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NORTHERN TERRITORY OF AUSTRALIA

COURT OF SUMMARY JURISDICTION

No 20928097, 20803700 and
20928098

POLICE

and

RYAN ANDREW WHITFIELD and
FRANK WILLIAM INGRAM

MS S. OLIVER, SM

TRANSCRIPT OF PROCEEDINGS

AT DARWIN ON FRIDAY 16 OCTOBER 2009

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HER HONOUR: Yes, thank you. The matters of Ingram and Whitfield.

As I indicated earlier, gentlemen, when we were calling these matters over, it's my view that the Youth Justice Act permits preliminary examinations before the Youth Justice Act be conducted in conjunction with the Court of Summary Jurisdiction.

I think that I take that view because the Act provides that where there is no specific provision to the contrary, then the Justices Act shall apply. And Youth Justice Act provides further that where a matter is - where there is an offence before the court which is subject to a penalty of life imprisonment, the Youth Justice Court must proceed by way of preliminary examination. It seems to me then that procedurally both matters are dealt with by way of the procedures under the Justices Act.

What I think remains to be done is, of course, for the parties to consent to that and I've have your agreement for that. And I think it remains for me to make an order in general terms that the evidence before the court from each witness shall be adopted in relation to each of the preliminary examinations.

So if I make an order to that effect, are parties satisfied that that's procedurally and evidentially (inaudible)?

MR JONES: Yes, your Honour. Yes, the prosecution shares your Honour's view in relation to preliminary examinations running jointly with the Court of Summary Jurisdiction. And in particular I think the only section that the prosecution was aware of was s 53(1) which I think potentially gives that power.

But your Honour has actually streamlined things because I was looking at seeking that after each witness had done their examination in chief that that be adopted when the Court of Summary Jurisdiction was enlivened after the Youth Justice Court. But a general order is obviously much better.

HER HONOUR: Well, I think it becomes very cumbersome to open and close each court.

MR JONES: Yes.

HER HONOUR: And so if you're satisfied that that's an adequate procedure, then what I propose to do is to make an order at this point that the evidence of each witness shall be adopted in relation to the preliminary examination of, respectively, Mr Whitfield before the Court of Summary Jurisdiction and Master Ingram before the Youth Justice Court.

MR BROCK: Yes, your Honour.

MR ABAYASEKARA: No objection to that.

HER HONOUR: All right. I make that order thank you.

MR JONES: In relation to charges, your Honour.

HER HONOUR: Yes.

MR JONES: The prosecution would wish to proceed with the Youth Justice matter first. And in relation to that, counts 1, 2, 3 and 7.

HER HONOUR: 1, 2, 3 and 7, yes.

MR JONES: Yes, in my respectful view is that my submission that they are normally charges that would in the Court of Summary Jurisdiction obviously be laid on complaint, whilst the Supreme Court has inherent jurisdiction in relation to Youth Justice matters, the prosecution will just seek to stand those counts aside.

The prosecution will be proceeding today on counts 4 and 5. And the prosecution seeks leave to withdraw count 6.

HER HONOUR: All right. I'll just note those matters. All right, leave is granted to withdraw count 6.

MR JONES: As the court pleases.

HER HONOUR: Yes.

MR JONES: In relation to the Court of Summary Jurisdiction matter, Mr Whitfield, the prosecution will be proceeding on counts 1 and 2. And prosecution seeks leave to withdraw count 3.

HER HONOUR: All right leave is granted to withdraw count 3.

MR JONES: We're ready to proceed, your Honour.

HER HONOUR: Yes, thank you.

Mr Whitfield and Master Ingram, if you just stand up, please. The charges are going to be read to you, but you're not required to say anything in answer to the charges.

Do you want to stand with your clients at all?

MR BROWN: No.

MR ABAYASEKARA: No, your Honour.

HER HONOUR: No? All right that's fine, thank you.

CHARGES READ BY MR JONES

HER HONOUR: Yes, you may sit down now.

CHARGES READ BY MR JONES

HER HONOUR: Yes, thanks, Mr Whitfield, you can sit down too now, thank you.

MR JONES: May I just have a moment, your Honour?

HER HONOUR: Yes.

MR JONES: Your Honour, if I may just have a moment, I've just received some information from the officer in charge.

Your Honour, I've just been advised that one of the witnesses in relation to the matter and potentially a key witness, prosecution had been looking for and has just arrived.

From my understanding that that individual is a youth and in any event is a child. But I've informed my learned friend's of the fact that they have arrived. I haven't spoken to with this witness, a statement hasn't been provided. But I think it proper and fair to inform the court of it, inform my friends and say that at this point in the event that both defendants are committed, that we wouldn't have an issue with Basha inquiry - I know you can't make an order in respect to Bashas, but I just thought it proper that that be put on the record.

HER HONOUR: All right thank you.

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HER HONOUR: And we might just have to wait for a moment, Mr Jones.

MR JONES: Yes, certainly.

HER HONOUR: Because the court officer has left now.

MR BROCK: Your Honour, could I briefly be excused for a minute.

HER HONOUR: Yes, Mr Brock.

MR JONES: Your Honour, if I may just briefly be excused.

HER HONOUR: Perhaps you could look for the court officer while you're out there, Mr Jones.

MR JONES: Yes, your Honour. Sorry, your Honour, I haven't seen your court officer in between time.

HER HONOUR: All right.

Ms Swift, I wonder if you would assist the court by swearing in a witness if Mr Jones calls a witness, would you mind doing that?

MS SWIFT: Certainly, your Honour, I am happy to.

HER HONOUR: All right.

Mr Jones, who would you like to call?

MR JONES: If I may just have one brief moment. Your Honour, just to correct the record, that other witness that has just arrived I believe is an adult and maybe called later on today.

HER HONOUR: All right.

MR JONES: Yes, if we could call Brett Greer.

HER HONOUR: Thanks, Ms Swift.

MR JONES: Before we do that, actually I might - provided for the little bit of extra time tendering exhibits.

MR JONES: Your Honour, if I may have permission to hand these up?

HER HONOUR: I think we now have a court officer.

MR JONES: I think we're all right.

MS SWIFT: Am I required to do this one?

HER HONOUR: Yes, thanks, Ms Swift, I appreciate your assistance.

BRETT ANTHONY GREER, affirmed:

HER HONOUR: Yes, well, just leave the statements for the moment, you can come back to those, lets get on with the case.

MR JONES: Yes, thank you, your Honour.

Could you state your full name to the court, please?---Brett Anthony Greer.
Where were you at 6 am on Sunday 23 August 2009?---I was in the Darwin Hospital.

And why were you there?---I was assaulted and robbed.

How did you feel at 6 am on Sunday 23 August 2009?---I was pretty sore.

Let's find out how that happened?---On the evening of Saturday 22 August, did you go anywhere that evening?---Yeah, I went to a friends house. I went to Martin Jensen's(?) and then later I went to my mate Kieran(?) Shaw's house.

Where does Martin Jensen live?---Martin Jensen lives in Leanyer, but then I got driven to Kieran Shaw's house which is in Mauna Lowa, just near Uncle Sams.

What possessions did you have on that night?---I had my telephone, my wallet and some sunglasses.

What type of telephone was that?---Sony Ericsson.

Did you have any money in your wallet?---I did have some money in my wallet.

How much money?---300 to 350, I thought it was more, but after checking in my bank statements that's how much I would have withdrawn so.

Do you recall the denominations?---It would have been all \$50 notes, yeah.

Now, you said that you went to Kieran Shaw's house, who did you go there with?
---I went - I got dropped off by another mate, so I went there by myself.

And who was there?---Kieran and another mate, Cow(?), I'm not sure of his full name, it's the first time I'd met him.

Was anyone else there?---His wife, Goy(?) and their six month year old son, Caden(?).

And what were you doing there?---Just watching the footy and having a few drinks.

What footy were you watching?---AFL, I can't remember the game unfortunately but, yeah.

And you said that you were drinking, what were you drinking?---I was drinking apple cider.

Was that alcoholic?---Yes, it is.

How many of those did you have in the course of the evening?---12 to 15.

Did you eat anything?---No, I didn't.

Did you take anything else?---Yeah, I had have a puff or two of a joint, probably an hour before I left, an hour and a half before I left.

Now, you just mentioned a time, what time did you arrive?---It would have been around 9.30 I'd say.

And what time did you leave?---Probably 1.30, 2 o'clock, around that area, fairly late.

Who did you leave with?---By myself.

Where did you go?---I turned left along Smith Street towards where I live, towards Cullen Bay.

So you were walking down Smith Street towards?---Towards Cullen Bay, yes.

And where were you living at the time?---I was living in Mitchell Street.

Do you remember the number of Mitchell Street?---Yeah, 148, Unit 5.

Now, approximately how far is that from where you were living to Mr Shaw's address?---It would be less than kilometre I'd say.

Now, you walking down Smith Street, what happened next?---I turned left to head towards where I was living at the big round about there. Just turned around sort of the next thing I know there was a guy in my face sort of yelling at me. I didn't really catch most, but most of it was sort of just, 'Give me what you've got'. I had my wallet and phone in my hand because they didn't fit in my pockets.

Okay now, if I can just stop you there. You said, 'A guy got in your face' can you describe that guy?---He would have been fairly tall, probably around 6 foot, maybe a bit taller, fairly lanky. Facial feature wise, et cetera, I'm not too sure, I have sort of, yeah, that was pretty - sort of pretty sort of thing to happen so.

What colour was his skin?---It would have been tanned, but not olive, a bit darker than olive I'd say.

What colour was his hair?---It would have blonde and fairly - I can remember it hanging under - sort of under the ears at the back.

What type of clothes was he wearing?---Yeah, can't remember, just a cap, it was a backwards cap.

A cap?---A backwards cap, yeah, a backwards hat, but other than that I don't recall any other clothing that he was wearing.

Now, you just told the court that he had said something to you, what did he say?---It was pretty much along the lines of - am I allowed to swear?

Yes, you can if swear words were used?---Yeah. 'Give us what you're fucking got. Fucking give us what you've got' along those sort of lines repeatedly. I sort of really didn't have idea what was going on because it just was like that - in my face so.

At that time, how would you describe your level of sobriety?---I was - I was fairly intoxicated, yeah. I probably would have been visibly drunk if you saw me walking.

Now, he said those words to you, what did you do?---It just went along the lines of sort of, 'What are you talking about?' sort of - yeah, I wasn't really coherently realising what was being said to me.

What happened then?---I got punched in the face.

Was that an open or closed hand?---It felt like an open one, sort of - I don't really remember the feeling of the punch, I do remember the thud to the - there's a loud thud you hear when you get punched to the face, it's a pretty distinctive sound.

Do you know what hand was used?---I'd say it would be the right.

Where did that punch connect on your body?---Around the facial cheek eye area.

HER HONOUR: The witness is indicating the left side of his face.

MS JONES: Thank you, your Honour.

What did you do then?---Not a lot. Sort of took it and stumbled a bit, after probably took a couple more and was still stumbling.

When you say, 'Took a couple more' what did you mean by that?---Just a couple more punches to the face.

When this occurred, where were you standing?---I was on the footpath and it sorted started to spill towards the grass area.

And at that stage, approximately how many times had you been hit?---I'd say probably three or four.

What happened then?---As I was stumbling I sort of tried to hopefully compose myself and do something and then I just got knocked over again onto the road.

Now, when you say, 'Knocked over onto the road' were you still standing or what does it (inaudible)?---I would have been sort of bent over just trying to sort of - yeah, stumbling I'd guess you'd say so I wouldn't been up straight, no.

What happened then?---Then I fell to the ground and just covered up and I guess you call it the foetal position, just put my arms in front of my face, both my arms.

When you were on the ground was anything being said then?---Not at first, I don't recall, no. I'm just sort of just getting kicked in the head.

You just said you were being kicked in the head, how many times were you kicked? ---Probably a good - or in the end probably I'd got a good 20 times I'd say. No blows from neck down, just repeatedly to the arms and to the head.

Now, what force was being applied in relation to the kicks?---Yeah, a fairly decent force. You could see the next day both my arms were pretty much bruising from hand to elbow as the blows were coming straight through my - the guard I had up and just directly to the forehead cheek and nose and jaw area.

And when you were being kicked, was there anyone else present?---Not at first. I do remember hearing sort of someone run - someone else running over. This is where it sort of got repeated again, 'Give us what you've got. Give us what you've got' which I've said, 'I don't have anything else. Leave me alone I don't have anything else. You've fucking got everything I've got, leave me alone' as I had my wallet and phone were - I think - I think I'd dropped them on the grass as I sort of stumbled over to the road.

You said earlier that you were protecting yourself?---Yeah.

Could you see the people that were - the person that was kicking you?---I didn't see a thing on the road, no.

From what you felt, was there more than one person kicking you?---Not at first, but probably after a good 10 kicks, yes, there definitely was.

What happened after that?---I just sort of - they - they were gone, I wasn't sure sort of why it was all - from here it was pretty - pretty (inaudible), I remember hopping up, just looking at my hands and there was just - just blood dripping pretty - pretty full on all over my hands and down my face. By the time I had hopped up there was a young female and a young male that had seen what had happened. So I had stumbled over to them just sort of saying, 'What the fuck happened? What - what was that? What the hell just happened?' my blood was dripping all over - yeah, the carport, road, myself. And I do remember, first thing I remember hearing is the lady, the girl that did see it saying - I'm guessing she rang the police saying, 'Yes, yes,

he's looking in a pretty bad way. Yes, I think you should get an ambulance' and that's all I really heard her say.

Now, I'll just take you back a step?---Yeah.

Did you see where the persons were that were kicking you? Did you see what direction they went in?---It would have been to the right I guess, if I'm on - towards - towards Mitchell Street. I do remember hearing a car drive off, but I could not give you a description of the car.

What type of sound was the engine making of that car?---It would have been a small - a small four cylinder car I guess.

Now, you mentioned a lady?---Yeah.

And a man came to help you?---Yes.

What happened after that?---I was fairly dazed by then. I was just sort of stumbling around a fair bit just - I guess in shock, incoherent of what just happened as it was out of nowhere. As I said, I remember the lady called - I heard the end of the conversation out believe with the police. Then they sort of just told me to sit down. Police were there very swiftly.

How long do you think it took for the police to arrive?---It didn't seem long, it seemed within 5 to 10 minutes, it didn't seem long at all.

Who arrived first, the police or the ambulance?---The police did, definitely.

Anyone else arrive?---Yes, before that I asked if the young gentlemen could call my best mate, Kieran, whose house I had left. Because obviously I know he would sort of want to be there and how it happened.

Did he arrive?---He did, yes.

Do you know when?---It would have been probably five minutes after the police, so not very long at all. Along with Cow his friend as well, also arrived with him.

Mr Greer, did you give anyone permission to assault you?---No, definitely not.

Did you give anyone permission to take your Sony Ericsson mobile phone?---No, definitely not.

Did you give anyone permission to take your wallet?---No.

Did you give anyone permission to take your cash?---No, no, definitely not.

That's the evidence in chief of this witness, your Honour.

HER HONOUR: Yes, thank you.

Now, who would like to go first, Mr Brock or Mr Abayasekara.

MR ABAYASEKARA: Your Honour, I'm happy to go first.

HER HONOUR: All right thank you.

MR ABAYASEKARA: Mr Greer, you said you were drinking ciders that night?
---Yes.

Is that all you had to drink that night?---Yes.

And did you start drinking the ciders only when you got to Kieran's place?---No, no, I'd had a few before.

And sorry, whose house was that at?---Martin Jensens.

And can you remember how many you had at Martin's house?---I would have had three. I took a four pack and I left one there.

Sorry, what was the type of cider you said you had?---Bulmers it's called.

What's it called?---B-U-L-M-E-R-S apple cider.

And when you say a four pack, so these are four bottles were they?---Yeah.

How big were these bottles?---330 mils they are.

And at what time did you start drinking them?---It would have been around probably 7 o'clock.

Is that the time you got to Martin Jensen's house?---That's what time the football started and that's when I would have started my first drink, yes.

And did you stay there until the football ended?---Yes, I did, yes.

And it was three in Martin Jensen's house, three apple ciders?---Yes.

You had nothing to eat at Martin Jensen's?---No, I would have eaten previous in the day before that, on the way to Martin's we called in and got something from Leanyer Shopping Centre.

So you said the day before?---I said during the day before we got to Martin's, yeah, on the way, because I was going to drink and I wanted to have something to eat before you drink.

So it was immediately before you went to Leanyer Shopping Centre was it?---Yes.

Can you remember what you ate?---I (inaudible) cheese and bacon roll or something.

During the day had you had anything to drink?---Alcohol wise?

Alcohol?---No, definitely not.

And what time did the football end?---It would have been 9, 8.30, 9 o'clock.

You then went to Kieran's place?---Yes, my - the other guy that was there, Ben, dropped me at Kieran's place as Kieran had called earlier and said, 'Do you want to come around and watch the other game of football.

And what other game of football was that?---It would have been a replay as there were two games of football that were playing at the same time, we watched one live at Martin's house and want to watch a replay of another game of football at Kieran's house.

Was this on cable TV or was it on - - -?---The one that was at Kierans would have been on cable, sorry, Martin's was cable and Kierans was on channel 7 or 10 I guess.

Now, when you got to Kieran's had that game already started, the second game? ---Yeah, yes, it has, yes.

Now, the \$300 to \$350 you had in your wallet, at what point did you get that? ---I would have got that on the Friday as it was to pay some bills. And normally after work I pay bills up on Friday, but I didn't this time so.

And so what you went to Leanyer ATM to get it out?---Yeah, yeah.

And can you remember what time of the day that was?---Any time after 12 when I get paid, so it would have been before then, because I wouldn't have had money before then so.

And then you took a four pack of ciders to Martin's place, did you take anything to Kieran's place?---Yeah, I took the rest of the carton that I'd purchased, yes.

So when you say the rest of the carton, how much was left in the carton?---There would have been probably 20 left in there because there's 24 in a carton.

Now, you mentioned also having a few puffs, sorry, you said a puff or two of a joint? ---Yeah.

Was that at Martin's or Kierans?---That was at Kieran's place.

And when you say a puff or two, what do you mean?---We had a joint and I passed it and Cow the other guy that was there probably has one, I probably had one and that was it.

It was just the one joint?---Yes, definitely.

Sorry, I'll just take you back there. Can you just be a little clearer on how many puffs you might have had?---I'd say two, yeah, two - two puffs.

What time did you say you left Kieran's place?---About 1.30 I'd say. On the night I thought it was earlier, but obviously I was fairly dazed and after things come back to you a bit later, it would have been, yeah, 1.30, 2 o'clock around that time.

Now, between 9.30 and 1.30?---Yeah.

You were at Kierans, when you earlier said you had 12 to 15 ciders, was that through the course of the night or just at Kierans?---No, that would have been probably - yeah, probably 12 at Kierans and then the three I had Marks before that, yeah, so 12 to 15, yeah.

