

State Coroner of New South Wales



Inquest into the deaths arising from the Lindt Café siege

Findings and recommendations

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List of abbreviations

ADF	Australian Defence Force
AFP	Australian Federal Police
ANZCTC	Australia-New Zealand Counter-Terrorism Committee
ANZPAA	Australia New Zealand Policing Advisory Agency
ASIO	Australian Security Intelligence Organisation
ATSG	Anti-Terrorism and Security Group
CAN	Court Attendance Notice
CCTV	closed-circuit television
CDPP	Commonwealth Director of Public Prosecutions
CIA	Central Intelligence Agency
CSO	Crown Solicitor's Office
CT&STC	Counter Terrorism and Special Tactics Command
DA	Deliberate Action
DPC	Department of Premier and Cabinet
DPP	Director of Public Prosecutions
EA	Emergency Action
Eagle	Strike Force Eagle
FTAC	Fixated Threat Assessment Centre
ICCS	Incident Command and Control System
IEA	Immediate Emergency Action
IED	improvised explosive device
INTREP	intelligence report
INTSUM	intelligence summary
IS	Islamic State
ISIS	Islamic State in Iraq and Syria
ISRAPS	Interactive Scene Recording and Presentation System
iSurv	electronic police log
JAG	Joint Analysis Group
JCTT	Joint Counter Terrorism Team
JIG	Joint Intelligence Group
Joint Review	Martin Place Siege: Joint Commonwealth-NSW Review
LECC	Law Enforcement Conduct Commission
LEPRA	<i>Law Enforcement (Powers and Responsibilities) Act 2002</i>
LRAD	Long Range Acoustic Device
MOG	Management Operational Guidelines
NCTC	National Counter Terrorism Committee
NCTP	National Counter-Terrorism Plan
NSH	National Security Hotline
NSWCC	New South Wales Crime Commission
NSWPF	New South Wales Police Force
ODPP	Office of the Director of Public Prosecutions
OIC	Officer in Charge

LIST OF ABBREVIATIONS

(continued)

PFC	Police Forward Commander
PFCP	Police Forward Command Post
PII	public interest immunity
Pioneer	Task Force Pioneer
PM&C	Department of Prime Minister and Cabinet
PMV	politically motivated violence
POC	Police Operations Centre
PTG	Police Tactical Group
RAM	Reasoned Assessment Model
RBA	Reserve Bank of Australia
RBDU	Rescue & Bomb Disposal Unit
RPAH	Royal Prince Alfred Hospital
SAC-PAV	Standing Advisory Committee on Commonwealth-State Cooperation for Protection Against Violence
SD	surveillance device
SEEB	State Electronic Evidence Branch
SIO	Senior Investigating Officer
SITREP	Situation Report
SOPs	Standard Operating Procedures
SPG	State Protection Group
SSG	Special Services Group
STIB	State Technical Investigation Branch
TAG	Tactical Assault Group
TFI	Technical and Forensic Intelligence
TIR	Technical Intelligence Report
TIS	Terrorism Investigation Squad
TIU	Terrorism Intelligence Unit
TOU	Tactical Operations Unit
TPI	Third Party Intermediary

Police rank abbreviations

AC	Assistant Commissioner
DC	Deputy Commissioner
ADC	Acting Deputy Commissioner
Supt	Superintendent
Insp	Inspector
Det	Detective
Sgt	Sergeant
Sen Const	Senior Constable
Const	Constable

Note regarding protective orders

The inquest considered a range of sensitive evidence regarding police methodologies, intelligence agencies and counterterrorism policies and procedures. While every attempt was made to ensure the proceedings were open to the public, it was necessary to hear some evidence in closed court and to restrict the publication of certain material. A similar approach has been adopted in relation to this report; it is designed to provide as much information to the public as is possible.

Nevertheless, it has been necessary to redact small parts of the report in accordance with non-publication and non-disclosure orders made during the inquest. Those orders were made to ensure that the information revealed during the inquest would not impinge upon the ability of various State and Commonwealth agencies to effectively respond to security threats.

Unredacted versions of the pages subject to protective orders have been compiled into a separate compendium for distribution to the parties to the inquest.

