock?---They indicated to me that they were very happy – I think I said on Wednesday, that the 11 o'clock plan was written in there for the benefit of the members coming out, because I didn't know their rostered hours. There was chance to give them a rest.

Yes?---But when they indicated to me that they were happy to continue working, I was very, very happy because of the memorial concert that's on at night.

And were you happy because that was going to give yourself an others a bit more downtime after you had worked a great many hours on shift?---Yes.

Did the fact that you were deploying them at that earlier time make any difference to your intentions as to what they should do by way of their duties?---No.

You've been asked some questions again by my learned friend, Mr Edwardson, about the provision of medical assistance via Mr Rolfe and Mr Kirstenfeldt in particular, to Kumanjaya Walker. Do you recall that?---Yes.

And you have been very positive about the energetic and committed efforts that they made in order to try and save the life of Kumanjaya?---Yes.

You've referred to the station having very little by way of equipment to assist in attempt to save someone's life in these difficult circumstances?---Yes.

In fact, did the police station itself have a defibrillator?---No, it didn't.

And was one of the things that the IRT men did, that they went out to their own equipment and obtained defibrillator for use on Kumanjaya?---I believe it's come from the town cars.

You've been asked too about your memories of the risk that you perceived to those inside the police station and also to members of the community and you've referred

to your own prior experiences including at Wadeye in 2002 and information that you had heard when you were a nurse and also as a police officer, yes?---Yes, yes.

You received information on the evening from other members about what they could see out the windows and similar?---Yes.

You received some information from Derek?---Yes.

And of course you could hear the sounds of shouting and yelling from outside the compound?---Yes.

And you also could hear the impact of rocks coming onto the roof?---Yes.

You also received information about what was believed to be a fire, is that right? ---Yes, I got told that the clinic was on fire.

On the basis of all of that information and what your colleagues inside the police station said to you, what was your view about the level of risk to the safety of those inside the police station?---I was highly concerned that there was a risk to all of our safety.

And what did you regard as your responsibility to take measure to protect police members and also members of the community if they did make a decision to storm the station?---It was my responsibility to ensure that - to try and prevent that from happening and keep the member safe and the community safe and the assets and - as the forward commander that was my responsibility to try and keep everyone safe.

And did you liaise with Mr Nobbs in that regard, the Superintendent of police?---Yes, there was a lot of liaison between hm and I.

And did you take advice from him about what you should and should not do?---Yes, definitely.

And you had Derek and his father and his uncle outside?---Yes.

And were they critical from your perspective in one trying to alleviate the anger or sources of threat that might exist outside?---Absolutely totally critical. I don't believe that if - if they weren't there I don't - I shudder to think what would have happened.

And were they also, through Derek, the vital source of information to you about how dire the risk was and whether you should take emergency measures such as abandoning the station?---Yes.

And did you receive - - -

DR DWYER: I object. Your Honour that is not quite - that's not quite clear - - -

THE CORONER: Dr Freckelton, there as very little communication between ACPO Williams - - -

MR FRECKELTON: Williams, yes.

THE CORONER: - - - and this officer and we have the content of that communication in the text messages.

MR FRECKELTON: We do, but the point is this, your Honour, if the situation deteriorated it was open to ACPO Williams to let Sergeant Frost know that so that she could take appropriate action.

THE CORONER: Sure. But never did - - -

MR FRECKELTON: He didn't - exactly, he didn't do it because presumably he didn't think that things had got to that point.

THE CORONER: Sure.

MR FRECKELTON: And so, Sergeant - - -

DR DWYER: Just before we go - just because I am conscious that the community is listening, I don't want the community to think that Derek communicated at any time that the situation was dire. I am sure that was not your intention.

MR FRECKELTON: No, no, that's not the intention.

DR DWYER: Thank you Dr Freckelton.

MR FRECKELTON: If that impression was given I would not wish it to be so.

THE CORONER: But I mean I think the communication was extremely limited between Derek and the station for the people inside the station and there was certainly no communication from - initiated by Derek as to really any concerns that he had. He responded - - -

MR FRECKELTON: There was one exception.