Between 9.30 and 1.30 were you drinking at a regular pace?---Yeah, fairly regular, yeah.

So that's roughly about four hours. You had 12 there, roughly about three an hour? ---Yeah.

Every 20 minutes?---Yeah, that would be pretty close, yeah.

And you had nothing to eat at - - ?---Nothing at Kieran's house, no.

Were you approached by the person you described who assaulted you, were you approached by him?---Yes, definitely.

And you mentioned words that were said and punches that were thrown?---Yes.

Were the words spoken first or the punches?---Words for sure, definitely.

And it happened quite quickly, did it?---Yeah, yeah, I'd say so, yeah. So it's definitely a bit of a daze, but it's - you don't expect that to happen so, of course, it seems like it happens out - very quickly out of the blue, yeah.

So you were taken by surprise obviously?---Yeah, that would be the way to describe it, yes, yeah.

Now, you mentioned being punched. And did you say you initially went to the ground in that driveway, the grass area?---Not - not in the - the ground - sort of stumbled a fair bit to my right, which would have been towards the grass, because I was on the concrete footpath.

Which way were you facing at that point?---I would have been facing towards Mitchell Street.

So away from Smith Street towards Mitchell Street?---Yes, yeah, around the corner, yes.

And did this person come up behind you or - - -?---No, in front of me.

In front of you?---Yeah.

And so when you say you stumbled did you actually sort with your knees touch the ground?---Not that I recall, no.

When you did go to the ground, where exactly were you?---I would have been on the road.

On the road?---Yes.

When you were on the ground, did you try to run away?---No, by that stage I was fairly - fairly incoherent with what was going on. I just thought that the only thing I could really do was cover up and just hope for the best really.

And just for the record, the witness put both hands above his face, sorry, both arms - forearms above his face.

So that's what you've just described as putting both forearms above you face? ---Yeah.

That's what you did immediately when going to the ground?---Yes, yeah.

And you've mentioned going to a foetal position?---Yeah, just as I said, just pretty much laying there, just hoping for the best.

So foetal position, does that mean curling your legs up?---Probably not so (inaudible), not foetal, no, not so much.

All right, but it would have been I suppose ducking your head?---Yeah, yes.

Pulling it tight to your body?---Yes, exactly, yeah.

Now, when you went to the ground, were you kicked immediately?---Yeah.

And you said it was only in your face or head area?---Yeah, definitely.

And were you also at the same time moving around at all?---No, not really, not at all.

To avoid the blows, were you trying to move your head left and right?---I'd say that's about as far as - I was really not doing a lot. I was just as I said very, just hoping for

the best and just covering my face and just hoping it would end pretty damned quickly, yeah.

Can you remember which direction you were facing on the road when you were laying there?---Yeah, I would have been facing towards the apartment blocks. So I was - obviously I was facing Mitchell Street, so then I would have fallen down and the apartments blocks are - to - to my left of where I was facing.

Sorry, we were talking about the way that your head was pointing?---Yeah.

So your head was on the side, you were laying on your side?---Yes, yes.

Was your face pointing towards the apartments blocks?---Yes.

And the apartment blocks, if you're on that street facing Mitchell Street, they're to your left?---Yes.

Now, you mentioned you had your wallet and phone in your hand?---Yeah.

Did you have them both in one hand?---Yes.

Do you remember which hand that was?---It would have been my right hand, yes.

Can you remember at what point you dropped them?---No, not at all.

So you're not sure whether it was on the road or whether it was on the grassy area? ---No, not sure, no.

Can you remember whether you dropped them at the same time or you dropped one, sorry, did you drop them at the same time?---I - I guess, I wouldn't have held onto on any longer than the other, yeah, it would have been a pretty immediate thing.

Can you actually remember the point of dropping them?---No, I can't, no.

Now, I think you said you heard somebody else coming over?---Yeah.

And so what you heard footsteps, did you?---Yeah, yeah, pretty much running, it wasn't - it was fairly fast footsteps as well.

And when you heard this though, you were being kicked by the initial person? ---Yeah.

Now, when you heard these footsteps coming over, were you still in the same position you'd been in (inaudible)?---Yeah, the whole time I had not - the whole - it was that same position the whole time, the whole thing happened, yeah.

And your arms again were in front of your face?---Yeah, they didn't move the whole time.

They were there the whole time. You didn't get to look at all of the second person?
---No, not at all.

Can you remember when personally, when initially when there was just one person kicking you?---Yeah.

Can you remember which direction the kicks were coming from?---Well, I guess sort of down to the side and there was some stomping actions and there would have been some straight - because they've obviously come straight to the garden, so there's some though here and there was also some stomping actions to the side of the jaw as you can - I'm not sure if you've seen the photos, but my jaw was relatively swollen on both sides as well.

I'll just stop you there. Just to indicate, because what you're saying is being recorded?---Yeah.

You were talking about stomping and personally you were pointing to the left side of your - was it the top of your head?---So if I'm going like that.

So you're down - - -?---Sort of coming through, yeah.

You're down on your left side, were you?---Yes, yes.

And the kicks were coming where exactly?---So, well, they'd be coming from the top.

To the top?---Yes.

So that's the right hand top of your head?---Yes.

And you also mentioned coming from somewhere else as well?---Just - just in front, like straight in front of the face.

Straight in front of the face?---Yeah.

Now, you said it's probably about (inaudible) 10 kicks until you heard someone else coming over?---Yeah, definitely.

Sorry, Mr Greer, just give me one moment. Did you hear any talking at all?---Yeah, yeah, just the same, 'Give us - give us what you've got. Give us what you've got left which I repeated, 'I don't have anything. Leave me alone. Leave me alone, you've got everything I've got' and that was repeated by me, would - would be probably almost 10 times, I just kept repeating that over and over while I was just getting - yeah, still assaulted.

And did the whole incident happen quite quickly?---Yeah. It seemed to obviously as it does.

Did you actually see your attackers running off?---No.

So when they stopped you you would have heard their footsteps?---I didn't hear many footsteps. It just stopped and as I was sort of getting up, that's when I heard a car drive off.

But did you see, well, did you see or hear - I'll withdraw that, sorry. How do you know in which direction they took off in?---Well, when the car drove off.

So it was from hearing from where the car was or did - - -?---Well, if they went - yeah, because they would have, if he's getting in my face from there, they pulled over next to me, they didn't do a U turn and turn the other way. They went in that direction, so.

And did you actually see the car driving off?---No.

You heard the car driving off?---Yeah.

And from the noise you can tell where it's coming from?---Yeah, pretty easily.

Had you seen before you were assaulted, had you noticed the car at all?---No, I didn't.

So you could hear that the car was in front of you?---It would have been ahead of where I was - I was facing originally, yes.

And you heard it driving off away from you?---Yes.

And you didn't hear it coming back around at all?---No, that's it, yeah.

Your Honour, I've got no further questions of this witness.

HER HONOUR: Yes, thank you.

Mr Brock.

MR BROCK: Thank you.

Mr Greer, you said that you lived on Mitchell Street at 148?---Yeah.

Is that towards the end of Mitchell Street?---It's on the very corner, yes.

Kieran Shaw, how long have you known Mr Shaw?---Five years.

And has he always lived on that street?---No.

No. When did he move to that street?---Two, two and a half years ago.

Did you visit his house often?---Yeah.

How long - - -?---Weekly basis.

How long would have the walk been between his house and your house?

---A maximum of 10 minutes.

And you've walked that path regularly?---Yeah, yeah, on a weekly - maybe two or three times a week sometimes and I also had to make the (inaudible) around the corner which on a nightly basis I would visit him so.

When you say, 'Around the corner' is that from you or from - - -?---From me on Houston Street, yeah.

So you're quite familiar with that path?---Very familiar, yes.

Do you remember how long it took you to walk up to the corner of Smith Street and Lambell Terrace that night?---Not - not sure, sorry, no.

Do you remember anything about your journey from Mr Shaw's house to that point? ---I remember thinking I was going to go grab something to eat from Uncle Sams and thought, no, I'll go home and grab something to eat there and then just - that was probably about it, yeah.

Did you remember passing anyone on your way home?---No, I don't remember that, no.

So I take it then you don't remember talking to anyone before you reached that corner on Smith Street?---No, I don't remember that, no.

Now, when Mr Jones was talking to you, you said on that night you felt fairly intoxicated and you described it as you would have been visibly drunk?---Yeah.

What do you mean in terms of being visibly drunk?---I would have been probably stumbling a bit. Would not have been walking at a brisk pace at all. It would have been - you see - you can tell when someone looks like they're drunk, it's a pretty obvious sort of a look, yeah. And I know that when I do drink a fair bit I do get like that, I do stumble a bit so, yeah.

Now, when you approached the corner there at Lambell Terrace, do you recall how far you would have gone up Lambell Terrace before you were approached by this person?---Two to three metres, not far at all.

And what was your first memory in terms of being approached by this person?---The person was pretty much just right in my face. I don't remember hearing anybody coming towards me, anything, it was just someone in my face just saying shit to me basically.

And do you recall anyone else in the area?---No.

When he came and approached you?---No.

Now, you said he got in your face and I know that you've been asked already?
---Yeah.

But do you remember exactly what the first words were that you heard?---Not - but no, it - it's a lot of rambling, but there was definitely, 'Give me what you've got' or 'Fucking give me what you've fucking got. Give me what you've fucking got' and stuff like - along those lines, yes, definitely.

How long have you lived in Darwin, Mr Greer?---It would be around five years, five and a half years. I've only lived in Mitchell Street for six weeks.

At that time?---Yes.

And do you still reside on Mitchell Street?---No, I don't live in Darwin any more. I was actually going to be moving that's why I was living with my boss because they wanted me to hang around for a few months and help out the business that they were running.

So the house on Mitchell Street was your bosses?---Was my bosses, yeah, so they offered free rent for me to stay, so that's why I moved in there.

What kind of work did you do?---Retail.

Where was that?---Managed Sorts Co, Palmerston.

Did that work involve any travel at all?---I caught a bus every day, yes.

But it was still in the Darwin area?---Yeah, out to Palmerston, yes, sir.

Now, one thing you've demonstrated is that after being initially punched - - -?---Yeah.

You took protective action by raising your hands?---Yeah.

And you've demonstrated to the court that that hand raising came quite high up?
---Yeah.

In terms of your head?---Yeah.

You said when you were approached by this person that you were holding your wallet and mobile phone?---Spot on, yeah.

Do you recall at any stage having your wallet or mobile phone close to your head?
---No, no.

So would it be fair to say when your hands were up near your head, by that point you must have dropped your wallet?---Definitely, 100%.

The other thing that you said when Mr Jones was asking some questions is whether it felt like you were being hit by more than one person and you said, 'Yes, definitely'?---After a bit, not at first. But yes, definitely after that.

And why is that, why could you say so definitely?---Well, because the amount of blows doubled and there was only feet and you couldn't kick me that many - many times with only two feet, it would be impossible.

And in terms of those kicks, do you remember whether those people or person was wearing shoes?---Definitely wearing shoes, yes.

And what makes you say that they were definitely wearing shoes?---It's way too hard for a foot. I mean as you can probably see by the scar I still have on my forehead and.

When you were on the ground in that foetal position, it's fair to say that you couldn't have made any observations of those people?---No, I couldn't, none at all.

And you said earlier that they were still saying things, some of those things that you've already mentioned?---Yeah, yeah.

Do you recall whether you heard one or two voices?---By then I - I think I only heard one and I'm pretty sure I only heard one still. There was just a lot of swearing, a lot of cussing, yeah, a lot of just swearing in between there as well, just nonsense like not any complete sentences as well.

Now, in relation to your memory of what money you had in your wallet, you recall having \$300 to \$350 dollars?---Yes.

At what point in time did you purchase the carton of cider that you referred to?
---It would have been Saturday afternoon.

So that was the prior Saturday afternoon?---That was that day, it would have been in the afternoon, that's why I'm not sure whether it was 300 or 350 because I know how much I withdrew, but I'm not aware if I had money in my wallet before that. But the carton would have cost \$50.

And could you have spent money on other things during that time?---Not - not that day. The food I bought, that was change, it would have been \$3 or something for a packet of cheese and bacon rolls.

Now, are you sure that you weren't carrying anything else that evening?---Yeah, nothing, just in my wallet there was my ID, my Medicare card and my bank card and my house key.

Did you have a pair of sunglasses?---Yeah, they were, well, they were on my T-shirt.

So at the time that you entered Lambell Terrace the sunglasses were on your

T-shirt?---Yeah, I was wearing a polo so they in here where the buns would have been.

And do you know what happened to your sunglasses?---They've been recovered, so I'm guessing they just fell off. They were recovered scratched and covered in blood, so I guess, yeah, they must have just fallen off during the - I didn't them off, they weren't taken from me as far as I know. So I'm guessing in the scuffle they just fell off so.

When did you learn that your sunglasses had been recovered?---On the Monday after that when the detectives came around Monday morning to get a DNA test from me and they said, 'We have recovered your sunglasses', et cetera.

And before that had you come to a conclusion in relation to those sunglasses? ---I wasn't sure, I thought they were just gone. They were a cheap pair of \$20 sunglasses so it wasn't a - it wasn't a huge issue for me.

Do you remember once the police arrived having a conversation with the police officer?---Not a lot. I honestly probably - I only remember the police saying, 'This is very similar to what we saw last night'. Other than that, they were just asking how I felt, was my neck sore, what had happened. Mentioned that I would have to go somewhere because I did have a nasty gash on my head and on my nose. Apparently I did sort of loose consciousness for a bit, I don't remember loosing consciousness, but apparently that did happen by the hospital record.

When you say apparently, you're basing that on the hospital records?---On a - on a report I got from the hospital, yes.

Now, when you attended the hospital, did you see a doctor?---Yes.

And did you tell the doctor what happened that evening?---Yes.

MR JONES: Your Honour, if I just may.

HER HONOUR: Yes.

MR JONES: This is an out of court statement, it's hearsay. Because the doctor hasn't been called it's not corroborative. It's hearsay evidence and shouldn't be led.

MR BROCK: Your Honour, the purpose in relation to leading this evidence is not so much the truth of that statement, but that it was said.

MR JONES: Withdraw that then, your Honour.

HER HONOUR: Thank you.

MR BROCK: To be honest, the line of questioning probably won't address much further.

HER HONOUR: Continue, it's admissible as long as it's for the purpose of - not for the purpose of proving the truth of the mistake.

MR BROCK: Now, Mr Greer, you made in observations that after this event and I've just taken notes in terms of when you were speaking with Mr Jones that you had blood dripping?---Yes, a lot, definitely.

A lot of blood?---Yeah.

Describe for the court what you mean by a lot of blood?---To the stage it was like - like a tap. There was no break in the blood, it was just pouring out.

And where was that blood landing?---On my hands and all over the - the driveway which leads to the apartment building which to this day you can see the blood on the driveway.

When was the first time you became aware that you were bleeding?---As soon as I hopped up. As soon as I hopped up and had no idea what was going on, the first thing I did was look down and it was just pouring out all down my face and over my hands.

Now, you spoke of two people coming up to you?---Yeah.

Did you know those people at all?---No, not at all.

When they approached you, did they touch you at all?---No, not at all.

Did they come close to you?---No, I - I walked - sort of stumbled over to them and that's when I sort of heard that they were on the phone.

Do you recall whether those two people, do you recall whether any of the blood that was coming from you landed on them?---On the two witnesses, no.

You don't recall?---No, it wouldn't have, they didn't get that close to me. I walked around for a bit before sitting down.

When you say they didn't get that close to you, would that mean that if someone was close to you they could have had blood - - -?---Yes, definitely.

Fall on them?---Definitely.

I'm sorry, Mr Greer, I've got to go back to the beginning of the incident. After the first person had approached?---Yeah.

And you said that you heard someone else run over?---Yeah.

Do you know from what direction that person ran?---I guess it would have been from the right. But that's not - that's not going by hearing, I just as I said, I got confronted

from the front, I didn't get confronted from behind at first, so I just go with this reasoning I guess that they would have been in front of me.

So just to be clear, when you say they've come from the right, if you could just put yourself in the position of being in front of those (inaudible)?---If I'm laying down like this.

And the apartments are in front of you, is that right?---Yes, they're there. So they would have come from there. No one came running around from the back, I would have heard that. They come running - there's no jumping over me, I've heard footsteps and more - more blows were being landed.

Did you feel any blows landed towards the back of your head at all?---No.

Nothing further, thank you.

MR JONES: No re-examination, your Honour.

HER HONOUR: All right.

Yes, thanks, Mr Greer, that finishes your evidence today. So you are free to go now?---Thank you.

WITNESS WITHDREW

MR JONES: The prosecution calls Michael Smolen.

Your Honour, if I may, I believe that this witness maybe shown some photos that are a part of that tender. I'd like to tender - - -

HER HONOUR: You want to proceed to tender that?

MR JONES: Yes.

HER HONOUR: Is there any objection to?

All right, tell me what you're tendering there then, Mr Jones.

Just have a seat there thanks, Mr Smolen, we're just going to deal with the matter first before we come to your evidence.

MR JONES: Your Honour, I'm tendering in that there is a bundle of statements. If I may just borrow a copy of my learned friends. Numbered 1 to 10.

HER HONOUR: Do you want those back at the moment then, Mr Jones?

MR JONES: I can read them onto the record (inaudible).

HER HONOUR: Yes, why don't you do that.

Just pass those back to Mr Jones.

MR JONES: Yes, your Honour, in relation to both matters I seek, well, I'm tendering a statement of Jessica Daniele Tudor, dated 23 August 2009. A further statement of Jessica Daniele Tudor, dated 12 October 2009.

A statement of under the hand of Officer Lee Bilfie, dated 21 September 2009. A statement of Officer - under the hand of Officer Xavier McMahan, dated 17 September 2009. A statement of Officer Christopher Dennis Castle, dated 17 September 2009. Statutory declaration of Denise Grover, an evidentiary certificate dated 12 October 2009. Statutory declaration under the hand of Dr Rebecca Henshaw, dated 22 September 2009. The statutory declaration under the hand of Officer Tim Bruce Sandry, dated 31 August 2009.

And in relation to Officer Sandry, I will also be tendering a bundle of photos numbered 1 to 36.

I also tender statutory declaration under the hand of Rodney George McLean, dated 14 October 2009. And a statutory declaration of Officer Toby Wilson, dated 16 September 2009.

They are paginated, well-numbered. And on the inside of the cover of the folio is an exhibit list that I will also be seeking to tender during the course of today, your Honour.

HER HONOUR: All right thank you.

Now, gentlemen, you've got a copy of each. You each have a copy of those statements. There's no objection to the statements - - -

MR ABAYASEKARA: No, your Honour.

MR BROCK: No, your Honour.

