Inquest into the deaths arising from the Lindt Café siege

Opening address for second segment

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17 August 2015

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Opening Address for Bail, Culture and Community Relations, Terrorism, Radicalisation, and Firearms Segment

(2nd Segment) – 17 August 2015

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INTRODUCTION [*Gormly*]

1. This is the second segment of public hearing.

2. The first, heard by Your Honour from 25 May to 3 June was devoted to biographical evidence about Mr. Monis with some additional material that would lay groundwork for later areas of evidence. I will address the content of this second segment in a few moments, but let me first scope out the future areas of work for this inquest.

3. The final public segment to be heard --in the new year-- will relate primarily to the events of the

siege. The siege segment will involve a long hearing, perhaps up to 6-8 weeks-- more or less continuously.

4. I confirm that between now and the start of the siege segment, there will be a closed hearing dealing with ASIO and related security issues. Your Honour has directed a stand-alone public opening about that segment, detailing the parameters of that hearing in a way that will give as much information as possible about the segment while ensuring the avoidance of damage to important security requirements. Notice about the date for that public opening will be provided in coming weeks.

5. This Second Segment of oral evidence deals with not one but with a range of five topics, related mainly by their relative readiness to be addressed in a hearing. I will briefly outline them now and then deal with each in more detail before we commence the evidence. We anticipate this opening in total will take about an hour and a half. We expect the evidence in this segment will take around two weeks.

6. The first of the five topics is bail. Mr. Monis was on bail when he staged the siege. That gives rise to a

series of questions as to the facts of his bail history and the way prosecutorial and police authorities dealt with his bail applications.

7. The second topic is one we have described as culture and community relations. This includes evidence about Mr. Monis' limited interaction with Muslim and community groups in Sydney. Under this broad heading we will also be calling evidence going to the detail of Mr. Monis' life and place in society in Iran. During the last segment, I identified that this was a period of his life – his first 31 years - which we knew very little about. Through the course of the investigation additional evidence has become available and will be presented.

8. The third topic concerns terrorism and radicalisation. This will involve calling a number of academic and other experts in relation to how Mr. Monis' acts leading up to and on 15 December 2014 fit within what is currently known and understood as terrorism. It will also address the process of radicalisation and whether Mr. Monis might be assessed as having become radicalised.

9. Finally, we will present evidence, so far as the investigation has progressed to date, about the

origins of the firearm used by Mr. Monis at the Lindt Café.

10. The nature of the evidence to be presented on each topic dealt with in this segment will be outlined during this opening.

11. As with the last segment, each of the witnesses to be called over the next two weeks has provided a written statement or there is a document of their expected evidence. The oral evidence will go to the essential parts. Hopefully that means each witness will take a shorter amount of time. The brief consists of a much larger body of statements and other documents. On our assessment the witnesses who will be called to give oral evidence are those that appear to go to the principal issues. We remain open to arrange other witnesses if parties see a basis for doing so.

BAIL

12. The first topic to the considered during this segment is the question of bail. It is necessary to spend a little time on bail in this opening. It has proven a difficult topic . At first sight the bail issue is a simple one. When the Lindt Siege occurred Mr. Monis was on bail.

13. Obviously his actions at every step of the siege were contrary to his bail obligations. If he were not on bail he would not have been able to carry out the siege. It's the way it may seem, but an eking out the detail of what happened with bail (and it has proven a difficult task), shows that however straightforward it may seem, it simply isn't.

14. The Bail story of Mr. Monis is long and complex. The narrative has to be followed in some detail, to see what happened.

The DPP

15. I will start with the Office of the DPP.

16. The Director of Public Prosecutions is a statutory entity created in the mid 1980's. It operates under a statute being the *Director of Public Prosecutions Act 1986*. Its purpose, described in the second reading speech delivered in Parliament at the time the Bill was introduced, is to enable decisions about who should be prosecuted and on what charges, independent of the political process. Independence is the key feature of the office.

17. The Director has been provided with statutory protection that enables it to be independent of influence. Previously such decisions – prosecution decisions – were in the hands of political officers

chiefly the Attorney-General. The Attorney-General can still make such decisions but it is the DPP who carries the task of prosecuting.

18. It was recognized that an independent Director of Public Prosecutions was a benefit and so it has proven here in this state and in other parts of the world; anyone who can recall difficulties and controversies about prosecution prior to the advent of the DPP will particularly appreciate the benefit of such an office brings to the rule of law in this state.

19. There have been three DPP's since the inception of the office. All have presided over the office of the DPP ensuring its position as an independent entity. They guard its independence with appropriate vigour, weathering occasional public debate and criticism with what might be described as a notable indifference to public opinion about their decisions but essentially with the independence required of the function.

20. When the DPP is conducting a prosecution, information and evidence in relation to the case is received largely from the Police, and the DPP makes decisions about prosecution, including associated matters such as bail. The police investigate and the DPP prosecutes. There is a statutory framework

that enables the process to work. The Monis prosecutions are no exception to this usual arrangement.

21. I turn now to the substance of the bail issue.

The Nature of Bail

22. Bail in this case is one of those components of the inquest best dissected coldly. When bail decisions are made, the decision maker is required to predict the future. The use now of hindsight analysis to assess the decisions of those bail authorities is always going to be fraught.

23. No-one can predict what a person charged with an offence will do while on bail, but good attempts must be made to determine what might happen taking into account the history of the accused and the nature and seriousness of the charge. All of the numerous and recent changes in bail legislation seek to address this problem. New South Wales is not alone. Principle questions in each case of bail, involve asking what is the likelihood of someone charged with an offence attending their trial for that offence, and what is the likelihood that while on bail, they might do something criminal?

24. The gathering and presenting of information about the accused person charged is at the heart of the

bail process. A bail authority, whether police at first instance or a court must make a rational assessment on the basis of the material available.

25. In NSW thousands of people every year are considered for bail. Some charges are ultimately discontinued for one reason or another. Many charged persons are found not guilty. Many who are convicted are not sent to jail when penalized. It stands to reason that more remand centres would be required to accommodate a substantial increase in the numbers of people refused bail. And many people subsequently not convicted or not sentenced to jail, would incur imprisonment prior to being tried.

26. On the other hand, bail can be refused if there is sufficient doubt about whether a person will attend for their trial, will interfere with witnesses, will abscond or will offend while on bail.

Bail Legislation

27. To understand what happened with bail in the case of Mr. Monis it is necessary to look at bail legislation reform in NSW over the last four years. Bail has been an issue in this state, as it has been elsewhere, for many years. I gather bail is an issue everywhere it exists probably because of the

inherent need in a bail system to assess the unknown future. There are other options in other nations which do not particularly distinguish between accusing someone of an offence and conducting a trial. A system of bail is found in all advanced nations and reflects the rule of law. It is inconceivable that there would not be some bail system.