THE CORONER: - - - but nothing initiated.

MR FRECKELTON: There was just one exception, with respect, your Honour, and that was is message that we heart about today to Felix Alefaio that the member should stay inside and lock the doors.

THE CORONER: Sure. He said in his statement that there was - he could hear talk in the crowd of people talking about going into the station and it was then that he told Felix to lock the doors.

MR FRECKELTON: That's exactly it, thank you.

THE CORONER: So that's at the very beginning.

MR FRECKELTON: Yes, it was. They did.

Now, on the basis of all of those pieces of information, did you order the police members to make preparations for leaving the police station should that become necessary?---Superintendent Nobbs did - made that order.

And did you relay it to the other members at the station?---Yes, I did.

And given that things did not deteriorate did you rescind that order and tell the members that it was not necessary to abandon the station?---No, that was the order to return to the station was given by Commissioner Beer.

All right, so let's just go through the process. You were speaking to Mr Nobbs - Superintendent Nobbs?---Yes.

On the basis that, amongst other things, you got the guns out of the cabinets and had them at the ready, to be loaded and to pass should that become necessary? ---Yes. Yes.

And then on the basis of information that you relayed to Superintendent Nobbs and he relayed to higher up, the decision was made that it was not necessary to abandon the station?---We had already packed up the firearms and I was packing up my - putting the dogs in the car - and that's when we got the call to go back.

And that was a decision that was made, as you said, by Ma'am Beer on the basis of the information that you provided to Superintendent Nobbs and presumably he related to her?---I'm not sure how she - what - how she came by that information.

At any rate, the decision was made to remain at the station and for her Honour and the community to understand that that was the decision with which you were comfortable?---Not necessarily initially because at that stage I think we had been told that task force weren't coming until the next morning. When we did return back into the station I was made aware that task force are coming and they're coming tonight and then I was comfortable.

Because that gave you reassurance that should anything change there would be sufficient people to preserve the safety of those at the station?---That's right.

Now, there was a meeting that you attended on the next day after which you left to the community, is that right?---Yes.

What was the reason why you left the community?---Acting Commissioner Murphy asked me to be in attendance as I was the officer in charge of the station.

And when you're talking about being in attendance, was this as meeting - I think at the basketball court - but correct me if I'm wrong?---Yes, it was at the basketball courts.

And was this with large members of the community, where further information was given about what had happened, and what was going to happen?---I'm not sure what information – I lasted probably two minutes – five minutes into the meeting. So I'm not sure what was the information that was (inaudible).

I see. What caused you to last only such a short time, and straight afterwards leave the community?---Because it became apparent that the community blamed me for the shooting.

And how do you feel about that?---I was devastated.

And how do you feel about it to this day?---Still devastated.

You've been asked some questions about the wearing of Glocks by persons such as yourself, and more junior members, in community. And you've been informed that it is the wish of, I think it was put as significant numbers of the Yuendumu Community, that police officers not have guns in community, do you recall that?---Yes.

And that there is an order that members in almost all circumstances, carry their Glocks, as part of their accoutrements, is that right?---Yes.

Put that aside for now. What is your view as to the need for members to carry their Glocks in community?---It's critical. It's part – it's part of the uniform. It's something that you hope you never have to use, but if you need it, you need it at a moment's notice. And that is to perhaps – perhaps protect yourself, your members, or a member of the community who is being attacked.

It's been elicited from you sergeant, that you haven't yourself needed to use your Glock, your Taser or your capsicum spray. Does that - - - ?---No.

- - - does that cause you to change your view in terms of the importance of having your accoutrements within community?---No.

Now a final matter. You've said to her Honour that you remain distressed about leaving the community in the circumstances in which you left it. Is there something that you wish to communicate to the members of the community?

DR DWYER: Dr Freckelton, could I ask that be done after re-examination? I have about 15 minutes of re-examination.

MR FRECKELTON: By all means.

THE CORONER: We'll come back to that, sergeant.