HER HONOUR: Being tendered in each of the examinations?

MR BROCK: No.

HER HONOUR: All right, thank you.

They can be marked together as exhibit P1. Thank you.

EXHIBIT P1 Statements.

HER HONOUR: All right so you're ready to proceed then with Mr Smolen's evidence?

MR JONES: Yes, thank you, your Honour.

HER HONOUR: Mr Smolen, just stand up there now and we'll have you sworn in.

MICHAEL SMOLEN, sworn:

MR JONES: Mr Smolen, can you state your full name to the court, please?---It's Michael Smolen.

Do you live in Darwin?---Yes, I do.

How long have you lived in Darwin for?---Just over a year and a half now.

I'm going to take you to the evening of Saturday 22 August 2009. Do you recall that evening?---Yeah.

Did you go anywhere that evening?---Yes.

Where did you go?---I went into town to grab a bite to eat.

Do you remember where you went?---Yes, I do. I went to that new Turkish restaurant on the corner of Knuckey Street and Mitchell Street.

Did you go there with anyone?---Yes, I went there with my partner at the time.

And who was that?---Larissa Spring.

What time did you go?---Well, it would have been probably just after 8 pm.

You had dinner at the restaurant?---Yes.

Did you drink at the restaurant?---No.

Now, what time did you leave the restaurant?---It would have been about 10.30.

Where did you go?---Back home.

Now, I don't want you say exactly where you live, but can you describe whereabouts you live?---I live in a block of units on Lambell Terrace.

When you got home, what did you do?---I had a drink outside on the veranda.

What type of drink was that?---Just a scotch and Coke.

Did you eat anything?---No.

Was anyone with you?---Yes.

Who was with you?---Larissa.

Was she with you on the veranda?---Yes.

Was she drinking?---Yes, she was.

What was she drinking?---Scotch and Coke.

How many did she have?---She probably had about two.

What did you do next?---Went inside and watched a movie.

Do you remember the movie?---I remember what it was about, but I can't recall the name.

All right, well, we probably don't have enough time to go into the plot?---No.

Thank you anyway. Do you know what time the movie started?---We started watching the movie about - maybe 11.30.

Do you know when it ended?---It would have been just before 2 am.

What did you do then?---We had another drink out on the veranda.

And you say veranda and you say that you live in a unit, is that unit above ground level, a multi story unit, where about is your unit?---It's a multi story unit, yeah, but we're on the ground level.

Sorry, when you were out on the veranda on the second occasion, what time was this?---About 2 am.

What happened then?---We had, well, we had another drink while we were out there. And then we noticed, it was fairly quiet at the time so it was very noticeable that a car pulled up.

You just said a car pulled up, how did you notice the car?---It was - well, it's sort of over my right shoulder. It was quite, so obviously it got my attention brought up quite sort of suddenly next to the curb, just next to our block of units.

I'm going to show you something.

If the witness could be shown the bundle of photos, exhibit P1.

Now, I know it's going to be a little bit difficult for her Honour to see. But it's all right I think we can move around that. Would you just open that and go to photograph 1?
---Yeah.

Can you tell me what you see there?---I see the street where - the middle of the street where the fight was. I see the first block of units on the corner, second block of units next to that. And - - -

Now, that second block of units, is that your units?---Yes.

If I may just have a moment.

Now, if I could take you to photograph 7, what can you see there?---A (inaudible) road, the curb where the car was parked, a little bit further down.

More towards where - - -?---More towards the right in the dark area.

Now, what can you tell me, what can you the court about - if I can take you back to photograph 1. The front area of your unit block, how is it constructed?---It's got a sort of brick - brick fence out the front which steel bars going across it. The gate that allows the car to drive through the driveway is made of steel, so quite easy to see through.

Let's talk about those gates. They're made of steel are they?---Yes.

What colour are they?---Black.

And you said that you can see through them. How far apart are the apertures of that gate?---About - maybe an arms length.

And was the gate open or closed that night?---It was closed.

Can you describe the view of the road from where your unit it?---It's quite visible, it's quite clear to look through the gate.

What was the lighting like on that evening?---Well, between the roundabout and my block of units it's sort of dark. But where the fight occurred at the roundabout it's very well-lit up.

If I can get you to put those photographs down. I'll keep them there though.

Your Honour, I seek that photo 1 and 7 be marked for identification. Sorry, they've already been tended, sorry.

HER HONOUR: Yes.

MR JONES: And you said you noticed a car. Let's talk about that. What colour was it?---It was white.

What make was it?---It was either a Holden Barina or a Suzuki Swift, one of them two, they make the some model car back then.

When you say, 'Back then' do you have a rough idea of the model?---Yeah, it's probably between 1992.

Did you notice any other identifying features of the car?---Quite old, grubby looking.

What was on the front bumper of the car?---The rego.

Did you notice anything about that?---I noticed the first two numbers of the rego.

The first two numbers?---The first three numbers, sorry.

What were they?---479 - sorry, 497.

In that booklet there, I want you to turn to photograph 17. Is that similar to the car that you saw that evening?---Yeah, yes.

Thank you. All right, so you saw a vehicle pull up, what else did you see?---Two - two guy get out of it.

We'll start with one of them. Can you describe one of the males for me?---He was quite tall and lanky.

Do you know what he was wearing?---Light coloured clothing I believe.

When you say light coloured clothing - - -?---Shades - shades of white I'd say.

Was it white on top or bottom?---I can't remember that.

Did you notice anything about hair?---I noticed he was wearing a hat and he had sort of wavy hair coming out from underneath the hat.

What colour was the hair?---Blondish.

Was there anything on his feet?---No, I didn't record any.

You don't recall?---No.

Let's talk about the second male. What was his build like?---A little bit shorter.

So when you say, 'A little bit shorter' do you mean a little bit shorter as compared to male 1?---Yes.

What was he wearing?---I can't say.

Can you say anything about his hair? Notice anything about his hair?---I can't say anything about him, no.

Okay so what did these blokes do?---Got out of the vehicle and at the time that I lost sight of them. They must have - they went onto the footpath and out of my sign of - out of my line of sight.

Could you hear anything at this time?---At the start when they got out the car they were obviously talking and carrying on. And as I lost sight of them it went quiet.

When you say, 'Talking and carrying on' what do you mean by carrying on?---I couldn't tell you what they were saying, but they were just quite loud, they were carrying on like sort of a bunch of guys getting back from town on - on the alcohol.

What happened then?---After I lost sight of them?

Yes?---I went back to talking to Larissa.

And after you lost sight of them, how long did you speak with her for?---It would have been less than a minute.

What happened after that, less than a minute conversation?---I heard voices again, it caught my attention.

What type of voices were they?---Just - again, I can't say what they said, but just yelling and carrying on.

Were they male or female voices?---Male voices.

You said they were yelling, how were they yelling?---Well, loud enough for me to hear, just carrying on. Again, I can't say what they were saying.

And how long did this yelling continue for?---For about another few seconds.

What happened then?---I gained sight of him again.

When you say you gained sight of them again, are they the males that you saw this second time, are the same males you saw the first time?---Yes.

And when you gained sight of them again, what did you see?---I saw two males, two males in the middle of the road.

And what were they doing?---Well, fighting.

When you say, 'Fighting' what was the first thing that you saw in relation to the fighting?---I saw - I saw them both standing up in the middle of the road fighting and then I saw one male push the other one to the floor and repeatedly hit him.

When you say, 'Fighting' was it an equal fight?---No, sir.

How would you describe the fight?---Well, basically one guy doing the fighting and the other one trying to fend himself off, putting his arms up, protecting himself.

Can you just demonstrate that again?---Like this.

Your Honour, again, this is being recorded.

THE WITNESS: Just putting his arms up trying to protect himself as he was on the ground.

HER HONOUR: All right. The witness has indicated raising the forearms up in front of the head area with the palms facing forward.

MR JONES: Thank you, your Honour.

Right, one guy was doing that and sorry, what was the other guy doing?---The one standing up?

Yes?---He was cowering over him and hitting him.

Now, when you saw this, how far away from where you were seated to where this was occurring, how far is that?---It would have been about - between 20 and 30 metres.

And what was your line of sight like?---It was in my direct line of sight, it's basically 90% to my shoulder.

You just said earlier that one was towering over the other, where was that other person?---I lost sight of him.

No, no, the two males that were fighting?---Yeah.

I'll take you back to that point. So one was towering over the other?---Yeah.

That other, where were they situated?---On the road, on the ground.

On the ground. Could you hear anything being said?---Yes, I heard the person on the ground yelling, 'That's all I've got. That's all I've got, I don't have anything else'.

How many times did you hear him say that?---It was quite repetitive, it would have been two or three times.

Did you hear anything else being said?---No.

Now, you said that the guy was towering over him and hitting him. How many times did you see him hit him?---It would have been between three and five.

Was he using an open or closed hand?---I couldn't tell you that.

What hand was he using or was he using both?---It looked like he was using both.

The male that was hitting the other male on the ground, did you see him do anything else with any other parts of his body?---No.

From the time that he was on the ground to the time that the incident ended, how long would that have been?---Probably about - between 20 and 30 seconds.

And while this was happening, what did you do?---Well, at the time I thought it was just guys mucking around obviously having - what guys do. But at the point when he started yelling, 'That's all I've got, I don't have anything else' that came clear to us that it wasn't just a play fight. At that point I got up and walked over to - started walking over to the gate.

And when you say you walked over to the gate, is that further or closer to where this incident was occurring?---Closer.

Did you go to the gate on your own or anyone else?---No, Larissa came with me.

When you got to the gate, what did you see?---I saw - I saw the car out the front, both drivers and passengers seats were empty. Saw the guy still on the ground and then I saw the two guy getting back into the car.

You saw the both males get back into the car that you'd identified earlier?---Yeah.

When you saw them get back into the car, what did they do then?---They sped off with their lights off.

What direction did they go in?---They went - well, if we were facing the street from my block of units they went to the left, the same direction that the car was facing and then they turned left up Mitchell Street and sped off down there.

Was there anyone else in the car?---I noticed a passenger in the back seat.

Was that passenger male or female?---Female.

Could you describe any features of her?---Just long blonde hair past the shoulders.

After they left, did you do anything then?---As the car drove off I went outside the gate.

And what did you do outside the gate?---I went to help Brett.

You just said, 'Help Brett' did you know who his name was then?---No.

How did you ascertain his name?---I asked what his name was.

How would you describe Brett at that point?---His face was a mess.

When you say, 'His face was a mess' what do you mean?---Just covered all in blood, could - couldn't make any facial features out he had so much blood all over him.

Was anyone else with you at this time?---Yes, Larissa was.

What did you do then?---Well, he asked me to call one of his friends.

Did you?---Yes, I did.

Did you do anything else?---After I'd made the call I went back inside and got a tea towel from the kitchen, soaked it in water and gave it to him so he could wipe his face.

I'll just get you to pick up those bundle of photographs again. I'll take you to photograph 16. Can you tell me what's in that photograph?---That's the tea towel I gave him.

Thank you. What happened after you gave him the tea towel?---That's when his mate rocked up and the police (inaudible).

Who arrived first out of the police and his mate?---His friend arrived first.

What time did the police arrive approximately?---It would have been maybe 20 past 2.

Now, I'm just going to show you one more document. Do you recognise that document?---Yeah. It's a diagram of the street.

Who drew that document?---I did.

Now, can you just hold it up to her Honour and just indicate on there if you could the arrow and describe the picture?---Well, that's Smith Street and that's the roundabout and you go down the casino down there and Cullen Bay is over there. That's - that's Lambell Terrace and that's my - first block of units on the corner there. Second block of units where I live and the fight occurred here where the arrows point to in the middle of the street. That gets a 45 degree angle from my veranda and quite clearly see.

I tender that, your Honour.

HER HONOUR: All right thank you. We'll mark the diagram as P2.

EXHIBIT P2 Diagram.

MR JONES: Other than providing a statement to police have you had any further involvement in relation to this matter?---No.

Have you discussed this matter with Larissa?---No.

That's the evidence in chief of this witness.

HER HONOUR: All right thank you.

I'm just wondering whether we might take a short break perhaps before we start cross-examination.

Mr Smolen, I'm just going to give everyone a short break for about 10 minutes?
---Yeah.

You're under oath. Don't discuss the evidence that you've given so far with anyone?---Yeah.

And when we come back these other gentlemen will ask some questions from you?
---Yeah, sure.

Thank you.

ADJOURNED

HER HONOUR: Thank you.

Yes thank you.

MR ABAYASEKARA: Mr Smolen, now, when that car first pulled up, it was the first thing was you hearing the car, is that how you noticed it, the sound?---Yeah.

And so at that point where exactly on the balcony were you sitting?---Sorry, can you sort of - where - where exactly do you want me to - as in my line of sight towards the car or - - -

Tell me which way were you facing when you saw?---I was facing about - on a 45 degree angle on - towards the street.

Towards the street?---Yeah.

You're facing to where the car was or?---No, I had to look at 90 degrees over my right shoulder to where the car was.

Perhaps, your Honour, if I can show this witness that diagram that was - - -

So just having a look at that diagram that you drew, can you indicate on that veranda area at where you were seated?---I was seated in the lower left corner.

When you say the lower left, that's the corner closest to say Smith Street?---No, if you're looking at the diagram.

Yes?---Like this. That lower left corner, so I was - I had my back in a way sort of on a 45 degree angle to Smith Street. So you could say I was facing Lambell Terrace on a 45 - well, about on a 45 degree angle facing Lambell Terrace away from where the car was.

How big is that balcony? How long is it?---It sits about 8 to 10 people.

And if you could describe the length of it, can you tell me how long it might be in metres or feet?---It's quite big, it's - - -

Well, can you point out in a court room some object that - - -?---It's probably about the size of this area, all these desks are making this little rectangle there.

Is that would you say from the end of this table?---Yeah, from the end of that table to other end of the table and about the same distance away to the - where the furthest away desk is, yeah.

So the length of this Bar table and the distance is between the Bar table and the desk there?---Yeah, that's correct, yeah.

That's where the magistrate is seated?---Yes.

HER HONOUR: Yes, unfortunately had your diagram doesn't actually give that as a dimension?---If you could image 8 to 10 people.

MR ABAYASEKARA: All right. So I'd say perhaps the length of this Bar table would roughly be about 5 meters?---Yeah.

Is that fair to say?---Yeah.

And the distance to - - -

HER HONOUR: Four meters perhaps, Mr Abayasekara, four metres.

MR ABAYASEKARA: Four metres.

HER HONOUR: Four and a half metres something in that order?---I agree with that.

All right.

MR ABAYASEKARA: Thank you.

Now, the balcony, is that raised or is - - -?---No, it's on ground level.

And is there any sort of barrier, like a fence along the balcony at all?---There's a barrier there, but it's just a steel barrier.

And how high is that?---It's up to your waist.

And you were seated, what were you seated on?---A chair.

And was the chair like a normal sized chair?---Yeah.

Can you describe the chair?---Just a normal chair like I'm sitting on now.

Now, where was Larissa sitting?---She was sitting across from me.

Was she on a chair as well?---Yes.

She was facing you?---Yes.

So in terms of, sorry, where she was facing you and you're looking at a 45 degree angle out to Lambell Terrance?---Yeah.

In terms of where the car was, was she facing the car was she - - -?---No, she was - the car would have been to her left.

And she was seated directly opposite you?---Yes.

Now, the first thing you noticed was the sound of the car?---Yeah.

And that caused you to turn your head and have a look?---Yeah.

Now, how long did you look at the car for at that point?---From the moment I heard it I turned around, from the moment it pulled up and the driver and passenger got out, so it would have been 20 seconds or something.

About 20 seconds. And did you maintain your gaze until they went out of view?
---Yes.

And while you were doing that were you speaking to Larissa?---No.

Did you see which person got out of which side of the car?---At the time, yes.

Can you describe one person and he was the taller person, could you see which side of the car he got out of at that time?---Got out - got out of the passenger side.

And the shorter person, where exactly did he get out?---The drivers side.

Did you actually see the doors opening?---Yes.

And you saw them actually exiting the vehicle?---Yeah.

Now, you mentioned I think - apart from the barrier for the balcony, was there a barrier along the front of the property?---There's a fence along the front of the property, yeah.

And was that the steel fence you were talking about?---Yes.

It was a white steel fence?---No, there was a white brick wall.

A white brick wall, yes?---Obviously, to attach the steel bars to.

And how high was the brick wall?---That's just pillars along the - along the edge of the property.

So they were brick pillars, not a wall as such, but brick pillars along the edge?
---Yeah.

And you described them as an arm length apart?---No, the pillars are further apart, I'm talking about the bars of the fence where about arms length apart.

All right, how far apart were the pillars?---They're probably about maybe three - no, maybe about - between four and five metres long.

And how wide are the pillars or (inaudible)?---They're - again, they're probably about arms length thick.

About arms length thick?---Yeah.

And when you say at arms length, you're talking about from your shoulder to your hand?---Yeah.

How high were those pillars?---They go above your head.

Above your head. And in between those pillars, what was there?---The steel fence.

The steel fence?---That joins, yeah.

And did you these are vertical posts are they or?---Sorry, what?

Are they vertical or horizontal?---Vertical.

They're vertical and are those an arm length apart?---Are you talking about the brick or the steel?

I'm talking about the steel?---The steel, they're about an arms length apart.

They're about an arms length apart. And how thick are the steel?---They're only - you can put your arm - basically palm around it.

Your palm around it?---Yeah.

If you put your palm around it, would your hand go all around so it would just fit? ---Depending on your palm, but I'd say, yeah.

And what colour is the steel poles?---It's like a navy black darker colour.

And was there any horizontal poles as well?---Well the steel fence is horizontal.

Sorry, what was that?---The steel fence it's horizontal and obviously has horizontal joins.

And sorry, does that go all the way across the steel fence?---Are you trying to describe the gate you drive in through or the - - -

No, no, I'm trying to describe the fence, you describe the fence?---The fence is - sorry, what was your question again?

I'm just trying to get a picture of exactly what the fence looks like?---The fence I was looking through was the gate - - -

You were looking through the gate?---That is the driveway to our apartments. It's not the main fence along - - -

All right, what you were describing to me was however the main fence along, is that right?---I wasn't looking through the main fence.

All right, you were just giving me a description of pillars, steel poles - - -Because I'm trying to describe - you're asking me how the front fence looks, that's how it looks like.

That's the fence that we're talking about?---That's the fence.

Now, the gates on the other hand - - -?---Yeah.

Is different?---It's different.

And throughout the whole time were you only looking through the gates?---Yes.

Now, I'm not going to go I suppose to the gate. And with the gate was that just a steel gate, there was no brick involved?---It's just a steel gate.

How did the gate open?---It's two gates and they meet in the middle, press the buzzer, they open apart.

So they slide apart?---Yeah.