28. Still, it does and probably always will cause controversy. Renewed debate is usually triggered by the commission of a violent offence by a person who had been granted bail. Notwithstanding the inherent problems of bail, it is important that from time to time, the system of bail is examined and reviewed with a view to improvements.

29. Until May 2014, the bail legislation in this state was the long standing *Bail Act 1978*. A copy of that legislation, as it stood at the relevant time, has been included in the brief of evidence for ease of reference.

30. Under the *Bail Act 1978*, there was a presumption, depending on the nature of the charge, either in favour of, or against bail. In some instances the presumption might be neutral. From that presumption as a starting point, the statute set out

a number of criteria to be considered on a bail application including in the probability of the accused appearing in Court (ie a flight risk), interests of the accused, and the protection of the community, witnesses and the evidence.

31. It was this old bail law under which Mr. Monis was granted bail for the accessory to murder charges on 12 December 2013 – I'll describe this bail hearing in more detail shortly.

32. The new *Bail Act 2013* followed a comprehensive report from the NSW Law Reform Commission which identified that the 1978 Act had been amended more than 80 times and was difficult to comprehend and navigate. This was found to have restricted access to bail without reducing the rates of failure to appear, the commission of crime, or offending while on bail.

33. The new Bail Act - which took effect on 20 May 2014 - did away with the idea of presumptions for or against bail and introduced a new test, being the 'unacceptable risk test'. This involves two steps. First, the bail authority assesses the risks that an accused would:

    - fail to appear,
    - commit serious offences while on bail,

- endanger the safety of victims, individuals or the community, or
- interfere with a witness or evidence.

34. And when a conclusion is made as to whether the accused poses a so called “unacceptable risk”. If not, the accused is released on unconditional bail. But if an accused is found to pose an unacceptable risk, the next step is to assess whether imposing conditions on the grant of bail would sufficiently mitigate that risk. If so, conditional bail is granted. If not, then bail is to be refused.

35. It is worth bringing the story of bail reform and amendment up-to-date. In 2014, not long after the new *Bail Act 2013* had taken effect, some expressed concerns that the new bail legislation was not strong enough. The complaint seems primarily to have been a reaction to historical occasions when charged persons committed offences while on bail.

36. The Government asked the former Attorney-General Mr. John Hatzistergos now His Honour Judge Hatzistergos of the District Court of NSW, to review the new *Bail Act 2013*. He produced a report recommending changes which tightened the bail laws. In particular, he suggested in relation to certain offences, the onus ought fall on the accused

person to show why bail should be granted, rather than the prosecutor showing why bail should be refused. This recommendation is generally known as a show cause system.

37. On 5 August last year, the recommendations of the then Mr. Hatzistergos were accepted. Legislation was drafted to reflect the changes he suggested and the amended Bail Act took effect on 28 January 2015, six weeks after the siege.

38. As the Court will hear, the last time consideration was given to bail for Mr. Monis was on 10 October 2014 was during the operation of the unamended new Bail Act 2013, — some 2 months before the Hatzistergos amendments took effect.

39. It is no part of this inquest to undergo a law-reform-like review of Bail legislation arising from the circumstances of this one case. It is not relevant to consider the strengths or appropriateness of the Hatzistergos amendments. They were the subject of active debate at the time and is the law as it stands.

40. The timing of the amendments was just happenstance or fate. Nothing can be said about the timing. Whether the “show cause” amendments introduced through the work of Mr Hatzistergos would have made any difference to the grant of bail

in Mr. Monis case in October 2014 is a question of hypothetical relevance. Nevertheless, it may be worth looking at in the course of the hearings.

41. In summary therefore Mr. Monis was dealt with under the old Bail Act of 1978, then the new Bail Act of 2013 which arrived after extensive debate; but before it was itself amended after further extensive debate.

42. What may be said about bail law – whatever form it takes – is the persistent and inherent problem of requiring bail authorities to look into the future. It mostly works but sometimes it does not. It is neither appropriate nor feasible to imprison everyone who stands charged with an offence to await their trial, or even to refuse bail to everyone charged with a particular category of offence. These are the practicalities of bail systems.

Monis Bail

43. Before we turn then to the facts of Mr. Monis' bail applications three matters must be kept in mind;

    i. Although we are looking at bail in detail now, bail is one aspect of the investigation of manner and cause that must be examined; there are of course a number of others.

ii. This is a court of fact, not blame, and the object is to work out objectively what happened in each area of possible manner and cause.

iii. In bail or any other area of investigation of this matter, we ought not lose sight of the fact that it was Mr. Monis who decided to enter the Lindt Café with a hidden gun, and stage the siege.

44. As was made clear by your Honour's ruling at the conclusion of the last segment, this topic does not involve any assessment of the decisions of Local Court Magistrates. There are three reasons for this;

i. Magistrates are judicial officers whose actions may only be questioned in an appellate or review forum, in the Judicial Commission or in both Houses of Parliament. That is a fundamental, non-negotiable Constitutional position.

ii. The ability of parties to have a bail decision reviewed by a higher court was and is available, as is the ability of parties to make a fresh bail application if unhappy with the outcome.

iii. A court has to decide bail on the information made available by the parties before it. The information supplied to Courts in bail applications raises one of the questions which we will examine in this case.

The Bail Questions

45. This inquest will examine the bail topic by reference to the following questions which your Honour indicated in your ruling of 5 June 2015:

(1) What was Mr. Monis' bail history?

(2) Did prosecuting authorities respond appropriately to his applications for bail in relation to the charges he was facing at the time of the siege?

(3) Did the prosecuting authorities respond appropriately to grants of bail received by Mr. Monis in relation to the charges?

(4) Was the granting of bail to Mr. Monis causally linked to the deaths?

(5) If the answer to two or three is no, what were the reasons for the inadequate response and what changes are needed to prevent a recurrence?

46. The evidence to address these questions comprises;

    i. ‘primary material’ – namely transcripts, material tendered during bail hearings and other documents;

    ii. Next, statements from persons involved in those bail hearings such as NSW Police officers, solicitors for the DPP and lawyers appearing for Mr Monis;

    iii. and finally your Honour will have the benefit of expert evidence in two regards – legal practitioners expert in the law of bail, as well as a criminologist in relation to relevant statistics around bail.

Bail Panel

47. You will hear from a panel of four legal practitioners who have worked in the criminal law sphere for many years and have particular expertise in relation to the law of bail.

48. I will spend some minutes describing this Panel of expert witnesses and the tasks they have been asked to undertake.

49. The purpose of using an expert panel was to ensure that there was a spread of expertise about bail from

all relevant angles and from a group whose expertise was unlikely to be in contention.