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The siege

1. At 9.41 a.m. on Monday, 15 December 2014, Man Monis, a religious activist, directed Tori Johnson, the manager of the Lindt Café in Martin Place, Sydney, to call 000 and say that all those in the café had been taken hostage by an Islamic State operative armed with a gun and explosives. Monis told Tori to add that he had stationed collaborators with bombs in other locations throughout the city.¹
2. Over the next few minutes, the others in the café became aware of their predicament and the café doors were locked, making hostages of the eight staff members and 10 customers.
3. Australia has had previous incidents of politically motivated violence, but these have been dispersed over time.² Although the Lindt Café siege was not the first attack by a Muslim extremist, the country has never experienced what could be called a terrorist campaign.³ However, in 2014 Australians were well aware of the atrocities committed by, and in the name of, Islamic State (IS).⁴ This ensured that the Monis' claimed allegiance to that group caused great fear among the hostages and apprehension among the general public.
4. The initial police response to the 000 call was to

1 At the request of both families, Katrina Dawson and Tori Johnson were referred to in oral evidence by their first names. It reflected the engagement that developed between those families and the people involved in these intense proceedings. That has been continued in these findings.

The surviving hostages are in a similar position. They were direct witnesses of what occurred inside the café. They personally dealt with Monis and they had to endure great hardship during the course of the siege. All had been involved in the siege with Tori and Katrina. Many became familiar with one another after the siege. Many engaged with the families of Katrina and Tori. Those assisting me, both police and my legal team, worked at times closely with the surviving hostages. Inevitably, people dealt with one another on a first-name basis, and that usage found its way into the oral evidence.

Without loss of objectivity, it has seemed appropriate and useful to extend that familiarity into these findings. All hostages are referred to by their full name or their first name.

Rank-bearing officers of any service are introduced with their full rank, but abbreviations are often used after that.

Man Haron Monis came to be referred to as Monis both in the proceedings and in these findings.

- 2 The Rum Rebellion (1808) involved a *coup d'état* by the New South Wales Corps in which the Governor of the colony of NSW was arrested and deposed. The Eureka Rebellion (1854) was a mass armed uprising motivated by industrial, religious and racial factors.
- 3 In the so-called Battle of Broken Hill (1915), two Muslim men shot dead four people and raised the flag of the Ottoman Caliphate before being shot dead by police and soldiers.
- 4 Also known as ISIS (Islamic State in Iraq and Syria) and Daesh.

clear and secure the area around the café. This was done swiftly and effectively. The siege occurred in the heart of the city, in business hours, and in a building directly opposite the headquarters of a commercial television station. As a result, news of the incident became public almost immediately, and media coverage continued uninterrupted to the conclusion of the incident.

5. Over the ensuing 16.5 hours, the authorities were unable to resolve the situation peacefully. Twelve of the 18 hostages managed to escape in four separate episodes. Tragically, at around 2.13 a.m. the next morning, Monis executed Tori. Police immediately stormed the café. In the firefight that followed, Monis was killed. So was Katrina Dawson, who was struck by fragments of a deflected police bullet or bullets.
6. A coronial investigation commenced almost immediately. This is the report of the inquest that followed. It summarises the evidence heard, records the findings as required by the *Coroners Act 2009*, and makes recommendations designed to increase the effectiveness of law enforcement and improve public safety.

Condolences and commendations

7. The horrendous events in the Lindt Café on 15 and 16 December 2014 caused terrible distress to many people. Most grievously, Katrina Dawson and Tori Johnson lost their lives, and the lives of their families were irrevocably changed as a result. Nothing I can say can ease their pain. Nonetheless, I offer them my sincere condolences.
8. Biographical details of Katrina and Tori and testimonials from their families and friends are included in this report. Two valued members of our community had their lives cruelly curtailed by a vicious crime before their undoubted potential could be fully realised.
9. Seven other members of the café staff and nine other customers were also taken hostage. The terror they endured could fairly be described as torture, as Monis oscillated between feigning regard for their welfare and threatening to blow them apart with shotgun blasts or bombs. They had entered a familiar workplace or tranquil retreat only to find it transformed into a prison run by a vicious maniac. Public recognition of their suffering and the extraordinary courage some demonstrated is warranted. The survivors were key witnesses

who provided important facts to the inquest. To ensure that their individual voices will also remain on the public record, this report includes personal accounts of their experience.