Can you describe in terms of the two gates, are they vertical, horizontal?---Well, it's got two horizontal bars, one at the top, one at the bottom obviously to join the vertical bars.

And the vertical bars, how far apart are they?---About an arm's length.

About an arm's length apart. And how high does it go?---Above your head or just the top of your head.

Just the top of your head. And how tall are you?---5 foot 10.

And does it come to the top of your head?---I just reach over it.

Do you just reach over it?---So it's just a little bit shorter I'd say.

When you're sitting down on your balcony and you're looking onto the road?---Yeah.

You'd be looking through that gate?---Through the steel gate, yeah.

Through the steel gate. Now, was there anything else on that night obstructing your vision?---No.

You mentioned the two people getting out of the car and then noticing two people later and I think you said, correct me if I'm wrong here. You noticed them when their voices became louder again, is that right?---At which point?

All right, well they've gone out of your vision?---Yeah.

And then you'd noticed some loud voices?---Yeah.

And is that when you looked and you saw two people in the middle of the road?
---Yeah.

Now, at that point did you think it was the same two people that you'd seen get out of the car?---Yes.

And you still thought they were mucking around at that time?---Yeah.

Even when one of them fell to the ground, initially you thought they were mucking around?---Yeah, Sunday morning at 2 o'clock in the morning, come back from town, it might be guys drunk mucking around, that's all I thought.

And it was only when you heard the one on the ground or you heard, sorry, when you heard somebody say, - what did they say?---'That's all I've got'.

'That's all I've got' it was at that point you felt like hang on - - -?---Yeah.

This is more serious. And that was after you'd saw the bloke who was standing up sort of reach down and what looked like hitting the fellow on the ground?---No, it was during.

It was during. And it's only when you heard that that you realised that it was - - -?
---Yeah.

Something more serious. Now, it was at that point that you immediately went to the gate?---Yes.

To get to the gate, how did you get there?---Just direct, walked directly from my - from the veranda to the gate.

Is there a barrier on your veranda, do you have to walk through some sort of opening?---Yes, but that's always open.

That's always open?---Yeah.

Was it in a straight line that you sort of went to the gate or did you have walk around something to get there?---No, it was a straight line.

To get out of the gateway for the balcony, did you have to walk around at all or no?
---No, it was basically a straight line.

While you were walking to the gate, did you keep watching what was going on?---At that time I was placing my vision on the car.

When you started walking had the people got back into the car yet or not?---No.

Where were you when you saw the two people get into the car?---It was maybe about a metre away from the gate, I was still walking to the gate when I saw the jump in.

And how far away from the gate was the car?---Maybe about the length of that table.

Length of which table?---That one there.

This one here, the length of the Bar table?---A little bit longer, I'd say about five metres.

Now, did you see which side of the car each person got in?---Yes.

And which side was that?---Can I describe them?

Sorry, the taller person?---The taller person got in on the left passenger seat.

Yes?---And the other one got in the driver's seat.

The other one in the driver's seat. Did you see them get into the car at the same time?---I can't remember that.

The shorter person, apart from a description that he was shorter than the taller person, is there anything else you can say to describe him?---No, I can't describe him at all, no.

Was it at that point when you saw them getting back into the car that you realised that - sorry, I'll withdraw that. When did you realise that it was a different person who was laying in the middle of the road, it wasn't one of those two people in the car? ---As the got in the car and drove off.

And at that point when they got into the car, did you watch the car leave?---Yes.

Were you at all looking at the person laying on the road?---No.

So at what point did you turn your attention to the person?---When I lost sight of the car.

When you lost sight of the car. So you actually saw the car drive off?---Yes.

And you saw it turning, what did you say, left down Mitchell Street?---Yeah.

Was it at that point that you made a note of the registration number?---As it was driving away I tried to get a look at the rego, but the rego was quite muddy or old, it was hard to tell and the lighting was quite poor.

You mentioned the lighting before and you said, 'It's quite good around the roundabout'?---Yes.

But around the front of your property it's not very good?---It's average.

When you were at the gate and you saw the person laying on the road, where exactly were they laying on the road?---At the point where I was - sorry, when I was leaving the gate.

When you were at the gate, when you were at the gate?---I wasn't looking at him, I was looking at the car.

The car had driven off, you kept your sight on the car?---Yeah.

That had driven off and then at what point did you turn your attention to the person on the road?---When I exited the gate to go outside.

Was the person on the road, was he still in the same position that you'd seen him when you were on the balcony?---No, when I exited the gate he was walking towards me.

And where was he when you first caught sight of him when he exited the gate?---He was on the other side of the driveway.

Which driveway?---My driveway.

Now, when you saw from your balcony him laying on the road, where exactly was that?---When he - on the road?

On the road, yes?---So around the middle, probably more towards - on the left lane.

The left lane is the lane closest to where your property was, yes?---Yeah. He was basically around the middle.

And how close to the roundabout was he?---May be 10 meters away.

And what was the distance from - could you make an estimation of his distance from where he was to the front gate of your property?---About the same distance, 10 metres.

You saw two people getting into the car, but you only saw one person assaulting the bloke that was on the road?---Yes.

And that was the taller bloke?---Yes.

Now, just that night you said that you had was it two, was it squash and Cokes? ---Yes.

To drink. And that was after return from dinner?---Yeah.

Now, during the movie did you have anything to drink at all?---I continued drinking the second drink I made so.

And that's the only drink you had during the movie?---Yeah.

And then afterwards you came back outside, did you make yourself another drink?
---Yes.

And at the time the car pulled up, how many had you had after the movie finished?
---Between the time the movie finished and the car pulled up?

Yes?---I was still on my first drink from after the movie finished.

So you were still on your first drink, all right. So it would have been your third drink that you were having (inaudible)?---For the night, yeah.

Prior to dinner you didn't have anything to drink at all?---No.

Can you remember what you ate at dinner?---Well, I think kebabs or souvlaki sort of thing, you know.

And you were there from about 8 o'clock to 10.30?---Yeah.

About two and a half hours?---Yeah.

And how would you describe your level of intoxication on that night?---I was - I wouldn't say I was intoxicated at all.

Would you have been all right to drive a car?---Yes.

You described the car that drove up, are you somewhat familiar with cars?---Yes.

So if you saw a car in the street, you'd be able to tell what brand and what model?
---Yes.

That might be. Do you work in any business that related to cars?---I have in the past, yes.

And what's that?---Auto industry.

Now, before the police arrived, sorry after the car had driven off before the police arrived, did you talk to Larissa about what you'd seen?---No.

Did Larissa speak to you about what you'd seen?---Not during that time, no.

And what about Brett, did you have a conversation with him about it at all?---No.

Now, you gave a statement to police?---Yes.

And when was that, when did you actually give that statement?---It started that night and then the following day in the morning, Sunday morning I went in and gave a statement at the police station.

So when the police came you told them what you'd seen?---Yes.

And they took the details down?---Yes.

It was only the next day, sorry, when I say the next day I mean you'd gone to bed and woken up in the morning?---Yes.

And you went down to the police station?---Yes.

And gave a statement. In between the incident and then actually going down to the police station and giving your statement, did you speak to Larissa about what had happened?---Yeah.

Did you compare what you'd seen?---Yes.

At what point did you speak to her about it?---I suppose after the incident finished, we went back inside after the police left.

And how long did you talk about incident for?---Well, not long, maybe 5, 10 minutes, just exchanged a couple of words.

And the following morning, did you talk about it as well?---No.

Did you both go down to the police station together?---No.

I've got no further questions.

HER HONOUR: Yes, thank you.

Mr Brock, do you have some questions?

MR BROCK: Yes, thank you.

Sir, do you still live at that unit block?---Yes.

And you live there with Larissa?---No.

How long have you lived in Darwin?---Over a year and a half.

And before that, where were you living?---Melbourne.

And do you work when you're in Darwin?---Yes.

What kind of work do you do?---I work in aviation.

And what kind of work does that involve?---I'm a pilot.

So do you fly regularly outside of Darwin?---Yes.

Who do you work for?---Hardy Aviation.

Hardy Aviation. When did Larissa move out of that unit?

MR JONES: Your Honour, how is this relevant?

HER HONOUR: Yes, I'm wondering, Mr Brock. Is there any relevance to these questions?

MR BROCK: Well, perhaps not the last one, your Honour. I'll withdraw the last one.

HER HONOUR: Thank you.

MR BROCK: Sorry, sir. You've made some observations in relation to the two people who you saw in that vehicle. And you described one as being taller. In relation to both those people, do you recall if they were wearing anything on their heads?---One was wearing a hat.

And what about the other one?---I can't tell you that.

You can't remember?---No.

Now, one thing you also said is that the lighting around the roundabout was good. In relation to where the car was parked, how would you describe the lighting?---Pretty average.

And when pretty average, what do you mean? What kind of lighting is available for that area where the car was parked?---I don't know how you want me to describe it?

Well, are there street lights along Lambell Terrace?---No, there isn't.

Now, you've been asked many questions in relation to where you were at various times. So if I'm asking you some of those same questions it's only to request some clarification. In relation to the first time that you saw the vehicle pulled up you were on the veranda?---Yes.

In the corner and at a 45 degree angle facing more towards Mitchell Street than Smith Street?---Yes.

So in term of making observations of that car, you had to turn your head?---Yeah.

Is that correct?---Yeah.

How far did you have to turn your head?---About 90 degrees to my right.

Did you actually see the car pull up or was there only the sound that alerted you to the car?---No, I saw the car pull up.

And how long were you looking at that car before you turned back around to face Larissa?---I think maybe - maybe 20 or 30 seconds.

And it was during that time that you saw the two people get out of the car?---Yes.

Now, after they got out of that car, did you hear anything from those people?---Just voices.

And did those voices give you an indication of which direction they were going?---Yes.

And which direction were they going?---Onto the footpath.

Were they moving away from your unit block?---Yeah.

Now, the next time as I understand it that you looked around was at the point that you heard yelling?---Yeah.

When you looked around at that point, what was the first thing that you saw?---I saw two guys in the middle of the street.

So when you looked around, did you notice the car again or did your line of vision go directly to those two people?---It went to the two people behind the car.

And did you maintain your vision on those two people?---Yes, I did.

And when you stood up and started walking towards the gate, where was your vision directed?---At the car at the time.

So at what point did you change your vision from those two people to the vehicle?---To - as I was walking towards the gate.

Do you wear glasses at all?---No.

So you have no difficulties in relation to your vision?---No.

So as you walked to the gate you maintained your vision on the vehicle?---Yes.

And at that point you saw two people get into that car?---As I got to the gate, yes.

Now, with the car parked in the direction that it was, was the passenger side or driver's side closer to you?---The passenger was closer to me.

So when the person who was getting in the passenger seat got in, they were closer to you?---Yes.

Now, my friend mentioned that you gave a statement to the police?---Yeah.

Do you recall at what point you signed that statement?---It was the next morning.

Your Honour, I'd ask my friend to provide the witness with a copy of that statement.

Can you just take a look at the papers that have been given to you. Does that look like the statement that you provided to the police?---Yes.

And that's your signature at the end of that statement?---Yeah.

Your Honour, I'd seek to tender that statement.

MR JONES: No objection.

HER HONOUR: Yes, it can be marked as D3.

EXHIBIT D3 Statement of Michael Smolen.

MR BROCK: Now, while you've got that statement, sir, I just want to take you to paragraph 4. Now, if you go to the final sentence in paragraph 4, it reads, 'It went quiet than and I just thought that they had walked into the block of units on the corner, so I just turned back and continued talking to Larissa'. Which block of units are you referring to?---The block of units on the corner of Smith Street and Lambell Terrace.

And what made you think that they had walked in that direction?---Because I lost vision of them.

I'd like to take you to paragraph 7. Before I ask you the next question, you'd agree that when you provided the statement to the police, these events were fresh in your mind?---Yes.

More fresh in your mind than they are today?---Yes.

I'll just take you to the last sentence in that paragraph. It said, 'I remembered that no one was sitting in the front seats of the car as I was walking up to the gate. But by the time I'd got to the gate I saw the driver had gotten in as well'. Is that what happened on that evening?---Yeah.

So when you say that you saw the driver had gotten in as well, that means he was seated in the driver's seat?---It means that he'd got in the car with - along with the passenger.

But you'd agree that that sentence sounds as though when you next looked at the car, you saw that the driver was in the car?---No, it's wrong.

Which one is wrong?---Well, what it says there. 'As I approached the gate I saw the driver getting in' so it wasn't, as I was approaching the gate was already in.

So that's changing in terms of what that sentence says there?---Yeah.

When was the first time you noticed that there was another passenger in that car?

---When the car drove off.

You didn't notice her prior to that point when you were walking up towards the gate?

---No.

And I apologise if it's been asked, but from the point where you were seated to the gate, what was the distance?---10 metres.

Now, when you saw the two gentlemen who appeared to be engaged in a fight, were both those gentlemen on their feet?---Yes.

So you saw one of those gentlemen go to ground?---Yes.

But at the first point that you saw them they were definitely - the two of them were both on their feet?---Yes.

And you observed one of the males then repeatedly hit that person on the ground?---Yes.

When you took down the rego plates in relation to that car, the first time you did that was when the car was driving away from you, is that right?---Yes.

So the registration plates that you were looking at were the ones on the back of the car?---Yes.

Now, after that car had left you saw Mr Greer and you said that his face was all messed up, was there a lot of blood?---There was a lot - a lot of blood.

And did you make some observations of where that blood was falling?---All over his shirt, all over the ground.

And do you recall getting any blood on you?---No.

And do you recall any blood on Larissa?---No.

Did you need to make sure that you were a distance from Mr Greer to avoid having blood put on you?---Yes.

So had you been close to Mr Greer, you would have expected that you would have blood on you?---Yes.

Thank you, sir.

No further questions.

MR JONES: No re-examination, your Honour.

HER HONOUR: All right, thank you Mr Smolen, that does complete your evidence today. I just caution you not to talk to any of the other witnesses - - -?---Yeah.

About the evidence that you've given. But you're free to go now?---(inaudible), thank you.

WITNESS WITHDREW

HER HONOUR: It's 10 to 1, I think it wouldn't be useful to commence another witness at this stage, Mr Jones.

MR JONES: No, your Honour, I agree. There is a video link at 2 o'clock.

HER HONOUR: 2 o'clock. Now, how long do you think the evidence of that is likely to take?

MR JONES: Well, my learned friend's appreciate in terms of time, so what I'll be potentially or what I will be doing is tendering the statement of officer McDonald as his evidence in chief.

HER HONOUR: Yes.

MR JONES: And then my learned friend's are free to ask questions if they wish to. The next witness was to be Larissa Spring, however, the officer in charge and the other police officer have an extremely important meeting to attend at 3 o'clock. But it looks like that that might have to be avoided now because we've got the video link at 2 and so I don't think, well - all right, I'll just have to try to manoeuvre around that, thank you, your Honour.

HER HONOUR: All right thank you.

Then we'll adjourn till shortly before 2 o'clock and then resume with the video link.

MR JONES: If the court pleases.

LUNCHEON ADJOURNMENT

HER HONOUR: Yes, Mr Jones.

MR JONES: Yes, your Honour. Via video link the next witness to be called is Officer Matthew Macdonald.

HER HONOUR: Yes. We'll just have Mr Macdonald sworn in, thank you.

MATTHEW JOHN MacDONALD, sworn:

MR JONES: Could you state your full name to the court, please?
---Matthew John MacDonald.

And what do you do?---I'm a police officer.

How long have you been a police officer for?---In the Northern Territory, since January last year. Prior to that I was six years in the Queensland police service.

Do you know why you're here today to give evidence?---Yes, I do.

And what is that in relation to?---It's in relation to a traffic intercept that I did in August this year. The persons involved in that traffic intercept were suspects for assault that occurred in Darwin city.

Did you make a statement in relation to the matter?---Yes, I did.

Do you have a copy of that statement with you today?---I have it beside me.

When was the date that you made that statement?---On 16 September this year.

Now, your Honour, I tender that statement.

HER HONOUR: No objection?

MR ABAYASEKARA: No objection, your Honour.

MR BROCK: No objection.

HER HONOUR: All right, that can be marked as P4.

EXHIBIT P4 Statement of Matthew John MacDonald.

MR JONES: If the court pleases.

Does your Honour want a moment to read that?

HER HONOUR: Yes, I will, thank you.

MR JONES: Thank you.

HER HONOUR: Yes, thank you, I've read that.

MR JONES: Yes, your Honour, the prosecution relies on that as the evidence in chief of this witness.

HER HONOUR: All right, thank you.

Yes, Mr Abayasekara.

MR ABAYASEKARA: Your Honour, I have no questions.

HER HONOUR: No questions.

Mr Brock?

MR BROWN: Thank you, Officer. Officer, I just have a few brief questions in relation to your statement. At paragraph 3, you say it was approximately 3.20 am that you were performing duties after receiving the information?---Yes.

Can you recall how is that you were able to remember the time?---I referred back to my - when completing the statement I referred back to my notebook. It was only a couple of minutes prior to - to prior - prior to doing the intercept that's when I was travelling on (inaudible) Avenue.

Now, after you pulled this vehicle over, you refer to five passengers?---There were, yeah, there were three males and females on the backseat and two in the front seat. So six passengers?

Sorry, I should be clearer, I've probably misled you there, Officer, one driver and four passengers, would that be right? No, six, sorry, one driver and four - five passengers?---Yeah, that's correct, yes.

In relation to your observations I want to ask you do you remember what Frank Ingram, the driver, was wearing?---He was - well, he just (inaudible) said to me then (inaudible) that he had so shirt on that I can recall. After CIB members from the Palmerston Investigation Unit attended and were talking to Frank he's under - he's under arrest. I conveyed him from the vehicle to a police van (inaudible) I noticed he'd - he'd from memory I think he was wearing a pair of beige shorts.

Was he wearing any shoes do you recall?---I can't - I don't believe so, but I can't recall.

Did you make any observations of what Ryan Whitfield was wearing?---I didn't - I didn't pay a lot of attention to Ryan, all I can remember he was wearing a blue singlet and that he's Caucasian.

And did you notice any injuries on either Frank Ingram or Ryan Whitfield?---Not that I can recall, no, nothing - nothing outstanding I can recall.

Now, how long did it take before other police officers arrived at the scene?---I can't say for sure, it only felt like a couple of minutes. In the process of - after the process of when we pull over a vehicle we log it through our communications and it seemed like a very short time whilst I was speaking to the driver of the vehicle, Frank Ingram, I was receiving calls for the COMS supervisor and I was contacted by the Watch Commander. It appeared - it seemed like only a couple of minutes after that, the commencement of the - of the intercept that other members attended. I can't say exactly how many members, but it felt only like a few minutes.

And do you remember which officers were first in attendance?---They - a lot of them seemed to arrive around the same time, police, the police van, I think it was the next one which was one of my Palmerston units, they were Constable Cornelius and Constable (inaudible). Then part of the Investigation members they - they - it was either around the same time or very shortly after the Palmerston Unit. Detective Senior Constable Chris (inaudible) and Mark (inaudible) attended.