50. We sought a group whose combined expertise covers all aspects of the operation of the Bail system from the earliest levels, through contested applications to the appellate levels. All parties were informed about the proposed make-up of the Panel and there was no disagreement about the appropriateness of its members.

51. The four persons chosen for the panel are Ian Temby QC, Jane Sanders, Matthew Johnston and Rebekah Rodger. Their qualifications will form part of the evidence. Amongst other things they have provided their views in two reports, based on the information then available, as to the appropriateness of the approach taken by prosecuting authorities to the Monis bail applications.

52. Since receiving their initial report, and a further report, we have been provided with statements from the police officers and DPP officers involved. These statements disclose some additional relevant facts particularly about what was known and when in relation to the Monis bail applications.

53. The Bail Panel itself seems to have anticipated this, pointing out that certain information or material may or may not have been known by those involved.

54. The Bail Panel has not yet been apprised of the new material – which is primarily in the form of witness statements. It is proposed that there be a circulation to the parties of a list of material proposed to be given to the Panel, for discussion and, in the event of objection, submissions.

55. It is also proposed that the Bail Panel would receive transcripts of these proceedings of the oral evidence given by witnesses on bail, so that they have an opportunity to take this into account and respond to such questions as the parties may wish to put to the Bail Panel when called.

56. The panel will give evidence later this week, and will do so concurrently – that is with each of the four members of the panel sitting in the witness box giving evidence together.

57. Parties will have an opportunity to ask questions of them on the usual concurrent evidence basis.

58. As I have mentioned, there are two reports from the Bail Panel responding to different questions posed by those assisting your Honour.

59. Other questions may arise in the course of evidence which we or the other parties here may raise with the panel.

60. The Panel considered the Monis bail applications of 12 December 2013 on the accessory to murder charges and the bail application of 22 May 2014 concerning the first three of the sexual assault charges. The Panel concluded that both were handled appropriately. On the evidence available so far that seems to be a sound view.

61. However, the panel considered that the application of 10 October 2014 should have been handled differently on the material available to the panel, but acknowledged that some of that material may not have been known to the DPP officer involved. On the evidence we have so far, the Panel appears to be correct as to the information available to the DPP officer. That is, that some of it was not available. Whether and in what way that is so, or is significant for a grant of bail on 10 October 2014 needs to be considered carefully and cautiously in this inquest.

62. Moving on from the panel then, a second category of expert evidence to be called is from the field of criminology. Your Honour will have the benefit of

expert evidence from the well-known Dr Don Weatherburn who has been the Director of the NSW Bureau of Crime Statistics and Research in Sydney since 1988.

63. Dr Weatherburn has provided some pertinent facts and figures concerning the numbers of people granted bail or denied bail, and associated statistics.

The Monis Bail Facts

64. We turn now to the factual evidence that has emerged about the various bail applications involving Mr. Monis. The very first which concerns the offensive letters charges, is relevant only in relation to a matter I'll address shortly. Otherwise there were three particular bail applications in Mr. Monis' history which it is relevant to examine in this inquest.

65. To acquire context, we must step back in time.

66. Sexual assault was Mr. Monis' first known criminal behaviour in time but was not discovered in a legal sense, by authorities until many years later.

67. As we know over the eight year period between 1 August 2002 and 30 September 2010, Mr. Monis allegedly committed some 43 sexual assaults against clients in his spiritual healing business.

These sexual assaults were not known in a provable way until 2014. The first charges for sexual assault were laid in April 2014 and I'll return to this shortly.

68. The first of his known criminal offences to come light were the offensive letters matters. On **20 October 2009**, Mr. Monis was arrested and charged by the Australian Federal Police with the postal offences – which as we also know consisted of sending offensive letters in the post to the families of deceased Australian servicemen. He was released on bail with strict reporting conditions.

69. It is relevant to note that, the Appeal process and the constitutional issues the charges raised meant it was about four years before Mr. Monis was ultimately convicted and sentenced for the postal offences. He was on bail for this period from October 2009 to September 2013.

70. During 2010, whilst on bail for the offensive letters charges, Mr. Monis seems to have committed three acts of sexual assault – although this was not known by authorities at that time. Had it been known and brought to the attention of the Court, the precise outcome for bail at any particular stage is difficult to assess but on any view it would have been relevant.

71. Mr. Monis was on bail in relation to the postal offences for nearly 4 years, until **6 September 2013** when he was convicted and sentenced to community service – your Honour will recall evidence about that during the last segment.

72. During the years he was on bail for the postal offences he appeared, at least, to comply with the bail conditions imposed on him. Those conditions were not unusual for the nature of the offences and included;

    a. Reporting to police each week;

    b. Residing at his specified address and notifying the court of any change of address;

    c. Avoid any points of departure from NSW and surrendering his passport.

73. So we are now up to late 2013. Following the murder of Monis' ex-wife on 21 April 2013, Mr. Monis was arrested on **15 November 2013** and charged as an accessory before and after the fact to her murder.

74. Initially he was refused bail on the accessory to murder charges, first by police, then by the Magistrate at Burwood Local Court. When bail was considered by the police as they are able to do, he

did not seek bail, was unrepresented and remained in custody.

75. When he appeared before the Burwood magistrate and was represented still he did not seek bail and remained in custody. And this is not surprising given the seriousness of the charge and at that stage, there would have been no time to prepare a bail application.

76. However on **12 December 2013**, a lengthy bail application was made on Mr. Monis' behalf by his lawyer Mr. Conditsis. The application was opposed by the DPP officer – and both sides made lengthy submissions. The issue at that time was whether Mr. Monis should have bail despite the seriousness of the charges, doubt about his alibi, and a risk he may depart the country.

77. At the conclusion of the application, Mr. Monis was granted bail that day 12th December 2013 subject to conditions, including that he report daily and have a surety of $10,000 paid.

78. On **17 December 2013**, surety was provided by a friend and Mr. Monis was released from custody. The friend who paid the surety was named Mr. Ebrahim Hosseinnoori, who will be called as a

witness in relation to this and more broadly his knowledge of Mr. Monis while in Iran.

79. There is evidence about the reaction to the grant of bail from NSW Police Officer – Detective Senior Constable Staples, and from the DPP solicitor who appeared at the hearing.

80. The Court will also have the view of the Panel of bail experts which is that despite the Police concerns at the time, this bail application on 12 December was appropriately handled by both parties – that is, by Mr. Conditsis on behalf of Mr. Monis, and the solicitor on behalf of the DPP.

81. As we know, as at 12 December 2013, the bail legislation in effect was the long standing *Bail Act 1978*.

82. One matter the expert bail panel address in their report is the salient features of that *Bail Act 1978* as it stood on 12 December 2013 when bail was granted to Mr. Monis on the accessory charge. I have already mentioned that the legislation indicated whether there was a presumption in favour of or against bail – or in some instances the presumption might be neutral. Indeed that was so in relation to the accessory to murder charges against Mr. Monis– the presumption was neutral.