10. The police tactical officers who smashed their way into the café knew Monis was armed with a gun that he would almost certainly use against them. They suspected he was carrying a bomb that could kill everyone inside the café unless they could kill him before he could detonate it. The bravery of these officers inspires awe and is difficult to fully appreciate or accurately describe.
11. They were not acting on the spur of the moment or with a rush of blood: they had stood-to for hours as the tension welled up, subsided, then mounted again. All the while they knew they could be sent into action at any time and that when the order came it could not be questioned or ignored. They also knew that obeying the order would mean confronting a violent armed criminal in a dark and confined space.
12. When that order came, they did not hesitate. As they charged into the café, each officer knew he risked being wounded or killed. Yet all of them knew that without their intervention the remaining hostages were almost certainly doomed. It is tragic that Tori Johnson had already been executed by the time they entered and that Katrina Dawson was fatally injured during the action. However, the hostages who were still in the café when Tori was killed probably owe their lives to the courage of those men.
13. The citizens of this state are very fortunate to have police officers who go to work ready and willing to personally confront danger of such magnitude. They put their lives at risk to protect us.
14. The commanding officers who ordered the storming of the café came under intense scrutiny during the inquest. Their actions are analysed later in this report, but first it is appropriate to acknowledge the burden of command they carried.
15. Each of these commanders is highly experienced. All have, in their long careers, undertaken active operational duty. They well knew the danger they were requiring their subordinates to confront when they sent them into the café. The commanders' lives were not at risk, but they knew their decisions could result in the deaths of tactical officers and/or hostages. The lives of dozens of people hung on their judgement.
16. Opinions may differ as to whether they made the best decisions, but none could reasonably accuse them of shirking their duty. Those commanders must live with the outcome of their decisions, the likes of which their critics will never need to make.
17. The siege and its aftermath sent shockwaves far beyond Martin Place. Sydney residents and people around Australia were deeply unsettled to see, unfolding in the heart of the nation's largest city, horrific events most only associate with more dangerous foreign places. Similarly, Australians were staggered that images usually beamed in from terror hotspots were coming from the origin and centre of European civilisation in this country. Martin Place is one of our few iconic boulevards. Most visitors to Sydney make a point of strolling down it. The siege was an assault on the heart of our premier city.
18. Australia held its collective breath; people everywhere clustered around television sets as the torture played out over the day. When hopes of a peaceful resolution were dashed, Australians flooded Martin Place with floral tributes. In schools, offices and workplaces, on radio and TV, and in social media, they expressed grief, horror and outrage, and empathy for the hostages and the bereaved.

Focus of the inquest: constructive critique

19. The inquest into the deaths arising from the Lindt Café siege had two principal tasks:
 - to investigate the circumstances surrounding the deaths of Tori Johnson, Katrina Dawson and Man Haron Monis, and
 - to examine the actions of police and authorities before and during the siege in order to assess whether they could be improved.
20. The inquest was not a commission of inquiry into counterterrorism efforts or siege management generally. Its purpose was to examine what happened in this case. Accordingly, this report cannot presume to prescribe what should happen in all future sieges or terrorist attacks. It can highlight apparent deficiencies, but it can't detail all remedial responses.
21. Nevertheless, because the inquest seeks to identify how such incidents might most effectively be responded to in general terms, it is inevitable the focus will fall on any suboptimal performances. Plaudits should and will be offered where deserved