And how long do you recall that you stayed at the scene?---From start to finish it was - it felt like only a short period because I had to attend to another incident not long after. All in all maybe 15 minutes.

In paragraph 5, Officer, you refer to observing the vehicle going down Mannequin Circuit and saw it was speeding off in the distance?---Yes, that's correct.

Would you be able to give an estimate in relation to that speed?---No, not exactly (inaudible) because it was night I could just see the tail lights and there was no other vehicles on the road, but just from where - from where I was travelling it appeared to be gathering further distance ahead of me. Yeah, I'm not sure, maybe 70 or 80 kilometres per hours.

And do you know what the speed limit is on Mannequin Circuit?---I believe it's 62 (inaudible).

Nothing further. Thank you.

HER HONOUR: Any re-examination?

MR JONES: No, thank you, your Honour.

HER HONOUR: No.

All right, thanks, Officer MacDonald, that finishes your evidence today, so you're free to now?---Thank you.

WITNESS WITHDREW

MR BROCK: Your Honour, before my friend progresses.

HER HONOUR: Yes.

MR BROCK: I should point out that Master Ingram's mother (inaudible).

HER HONOUR: I was just going to observe that myself. I had thought she was sitting behind.

MR BROCK: No, and I can see - - -

HER HONOUR: But I can see now she is not here, what's happened?

MR BROCK: I don't know, your Honour, I've not been able to speak with Ms Taylor, taking instructions from my client who would make an application to proceed in her absence.

HER HONOUR: All right.

MR BROCK: Given he's 17, I'd say that application is not inappropriate in the circumstances.

HER HONOUR: Did you want to say anything, Mr Jones?

MR JONES: No, your Honour, not opposed.

HER HONOUR: No. All right, look he's represented by counsel and as you said, Mr Brock, he is 17 years of age, so I think we will proceed in the absence of his mother.

MR JONES: The next witness, your Honour, is Officer Crispin Gargan.

CRISPIN GARGAN, affirmed:

MR JONES: Would you please state your full name to the court?---Crispin Gargan, Detective Senior Constable, registered number 1846 of the Palmerston Investigations Unit.

How long have you been a police officer for?---Around 13 years.

Do you understand why you're at court today?---Yes, I am officer in charge in relation to the investigation to the robbery of Brett Greer.

Would you tell the court your level of involvement in this matter?---In the early hours of 23 August 2009 I was off duty, however, I received a call in relation to an incident which occurred in Darwin city. We were the duty crew for the weekend. As a result of that information I was given, I went - I went into work, made arrangements for Detective Senior Constable Griffin to also attend work. On attending at Palmerston police station we checked the PROMIS job to see what the details in relation to the matter were. And then we went mobile, at first we were heading into the city to the crime scene. I'd been informed there was a crime scene established. Whilst we were just leaving the station I received a call from the COMS supervisor, indicated to

us that a triangulation had been done of the victim's phone and that it was, in fact, located somewhere in another suburb of - around Gray or Bellamack in Palmerston. I also had knowledge that a small white car had been seen the area at the time so we conducted - started to do a search of the streets for that vehicle. Whilst doing that we became aware that Sentence Constable Matthew MacDonald had apprehended a small vehicle on Mannequin Court matching the description of the vehicle involved in the alleged robbery. Whilst on route to that location I received another phone call from COMS Supervisor Troy Stephens who suggested that he ring the victim's phone when we arrived at the scene to see whether or not it would ring in the car. On arriving at the scene at the end of Mannequin Court I saw a small Holden Barina, a white Holden Barina. There was a person I now know as Frank Ingram standing outside the door of the driver's side. There were a number of people inside the vehicle, a person I know as Ryan Whitfield sitting in the front passenger seat. Four persons sitting in the back seat, one of them I now know as Jessica Tudor. The one I knew at the time was Russell Williams and two other children that are unknown to me. As I walked around the back of the vehicle I was on the phone to Troy Stephens and he was dialling the victims phone, I could hear another phone ringing from within the car. Eventually I was able to locate a ringing phone in the centre console of the vehicle. I reached through the passenger side window and I gathered that phone. Whilst holding it in my hand with Sergeant Stephens on the other - on my phone, he - he made a comment and then he hung up on the victims phone. At that time I advised the occupants of the vehicle that they are under arrest for stealing and violence and instructed them to remain seated in the vehicle. Around that time further police resources attended. I removed Ryan Whitfield from the passenger seat of the car and sat him on the nature strip. He remained there whilst I spoke to some of the other people in the vehicle. And over the next period of time Ingram and Whitfield were placed into the rear vehicle - rear of the vehicle, rear - rear of the police vehicles. I had a conversation with Russell Williams, he was still in the back seat of the car. They were sitting there. Detective Griffin dealt with Jessica Tudor. I then had a conversation with one of the other officers that was there at the time and I can't recall who that was and he indicated to me that he had seen Russell Williams and the two younger children in the back seat of the car at a party on Gun Point Road, just immediately prior to this - to this apprehension within an hour. As a result of that information and the information that Russell Williams told me separately, I made a determination that they were unlikely to be involved. I made arrangements for their details to be obtained and for them - for the two youths and Williams to be conveyed to their home addresses. We then contacted communications, arranged a lift and tow for the - for the vehicle which had been seized. We waited at the scene until the tow truck arrived, the vehicle was loaded into the tow truck and we then travelled to Darwin City police station. Crime Scene Examination Unit, member San Andreas had been arranged to meet the tow truck at the - at the Forensics Building. Whilst in the vehicle travelling to Darwin city station, Jessica Tudor advised us that she had information relating to the incident. And I formed the opinion that Jessica was a witness to the matter. As such I made immediate arrangements to obtain a statement from her. On returning to Darwin station we - we ensured that - sorry, we ensured that Whitfield and Ingram were within the watchhouse. And then I made arrangements to obtain a statement from Jessica Tudor. Upon completion of the

statement of Jessica Tudor she was dropped to her home address. We then attended at Royal Darwin Hospital where I spoke to the victim, Brett Greer, and obtained a victim statement from him. We then attended - we attended back at the watchhouse, by this time it was around about 7 o'clock in the morning. We conducted s 140 conversations with both Ingram and Whitfield. Ingram indicated that he wished the presence of his mother to be at the station and advised of his arrest and assist in participation of a record of interview. Whitfield during his s 140 conversation indicated to me that he didn't want anybody notified and that he was happy to speak to police by himself. We then attended the scene, by this time it was light enough. On attendance at the scene at Lambell Terrace, Detective Grieve observed a necklace within the soil of the ground. He took a couple of photographs, I forgot to mention that when we were taking the victim statement at the hospital. He volunteered some photographs. He volunteered to have photographs taken and Detective Grieve did that. Sorry, back at the crime scene we seized the necklace. We then travelled to Forensics and spoke directly with - sorry, we'd also seized the footwear and some items from - a \$50 note and a packet of cigarettes, I think, from Ryan Whitfield's property at the watchhouse which we believed would provide evidence towards the matter. So then we went to the crime scene and then from there we went and met Senior Constable Sandry at the crime scene, Forensics, and those items, the shoes, the lighter, no sorry, the cigarettes and the necklace were placed into the care of Senior Constable Sandry. By that time he'd already done a precursory examination of the vehicle. Post that, we then returned to Darwin police station where we made arrangements for further statements to be taken from Michael Smolen and then organised conducting record of interview with Ingram and Whitfield, they were completed. Ingram was in the presence of his mother, Whitfield was by himself as he'd agreed to do. Upon completion of the interviews we completed the arrest file to a standard and then made arrangements for Ingram and Whitfield to be charged in relation to the offences. And, yeah, that's basically the sum of my involvement.

I'm going to show you some discs. Do you recognise those discs?---Yes, master seal 106089 is that for Mr Ingram. And 1042085 is the one for Whitfield, yeah.

I tender those, your Honour.

HER HONOUR: Thank you. I think mark those individually. Mark Master Ingram's as P5. Mr Whitfield's as P6.

EXHIBIT P5 EROI for Master Ingram.

EXHIBIT P6 EROI for Mr Whitfield.

MR JONES: I won't be seeking to play them at all.

In relation to, just very quickly, in relation to the mobile phone that was seized?
---Yes.

What type of phone was it?---My memory blanked out, I believe it was a Motorola, it was later identified to be victims. Small and it was grey and.

Over the course of the next few months, what other investigations did you carry out? ---I've obtained a further statement from Jessica Tudor, I've also obtained a statement from Kieran Shaw. I've made arrangements for a forensic examination of items seized from the vehicle, from the property of Ryan Whitfield and from the persons of Whitfield and Ingram at the time of charging. I forgot to add that Detective Grieve obtained the clothing worn by Whitfield and Ingram at the time of charging. I had a case conference with biologist Julie Moriconi and Crime Scene Examination Unit member Sandry, where we discussed the items that had been seized, prioritised those that would give us the best results we felt and what procedures were required. And I also recently made arrangements to have CCR checks done of Kieran Shaw's phone. Those CCR checks were returned to me the day before yesterday. And I've written a second statement attaching those to that statement as a CCR record supplied to me by the Intelligence Section of the Police Department.

And if I just may have a moment to locate those records. Sorry about that, your Honour.

HER HONOUR: Just before you speak, Mr Jones. Just for the record I note that Frank Ingram's mother has rejoined the court and is present. Yes, thank you, sorry, go ahead.

MR JONES: I'm just going to show you some documents?---Yes, they're mine.

Yes, that statutory declaration, what date is that?---15 October, yesterday.

And there is annexure to it, what is that?---That is the CCR records or a print out of the CCR records as supplied to me by the Intelligence Section of the Police Department.

Now, if you could just hold those up. Could you explain how to read it from left to right?---We have the date initially as per the year, the month and then the day. Then we have the time and that indicates a time that the phone call was made from which number that the phone - the phone call was made from. In this case 0458280458 which was phone belonging to Kieran Shaw to 0415622143 which was the victim's phone. And there's a second call made at 2.39 on the same date from the same phone to - from Shaw's phone again to the victim's phone at 23.9 - at 2.39.12 which correlates with what Mr Shaw had told me. I can't see in here the length of the call, it doesn't appear that the actual call length was recorded.

I tender that, your Honour.

HER HONOUR: No objection?

MR BROCK: No objection.

HER HONOUR: P7.

EXHIBIT P7 Statutory declaration and annexure.

MR JONES: No further questions for this witness, your Honour.

HER HONOUR: Yes, thank you.

Mr Abayasekara.

MR ABAYASEKARA: Yes, your Honour.

Mr Gargan, after the vehicle had first been apprehended you approached the passengers in the vehicle, did you?---That's correct.

Now, did you recognise Ryan Whitfield at that time?---I did. At first I had him confused with somebody else, because I hadn't seen Ryan for a while, but having dealt with Ryan for a number of years, yeah, once I'd sort of - you know, yeah.

So did you have a conversation with him while he was seated in the passengers seat?---Yes, I did, yeah. I actually called him Reece Hyde initially.

You called him Reece Hyde, did you?---Yeah. And then he made it clear in uncertain terms that it wasn't him and when I realised and had a better look, I realised it was Ryan Whitfield.

When you say you removed him from the vehicle, how did you actually remove him from the vehicle?---I just opened the door and I told him to hop out and he did.

And he just got out of the vehicle?---Yeah, just got out.

And did you tell him, 'Go sit down on the nature strip' or?---Basically I just said, just basically, 'Stand over here' and he was a little bit pumped up, I think more about me calling him Reece than anything. And I told him to sit down on the grass and he did so.

And then he just remained seated there while you were talking to other people in the vehicle?---(inaudible) IJIS.

While he was sitting there was anyone standing next to him or watching over him? ---There were police officers everywhere at that stage.

From your dealing at that point with Ryan, did you observe him to be under the influence of anything?---Yes.

Is it fair to say he was quite intoxicated?---He was under the influence of something.

But in terms of his level of intoxication was he very intoxicated?---No, not - not stumbling drunk or anything like that, but he was - he was at a point where he was, you know, it was an excited state I would say.

He got out of the car and just walked to - just on the nature strip was he able to do that without stumbling?---I don't recall him making the movement, but I don't recall him stumbling either, there was nothing remarkable about it, remarkable about him doing that.

How long was it before he was then placed in the vehicle?---I couldn't be sure, it was only a matter of minutes. There was as I said, there was a number of police officers arriving, including the Watch Commander, Gary Smith and I was required to give him a briefing as well as ascertaining what else was going on around the place and dedicating people to responsibilities. It wouldn't have been - it was only a matter of minutes.

When he was placed in the police vehicle, at what point was he actually informed that he was under arrest?---At the time that I took the phone out of the car and realised, I've advised him at that time everybody in the car was under arrest for steal and violence.

And how did he get placed in the police vehicle?---I didn't see that.

So it was another police officer that - - -?---Other - other officers were responsible for conveying to the station, yeah.

Now, you said that he was under the influence of something, did you think that was alcohol?---I - I didn't smell alcohol on his breath and yeah, he just appeared to be under the influence of some sort of substance. I couldn't say with any surety whether it was alcohol or anything else.

You said that he was hyped up, now, when you first approached the vehicle, but before you had any conversation with him, did he appear to be hyped up at that point?---No, he was sitting very calmly in the passenger seat.

And it was only after you'd said that he was Reece Hyde or asked him about that, that he became hyped up?---Well, when I say hyped up, I mean he just - he sort of indicated to me that he wasn't Reece Hyde.

In no uncertain terms?---Yeah.

Now, your next dealings in relation to anything to do with Mr Whitfield, was as I understand you then went out to the police station at some point and took some items out of his property?---Yes.

And that was the \$50 note and the cigarette lighter?---His shoes, \$50 note and I think a packet of cigarettes and a cigarette lighter.

A packet of cigarettes and the cigarette lighter. And the way you knew that that was his was that because it was marked in the property - - -?---That's correct.

Folder at the police station?---Yes.

Now, you later did a record of interview with Ryan?---That's correct.

Now, when you were about to do that record of interview, before that was he placed in a holding cell?---We removed him from the watchhouse, he asked for a cigarette, we took him outside to the bicycle area.

I'll stop you there. You removed him from the watchhouse, so - - -?---From the watchhouse cells.

From the watchhouse cells. So up until that time he was in the watchhouse?
---I believe so.

As far as you're aware?---Yeah.

You removed him from the watchhouse cell, did you actually go to the cell and open the door and take him out?---I can't recall, but I imagine I would have, yes. That's my normal procedure would be to ask the watchhouse keeper for the keys, I'd then go to the cell, bring the person out and give the watchhouse keeper back the key.

And you can't remember the incident actually taking Ryan Whitfield out of his cell?
---No, but I would never have taken him outside the watchhouse.

Can you remember at all whether he was asleep or awake when you went to get him?---No, I can't recall.

You said you took him outside for a cigarette?---Yeah.

And after that you took him back to the record of interview?---That's right.

How long was he outside having a cigarette?---Long enough to smoke one or two smokes, that was it.

And did that take about 10 minutes or - - -?---5 or 10 minutes at the most.

5 to 10 minutes. Was it just you and him outside?---And Detective Grieve.

Detective Grieve. And how did he appear to you at that point?---Remorseful.

Just in terms of observing his outward appearance, I'm going to ask you did he appear groggy?---No.

Did he appear tired?---No.

Did he appear fully alert?---Yes.

Was he yawning at all?---I don't recall him doing so.

Was he able to converse with you coherently - - -?---Yeah.

At that point?---Yes.

And then after that both you and Detective Grieve took him to the interview room?
---That's correct.

Now, in your evidence you were giving before, you mentioned having a case conference with a biologist?---Yes.

Was that someone called Moriconi?---Yes, Julie Moriconi.

Julie Moriconi. Who is Julie Moriconi?---She's a biologist attached to Police Forensics, she was the case officer responsible for the examination of the items relevant to this case.

Now, did you ever obtain a statement or organise for a statement to be obtained from her?---Yes.

Did you provide that to prosecutions?---Yes.

When you get a statement from her?---It was provided to me last week, I can't remember on what date that I gave it to the DPP, but it was pretty much instantaneously from the day that it was available, it was for - I think it was early this week. Today is Friday, Monday, it would have been Monday because I was off on Friday. So Monday being the 12th.

Now, did you at all at any stage turn your mind to obtaining some photo boards in relation to this matter?---Yes, I did. We attended at the gaol, I forgot that part, sorry, attended at the gaol, I can't remember on what date and had a conversation - interview with both Ingram and Whitfield in relation to conducting an identification parade, both declined to do so. I then attempted to obtain some photo boards to be completed for completeness sake, however, it took a number of weeks to those done due to a lack of training and staffing. And in the meantime unbeknown to me the victim had moved interstate, so they were never done.

And you said it took a number of weeks to get that done, but did it actually get done?---Yes.

So photo boards were made up?---Photo boards have been made up, but they haven't been utilised.

Can you recall when they were made up?---It was only a matter of - it might have been early last week that I received them in the internal mail.

And who made those photo boards up?---A former Northern Territory police officer John Toohey, he's now gone to Tasmania.

Did you take a statement from John Toohey in order - in relation to making those photo boards?---No, I didn't purely for the reason that I didn't utilise the photo boards.

I've got no further questions of this witness.

HER HONOUR: All right, thank you.

Mr Brock.

MR BROCK: Officer, you've made some observations of Mr Whitfield being pumped up and excited, what exactly did you mean by those descriptions?---Just that he was vocal.

Just that he was?---He was vocal.

And was there anything he was doing physically that led you to that conclusion? ---No.

Did you make any observations of his physical appearance, any injuries or any notable marks?---Not at that time, no.

At any later time?---I don't recall doing so, not a deliberate effort to do so, no.

At any point did you look at his hands?---This is Whitfield?

Yes?---I don't recall doing so, I may have, but I don't recall doing so.

When you first saw Whitfield, did you observe if he was wearing anything on his head?---No, he wasn't.

In relation to Mr Ingram, did you observe anything of Mr Ingram's demeanour when you arrived at the scene?---I didn't pay a great deal of attention to Mr Ingram. I was dealing with Whitfield and other officers were dealing with Ingram.

Now, I'm right that there were four other passengers in the rear of that vehicle, is that right?---That's correct, there were.

And am I correct that you made arrangements for those passengers to be taken to their respective homes?---Three of those passengers, yes.

And the fourth being Ms Tudor?---That's correct.

Now, which vehicle was Ms Tudor placed in?---She was - she was placed in our vehicle, that was the only vehicle that - it's an unmarked police vehicle.

And how long was it between when you arrived and the two truck showed up?
---I couldn't be sure, but it would have been at least 20 to 30 minutes.

And during that time where was Ms Tudor?---She remained in the back of the police vehicle.