83. Under the 1978 Bail Act, the Supreme Court could hear a review of a local court bail decision, on the application of the accused, the police or the DPP.

84. Within days of the grant of bail, the police sought advice from the ODPP about reviewing the decision. The ODPP provided oral advice which referred to the significant hurdles involved and the low chance such a review would be successful.

85. Within NSW Police a draft of a letter was prepared to be sent to the Director of Public Prosecutions requesting that an application be made for bail review. Such a letter was in keeping with the usual practice that police have for making such a request to the DPP in writing. But the draft letter was not finalized and no letter sent. There is evidence that a decision was made concerning the letter that will come from Detective Superintendent Willing, and Assistant Commissioner Jenkins.

86. Your Honour the view of the Panel of bail experts is that if a review had been pursued of the 12 December 2013 decision to grant Mr. Monis bail, the prospects of success of a review were poor.

87. Mr. Monis remained in the community, on bail, until 14 **April 2014**, when he was charged with three counts of indecent and sexual assault

allegedly committed in 2002. I will refer to these as the **initial sexual assault charges**. At the Kogarah Local Court that day, bail was marked refused but in fact it had not been sought; that is the practice. He remained in custody and was transferred to Silverwater Remand Centre.

88. Then on **22 May 2014**, another bail application was made in relation to the initial sexual assault charges. Mr Monis was represented by a barrister, Mr Greg Scragg, whom your Honour might recall gave evidence in the first segment, and made the bail application on behalf of Mr. Monis. It was opposed. This bail hearing was governed by the very new *Bail Act 2013* which had only come into effect 2 days earlier. The Magistrate reserved decision on that application but 4 days later, on 26 May 2014, bail was granted to Mr. Monis.

89. The magistrate concluded that whilst Mr. Monis posed an unacceptable risk, to use the language of the new Bail Act, that risk could be sufficiently mitigated by the imposition of conditions mirroring those imposed on Mr. Monis for the accessory to murder charges, including daily reporting to the Police and payment of a surety, this time in the amount of $1,000.

90. Shortly after he was granted bail, NSW Police sought advice from the ODPP about any right to appeal that decision to grant bail. Oral advice was provided that prospects of a successful review would be low and this advice was confirmed by email.

91. The expert bail panel is also of the opinion that there were low prospects of success on review of that bail decision.

92. On 27 May 2014, once Mr. Monis' surety had been provided, Mr. Monis was released from custody.

93. The Court will have the view of the Panel of bail experts that, again, this bail application on 22 May 2014 was appropriately handled by both sides.

94. Mr. Monis remained in the community on bail, and the issue of his bail next arose when he appeared before the Court on 10 October 2014.

95. It is as to this hearing that the bail panel considers the bail application might have been handled differently.

96. Your Honour, the evidence of Detective Sergeant Vavayis is that after the initial sexual assault charges were laid against Mr. Monis back in April 2014, police pursued a number of lines of investigation

regarding other possible victims who had been clients of his spiritual healing business.

97. That investigation ultimately gave rise to 40 additional sexual assault charges which were notified by Court Attendance Notices served on Mr. Monis' solicitor Phillip Green on **9 October 2014.** Mr. Monis was formally charged with those further 40 counts of sexual/indecent assault at court on 10 October 2014.

98. The police did not arrest Mr. Monis in relation to these additional charges. There is evidence from the NSW Police and the bail panel about the circumstances when a person might be arrested and charged, and when a person might simply be notified of new charges, by way of Court Attendance Notice, as occurred on this occasion with Mr. Monis. He was already was due to appear before the Local Court on **10 October 2014** in relation to the existing murder and sexual assault charges. The 40 additional sexual assault charges were filed in Court that day.

99. The question of bail in relation to the 40 additional sexual assault charges was dealt with in a relatively short fashion. The Court was told that the DPP and Mr. Monis' solicitor agreed that he posed an

'unacceptable risk' in accordance with the Bail Act 2013 but that this could be sufficiently mitigated by conditions as had occurred in the past.

100. The court's attention was not drawn to the fact that 3 of the sexual assaults had allegedly been committed at a time Mr. Monis was on bail for the Commonwealth offences. It was not drawn to the Court's attention because it was not known to the DPP solicitor who appeared. Had it been known, it may well have been regarded as relevant by the court in considering the question of bail.

101. It is apparent the NSW Police officers involved in this bail application had also not been aware that the alleged sexual assaults were committed while Mr. Monis was on bail, and so they had not provided that information to the DPP. It was an absence of information arising from problems about information flowing across jurisdictional boundaries. That is a topic worth outlining now though its significance needs to be left for assessment of the evidence.

Problems with Bail Information

102. In Mr. Monis' last bail application of 10 October 2014 at least one problem familiar in all federal

systems, seems to have arisen to interfere with a proper assessment of bail.

103. Not only must antecedents (or criminal history) and bail evidence about a person be gathered, but in this case it had to be gathered in part across Commonwealth-state jurisdictional boundaries in relation to the postal offences.

104. It is possible that some of the information was within the NSW Police Force but it was in a different area. There seems to have been some information in Homicide but this application was being made through sex crimes. It is a matter for the evidence.

105. The postal offences – were commonwealth offences, under the *Commonwealth Criminal Code*. While the sexual assault and accessory to murder charges were NSW state based offences, under the NSW *Crimes Act*.

106. The criminal history of the postal offences was available. The bail history of those offences was less available. Both were relevant in assessing the bail position of Mr. Monis. As it transpires, he appears to have committed those sexual assaults while on bail for the postal offences.

107. As the bail panel of experts has pointed out, that was not a factor that came to light in the last and

successful bail application made by Mr. Monis two months before the siege on 10 October 2014.

108. The proposition I am about to state is of course subject to the evidence but it looks as though the Commonwealth-State criminal history and bail systems are not interlocked in a way which would allow ready availability of relevant bail information across jurisdictional boundaries.

109. Sometimes there is a good reason for government not release or share information. Sometimes it is not practical to make a particular type of information available. On many occasions however the reason is no more than that we have multiple systems doing the same thing and each keeping information within its own system. Some people refer to silos of information - there are many names and also many reasons for this problem. In this case it must be explored in the evidence.

110. It may be that what happened here is one of the prices we, in our federal system, pay, for having 8 jurisdictions instead of one. It may be that if we had only one system, other problems would exist—for Australia it's a familiar debate-- but in this inquest, where we deal with some important problems that had serious consequences, it's hard not to note the

price we pay for difficulties in the flow of information at jurisdictional borders. We will see an instance of the way the federal-state structure, whatever its other benefits, can affect daily life.