- but mistakes can't be papered over if performance is to be improved and public safety increased.
22. That said, I cannot stress too heavily that the deaths and injuries that occurred as a result of the siege were not the fault of police. All of the blame for those rests on Man Monis. He created the intensely dangerous situation, he maliciously executed Tori Johnson, he barricaded himself in a corner of the café, and his actions forced police to enter the café in circumstances where the risk of hostages being wounded or killed was very high. Monis deserves to be the sole focus of our denunciation and condemnation.
 23. No shortcomings of the police response can reasonably be attributed to any lack of either commitment to rescuing the hostages or dedication to the officers' sworn duty. If the force's best efforts were not quite good enough, this report attempts to identify how and why. It should not and will not be used to blame particular officers for outcomes beyond their control.
 24. Of course it is tragic that two innocent lives were lost, but when critiquing the police response, it is important to remember that right from the outset 18 lives were imperilled. For families other than Katrina's and Tori's, the outcome could have been far worse.
 25. Concern that the inquest might unfairly judge the performance of individuals by relying on the benefits of hindsight is understandable but unnecessary. The inquest compiled a more complete picture of the events of 15–16 December than was available to any individual at the time. The insight this knowledge afforded can be applied to the benefit of police and the public. Such use of hindsight is fair and proper. Using hindsight to criticise individuals by reference to things they did not know and could not reasonably have been expected to know would be unfair. That has not been done in this report.
 26. During the inquest, events that occurred in a few minutes within a dark and deadly dangerous crime scene were deconstructed by lawyers spending days in a secure and comfortable courtroom. Apprehension that the process distorts and sets unreasonable standards is understandable, but it is misplaced: those involved in the inquest recognise the limitations of the proceedings. Nor do the findings of the inquest rest on lawyers' opinions. Rather, they are based on the considered and carefully tested evidence of eyewitnesses, experienced members of the NSWPF, other police forces and other expert witnesses.
 27. Nonetheless, I recognise that the process can be very stressful for the individuals involved. Officers who acted with great courage and who faced terrible strains and pressures can understandably feel indignant that they should be publicly called to account for every action and decision by people who were not there and can never fully appreciate what it was like for those who were. I acknowledge the professionalism of those men and women who cooperated with the investigation and participated in the inquest without complaint.
 28. Analysing the NSWPF's policies and procedures, and testing what was done against what was set out in those procedures, was relatively straightforward. But the closer the focus came to the climax of the incident the more difficult it became to remain clinical. Against what standard does one judge a man demanded to stare down death to save strangers? Who would dare say they could have done better?
 29. Conversely, no matter how uncomfortable and distasteful critiquing the performance of such brave men may be, if the inquest is to fully discharge its function and provide policy makers with evidence on which to base future plans, it cannot shy away from identifying any and all apparent deficiencies in the response to this incident.
 30. Comments that the siege involved just one madman with an old shotgun fail to appreciate the complexity of the situation the police responders faced. An eminent international expert told the inquest that *"This event would have challenged any police force in the world."* I readily accept that view. It is also appropriate to acknowledge all the excellent police work done during the siege.
 31. For the NSWPF, the challenge was greatly increased by the fact that this was the first terrorism-related siege to occur in Australia. Training and exercising cannot equip any organisation to respond to a novel threat. Deficiencies in plans and procedures can easily go unrecognised until the hard test of reality brings them to light.
 32. The number of hostages, Monis' claim to be an Islamic State operative, his claim that he had a bomb, his refusal to communicate directly with police negotiators, and the sporadic escapes of hostages all combined to make the NSWPF's response—carried out with the whole world watching—the biggest test the force had faced.
 33. Monis initiated an extremely dangerous situation. Every conceivable police response to that situation

involved risk to the lives of officers and hostages. Even if every aspect of the response adopted had been executed to the highest possible standard, there is no certainty that the outcome would have been better or that more of the hostages would have left the café alive.

34. Of course the loss of two innocent lives is devastating, but it is relevant to note that similar incidents in Europe have had even worse outcomes.

Scope of the inquest

35. Examining the origins, course and outcome of the siege and the response to it required the inquest to look at a wide range of matters, some only indirectly connected to the siege.

36. Unlike the scope of a criminal trial, which determines criminal responsibility, or civil proceedings, which determine liability for compensation, the scope of an inquest is not always easily defined. After hearing submissions from interested parties, the court had to decide which matters to look into and which were beyond its scope. Not surprisingly, the court's decision did not always accord with the views of all interested parties—some of the matters the court was urged to look into were not pursued, and others were examined despite submissions that they were outside the inquest's scope.

37. Some issues clearly fell within the jurisdiction of the inquest. These included facts that bore directly on the circumstances and the causes of death of Katrina Dawson, Tori Johnson, and Monis. They also included questions that had to be examined so preventive recommendations could be made—notably, whether those who took part in and managed the police response to the siege did all that was reasonably possible to resolve the incident without loss of life.

38. There were also questions that could only be examined fully and independently by a court with the power to hear and test evidence from sworn witnesses. These included:

- whether the siege was a terrorist incident and whether Monis was an ISIS operative;
- whether police and prosecuting agencies should have done more to have Monis' bail revoked;
- whether intelligence and security agencies had adequately assessed the risk of Monis undertaking politically motivated violence;
- whether police marksmen could and/or should

have shot Monis from outside the café when it became clear he was unlikely to surrender; and

- the role the Australian Defence Force played, or could have played, and the protocols governing its involvement in domestic incidents.

39. Even though the siege lasted less than 24 hours, its unprecedented nature and complex ramifications meant that a wide-ranging inquiry and extensive evidence were needed to answer the issues it raised. It was necessary to examine the relevant policies and procedures of each of the agencies involved in the response to the siege and to consider how they interacted with each other. That was in the interests of those directly affected, the law enforcement and intelligence agencies involved, and the Australian public.