Was she free to leave?---I wasn't dealing with Ms Tudor, Detective Senior Constable Reeve was. She was 17 years old, so no.

When you left the scene, you left in that vehicle with Ms Tudor?---That's correct.

And at that time she disclosed some information to you?---Yes.

Prior to that you had information that she had been at the scene at the alleged robbery?---Prior to that I had information that there was a blonde female seen in the rear seat of the vehicle at the time of the robbery, but not at the actual incident itself.

So it would be fair to say that there was a chance that this could be the young lady who was seen at the robbery?---Yes.

And there was a chance that she might have been implicated in that robbery in some way?---At the time I had no reason to believe that she was.

Even though you knew that potentially she'd been at the scene of the robbery?
---That didn't necessarily implicate her.

At what point did you become aware that she was under 18?---I'm not sure. I don't know.

Were you aware of it by the time you were travelling back to the station with Ms Tudor?---Yes, yeah.

Did you make any attempts to contact a responsible adult for Ms Tudor?---She wasn't being questioned as a suspect.

Do you think even being questioned as a witness she might have appreciated the opportunity to speak to an adult?

MR JONES: Your Honour, that's a speculative answer. He's asking him if she would appreciate it.

MR BROCK: I'll accept that, your Honour.

THE WITNESS: I don't know.

HER HONOUR: You don't have to answer that?---I'm not going to.

MR BROCK: Where did you take Ms Tudor for her to make her statement?---To the Darwin police station.

And during that time she travelled in the vehicle with yourself and Constable Grieve?---Detective Grieve.

Detective Grieve?---Yes.

And anyone else in that vehicle?---No.

At any point did she ask for an adult to be contacted?---No.

At the station, where in the station was her statement taken?---One of the general interview rooms.

Was that station equipped with video facilities?---Yes, it was.

Did you contemplate recording her statement rather than taking a written statement?---No, I didn't.

After that did you make arrangements for her to be taken home?---Yes, myself and Detective Grieve conveyed her home.

And when she got home was there an adult at that place?---Yes, there was, she was placed into the care of her mother and stepfather.

And was that the address that she nominated as where she lives?---She was unable to nominate an address, she'd only recently moved there and was unaware of the street number. She was able to recognise her house and that was the address on the house in which she nominated as being her parents.

Did you have any concerns of Ms Tudor might be a flight risk?---No.

And this all occurred approximately between 3 and 4 am?---I think we dropped her home at about 4:30 am.

Did it occur to you that you could have arranged the statement at a later time than (inaudible)?---Yes, I did. Yes, I felt it was imperative for the preservation of evidence and possible loss of the structured evidence to obtain her witness statement as soon as practicable.

Now, have you met Mr Ingram prior to this night?---No, I haven't.

Had you met any of the other passengers to this night?---Russell Williams, yes.

And you had dealings with Russell Williams in the course of being a police officer in your employment?---Yes.

But you didn't feel that he might be a suspect in relation to this event?---No, I didn't.

So at the time you arrived at that area, you had concluded already that the driver and Mr Whitfield?---No.

Mr Ingram, no?---No.

But you had concluded that the other people in the vehicle had not been involved in any way?---Not initially, no. Once the phone was ringing and I pulled it out of the console, I actually informed everybody in the vehicle they were under arrest. It was when I was speaking to one of the officers that was also there, who - I can't remember who, who indicated to me that they'd just been to a party at Gun Point Road within an hour and had seen the two younger fellows and Russell Williams at that party and that Russel Williams had also had also had that - had that conversation with Russell whilst he was sitting in the back seat of the car, corroborated the information.

What time did you arrive at the scene?---I think it was 2:37 or thereabouts.

At the scene of where this vehicle had been pulled over in Mannequin Court?
---Yeah, it was around that time.

2:37?---I can't be totally - I can't be exactly sure to be honest, I'd have to check my notes.

Later on 23 August you had an interview with Mr Ingram?---That's correct.

And Mr Ingram requested the presence of a support person and nominated his mother?---That's right.

Can you tell the court what you feel the role of a support person is?---A support person is a person that provides support to the person by way of emotional and general wellbeing. She - the support person is there for any questions that Ingram may have for her or him. She can - the support person can not prevent Ingram from answering any of the questions or enforce Ingram to answer any of the questions.

Is it the case then that the support person can not say anything unless the interviewee requests their assistance?---No, if - if the support person feels that she's got - they've got something they wish to share with the person in the interview, they're welcome to.

But they are restricted in that they can't tell that person not to answer the question nor compel a person to answer it?---That's my belief, yes.

Do you recall very well that interview with Mr Ingram?---I recall aspects of it.

Do you recall Kathleen Taylor, Mr Ingram's mother being present?---This lady here?

Yes?---Yes.

And do you recall during that interview whether Ms Ingram was paying attention in relation to what was being said?---My concentration efforts were - were on Mr Ingram and my line of questioning with Mr Ingram.

Did you notice if Ms Taylor was reading a newspaper?---No, I didn't.

Your Honour, perhaps I could have access to exhibit 5, I believe it is, the interview with Mr Ingram?

HER HONOUR: Yes.

MR BROCK: And perhaps I could request just the opening sequence be played?

HER HONOUR: Yes.

MR BROCK: I'm sorry, your Honour, I feel I've put your officer on a spot.

MR JONES: Your Honour, I can hand up an aide-memoire, the transcript of the electronic record of interview that exists.

HER HONOUR: I think it's probably more the footage.

MR BROCK: It is for this particular question.

HER HONOUR: Look, why don't I take a short adjournment. We'll get another court officer who knows how to operate the equipment and we'll just take it from there.

MR BROCK: Again my apologies, your Honour. If the court pleases.

ADJOURNED

HER HONOUR: Yes, thank you.

Now, are we ready to play?

CRISPIN GARGAN:

MR BROCK: Yes, thank you.

HER HONOUR: I understand there is no audio, but - - -

MR BROCK: But that's just changed.

HER HONOUR: The situation has just improved has it is it, all right.

DVD PLAYED

MR BROCK: Perhaps if I could suggest right clicking on the disk.

HER HONOUR: The disk icon?

MR BROCK: Yes.

HER HONOUR: Yes, that seems to have brought up the word 'play'.

DVD PLAYED

MR BROCK: Your Honour, I should indicate that's enough in relation to the questions I seem to have put (inaudible).

HER HONOUR: All right, thank you.

We'll stop the recording at this point, thank you.

Yes, thank you.

MR BROCK: Officer, did you make any observations of Ms Taylor during that interview?---During the interview or just now?

Just now on the video?---In terms of what?

Well, did she seem as though she was paying attention to what was going on? ---When I asked her a direct question I didn't need to repeat it. But it would - it seems that she was doing other things, yes.

And you saw in that interview that she was reading the newspaper for most of the questioning?---Well, she was flicking through it, I wouldn't say she was reading it. But while she was flicking through it I asked her name, I didn't have to repeat it, she gave me her name.

Did she answer any other questions or did you direct any other questions?
---I directed some questions about as to whether or not she was prepared - she was happy enough to be here and she answered that questions.

There were some questions asked I want to take you to officer and I understand my friend has an aide-memoire if you would like to refer to it?---Yeah.

As the leading officer in a record of interview it is your job to ensure that the record of interview is fair, is that right?---Yes.

If you turn to page 4 of that aide-memoire?---Yeah.

And you can see that at the top there is the tail end of a question from you:

The assault and stealing from Brett Greer his name is who in Darwin CBD early hours of this morning, that's the matter for which you are arrested, do you understand that?

Can you read out Mr Ingram's answer?---'No'.

At what point do you revisit those charges to check if Mr Ingram understands what he's being questioned about?---I don't.

If we go further down that page you ask some questions about how the record of interview can be used. And you refer to the role of a magistrate?---Yeah.

And you say, 'Okay, what can a magistrate do?' what's Mr Ingram's answer there?
---'Whatever she wants'.

And then you say, 'Can she find you not guilty?''---That's correct.

Is that your understanding of the role of the magistrate, is the role of the magistrate only to find 'not guilty'?---No, the role of the magistrate is to find guilt or unguilt.

In fact the magistrate has a range of different roles, doesn't the Magistrate?---I'm not - I (inaudible) can I presume to know what the full roles of a magistrate are.

But that doesn't summarise the role of the magistrate in relation to an investigation of a crime?---It confirms to me that she understands - that Mr Ingram understood that the evidence could be heard in court before a magistrate and a magistrate can make a number of decisions including that of being found not guilty.

But you only refer to one decision there don't you, not guilty?---I could refer to a dozen different situations.

That's right, but an important one would be guilty as well?---Yeah.

If you turn the page, Officer. And before we do that, I might just ask you a question as to whether you made an inquiries at a Shell Service Station at Nightcliff in relation to this event?---Yes, I did.

What inquiries did you make at that service station?---I attended that service station a couple of times and I spoke to the onsite manager, she was only a temporary onsite manager. She informed me the general manager was away, that that was the only person that had access to the surveillance footage and until that person returned from her holidays I would not be able to access it. The footage was saved for seven days. I spoke to the general - the general area manager of Darwin, he advised me of the same information. Unfortunately, with executing a search warrant and seizing the security footage and then possibly not being able to access it anyway because it was encrypted with a password, I made a determination that it was - unable to get the surveillance footage.

When did you first attend the Shell Service Station?---I believe it was 24 August.

So it was after this interview?---Yes.

Had you seen the CCTV footage at the time of this interview?---No.

On what basis did you put to Mr Ingram that he had been caught on CCTV footage? ---I was aware that they'd gone to the Shell Service Station at Nightcliff, I got that information from Jessica Tudor. And I was aware there was most likely security footage at service station.

But no one had seen that footage at that point?---No. And I haven't said in that question that it is him, I've just asked him so that won't be you getting out of the car.

It implies that someone is getting out of a car on footage from the Shell Service Station, does it not?---It can imply as to whatever the person wants it - wants it to mean it to imply.

You've been an officer for 13 years?---That's correct.

You must have been involved in a lot of crimes that involved numerous people? ---Yes.

And at times those people would take different roles in the commission of those crimes?---That's correct.

Some might be more involved than others?---That's correct.

And you had information that there was a girl with blonde hair that matched the description of Ms Tudor at the scene of this alleged crime?---In a vehicle on the road who remained in the vehicle?

It would be a fair proposition to say that in the commission of crimes involving a group of people, sometimes people act as lookouts?---If there was going to be somebody who acted as a lookout I would expect them to get out of the car so they could at least see what was coming and going.

There might be someone who acts as a driver of a getaway car?---She was in the rear passenger of the vehicle and it's hard to see how she could be the getaway car.

And you still thought it was safe to rule her out as a potential suspect or implicated in this matter?---At the time of obtaining a statement from her I had no information to indicate to me that she was implicated in the commission of this crime.

Except that she was at the scene?---Yes.

Is it the case that you made that determination because it allowed you to interview her without a support person?---No.

You refer to a meeting with Julie Moriconi?---Yeah.

At that meeting is it the case that you discuss what tests will be undertaken in relation to various items of evidence?---That is the general discussion held by all the parties at the meeting, yes.

And who makes the ultimate decisions as to what tests are undertaken?---The Crime Scene Examination unit member, Tim Sandry.

Was there a discussion in relation to an assessment of fingerprint evidence in this case?---On the mobile phone, yes, but I believe there was something else, I can't recall what, but it might have been the wallet. I don't know what else there was, but the fingerprints fellow was there, that's right, yes.

I'm sorry, I missed that last bit?---The fingerprint fellow was there and he was part of the conversation, but there was only one or two items listed or indicated for fingerprinting, one of them was the phone.

And were those items tested for fingerprinting?---Yes, they were.

And do you have the results of those tests?---They were negative results, there was no fingerprints located on any items.

Nothing further, your Honour.

HER HONOUR: All right, thank you.

MR JONES: Just a very brief re-examination. My learned friend spoke about fairness in relation to record of interview?---Yeah.

Was the record of interview with Frank Ingram terminated?---It was.

And at whose request was that record of interview terminated?---Ingram.

Thank you nothing further.

HER HONOUR: All right, thank you.

Thanks Detective Gargan?---Thank you, your Honour.

For giving evidence today.

WITNESS WITHDREW

MR JONES: The next witness, your Honour, is Mark Grieve.

MARK CAMERON GRIEVE, sworn:

MR JONES: Would you state your full name to the court, please?---Yes, Mark Cameron Grieve.

What do you do?---I'm a police officer.

How long have you been a police officer for?---Coming up to six years.

Now, you understand why you're here today?---Yes, I do.

It's in relation to what?---It's in relation to an investigation that I took part in in regards to the - well, the original report was a steal and violence matter that occurred on 23 August.

Now, could you tell the court what your role was in relation to that investigation and what you did?---Yes, certainly. Primarily I was the second investigating member with Constable Gargan as the primary. On that particular morning I was actually off duty, however, I was on call as part of the duty crew for the Darwin region. Subsequently at about 2.30 am that morning I received a phone call advising of an incident, a reported incident being steal and violence that occurred at Larrakeyah in Darwin and as such I was recalled to duty. I was also made aware that Detective Senior Constable Gargan was also recalled to duty. I subsequently attended the Palmerston police station and met up with Gargan. From there we obtained some more information in regards to the matter. At that stage it was fairly basic, but we were made aware that there were allegedly two offenders and that they'd been seen driving off in a particular vehicle. I was also made aware that the first three number plates of that vehicle were obtained and also that the victim in the matter had had his wallet and phone stolen. So from there we - we left the station on route to the actual incident location. Not long after leaving Gargan got a phone call from Police Communications advising that a vehicle that matched the description had been trapped or apprehended by a general duties member or vehicle and that location was in Mannequin Court, Bakewell. We subsequently went mobile to that location and upon arrival it was a cul-de-sac and upon arrival I saw two police vehicles plus a

dirty white Holden Barina parked at the end of the cul-de-sac. We subsequently got out of the car and started talking to the general duties officers that were there. I saw a male person standing outside of the apprehended vehicle leaning up against the driver's door. One of the general duties officers introduced him to me as Frank Ingram. I then went about speaking with other members there.

If I can just stop you there?---Yeah.

In relation to your observations of that person, can you describe what they were wearing?---No, I can't recall what they were wearing at the time.

Sorry, please continue with it?---At that point I noticed that Detective Gargan was on the phone, he had called communications. I was aware that he's sighted a mobile phone in the centre console of the car. Whilst he was on the phone or after he'd called communications the mobile phone in the centre console started ringing. I observed Gargan reach in and grab the phone and seize it effectively. He then placed the driver and the passenger under arrest and the general duties members escorted them to two caged vehicles. Also in the vehicle at the time were four additional person sitting in the back seat, three males and one female. I basically approached the female and escorted her from that vehicle into the rear seat of our vehicle and commenced asking her questions in regards to what she was doing and where she had been on the night. I obtained her name and her age, but that was about it. I think she was a bit scared and fearful at that stage and didn't say too much. The general duties members conveyed the two arrested persons back to the watchhouse and myself and Gargan then remained there in situ until a tow truck came and picked up the apprehended vehicle. After that was completed we then went mobile to the Darwin police station. And during that - during that ride Detective Gargan was speaking to the female whose name was Jessica Tudor, I must point out. And during that conversation she basically said that yes, she'd been in the vehicle all night and that she'd witnessed part of the attack. And that was pretty much it. We arrived at Darwin police station, Detective Gargan then took a statement from Ms Tudor. After the statement was completed we then dropped her home. We then attended the Royal Darwin Hospital where Gargan took a handwritten statement from the victim in the matter a person who I noted - now know to be Brett Greer. At the end of that statement I took a number of photos of Brett's injuries.

If I can just stop you there. I'm going to give you some photos. Do you recognise those photos?---Yes, I do.

Who took those photos?---I did.

Your Honour, I tender those.

HER HONOUR: Thank you. They can be marked as P8.

EXHIBIT P8 Photographs.

MR JONES: In relation to those photos, were all of them taken at the hospital?
---No, no, only the pictures of the victim. The other two photos were taken at the actual incident location.

Were all the pictures of the victim taken at the hospital?---Yes, yes.

Thank you. Please continue, officer?---Sorry, I've just lost where I was. I took the photos. We then returned back to Darwin station where I then seized certain items from the property of Ryan Whitfield, I believe those items were a \$50 note, a packet of cigarettes and a pair of shoes. At that stage we then went mobile to the actual incident location where the crime scene had been established. It had since been closed down, but we wanted to go for - for a look just to get an idea for ourselves. And that's where I located the necklace that I took two pictures of that you referred to before. From that point onwards we went straight to Forensic Services where I handed over custody of the items that I'd seized from Ryan Whitfield's property. And from that point we then went back to Darwin police station where I obtained a statement from Michael Smolen. And then we went about organising the interviews, the electronic record of interviews with both Ingram and Whitfield. I was corroborating member in both of those. At the completion of those we then set about completing the appropriate files before submitting them. And then the following day - sorry, later that after day, I think it was about maybe three o'clock, I'm not too sure of the actual time, but I also seized the clothing being worn by both Frank Ingram and Ryan Whitfield at the time. And then the following day I conveyed them to Forensic Services and handed them over to Sandry as well. That was pretty much my involvement apart from I believe on 1 September I attended both Don Dale and Darwin prison with Gargan in order for him to have an interview or have a conversation with both Whitfield and Ingram in regards to whether they wished to participate in an ID parade.

Did they?---No, they didn't.

Did you do any other investigations with Officer Gargan in relation to the matter?
---No, I don't believe so.

Did you go to any other locations in relation to the investigation of this incident?---No, I don't believe so.

That's the evidence in chief of this witness, your Honour.

HER HONOUR: Thank you.

Yes sorry.

MR ABAYASEKARA: Yes, Detective, when you attended the apprehension of the white vehicle?---Yes.

Now, you approached - sorry, did you say you approached the driver's side of the vehicle?---That's correct.

And did you have a conversation with the driver?---No, I had a conversation with Senior Constable Matt MacDonald.

Did you have any conversation with anyone in the vehicle at that point?---No, not at that point.

Now, did you at that point, had you had any dealings with Ryan Whitfield at all?---No, I hadn't.

At the apprehension, did you have any dealings with Ryan Whitfield?---No, I was present when he got out of the car before he was taken over to one of the vans.

Did you make any observations in relation to the behaviour of Whitfield as he got out of the car?---He appeared pretty nonchalant, he certainly wasn't saying a lot, he complied when asked to get out.

At that point though, was your attention on other things?---My primary role at that stage was to go around and deal with the female that was in the back of the car. There were also three other males in the back of the car, I just wanted to separate them and thought it would be best to get the female out rather than leave her locked up in the back of the car like that.

Were you in a position where you could observe the intoxication level of Ryan Whitfield?---Yes, I probably was, yes.

Are you able to say that he was very intoxicated at that time?---No, I wouldn't be comfortable saying that he was very intoxicated, it certainly appeared that he may have been under the influence of something whether it be alcohol or a drug, but I couldn't tell you for sure.