111. Having said that it is necessary to look at the whole story. We must look at the whole of the evidence to work out whether this information problem did have consequences for the assessment of Mr. Monis' bail.

112. The underlying idea of bail is the same in every state and the Commonwealth. There are at least eight systems of bail legislation in Australia. Each does substantially the same thing in its own jurisdiction. Your Honour will hear evidence from the NSW Police officers involved in this application about the getting of bail.

113. You will also have the benefit of evidence from the DPP solicitor who appeared on this bail application.

114. In due course you will hear the bail panel's reasons for concluding that in their view a full blown detention application should have been made by the DPP on 10 October 2014, but their reasons include the seriousness of these additional 40 counts, involving repeat offending against seven complainants and the apparent strength of the

Crown case. Also, the fact that three of the offences were apparently committed whilst Mr. Monis was on bail.

115. It is the view of the expert bail panel that had a detention application been made which drew the Court's attention to these various considerations, it was at least possible that Mr Monis' bail would have been refused. Expressed with some diffidence brought about no doubt by the hypothetical nature of the question, I interpret this view by the panel to mean that it was possible but cannot be said to be probable that bail would have been refused.

116. When Mr. Monis entered the Lindt Café on 15 December he was on bail for the accessory to murder charges, and on a total of 43 counts of sexual assault.

117. If I may make some final remarks in opening about this bail issue.

118. First and foremost, our examination of this question of bail is geared towards establishing the facts and identifying any systemic issues or problems – if they exist - in the way the Monis bail applications were handled. It is not productive, and it isn't our intention as counsel assisting, to seek to criticise or lay blame on any particular individual working for

either the DPP or the NSW Police or anyone else on the material currently available. The task is to find the facts.

119. Incidentally, there has been some public speculation as to whether it is intended to call the DPP Mr Babb SC, personally.

120. There is no such intention. The witnesses to be called are those who bear on what happened with Mr Monis' bail matter on a day to day basis.

121. At present, there is no current intention to call Mr Babb.

122. There are many other witnesses that do need to be called and will attend before your Honour over the coming days.

123. That concludes our opening comments about bail. We now turn to the next topic, which is scheduled to commence at the beginning of next week. That next topic concerns culture and community relations. I pass now **to Ms Callan** to address the evidence we anticipate.

CULTURE AND COMMUNITY RELATIONS [*Callan*]

124. Your Honour, the Lindt siege has had wide ramifications for the Islamic community in Australia.

125. We have obtained evidence from two witnesses, who are recognised as the leaders of the Sunni and Shiite Islamic Communities in this country. Each provide their views about Mr. Monis' interactions with their communities, and his conduct in relation to the Siege.

126. It is not intended to call either to give oral evidence. There are other witnesses more directly connected with Mr. Monis who will be called.

127. But their statements are contained in the brief of evidence which will be tendered shortly, and I will take a moment now to outline what each of these two Islamic leaders has contributed.

128. Beginning with the Grand Mufti of Australia, Dr Ibrahim Abu Mohamed, who was elected Grand Mufti in 2011. This is the highest religious position in the Australian Sunni Muslim Community. His role includes consulting with the Sunni community, providing Islamic guidance, liaising with the Australian government and other organisations, and participating in interfaith dialogue.

129. As far as the Grand Mufti is aware, Mr. Monis was not particularly known in the Sunni community in Australia.

130. In relation to the events of the siege, the Grand Mufti expresses great sadness on behalf of his community and deep condolences to the families of Tori Johnson and Katrina Dawson.

131. The Grand Mufti observes that Mr. Monis' actions in requiring hostages to raise an Islamic flag in the café have caused both confusion and despondency within the Muslim community. Mr. Monis' actions did not reflect the message of Islam and the Islamic community rejects and condemns his behaviour.

132. The Grand Mufti wished to make a public statement before this Inquest that his community is deeply saddened by what happened in the Lindt café and he prays for peace, security and harmony for all Australians.

133. The other Australia Islamic leader – this time from the Shi-ite community, is Sheikh Kamal Mousselmani, who is the Australian representative of the Supreme Shi'ite Islamic Council.

134. He has held this role since 2005, and his job is to look after the Shiite community in Australia.

135. Sheikh Mousselmani's responsibilities include assisting with family issues within the Shiite community, also public speaking and other activities

which aims to foster a better understanding of Islam in this country.

136. Sheikh Mousselmani recalls the first time he saw or heard of Man Haron Monis was a newspaper article when Mr. Monis chained himself to the front of a court house in Sydney wearing a full Sheikh dress, a clerical turban and traditional cleric uniform. He was identifying himself as Sheikh Haron.

137. Sheikh Mousselmani had no knowledge of this man in the newspaper article. He spoke to another recognised Sheikh here in Sydney, who also had no knowledge of this Sheik Haron.

138. Upon looking at the Sheik Haron website, Sheikh Mousselmani considered that Mr. Monis' behaviour and attitude was erratic, and not like a real sheikh - also that he seemed to have an amateur knowledge of Islam.

139. Sheikh Mousselmani says *"No one in our community knew Mr. Monis. I did not know of Mr. Monis attending any mosque. "*

140. After the Lindt Siege, Sheikh Mousselmani made enquiries of other Islamic figures in Sydney. No one knew anything about Mr. Monis. He was not recognised as a Sheikh. Like the Grand Mufti, Sheikh Mousselmani considers that Mr. Monis'

actions were not those of a true Muslim, and that his behaviour has caused problems for the Islamic community.

141. I move then to a quite discrete area of evidence which will be called, comprising the material which has more recently become available regarding Mr. Monis' life in Iran before he came to Australia in 1996 as a 31 year old man.

142. In particular, a witness Ebrahim Hosseinnoori will be called. Mr. Gormly mentioned this gentleman briefly a few moments ago as this was the man who offered up the surety for Mr. Monis' bail in December 2013.

143. Mr. Hosseinnoori first met Mr. Monis in Tehran in 1992 or 1993 – and they developed a friendship, and he will give evidence about how Mr. Monis lived his life in Iran. Their friendship continued in Australia. Indeed, on arrival to this country in 2001, the first person Mr Hosseinnoori contacted was Mr. Monis who assisted him with initial accommodation.

144. The other evidence in the brief about Mr. Monis' life in Iran comes via an investigative journalist, Charles Miranda, who undertook considerable work after the Siege to learn more about Mr. Monis'

formative years in Iran. Mr Miranda will not be called but he met and spoke several times with a man who described Mr. Monis as the Managing Director of a travel agency where he worked – his impression was that Mr. Monis was a businessman with high level political and business connections.

145. According to this man, during the seven months he worked there, Mr. Monis dealt with a number of families wishing to migrate to other countries. They sold their assets and provided their money to Mr. Monis who was supposed to arrange visas, travel, and pay the necessary fees and start-up costs overseas. He received the equivalent of AUD$550,000 from them.

