

Part C – Coroner’s opening remarks

This is the resumption of the inquest into the deaths of Katrina Dawson, Tori Johnson and Man Monis.

As counsel assisting will soon outline, the forthcoming bracket of evidence will focus on interaction between ASIO and Monis. In particular, it will consider whether the agency had or should have had information indicating that Monis posed such a threat of politically motivated violence or communal violence that a more active or interventionist response was warranted to negate it.

All the world now knows that Monis was a dangerous deviant. The questions the inquest must grapple with are: should ASIO have predicted his violent outburst; and, could its methods be improved to make such predictions more reliable in future.

To be effective, the inquiry will need to review highly sensitive information and to ask questions of operatives who usually do not identify their employer or the nature of their employment. That can’t happen in the usual inquest format.

The major advantage of an inquest over other forms of death investigation is the public and participatory nature of the coroner’s court. Usually, the evidence is laid out for all to see; those with particular interest can question witnesses and make submissions on the findings they contend the coroner should make and news media can report the proceedings.

However, the presumption of openness is not absolute. The Coroners Act authorises a coroner to hear evidence in camera and to prohibit its publication if he or she considers it is in the public interest to do so. National security is one of the matters a coroner is explicitly invited to have regard to when assessing how an inquest should proceed.

In this case, the public interest in having the inquest proceed in an open and public manner must be weighed against the sensitivity of the subject matter and the negative impact disclosure of the evidence could have on national security. These concerns mean that absent strict confidentiality it would be

foolhardy to examine the evidence of ASIO's interaction with Monis during the inquest.

ASIO has given the court and those assisting me access to all of its records relating to Man Monis that it has been able to locate. It has undertaken to provide statements from key officers and to allow them to give evidence. That access has been dependent upon those assisting me receiving Top Secret security clearances and there being in place stringent and far reaching non - publication orders that will severely limit the use that can be made of the material the agency provides to the court.

Modification of the court's usual open proceedings has not been agreed to without careful consideration of the alternatives. On balance, I decided that undertaking a more far-reaching closed inquiry was likely to more fully serve the essential purposes of the inquest than proceeding in public utilizing only the very limited evidence that could be produced in such a forum. I was assisted in reaching that conclusion by the acceptance of the families of Ms Dawson and Mr Johnson that it was the preferable way to proceed.

I will now ask Mr Gormly to provide more detail about what is proposed.