But you didn't have any direct conversation with him?---I didn't have any conversation with Ryan, no.

And you weren't on his side of the vehicle when he got out of the vehicle?---I was on his side of the vehicle when he got - - -

You were on his side?---Yeah.

But at that point your main role was in giving the people sitting in the rear (inaudible)?---Yeah, I was keeping an eye on the people in the rear, yeah, that would be fair to say.

Now when you returned to the watchhouse to do the record of interviews with both Ingram and Whitfield?---Yeah.

Did you personally go to the cell, the holding cell that they were in to get them out? ---Yes, yeah, actually I think we - we conducted the 140 in the cell. Sorry, is that - or you mean when we took them up for an interview?

No, when you took them up for the interview?---Yes, I think I did with Ryan, maybe not with Frank, I'm not too sure.

So I'll take you back to the 140?---Mm mm.

When did you conduct the 140?---I believe it was around about 7 o'clock that morning. 7 o'clock that morning?---Yeah, I can't be exact (inaudible) somewhere.

And the time of the apprehension of the vehicle when you saw them being placed in the rear of the police vehicle, what time was that?---It would have been probably around about - or 3 o'clock, maybe a quarter past 3. I'm just gauging on the time that I originally got the call out.

Certainly, yes. Going back to the 140, you said that you actually did that in the holding cell?---Yes.

And you remember doing that for Ryan Whitfield?---Yes, I was corroborating member in electronic record of interview, I didn't actually conduct, conduct it the 140, sorry.

Can you remember when you went into do that, was Mr Whitfield awake or asleep? ---I believe he was laying down at the time and then when spoken to he - he was awake, he got up.

Can you recall though when you went to the cell whether his eyes were closed or open?---No, I can't recall, I believe he may have had a blanket and was laying on his side not facing us.

Is there bright lights in the holding cell?---Yeah, yeah, well, not bright bright, but yeah, there's plenty of light there.

And when he got up did he appear as if he'd just woken up?---Yeah, he appeared - appeared a bit tired, yeah.

Did he appear groggy at all?---No, I wouldn't say groggy.

Did he appear to still be under the influence of something?---No, no, not at that stage, especially when he was starting to speak, you know, there was no concern there.

How long did the 140 go for?---Generally, they go for about 4 to 5 minutes, I couldn't tell you the exact time for that particular 140.

And after that you left the holding cell?---Yes, that's correct.

Now, what time did you do the record of interview?---The record of interview, I - I think it was around about 12 o'clock, I can't be exactly sure without looking at my notes and stuff.

And you said that for Ryan Whitfield you went to the holding cell itself to get him from (inaudible)?---I think so, I can't be 100% sure whether I accompanied Gargan to the cell as well or whether I stayed in the room to get things set up.

So then can you remember at all when you went to get him for the interview whether he was awake or asleep?---Look, throughout the whole episode, like I said, I can't quite recall whether I was - personally went down and escorted him up. I think I did with Ryan. I can't recall whether he was awake or asleep, no.

Did you then after - sorry, did he at some stage go and have a cigarette or two?
---Yes, he did.

And was that before he did his record of interview?---Yes, it was.

So he went from the holding cell outside to have a cigarette?---That's correct, yes.

And you were present at that?---Yes, I was, yes.

Remembering that, were you present when he was taken from the holding cell?
---Yes, yes, yeah.

Now, can you remember when you went to the holding cell whether he was asleep or awake?---I - I think he was awake on the second time.

The second time?---Before the EROI, yeah, look I can't be 100% sure, but I can't recall him being asleep.

When you took him outside for his cigarette, did he appear to be tired?---No, well - somewhat, but not overly, no.

Was he yawning at all?---I can't recall seeing him yawning, no.

Did he look like he was still under the influence of something?---No, he didn't appear to be under the influence, that was more based on - on how he was speaking I suppose.

Was he speaking coherently to you?---Yeah.

Was he speaking slowly?---No, no, not that I'm aware of. Mind you, I'd never met Ryan before so I'm not familiar with his mannerisms and what not.

Certainly. At that point you say he didn't look like he was under the influence of anything. Did he look like he was suffering the after effects of some sort of intoxication?---Yeah, that would be fair to say, he looked - he looked a little bit under the weather, but certainly didn't look that tired or anything like that.

Would you say he looked hung over?---Yeah, yeah.

Thank you, detective, I've got no further questions for you?---Okay.

HER HONOUR: Thank you.

Mr Brock.

MR BROCK: Thank you, Officer. In your experience as a police officer you would have investigated a wide range of crimes?---Yes, I have.

And sometimes those crimes would involve people acting a group?---Yes, it does.

And is it fair to say at times people play different roles in the commission of the one crime?---Yes, that would fair to say.

For example, someone might be a lookout?---Yes.

Someone might be a driver of the getaway car?---Yes.

When you arrived at the scene where the car had been tracked, you saw two males in the front?---That's correct.

There were other people in that car weren't there?---Yes, there were.

How many other people?---There were four other people.

And what did you think in terms of those other people, did you think they might be suspects in this crime?---No, I personally didn't. Two of the three males in the back seat were - were quite young. I would say around about the age of 9 or 10 or maybe 10 or 11, 12 something like that. I certainly personally didn't suspect them of being involved in any of the incidents.

What about the fourth person?---The fourth person I didn't really have much dealings with, he was on the far side, so I didn't really actually see him to be honest.

Well, the person I'm referring to is Ms Tudor?---All right, yeah. Yes, no I had no information or no reason to believe that - that she was implicated in - - -

When you arrived you had been told that there had been information from this robbery that a young girl with blonde hair had been seen in the rear of the vehicle that had left the scene, is that correct?---No, no, I - I actually hadn't received that information at that time.

Now, you refer to escorting Ms Tudor to the rear seat of a vehicle, whose vehicle was that?---That was our vehicle.

And what do you mean when you say, 'Escort'?---I just asked her to come with me so we could get away from that vehicle so I could sit down and have a chat to her.

And at that time would you say that Ms Tudor was free to leave is she so desired?
---Yes she was.

Did you tell her that she was free to leave?---No, I hadn't told her that she wasn't free to leave.

How long did she stay in that vehicle while you were at the scene?---She stayed the entire time until such time as we left after the two truck arrived.

What happened with the other three boys?---The other three boys were conveyed to one of their residents by another general duties man.

Why was Ms Tudor not afforded the same opportunity to leave with those boys?
---I think - well, I can't answer that question in full because I didn't actually interact with those boys. But I just wanted to have a chat to Ms Tudor and - and, you know, that's the way it was I suppose. I didn't really - - -

What did you want to chat to her about?---In regards to her whereabouts that night, what she had been doing. Why she was in the car.

You mentioned before observing her as being a bit scared and fearful, what led you to that conclusion?---She wasn't too forthcoming in answering, you know, some of my questions, so I just - I just basically thought she was maybe a little bit frightened of the situation as sort of anyone, you know, a young person would be I would imagine.

Why didn't you have a chat with her while you waiting for the tow truck?---I started to chat with her and I - I obtained her name and her age and I asked her, you know, who are your parents and who can we contact and she didn't want to tell me basically and clamed up more or less, so at that stage I let her be.

At the end of the evening you were able to take her home, is that right?---That's correct.

When did she tell you where she lived?---I believe she told Detective Gargan during the statement taking.

Did you have any concerns that had you made arrangements for Jessica to go home that she could have been a flight risk?---No, not at that stage. I mean I suppose there's always an underlying concern in regards to anyone that they could be a flight risk or they may not, you know, cooperate or what not, but nothing out of the ordinary, no.

When you say in the car Officer Gargan had a discussion with Tudor, what were they discussing?---Basically, because she - she clamed up to me, Gargan started speaking with her and she - she opened up to him and just generally basic questions in regards to, you know, 'What had you been doing tonight? Why were you in car?' you know, 'Where have you been?' that sort of stuff.

Was it Officer Gargan who initiated those questions?---Yes, I believe so.

And she travelled that distance in a car with just yourself and Officer Gargan?

---That's correct.

You'd be aware that if a young person was a suspect or implicated in a crime that when they're interviewed they should have a support person?---Fully aware, yes.

Did you consider it appropriate and may be Ms Tudor should have been offered a support person before she gave her statement?---No, I didn't consider her to be a suspect in any of the offending at all.

Did you consider her to be implicated in the crime?---No, I didn't, no.

When you arrived at that scene where the car had been pulled over, did you make any observations of what Mr Whitfield was wearing?---Yes, I did. I believe it was denim shorts and a gray singlet or gray shirt.

Do you recall if he was wearing shoes?---No, I don't recall, not - not at that particular time.

Do you recall if he was wearing a hat?---I think he may have been wearing a hat, yes.

In relation to Master Ingram, did you make any observations of what he was wearing?---I'm sure I did at the time, but I can't recall exactly what it was. At that particular time I can't recall, I am aware of what he was wearing now, but.

Do you have any specific memory of whether he was wearing any shoes?---No, I don't believe he was wearing shoes.

Did you notice on either Mr Whitfield or Mr Ingram whether there were any marks or injuries on their bodies?---No, I didn't, I didn't notice any marks.

Did you during that evening or the next day at all have a chance to inspect Mr Whitfield's hands?---I didn't actually physically inspect them, I did look at them when we were in the cell at one stage.

And did you make any observations when you looked at his hands?---No, I didn't.

Thank you, Officer.

MR JONES: No re-examination, your Honour.

HER HONOUR: No re-examination.

All right. Thanks, Detective Grieve, this is finishes your evidence today?---Thank you, your Honour.

So you're free to leave now?---Thank you.

WITNESS WITHDREW

MR JONES: Your Honour, the next witness is Larissa Diana Spring.

LARISSA DIANA SPRING, affirmed:

MR JONES: Could you state your full name to the court, please?

---Larissa Diana Spring.

Do you live in Darwin?---Yes.

How long have you lived in Darwin for?---The last three months.

I'm going to take you to an evening of Saturday 22 August 2009. Do you recall that evening?---Yes.

Did you go anywhere that evening?---Yes, out to dinner.

Where did you go?---It was a Turkish place, off Mitchell Street.

And what time did you go there?---It would have been late, maybe around 10:30, they stay open pretty late.

Did you go with anyone?---Yeah, with my partner at the time, Michael Smolen.

Did you go anywhere else after the restaurant?---No, back to his place.

Where, sorry?---Back to his place.

And his place is on Lambell Terrace, is it?---In Larrakeyah, yeah.

And when you got home, what did you do?---We just watched a movie and had a couple of drinks together and then we went out to the balcony just to chat.

You said you had a couple of drinks, what were you drinking?---It would be vodka or scotch.

How many of those did you have?---A couple, maybe three.

How many drinks had you had for the entire evening?---At the most maybe four to five over a space - a few hours.

Do you know what time the movie ended?---It would have been after midnight.

And you said you went out onto the veranda?---Yeah.

Now, is that veranda on the ground level or is it above level veranda, where about is that?---Ground level.

What happened then?---Mike and I were just talking, it was pretty much, yeah, just having a bit of a conversation together and that's when we heard a noise just outside his apartment. And I (inaudible) to him that, 'Do you hear that? It sounds a bit strange' and we just shrugged it off and thought that perhaps it was just a few guys after that night mucking around.

When you say - if I can just stop you there. You head a noise, what type of noise was it?---Yelling. It just, yeah, just aggressive it just sounded a bit rough. We thought maybe it was just guys sort of mucking around or fighting.

So it was a male voice?---Yes, voices, yeah.

Voices, so there was more than one male voice?---Yeah, you could just hear yelling.

How many voices did you hear?---Two.

Do you recall what was being said?---No, not until I reached the fence.

Now, you heard a noise, did you see anything?---From where we were sitting?

Yes?---When I initially looked I saw two - two young guys or two guys, but it wasn't until I got up that I really saw anything.

So you saw two young guys?---Yeah.

Just think of one guy, can you describe him for me?---Yeah, the mean male that I saw would have been - quite a young appearance of Aboriginal decent or just olive dark skin. He was wearing a baseball cap and pants and a white T-shirt. He was quite tall and quite lanky. And that's pretty much what I remember about him. He had quite a baby face so I assumed the was quite young.

Did he have anything on his feet?---Sneakers.

Describe the other gentlemen for the court?---The other gentlemen was in the vehicle at the time that I saw. And he was wearing a baseball from what I could see and he was - he seemed to be a lot shorter and stockier than the male out of the car.

You spoke of a car, let's talk about the car. What colour was it?---White.

What type of car was it?---Suzuki Swift is what it appeared to be and it was a four door. It would have been a late 80s model. Yeah, it was pretty old looking.

If the witness could be shown exhibit P1, the bundle of photos?

HER HONOUR: Yes, thank you.

MR JONES: If you could just turn to photograph 17?---Thank you.

Is that picture there of that vehicle similar to the vehicle that you saw on the evening?---Yeah, that's (inaudible), that's the vehicle that I saw.

Thank you. If you could just hand those back. Now, did you notice any identifying features of the car?---It was quite old and when I looked at it, I just tried to look at it up and down to get a description. When I tried to make out the number plate it was quite faded, I could only see the first three numbers.

And what were those?---493 or 497 from memory.

Now, you'd said that you'd seen two males get out of the car and you described the car, what did you see then?---From where I was sitting?

Yes?---Yes. After that I said to Michael, 'That doesn't sound right' it just sounded quite aggressive so we got up to check it out, well, I got up to check it out. I stood on the fence and looked over. I first looked at Brett and the guy who was shouting - or shoving him.

Now, did you know that gentleman's name at the time?---No. From there I looked back at the vehicle to see if I could get a description and that's when I saw the second male in the car and somebody in the back and then I looked back over and I'm not sure whether the man attacking saw me or not, but he got back in the vehicle and drove off and that's when I approached Brett.

Now, if I can just take you back a step. You'd said that you saw the male shove Brett?---He pushed him onto the concrete and that's when he was still searching him?

Sorry, he was still?---It's like he was looking for something or trying to get something off him.

Could you hear anything being said?---All I heard was Brett saying, 'I've got nothing else, I swear I have nothing else on me'.

Now, how did Brett end up on the ground?---When I looked over at them to start with, that's when I heard that thud which him being pushed onto the concrete and that's all I thought I saw of him being attacked.

Now when you say, 'Being attacked' what do you mean, what was happening? ---When he was shoving it was quite loud, whether he had hit him and he hit the concrete or whether he'd pushed him, I'm not sure, I just know that I did see him sort of being shoved to the concrete.

When he was on the concrete, what was the other male doing?---The second male, you mean?

No, the first male that shoved him onto the concrete?---The one who was attacking, yeah.

What was he doing?---He was yelling at him, I'm not sure what he was saying. But then he got back into the car and that's all I can remember from there, nothing else really happened after that.

When he was yelling at Brett on the ground, was there anyone else there at that time?---No.

How far is it from where you were seated to the fence?---Maybe two metres, a couple of metres at the most. Where we were sitting from just getting up it would take two seconds to walk over there.

Now, can you describe the fence at the front of those units?---Yeah. Although I couldn't see over it which is why I had to stand onto the fence. However, you can see through it.

Now, when you say, 'See through it' how far apart are the apertures of the fence? ---Just to show you, probably like that, similar to a swimming pool fence. It has two large gates to the side so you can see onto the street through both of the sliding gates, so next to the fence.

All right, if I can just get you to put your hands back up there again and show the distance of the apertures?---Probably that, maybe bigger.

15 centimetres, your Honour.

HER HONOUR: That's what I was going to say, Mr Jones.

MR JONES: Thank you.

And you also spoke about gates. What's the distance between one side of the gate to the other gate?---They're quite long and quite open, there's just (inaudible) describe it, there's just the main gate and then part of the fence.

When you say, 'The main gate' that's the gateway to the driveway is it?---Yeah, that's correct.

And how wide is the driveway?---It's fairly wide, I wouldn't say that two cars could get through, but it's still quite wide.

Now, when you were on the veranda when you saw the car?---Yeah.

Were you standing or sitting?---Sitting.

And what was our line of sight like then?---I can see out onto the road. I couldn't see everything though until I got up.

And how could you see out onto the road, were you looking through apertures or were you looking through the gate?---Both. From where I was sitting if you - to look to the left you can see the road from where I was sitting.

Did anyone end up on the road?---Yes.

Who ended up on the road?---Brett and the attacker were on the road before he got pushed onto the concrete.

So what did you see of them on the road?---When I reached the fence and was looking onto the road it was just the attacker and Brett, I didn't see anyone else.

What was Brett doing on the road?---It looked like he was really hurt. You could clearly see that he had been either beaten, hit or hurt in some way because he couldn't get up once he was down.

How could you tell he was hurt?---He just - just looked like he was trying to defend himself really, because he was saying, 'I've got nothing else and I swear that's it'.

How was he trying to defend himself?---He never hit or anything, it's just when I did look at him he was down on the ground so whether he was just really in pain, I don't know.

When he was down on the ground was he squatting, was he sitting, was he laying? ---Laying and sort of covering.

And when he was laying and covering, where was the other person, the attacker? ---Standing above him.

And out of the people that you've described, the two males, was one of those males the attacker?---Yes.

And which one of those males was the attacker?---The taller man.

Now, when you got to the fence and you looked over the fence, how far is the fence to the road?---To say from here say to the middle of this desk in front of me.

Four metres, your Honour.

THE WITNESS: And pretty much if you were turning a vehicle into the driveway, maybe a car length.

HER HONOUR: Three metres.

MR JONES: Three metres.

What's the lighting like?---There's all street lights as well as the lights that we had on, so it's pretty lit up in that area.

What lights did you have on?---The outside balcony and just, you know, in the car park where we are.

So when you looked over the fence, what did you see?---I saw Brett and the guy had been attacking him. I also saw the white vehicle, the Suzuki Swift parked there closer to where I was, it was literally right in front. And when I looked at the car, there was a male and somebody in the back. It was a young girl, but I don't have the description of her.

Sure. Now, when you saw that male, what seat was that male seated in?---The driver's seat.

Now, you'd said earlier that you saw two males get out of that car. Did you see that male who went to the driver's seat go back into the car?---No, not that I can remember.

Where did the attacker go?---Into the car, he was pretty fast.

What side of the car did he go? Sorry?---Sorry, the passenger side, he was pretty quick, that's why I'm not sure whether he saw me or not and that's why he stopped, but he pretty much just jumped into the car, racing to the car and they drove off.

And the car drove off?---Yeah.

And which direction did the car go?---Straight ahead and then left down Mitchell Street.

Were the car lights on or off?---They were turned off at the time and then on when they drove off.

Now, you said that there was a girl in the car?---Yes.

Can you describe her in any way?---No, I can't. I just remember on the night that from what I could see it was a female and she seemed to be either crouching over because I couldn't get a look at her.