146. Then in late 1996, Mr. Monis departed Iran and it became apparent he had taken their money.

147. The journalist – Mr. Miranda – also spoke to other sources in Iran and reports that Mr. Monis' Iranian wife considered his acts in relation to the travel agency had brought shame on the family.

148. An associate from Mr. Monis' university days also apparently told the journalist that Mr. Monis was prone to huge mood swings and could be friendly one minute but weird, angry and dismissive the next.

149. That, your Honour, is an overview of the evidence on the topic or Mr Monis in Iran.

150. I leave it now, and turn to a quite different topic – that of terrorism and radicalisation.

TERRORISM AND RADICALISATION

151. Your Honour, **Terrorism** is a topic with potentially wide parameters.

152. But the fundamental consideration in examining the issue is that we need to look at terrorism only in so far as it is necessary to understand the events at the Lindt Cafe.

153. The notion of terrorism does not lend itself to a single definition.

154. But as a starting point, it is defined in the Oxford English Dictionary as “the unofficial or unauthorized use of violence and intimidation in the pursuit of political aims.”

155. As you will hear, the term ‘terrorism’ can be defined differently depending on the context – for instance in relation to the commission of Commonwealth “terrorism offences”.

156. The definition of terrorism may ultimately determine how an event, such the siege in this case, is addressed by the authorities. For instance, how a perpetrator might be stopped, whether negotiation is to occur or whether a sniper is to be used.

157. Whether Mr. Monis was a terrorist or not, he made use of terrorist threats, garb and language; he claimed the planting of bombs in a coordinated effort, and that he was acting in the name of a known terrorist organisation. He said Australia was under attack.

158. Mr. Monis claimed a nexus with Islamic State, also known as IS, ISIS or Daesh – which is a proscribed terrorist organisation in Australia.

159. IS is an organisation which emerged in Iraq and Syria over the last decade by extremist Sunni Muslims. It is committed to the creation of a Caliphate – that is a community living in accordance with God's will under Sharia law. It has declared the leader of IS – Abu Baqr al-Bagdadi is the caliph, or successor, to the prophet Muhammad.

160. Four weeks prior to the siege, Mr. Monis posted a statement in Arabic on his website pledging allegiance to the Caliph.

161. Mr. Monis' claimed nexus with IS did not – it seems – exist.

162. It is true that in staging the siege he was doing what IS encouraged and endorsed, namely random acts of violence.

163. But Mr. Monis had otherwise shown no active interest in the political, religious or territorial goals of IS. So far as we are aware from our investigations to date, he had not made any attempt to contact or communicate with IS.

164. In staging the siege, he seems to have had much more limited interests relating to himself and his own position in the world.

165. If Mr. Monis was a terrorist, we need to know what type and what he stood for. If he was not a terrorist it may still have been legitimate to respond to what he did as a terrorist event, precisely because at the time it had all the markings of terrorism.

166. To address this topic, a number of experts have provided evidence by way of reports, and several will be called to give oral evidence before your Honour. Each provide useful evidence about, amongst other things, the emergence and goals of Islamic State, its recruitment methods and connections with Australia. But most significantly,

each has expressed their view as to whether the siege was a terrorist event.

167. Beginning with Associate Professor Rodger Shanahan who has a PhD in Arabic and Islamic studies. He is currently based at the National Security College at the ANU. In assessing whether the siege was a terrorist event, Associate Professor Shanahan describes the features of recent incidents which are certainly considered terrorist events - such as the murder of Fusilier Lee Rigby in the UK in May 2013, and the Charlie Hebdo shootings in January 2015.

168. In his view, Mr. Monis' attack differed from those Islamic inspired terrorist attacks in several significant ways including that there was no indication of communication between Mr. Monis and anyone on behalf of IS prior to the siege. Also, the flag Mr. Monis displayed was not distinctly IS nor was the headband he wore.

169. Associate Professor Shanahan acknowledges that there were some actions by Mr. Monis which suggest that the siege was a terrorist attack, but in his view many more factors indicate it was not. He concludes that Mr. Monis was not motivated by a political, religious or ideological cause but rather a

person with mental health issues acting on his own personal grudges.

170. Another expert to be called is Dr Clarke Jones, who has worked for many years in national security and counter-terrorism and is presently a visiting fellow at the ANU. Dr Jones agrees with the conclusion reached by Associate Professor Shanahan, that the siege at the Lindt Café was not a terrorist act. He says that whilst initially Mr. Monis' conduct during the siege bore hallmarks of terrorism, many aspects were uncharacteristic. In particular, he notes that Mr Monis appeared to be socially excluded, even from the Muslim community and had no apparent ties to any terrorist organisation. Dr Jones describes it as a hostage situation perpetrated by a desperate man trying to make himself heard.

171. In contrast to these views, you will hear evidence by videolink from the USA, from Professor Bruce Hoffman who is presently based at Georgetown University. He is widely known internationally as one of the foremost experts on terrorism.

172. Professor Hoffman defines terrorism as the deliberate creation of fear through violence or the threat of violence in the pursuit of political change,

which is not so different from the Oxford definition I referred to earlier.

173. He observes that a terrorism act or event is qualitatively different from a criminal act because whilst both may involve violence, the motivation is quite different. Although a criminal may use violence to 'terrorise' a victim, the violence is not conceived nor intended to convey a message. By contrast the fundamental aim of a terrorist's violence is to influence domestic or international politics or draw attention to him or herself and that person's cause.

174. Professor Hoffman's view is that the siege at the Lindt Café meets each of the following essential characteristics of a terrorist event.

175. First, the siege was political in aim or motivation – in this respect he points to Mr. Monis' claim to represent IS and his desire to engage with the Prime Minister in a debate, also the choice of target was not random – it was opposite the Channel 7 building, a site of long held grievance by Mr. Monis;

176. Second, the event was violent.

177. Third, it was designed to have far reaching psychological repercussions beyond the immediate targets or victims.

178. And finally, he considers the siege was influenced by an organisation with terrorist aims – namely IS, he observes that although Mr. Monis was not acting under direct orders of IS he appears to have been motivated or inspired by IS, and his actions in staging the siege conforms to the call to violence by IS.

179. The final witness in this particular category is Detective Inspector David Gawel of the NSW Police Force. He is attached to the Terrorism Investigation Squad and he has a doctorate of policing and security.

180. Detective Inspector Gawel provides evidence about the way terrorism has been dealt with in Australia – in particular, noting that although once solely the responsibility of ASIO, that changed after September 11 when specific terrorism offences were created, and both state and federal police agencies became involved in investigating terrorism. He explains the way terrorism is investigated in NSW.