MR FRECKELTON: Thank you, sergeant.

That concludes my questions, your Honour?---Thank you.

THE CORONER: Thank you, Dr Freckelton.

REXN BY DR DWYER:

DR DWYER: Sergeant Frost, I'll – I'm hoping to be about 10 or 15 minutes?---Yes, okay.

In your first interview with police, which was 13 November, you were asked some questions about the logistics of picking up members from the airstrip where the ambulance was used. And you were asked about that again when Mr Murphy, appearing for NAAJA asked questions this morning. So I'm just going to read to you your evidence previously about this, and then ask you an open question?---Yes.

In your first interview, you said this, at page22, and this is the interview of 13 November. "So I came up with the plan" – it – I'll just go back one step. You said, "While we were there discussing how we were logistically going to safely get members out to the airstrip, because we would have to go past a crowd of 200 people to do that. So I came up with a plan that there will a police car, then we'll use the ambulance, ladies in the ambulance, and then another police car, to ensure the ambulance lady's safety. And we'll go in convoy, under the pretence of going out there to pick up medical staff, which is a decision we made for the safety of the members. And that's what we did." You recall that that's the evidence you gave at the interview?---Yes, yes.

And is that – is that accurate?---Yes.

So in response to Mr Murphy, when he took you to that interview this morning, you said – when he said to you agree it was a pretence, you say "It was twofold. One was so we had enough vehicles to house all the members coming off the plane, they had a lot of equipment, and we had to put their luggage and swags and that sort of thing in", I'm just paraphrasing a bit. And you say "And the other one was of course, what I acknowledged on Wednesday, that there was some level of hope that the ambulance going out might make the community feel comfortable that knowing that perhaps a doctor was on board." So do I take it, Sergeant Frost, that you don't resole from your earlier evidence that there was some pretence being used by police here?---Yes, unfortunately, there was some level of pretence in that respect.

Can – will you accept from me that we have heard from the community – from community and family, that they feel very hurt that there was pretence used. And I'm paraphrasing again, but they feel that they were tricked. And they don't understand, and they continue to have hurt about that. Is it – do you accept that?---Yes, I do. Yes, and as I said on Wednesday, I'm extremely sorry to the community that we had to do that. It has never been a comfortable decision for me. But at the time we had

to do that for safety reasons. And again, I acknowledge I – and I understand how hurt they are by that.

Do you accept that it also puts the health staff in a difficult position, to be used as part of a pretence?---Yes. And to have one of the nurses come into – back into the police station, injured as she did, is something very difficult for me to know that that was my – I caused that.

And - - - ?---And I do want to apologise to Lorraine for that decision, as well.

Sergeant Frost, the – the – we've heard from – from family members, that they believe that the level of frustration that was – that resulted in a rock being thrown at the ambulance when it was coming back into the station, was because they weren't being told what Kumanjayi's position was. Can you appreciate that level of frustration?---Yes I can.

I take it from your evidence, that you felt that you were in an extremely difficult position there. On the one hand, respecting that the community would be upset. On the other hand, not knowing what the implications would be if they found out Kumanjayi had passed away by then. Is that right?---Yes.

I just want to take you to another topic, which was the evidence that Constable Alefaio gave at trial. Senior counsel for Constable Rolfe took you to some evidence given by Constable Alefaio at trial. I want to take you to the evidence that he gave in his very first statement to the police.

Which is at 7-2 for anybody who wants to follow, at page 15.

But I'll just read it to you. So he's asked by the police officer interviewing him, "Did you hear IRT and the dog handler having any discussions about any arrest plan, or some sort of briefing?" And Constable Alefaio said, "I think the main plan, Julie's plan was – Julie asked me if I could start at five in the morning, and the plan was, we go and look for him at five in the morning, including the four IRT and the dog – police dog. So Julie asked me if I can start at 5:00. And then if we can get him, bring him back, and we'll call her to come over." Is that an accurate representation of your arrest plan?---Yes it is.