Now, what did you do after the car left?---I looked at Brett, he was coming towards us and I was just trying to talk to him because I think he was in such a shock from what had happened. When I looked at him I couldn't see his face, it was just covered in blood. So I knew straight away I'd probably need to call the ambulance or police, so I went and got my phone while Michael stayed there.

Did you call anyone else before that or after that?---No, I called the police first and then Brett had asked Michael if we could call his friend and let him know.

How long did it take for his friend to arrive or who arrived first, sorry?---Police arrived first because initially I had spoken to them, I was probably on the phone with them

for a little bit before anyone showed up. I was on the phone with them actually until they showed up.

How long did they take to arrive?---From my memory maybe 10 minutes, 15 minutes.

And where was Brett at this time?---Still with us at the front. We got him a cloth for his face while we waited.

If I can just have the witness shown the exhibit booklet.

Photograph 13. Do you recognise what's in that photo?---A cloth.

And is that the cloth that was used?---Yes.

And you mentioned Brett's friend. When did he arrive?---Pretty much the same time, not too long after the ambulance and police were there. Sorry, can I just clear that up, sorry. I remember just thinking that pretty much, like everything happened around the same time.

Yes?---When Brett's friend came I think the ambulance was arriving as well at the same time.

What happened then?---From there the ambulance were sitting down with Brett and then the police came and spoke to me and Michael.

Now, since this incident have you spoken with Michael about this incident?---No, we haven't.

When did you make your statement to police?---On the night that it happened or morning that it happened.

Did you go to the police station with Michael?---No.

That's the evidence in chief of this witness.

HER HONOUR: Yes, thank you.

Mr Abayasekara.

MR ABAYASEKARA: Ms Spring, I just want to confirm, did you actually see the vehicle pull up?---No.

And did you actually see anyone get out of the vehicle?---No.

So the first time you saw anyone, was that when you only went to the fence?---No. From the site where we were sitting, we could make out two guys. But yeah, it was when I got to the fence that I could get a proper look at them.

So from the line of sight you say you can make out two guys?---Mm mm.

And is one of those guys Brett?---Not until I got to the fence could I recognise who they were.

But was this the point when there were both in the middle of the road?---Yes.

You then walked to the fence?---Yeah.

And you stood on top of the - was it the brick wall there?---The fence you can put your feet into, so it's sort of like a brick and you can pop your feet there.

And you looked over the fence?---Yeah.

Now, you can see through the fence as well, can't you?---Partly, yeah.

Partly. So it gives you a much clearer vision when you're looking over the fence?---You can still see through it, it's just that when I got to there I had a much better view from where I was looking.

When you say, 'A much better view' you mean looking over the top of the fence?---That's right, yeah.

Is it the same thing with looking through the gate across the driveway?---You can still see everything onto the street from where we're sitting, it's just that to give a description of someone you need to be a little bit closer that's all.

Certainly. And to have a clearer vision is it better to look over the gate rather than through the gate?---At a closer distance, yes.

So when you were sitting down on the veranda was there anything else blocking your vision apart from the gate or the fence?---No. There's trees that are on the street, but it doesn't stop you from really seeing anything.

And the two people you saw on the road, they weren't behind the tree?---No, you wouldn't still see them from where we were.

You mentioned there being lighting on the street?---Yeah.

Is there lights all the way along the street?---Just the normal street lighting, sort of a large lamp post just along the round and also at the roundabout as well.

Well is there lighting on both sides of the street from the lamp posts?---In sections on our side mainly and also near the roundabout, but not to the far side.

Your Honour, can the witness be shown P1 a photograph in P1.

HER HONOUR: There we are, thank you.

MR ABAYASEKARA: See that first photo marked number 1?---Yeah.

Is the block of apartments that you were at, is that the white block of apartments?
---Yes, it is.

So the next to the orange fence there's a white fence and on the right hand side of that white fence that's the block of apartments?---That's right.

And you'll see from that photo that there is some street lights on the street in the distance?---That's right, yeah.

And that's past the police car that's parked there?---Yeah.

But there's no street lights directly outside that block of units that you were at?
---That's right.

Or in that vicinity?---Where we're standing where that white fence is and where were questioned by police as well, we could see them physically writing a statement, so there was still enough for me to be able to see them writing it out. I think (inaudible) the street lights that are a bit down and also that the lighting at the roundabout as well. So I mean, yeah, you're right, the street lights are a bit further down, but we could still see quite well.

You could still see quite well, however, it's not the case that you were directly under the street lights there?---That's right, yeah.

Also where you saw the two people on the road, that was also closer to the street light underneath the roundabout, is that right?---It would have been between the - yeah, the orange and the white fence.

I'll just clarify that. When you say between the orange and the white fence, which white fence are you talking about?---So the first driveway near the orange brick fence.

Yes?---To the left.

All right, so where that 'For Rent' sign is - that fence, is that what you're talking about?---Yeah, or a little bit closer.

And directly on the road if you draw a perpendicular line across to that, that's roughly where they'd be?---Yes, yeah.

Your Honour, perhaps your Honour would like to see that?

HER HONOUR: Yes, thank you.

MR ABAYASEKARA: Now, you only ever saw one person attacking Brett on the road?---Yes.

And when you saw that the other person was already inside the front of the vehicle?
---That's right.

In fact is it the case that you never actually saw the other person get out of the vehicle?---That I can't give 100% answer for, I did definitely see him in the vehicle, but from what I saw out on the street, I didn't see him, but the person I was with at the time, Michael, is convinced that he saw - - -

I'm not interested in what Michael saw, you never saw him outside the vehicle?
---That's right, yeah.

The person you saw attacking Brett, now that was the person you described as being taller, I've got the description here, sorry, olive to dark skinned?---Yeah.

He was wearing a baseball cap?---Yes.

Now, did you see the length of his hair?---Yes, I did, yeah.

What was that length?---Underneath the cap, maybe not too long, but you'd still - you can see it underneath the cap.

So it came down from underneath the cap?---Slightly, yes.

Can you remember how much it came down?---Maybe ears.

Past the ears or?---No, probably (inaudible) level maybe.

Now, can you remember the colour of that hair at all?---Dark, just maybe dark brown like.

Now, you said when you did go to the fence he quickly left?---Whether he had physically seen me or not I don't know, but Brett hit the ground first before he got back in the car. It would have been maybe, I don't know, 30 seconds at the most after that he had fallen to the ground that he kept saying, 'I've got nothing else' and then he got back into the car.

When he was going to the car, did you see what he had in his hands?---No.

Sorry, are you saying he didn't have anything in his hands or you just didn't pay any attention to that?---I didn't pay attention to it, yeah.

What route did he take to the car?---He ran around the vehicle and then got into the car.

Can I just ask, where exactly was the car parked?---Pretty much directly in front of our gate, so not blocking a driveway, but just back from the entrance to the driveway.

And which way was the car facing?---Forwards so nose facing straight ahead with the - - -

So away from the roundabout?---That's right, yeah.

So when you say he went around the car, what do you mean around the car, did he go around the - - -?---Just to reach the passenger door.

Did he go around the front of the car?---Yes.

He went around the front of the car. So when he went around the front of the car you would have been only a few metres away from him then?---That's right, yeah.

Now you mentioned that you'd spoken to Brett about what you'd seen or what you'd both seen?---We tried to explain to him, yeah, what had just happened or asked him what they said to him or what they wanted from him.

Did you speak to him about the description of the people that you'd seen?---Not really, no. We were more concerned about what was happening to him, he looked terrible.

You did though speak to Michael about what you'd both seen?---Yeah, that's right. Mainly because pretty much from when the police got there we all just trying to give them descriptions together so.

So at the same time you were giving police descriptions?---Well, they asked us individually why we were both there together.

So a police officer approached both of you?---Yes.

Do you know who that police officer was?---No, I don't remember their name.

And did they ask you to tell them what happened one at a time?---Yes, just asking what we saw, how we saw it, who we saw.

And did they ask you first or did they ask Michael first?---I can't remember.

But it was definitely one at a time they asked?---Yes.

And you were both present while each of you gave your account of what happened to the police?---That's right.

So you heard everything that Michael told police?---Yes.

And he would similarly be within earshot of everything you told police?---That's right.

Before police arrived did you discuss it with him at all?---No.

When and after police had left what did you do after that, did you go back to your veranda?---By the time they actually found the car or attackers, and got me to give a statement, it would have been 4, 4:30 in the morning and then we went to bed because by that stage it was quite late.

Did you actually give your statement right there?---I did, yeah.

Did you sign your statement then at that time?---Yes.

You never attended the police station later?---No. I only after because I was worried about my address being on the statement, but apart from that I never had to go in and give any more evidence.

Now, on the night did you say you had roughly about five drinks?---At the absolute most?

So four or five I think is maybe what you said?---Yeah.

And did you have anything to drink during the day at all?---No.

And did you only start drinking after you came home from dinner?---Yes. Sorry, no, we would have had probably one drink before we left.

Before you left?---That's right.

But nothing at dinner?---No, we were at a unlicensed venue.

I've got no further questions.

HER HONOUR: Thank you.

Mr Brock.

MR BROCK: Ms Spring, I apologise if I ask any questions that have been asked prior. Ms Spring, you've been here for three months?---Yes, maybe longer.

And where did you live before Darwin?---Newcastle.

And have you lived at Newcastle all your life?---No, I was there for over two years and previous to that I lived in Darwin.

And so you grew up in Darwin?---No, my family has moved around a lot for work.

Ms Spring, the first thing that you said was that you became aware of these people because of yelling?---That's correct.

Can you recall anything that was said during those yells?---No, just - it sounded quite loud and aggressive.

You then referred to going up to a fence. When you said, 'Fence' I became a little unclear. Is that the gate or?---The gate and the fence look extremely similar, they're just divided by a white - a white brick cement - they look virtually the same, yes.

So when you were saying you went up, do you mean you went to the gate or did you go up to the fence line with the white bricks?---I went up to the fence line, that's where I had the best view.

In relation to that fence line, are there any trees that are near that fence?---Not that I can remember, there could be.

But there are trees on the street, is that right?---Yes.

Now, where was Michael when you went up to the fence?---Following behind me.

Did he follow you immediately?---No, not that I can remember.

How long was it before you noticed Michael was with you?---Very quick.

Was it when you were at the fence that you observed the driver to be in the vehicle? ---Yes.

And you can't recall ever seeing that driver outside of the vehicle?---No.

Was there ever a point in time when you saw the two people who left in the vehicle together?---You mean both out on the street, no.

Now, where this incident was taking place, can you give the court an indication of how far you remember the distance was from the car to the fight?---Probably a couple of metres or a driveways length. The vehicle was parked at the entrance to our driveway and the attack or a fight appeared to be from the next driveway over to the car.

And did you stay at the fence the entire time you were observing these things occurring?---Only for the time that I got to look at the vehicle and also who was attacking Brett and then I just went to open the gates so I could go out. And it probably wasn't the smartest thing to do, but just to get out there.

By the time you reached the gate, had the vehicle left?---It was leaving, yeah.

When you made observations of the person who was in the driver's seat, did you notice if they were wearing a hat?---Yes.

And they were wearing a hat?---Yes.

Do you remember anything about that hat?---No, just that it was dark.

Now, you mentioned seeing a third person in that car and you said that person was female, how did you conclude that she was female?---Long hair, smaller frame, I couldn't get a good look at her or her face for a description, but I could tell that it was a younger female and she looked like she was crouching in the car.

What do you mean, can you just try and give us more detail - - -?---Yeah.

What you mean by crouching?---So it looked like she was trying to hide in the back of the car to cover (inaudible).

And what led you to that conclusion?---That I couldn't see her face.

Had she put her face behind a seat or?---I'm not sure.

Were her hands obscuring her face?---I'm not sure either.

Now when Mr Jones was asking you some questions you said that when you reached the fence line you heard a thud?---Yes.

And you turned around and you saw the person you now know as Brett was on the ground?---That's correct.

So you didn't observe him actually go to ground?---I did, yes.

At that time why was it you couldn't observe that?---No, I did observe him go to the ground.

You did?---Yes. What I can't remember is whether he'd been punched or shoved, but I did see him fall.

Now, you mentioned the girl in the car, do you remember was she in the middle seat of the back seat or - - -?---No, she would have been sitting behind the passenger seat, yeah.

And the way that car was facing the passenger's seat would have been closer to you, is that right?---Yeah, so the driver is to the road and passengers to - closer to our side.

Now, did you make any observations of the persons pants who were near Mr Grieve?---They would have been sort of track sports pants, a dark colour, dark blue, baggy is all I can remember.

Now, do you recall any observations of someone - I withdraw that. Now, after that car drove away and you saw Mr Grieve, what were your observations in terms of his presentation at that stage?---He looked quite shocked, so disoriented, you could tell by the way he was walking over. He had blood all over his face and quite a large gash and yeah, that's pretty much what I remember is mainly just looking at his face and he was just shocked.

And that gash on his face, was it still bleeding?---Yes, you could see it was pretty open.

And what leads you to describe it as 'open'?---Because you could clearly - the first thing you saw was - that was one of the main injuries.

Did you see any blood fall from Mr Grieve?---Yes.
And whereabouts did it fall?---Pretty much everywhere that he walked.

And would it be fair to say if you were standing close to Mr Grieve that blood could have fallen on you?---If I'd touched him, yes.

Did any blood fall on you that night?---No, because we did hand him a cloth so he could clean up his face.

Ms Spring, do you wear glasses or contact lenses?---No.

Nothing further thank you.

MR JONES: No re-examination, your Honour.

HER HONOUR: All right thanks Ms Spring?---Yes.

It does complete your evidence now and you're free to go?---Thank you, thank you.

WITNESS WITHDREW

MR JONES: Your Honour, there is one final witness. However, my learned friends have advised me that they don't require him, so I'll tender his statement by way of consent.

HER HONOUR: All right thank you. So that's the statement of Kieran Shaw, is it?

MR JONES: That's correct, your Honour, yes.

HER HONOUR: And that can be marked as P9.

EXHIBIT P9 Statement of Kieran Shaw.

HER HONOUR: I'll just read this.

MR BROCK: Your Honour, could I seek leave to approach my client?

HER HONOUR: Yes, Mr Brock.

Yes, thank you I've read that.

MR JONES: Thank you, your Honour. That's the evidence that the prosecutions has put before the court, your Honour.

HER HONOUR: Thank you.

Now, are there any submissions to whether there is a case to answer?

MR ABAYASEKARA: Not from (inaudible).

MR BROCK: Likewise, your Honour.

HER HONOUR: All right thank you. Then I'll read the statement.

Mr Whitfield and Master Ingram, just stand up there, please.

The prosecution evidence is complete and I am required to read a statement to you. So if you just listen to the statement, you do not have to make any response to it or Mr Brock or Mr Abayasekara may on your behalf respond if they wish to.

You have heard the evidence for the prosecution, the oral evidence today and you know that I have been handed statements which I have read. Do you now wish to be sworn and give evidence on your own behalf or do you want to say anything in answer to the charges?

You are not obliged to be sworn and give evidence and you are not required to say anything, unless you want to do that. But whatever evidence you may now give on oath or anything you may say will be recorded and it maybe given in evidence on your trial.

You are to understand, clearly to understand that you have nothing to hope from any promise of favour and nothing to fear from any threat that might have been held out to you to induce you to make an admission or confession of your guilt. But that whatever you say now maybe given in evidence on your trial notwithstanding any such promise or threat.

Yes, thank you, you can sit down.

Mr Brock, is it proposed to call any evidence on Mr Ingram's behalf?

MR BROCK: No, your Honour.

HER HONOUR: No, thank you.

Mr Abayasekara?

MR ABAYASEKARA: No.

HER HONOUR: No, all right. Thank you.

And I am satisfied that the evidence is sufficient to place each of the defendants - I am satisfied, sitting as a Youth Justice Court, the evidence is sufficient to place Frank Ingram on his trial for the charges of robbery in company and aggravated assault.

And, sitting as a Court of Summary Jurisdiction, I am satisfied that the evidence is sufficient to place Ryan Whitfield on his trial for the charges of robbery in company and aggravated assault.

Now, I think we don't have sufficient time to the next - - -

MR JONES: No, I believe the next arraignment day is on Monday.

HER HONOUR: Yes, you are right, that would be 7 December is the one following that.

MR JONES: If the court pleases.

HER HONOUR: All right, so I direct that each of them be committed for trial to the next sittings of the Supreme Court in its criminal jurisdiction, commencing on 7 December 2009.

Gentlemen, I'll provide to each of you with the alibi notice, thank you.

Is there any application for bail?

No, no, no to each of the defence lawyers, thank you.

MR BROCK: No application for bail for Mr Ingram.

HER HONOUR: No, thank you.

MR ABAYASEKARA: No application for Mr Whitfield.

HER HONOUR: Thank you.

Yes, thank you then, in the case of Mr Ingram, he'll be remanded in detention and Mr Whitfield is remanded in custody.

Now, is there anything further?

MR JONES: Nothing arising, your Honour.

MR BROCK: Sorry, your Honour, there is one issue, which is that there is a file travelling with this matter for Mr Ingram, file ending 77700.

HER HONOUR: Yes. In fact, with Mr Ingram there is some summary - - -

MR BROCK: That's correct.

HER HONOUR: Charges, aren't there. We'll need to set a date. When you say there's a travelling file, that's some additional charges that - - -

MR BROCK: No, it's a breach file, your Honour.

HER HONOUR: I don't think I'm concerned with that at the moment.

MR BROCK: But the only difficulty is that breach was alleged prior to these offences on a conditional basis.

HER HONOUR: All right.

MR BROCK: So the matter was before the court, it is in fact listed for mention today.

HER HONOUR: Okay you'd better give me that file then.

MR ABAYASEKARA: Your Honour, could I just approach Mr Whitfield?

HER HONOUR: Yes.

You appear on that matter as well, Mr Jones, do you?

MR JONES: Yes, your Honour.

HER HONOUR: I'll suggest, Mr Brock that what we do is set a date for matters to be brought back before the remaining charges on the file before the court today, to be brought back before the Youth Justice Court.

And the breach application, are you happy if that gets put over to the same day?

MR BROCK: Yes, your Honour.

HER HONOUR: A date in January?

MR BROCK: That should be suitable.

HER HONOUR: I think it's preferable it comes back is it not after the matters that have been before the Supreme Court?

MR BROCK: I think so, yes.

HER HONOUR: At least through the arraignments stage.

MR JONES: Yes.

HER HONOUR: 19 January, that's the Youth Justice Court day?

MR BROCK: It's suitable, your Honour.

MR JONES: It's suitable, your Honour.

HER HONOUR: All right, then I have put all of those other matters over to 19 January next year at 10 am.

A PERSON UNKNOWN: If the court pleases.

HER HONOUR: All right, if there's nothing further we'll adjourn.

ADJOURNED ACCORDINGLY