181. He also gives specific evidence about the investigation by police of criminal activities associated with Islamic State, and he also refers to the IS propaganda network including its E-magazine

known as “Dabiq” which, after the Siege, endorsed Mr. Monis’ acts.

182. Complementing his evidence is a submission which those assisting your honour sought from the Commonwealth. We asked for the broad history of the development of counter-terrorism in Australia, including the planning of responses to terrorist incidents. The result is a useful document. It has been included in the brief of evidence which will be tendered shortly.

183. That submission from the Commonwealth is detailed and comprehensive. I do not propose to deal with it in any length now. But it is pertinent to note a few aspects of Australia’s counter terrorism history.

184. Most particularly, on 24 October 2002, an Intergovernment Agreement regarding Counter-Terrorism Arrangements was signed by Prime Minister Howard, all State Premiers, and the Territory Chief Ministers.

[SHOW IMAGE]

185. This is Australia’s fundamental document regarding the concerted counter-terrorism efforts of this country.

186. Over the last thirteen years this intergovernmental agreement has established a framework for cooperation between jurisdictions – and in particular provides that the States and Territories have prime operational responsibility for responding to terrorist attacks in their jurisdiction – although it also establishes a role for the Commonwealth to support any State or Territory in defined circumstances.

187. The Counter-Terrorism Arrangements agreement is useful as it provides some demonstration that there is and has been concerted counter-terrorist plans and systems in place in this country for a lengthy period of time. The purpose seems to be to enable a coherent and appropriate response depending on the event, the risk and the need. Furthermore it appears that the system is in current active operation subject to both review and development.

188. The exception to state-based responsibility for terrorist events is when a so called “National Terrorist Situation” is declared, this is an event involving attacks on Commonwealth targets, or multiple states/territories, or involving chemical, biological, or nuclear situations.

189. The Lindt Café Siege did not meet the criteria for a National Terrorist Situation. Accordingly, NSW had primary operational responsibility for responding and did so. Their response will be dealt with in detail in the final segment of this inquest, in the new year.

190. Your honour, the Commonwealth's submission also explains the very limited circumstances in which the Australian Defence Force might be called upon for an internal or domestic event, as detailed in the Defence Act. This is a topic we are likely to explore in more detail during the final segment, so other than flag that it is addressed in the Commonwealth's submissions we do not propose to deal with that topic further during the present segment.

191. Finally, I should observe that a significant number of Commonwealth, State, and territory agencies work together under the joint national plan to identify terrorist threats. The foundation of this is the collection and dissemination of information and intelligence which comes from all manner of sources. This cooperation is perhaps best illustrated by the Joint Counter Terrorism Teams in each State and Territory, comprising state police officers, AFP officers, and often an ASIO liaison

officer to create a focused team which combines the resources and skills of each involved agency. Your Honour may expect to hear further evidence about the Joint Counter Terrorism Team in a future segment.

192. I turn then, to an issue distinct from but related to the question of terrorism – that is the topic of **radicalisation**.

193. Whether Mr. Monis' acts were the result of being radicalised or were a form of radicalisation are useful matters to explore – again within appropriately limited compass.

194. It would be of value to know whether and how IS propaganda influences someone like Mr. Monis.

195. The primary witness on the topic of radicalisation will be Dr Kate Barrelle, who is a clinical and forensic psychologist with a PhD in radicalisation and disengagement. She observes that radicalisation explains the process by which a person becomes increasingly committed to using violent methods to pursue their extreme political, religious or ideological goals.

196. Dr Barrelle assesses the extent to which it might be said that Mr. Monis had become radicalised, concluding that it was possibly a combination of

internal psychological and mental health pressures along with external factors such as the pending criminal charges that pushed Mr. Monis to a point of desperate action to gain attention.

197. Dr Barrelle observes that the fact he invoked IS in his stated reasons for staging the siege, and displayed an obsessive fixation with foreign policy of the Australian Government, means his actions have to be considered at least in part to be the result of some radicalisation toward violent extremism. Dr Barrelle notes that it is impossible to disentangle the question of his mental health. She describes a psychological picture of a man with an insecure or floating sense of self, seeking to belong to a group irrespective of any political or religious agenda. This raises as many mental health/personality disorder issues as it does ones about radicalisation. Although of course, she notes, the two are not mutually exclusive.

198. Dr Barrelle notes the events in the final months of Mr. Monis' life as it spiralled downwards. She observes that if his mental health was deteriorating at the same time, and he was becoming increasingly delusional or paranoid, then IS would increasingly appeared to offer a relevant platform to take a stand on his own personal issues. In such a state of

mind, a dramatic siege could give him a win either way. If he died then it would be a noble act of a mujahedeen. But if his demands were granted (which he may have genuinely thought would happen) then he would be vindicated.

199. But Dr Barrelle notes that Mr Monis' behaviour during the siege was not reflective of any detailed IS mission or agenda. Indeed, she says, a committed violent extremist does not usually apologise to his hostages, as Mr Monis did, and does not usually seek to justify his actions to the victims. She concludes that whilst it may have been a little of both, the siege was more an act of desperation than radicalisation.

200. According to Dr Barrelle, for a man like Mr Monis with all his mental health problems, the availability of global jihadist and IS rhetoric provides a powerful outlet.

201. Moving on then from the topics of terrorism and radicalisation, the final issue addressed in this segment concerns the firearm used by Mr. Monis during the Siege. Mr. Gormly will address the evidence in relation to that.

FIREARM **[*Gormly*]**

202. This is a gun which has never been registered. It was almost certainly imported. It was not handed in during the buyback scheme in the 1990s – although the gun was almost certainly in the country for some time before then – or any other gun amnesties in this country.

203. The gun Mr. Monis used was a 12 gauge pump action repeating shotgun.

204. The records in relation to this firearm are lacking, in part because of age, but largely because of the age of the gun and its origins overseas.

205. This model of shotgun was manufactured in Europe between 1959 and 1969. Although the firearm had US importation markings, what actually appears is ("*firearms International corporation Washington DC*"*)*, the US Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives has indicated that the shotgun bearing this serial number was not imported into the USA.

206. But the Australian Crime Commission has advised that this serial number falls within a range of serial numbers imported into Australia in the late 1950s by Fuller Firearms, a dealer that used to be in Clarence Street, but now no longer in business,

which was located here in the city of Sydney. This model of shotgun has been sold in Australia since the 1950s.

207. Prior to 1996, this type of firearm did not require registration, and was in the nature of a sporting or farm gun. On any view, this gun should have been surrendered during the gun buyback scheme in 1996 to 1998.

208. That buyback scheme was compulsory with compensation provided – it took 660,959 long guns, mostly semi-automatic rimfire rifles and shotguns as well as pump-action shotguns, and a smaller proportion of higher powered or military type semi-automatic rifles.[1] The gun Mr Monis used was one of those that did not get handed in.