Mr Edwardson, senior counsel, put to Constable Alefaio at trial, at page 371. He said this to Constable Alefaio, "In fact, no one from Yuendumu Police Station went out in the community to assist the four members of the IRT and the dog handler." Assuming he meant, that evening, it's the case that nobody from the community police, Yuendumu Police, went out with the IRT directly afterwards – after the briefing, is that right?---That's right, yes.

And why was that?---Because we were about to knock off, and the arrest was planned for 5.30 – 5 o'clock – so Felix – Constable Alefaio was coming on at five o'clock to enact that arrest plan.

Now I want to read to you a transcript from the Spotlight Program, which aired at some point in time. I'll just – I don't know where this information come – came from, but a reporter by the name of Dennin Hitchcock(?) says this, in a piece to camera. "They have no idea where Kumanjayi is." And then he plays Zach Rolfe's body-cam which says "Go and check inside." And then Mr Hitchcock says, "Local police could have helped, but Julie Frost denied the request for assistance." I don't know where he got that information from, but is that true?---No.

If at any stage you'd been asked by the IRT members for further assistance, would you have given it to them?---That would probably alerted me to the fact that they weren't – they were going to looking for Kumanjayi. So I would have actually had great hesitation in giving – I would have wanted to understand why they were asking for a local member.

Sergeant Frost, I don't know if whether you've watched that Spotlight Program, but you've just said it's not true that local police could have helped, but Julie Frost denied the request for assistance. How does it feel to have that misinformation then portrayed about you?---It's disgraceful. And very, very distressing for myself.

Do you think if the community hears that, and I'm told that some members of the community have watched those program – that program, if the community hears that, that it has the potential to undermine the trust that they have in local police? If they think that they refuse to assist the IRT?---Yes.

You, in response to Dr Freckelton's question, gave some answers about what gathering intelligence means. And in terms of the police understanding of it. Have you watched the body camera of Constable Rolfe, when he attends the first house, after receiving the briefing, with other members of the IRT?---No I haven't.

I'm going - - - ?---I don't think I have, no.

I'm going to ask that be played to you. It's not very long.

It's at 4-1, it was played during the opening.

Sergeant Frost, if you just watch this, and then I'm going to ask you whether or not that's what you intended by gathering intelligence.

THE CORONER: Or whether that's what she understood Kirstenfeldt meant when he used those words.

DR DWYER: Thank you.

Did you hear her Honour, sergeant?---Yes – yes I did, yes.

DVD PLAYED

THE CORONER: And that's probably enough then, thank you.

DR DWYER: Sergeant Frost, could you see that video?---Yes, I could.

Now you spoke about intelligence gathering being something subtle, when Dr Freckelton asked you about it, is that what you had in mind?---No.

Why not?---That's now – you've just now tipped off your ability

DVD PLAYED

THE CORONER: That's probably enough then, thank you.

DR DWYER: Sergeant Frost, could you see that video?---Yes, I could.

You spoke about intelligence-gathering being something subtle, when Dr Freckelton asked you about it, is that what you had in mind?---No.

Why not?---That's now – you've just now tipped off your ability to enact or effect a surprise arrest.

I think – I don't know if you could hear these words on the video, but I heard the words from Constable Rolfe, and I'll use the term "Kumanjayi" instead of his first name, "We're here to grab Kumanjayi up – ah – hey, is he inside? Do you mind if I check inside? Do you know where he is? Who's here?" Is that what you understand police mean by intelligence-gathering?---No.

Sergeant Frost, if you had known that the IRT members were going to leave the briefing and go straight to a house like that and walk into the house and have that conversation with community members outside, what would you have told them?---I would not have allowed them to do it.

Two further brief matters. Mr Edwardson showed you what he referred to as a "criminal history". You've had an opportunity to have a look at the information for courts, which is Kumanjayi's criminal history. It's at 2-4C. Do you agree that that's some 15 pages, rather than 60-odd?---Yes.

And then finally, in response to a question from someone at the bar table and followed up by Dr Freckelton, you've indicated that you, in all your arrests, you haven't ever needed to use your Glock, of course, correct?---Yes, that's correct.