209. Your Honour will be provided with evidence from officers of the Australian Crime Commission regarding Australia's growing pool of illicit firearms including what are described as 'grey market' firearms, being weapons not registered as required in 1996. The ACC conservatively estimates that there are over 250,000 long arms and 10,000 hand guns in the illicit market.

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[1] Ozanne-Smith, J.; Ashby, K.; Newstead, S.; Stathakis, V.Z.; Clapperton, A. (2010). "Firearm related deaths: the impact of regulatory reform". *Injury Prevention* (BMJ) **10** (5): 280–286.

210. Where and by whom this particular firearm was kept when it should have been surrendered is unknown. Whoever had it over the last eighteen years has never complied with gun registration requirements. It may have been a licenced person with an unregistered gun. It may have been an unlicensed person with an unregistered gun.

211. There are no registration records in any state or territory in relation to the firearm, nor is it recorded on the criminal and forensic databases of police agencies around the country.

212. Your Honour at this stage it is not known when Mr. Monis acquired the shotgun, but he seems not to have had the gun for long. His premises were the subject of unnotified search warrants on several occasions from 2009 to 2013 and a gun would have been found if he possessed it during those years. It seems likely the gun was a recent acquisition.

213. If, as seems most likely, the gun was a grey market rather than a criminal black market weapon, it is likely that Mr Monis acquired the gun from the type of source that holds one of those 250,000 unregistered weapons in Australia. The grey market consists of persons who hold farm, sport, hunting,

personal or other recreation guns, usually long arms, without having them registered.

214. Grey market prices are not high, and the ACC considers the market for criminal weapons is relatively tiny whereas the grey market is very large and growing.

215. The siege itself seems to have been a poorly prepared exercise - probably because it, like the acquisition of the gun, was a relatively recent idea. The acquisition of the gun may have been related to recent failures in his life, but on this, we are merely exploring possibilities.

216. I should note that we are presenting what is known about the gun at this point in time – but the police investigation about the origins of this firearm and how Mr. Monis came to possess it is still very much an active line of inquiry.

217. After the siege, testing and examination of the firearm was undertaken by the NSW Police Forensic Ballistics Investigations Section. You will hear evidence about the firearm from Crime Scene Officer Murphy. His colleague Lucas Van der Walt will give evidence about the ammunition Mr. Monis was carrying. It will be necessary to have those items in the court room when the time comes but

that will occur as the last part of this segment and notice will be given especially to the families and to the former hostages of that evidence.

218. On initial observation it emerges from the evidence of Officer Murphy is that the firearm used by Mr. Monis had been sawn off - or shortened, from the standard length of 1236mm down to 582mm. This had been achieved by cutting down the butt stock and removing a substantial portion of the barrel, making it 635mm shorter than the full length model. This meant it could be easily concealed. The main reason for cutting a gun back is so it can be concealed.

219. Crime Scene Officer Murphy will give evidence that the barrel appears to have been shortened by coarse blade, like a hacksaw and the end filed in an attempt to even it up. Similarly the butt stock was shorted with something like a wood saw or hack saw. All in all it appears to have been a fairly crude job, although performed by someone with some familiarity with the weapon. A reason for that will emerge in the evidence.

220. Crime Scene Officer Murphy will also give evidence of the effect of modifying the shotgun in terms of the operator's ability to control it – in this instance,

reduced overall weight by removing portion of the barrel and butt stock caused greater recoil, and reduced ability to aim due to the shortened barrel. The shortening of the firearm also generally affected its performance.

221. As to the evidence concerning ammunition – Mr. Monis was bearing a hodgepodge of 23, 12 gauge shotgun cartridges made by different manufacturers, and of different ages. Crime Scene Officers Van Walt and Murphy will demonstrate these cartridges in evidence next week and provide information including specifications of these cartridges. They will also be able to demonstrate how quickly a gun could be loaded and unloaded, especially by someone competent.

222. This model of firearm has a small magazine that holds three shells or cartridges with another one sitting in the chamber waiting to be shot-- so four altogether.

223. After each shot is fired there is a pump mechanism under the gun which when operated by hand, mechanically pulls out the expired shell or cartridge, in completion of the pump action, and inserts a new one. Therefore, someone relatively competent could quickly get off four shots if they have three in

the chamber. Thus its description as a pump action shot gun. The shell or cartridge does not fire a single bullet with each pull of the trigger like a rifle or handgun. Each cartridge holds numerous small lead or metal compound balls called shot. In any cartridge there might be dozens or even hundreds of these tiny balls instead of one bullet.

224. One might think it remarkable this gun was made sometime in the middle of the last century. It is a feature of weapons that they can last and be used long after their manufacture. Old guns accumulate and they can remain just as effective sixty or more years after manufacture and even despite limited maintenance.

225. There are some reasonable inferences available on the evidence to date which need to be further explored in oral evidence with the gun experts. This firearm most likely entered Australia long ago, but not illegally. It seems likely that it spent much of its life in the function for which it was manufactured, namely in the nature of a farm gun, personal gun, or sport gun. There doesn't seem to be any doubt that it certainly should have been handed in following Port Arthur, in the gun buy-back scheme, and subsequent registration and gun licensing systems. Those systems make the transfer of weapons a

recordable and traceable event provided there is compliance with the law.

226. But with a figure of 250,000 weapons on the grey market, it seems that there is considerable non-compliance within the community with a legal regime, which will be explored in evidence, at least to the extent it can. That is something about which Your Honour will hear evidence about from an Australian Crime Commission officer Mr. Gary Fleetwood. There is also a report from another ACC officer Ms. Amber Migus available in the brief.

227. In the final segment, next year, in the siege segment, there will be other ballistics evidence about how this gun was fired during the siege, its tendencies and its level of accuracy. That is all I propose to say about the firearm at this stage.

228. I would like in a few minutes to show a photo of the gun used by Mr. Monis next to the same type of weapon which has not been subject to shortening.

229. There have been concerns and objections raised to showing any images of the firearm. I understand and respect greatly the basis for those objections especially from those whose lives have been so damaged by Mr. Monis' use of this gun. It is however important that an image be shown in

circumstances where so worryingly it is one of a great number of firearms floating around on the grey market in this country, capable of doing great harm if in the wrong hands.

[SHOW IMAGE OF FIREARM]

FINAL REMARKS

230. In a few minutes we will commence the bail evidence. Inevitably, some evidence will be out of order, but on the whole it should take a cohesive course.

231. That concludes the opening remarks that Ms Callan and I would like to make.

232. I understand that Your Honour would now wish to adjourn to enable some re-arrangement of the Courtroom.

233. Upon your Honour's return I propose to tender the brief. I will then call the first witness.