You haven't needed your capsicum spray?---No.

And I think you said you've used your Taser once in all your years at Nauiu?---No, I had to deploy spray - - -

Spray?--- - - - at – no, not Taser.

Okay, sorry, thank you. So, somewhere near Daly River, that your

capsicum - - -?---No, that was Bathurst Island, yeah, yes.

Have you ever done that more than once?---No.

So - - -?---Sorry, other than for dogs, that's it.

Okay?---Occasionally, if there's dogs.

How many arrests do you think you've performed over your 16-17 years as a police officer?---I would hate to think. I wouldn't be able to put a number on it, I don't think.

Hundred, is that fair?---No, I wouldn't say hundreds, no.

Less than 100, somewhere between 50 and 100?---Possibly.

What tools do you use then, if you haven't had to use your Glock and you've only ever had to use your spray once?---Generally, it's a lot of communication, a lot of – we've had to use the element of surprise a number of times. But you know, to get them on the target, but it's a lot of communication, a rapid, quick arrest and that's it.

Those are my questions, Sergeant Frost. I apologise for interrupting Dr Freckelton earlier. I think there was something that you wanted to say to the community?---Yes, your Honour. I've just got something to read out, if possible.

THE CORONER: Yes, thank you?---To the family and community at Yuendumu, I am very sorry for the loss of Kumanjayi and I hope this inquest can provide you with some answers as to what happened on that night to cause your loss. More importantly, I hope that we can all learn lessons from this incident to ensure that this never happens again. Please know that the police officers that come out to work in your communities do so because they care about helping your community. We come out to live in your world and we try our hardest to balance your cultural expectations with our need to ensure that people in your community remain safe. Like everybody, police sometimes make mistakes. We are not perfect. But for myself, I can honestly say that I cared a lot and I tried hard to keep your community safe. Community living doesn't come naturally to police. We often more a long way from our family and friends. We often have little to no rest because police need to be available 24 hours a day. My experience of the police officers that I have worked with is that they come to work in the community because they care about helping the community. The community police that I know care a lot about creating a safe community for Yapa and Kartiya. You're a strong and proud community and I thank you for welcoming me back into it in February 2018. I learnt a lot from you about your culture and whilst it was often challenging, I enjoyed my time there. I know I didn't part on good terms, but I understand the angst that I have towards me. I hope that you will accept how genuine I am in saying that it is a tragedy that Kumanjayi died and I feel very sorry for your loss.

DR DWYER: And your Honour, Sergeant Frost broke up a bit there on the last part of that, I think, was "and I feel very sorry for your loss." We can ensure that that is

interpreted in Warlpiri so that the community understand what Sergeant Frost is trying to say there.

THE CORONER: Yes.

Sergeant Frost, thank you for attending over two full days, listening attentively to all of those questions and providing the evidence that you have provided about the events as best you can, given the time that has now passed. I know that you have – this is not the first time that you've been in court talking about these matters. I know that the attendances at court have been difficult and demanding and we very much appreciate the care that you've again given to this evidence that you've been giving over the last couple of days?---Thank you, your Honour, thank you.

Is there anything – firstly, you're excused and we will break the link?---Thank you, thank you.

WITNESS WITHDREW

THE CORONER: Are there any other matters that we need to raise before Monday?

DR DWYER: Only just some housekeeping - - -

THE CORONER: Sure.

DR DWYER: - - - and perhaps the dreaded witness schedule. I can definitely confirm the witness schedule for next week and we'll get that out hopefully some time this evening, but if not, tomorrow. I beg your pardon. So, that's good, we know where we are for Monday, your Honour, which is Officer Wurst, Superintendent Wurst.

THE CORONER: And anything - - -

DR DWYER: Assistant Commissioner Wurst.

THE CORONER: - - - for any of the other parties?

MR EDWARDSON: No, nothing, your Honour.

THE CORONER: Thank you, we can adjourn.

ADJOURNED