Protecting sensitive information

40. Although the inquest was a public inquiry, not all of the evidence could be heard in public. The potential to compromise the effectiveness of intelligence, security and law enforcement agencies by allowing details of their data holdings and/or methodologies to become public required caution. Similarly, publication of some of the evidence would unnecessarily add to the distress of the Dawson and Johnson families and some of the hostages. Accordingly, various mechanisms were used in combination to provide the necessary confidentiality while still allowing the examination of important issues to proceed in public in most cases.

41. Public interest immunity arises when a court accepts that admitting information into evidence is likely to compromise the ability of government agencies to effectively discharge their responsibilities. The Crown Solicitor's Office and the Australian Government Solicitor, on behalf of the State of New South Wales and the Commonwealth of Australia respectively, made claims of public interest immunity. They did so conscientiously and responsibly. In many cases, the court accepted that the public interest in national security outweighed the public interest in the court receiving the evidence in question. Although this meant that the inquest was denied access to some relevant information, that was unavoidable given the need to balance competing public interests.

42. Nevertheless, in the overwhelming majority of instances, sensitive material was able to be

received into evidence, on the basis of a protective regime including non-publication and restricted access orders. As part of that regime, certain evidence was adduced in a way that meant it could be heard by those present in the courtroom but not published in the media. It is acknowledged that such orders restrict the ability of the media to freely report the proceedings, which as a general rule is undesirable. However, protective orders of this kind enable the parties to an inquest to effectively examine sensitive evidence while limiting the harm that might arise if that information were disseminated more widely.

43. When dealing with some issues, more protection was provided by hearing evidence in closed court. In most cases the families of the deceased, key office holders and the legal representatives of all parties were allowed to be present, but the media and the public were excluded.
44. When the inquest was dealing with particularly sensitive material with national security ramifications, it was considered necessary to exclude from the courtroom even those granted leave to appear. It is acknowledged that this is an extreme measure—a key characteristic of all inquests is their public and participatory nature. However, if that course had not been adopted, the evidence could not have been received. The Dawson and Johnson family agreed this was the best way to proceed. Their cooperation and that of the security agency concerned (ASIO) enabled unprecedented access by an inquest to highly classified documents and the receipt of oral evidence from operatives who routinely conceal their employer's identity and rarely appear in court proceedings.
45. Legal professional privilege also affected relevant evidence. The privilege is an essential component of our legal system. People facing legal proceedings must be confident that they can talk freely and frankly with their legal advisers. Some will cease to do this if they suspect that what they say may later be disclosed in court without their consent. As a result, the advice they receive will be compromised and the reliability of the court proceedings to which they are parties will be put at risk. Again, a balance of interests is involved. The public interest in protecting the administration of justice in general outweighs the public interest in knowing what a particular client said to their lawyer.
46. In this inquest, the Director of Public Prosecutions claimed legal professional privilege over his communications with the legal officers employed by his

office and their communications with police officers who were investigating Monis. While this may have seemed counterintuitive, the court accepted that the DPP's claim was, in large part, legitimate. As a result, the inquest's ability to examine the issue of Monis' bail was restricted.

47. Another claim of public interest immunity was made by the NSWPF. It agreed that notes of the debriefing of Tactical Operations Unit officers could be reviewed by the Coroner and Counsel Assisting the inquest, but argued that the notes should not be revealed to interested parties, their legal representatives, or the public. The NSWPF argued that disclosing these records would make officers reluctant to speak freely in future debriefs, which they understood were confidential. A debriefing with some officers involved in the siege response was cancelled after those officers declined to participate for fear that records of it would be given to the inquest. The NSWPF also argued that the notes would reveal important details of police methods. The Court upheld the NSWPF's claim.
48. By these various means, the inquest was able to look closely at confidential police methodology and matters of national security importance without compromising the future effectiveness of the agencies involved. No secret police techniques were publicly disclosed. The inquest was denied access to some material, and the parties did not have the opportunity to examine all of the evidence. Public reporting of some parts of the inquiry process was also restricted. However, none of these limitations prevented the inquest from effectively examining the issues central to its purpose.

Minimising the impact of delay

49. This inquest opened six weeks after the siege. It finished hearing evidence 20 months later. That is an unusually short time for a matter of this complexity. However, for the individuals and organisations affected by the inquest's findings, it has been a long time to wait.
50. It is unlikely that any other form of public inquiry would have been more expeditious. Judicial or special commissions of inquiry apply the same procedures as those adopted by this inquest.
51. Some delay was unavoidably caused by the need to ensure that all available evidence was gathered and collated and the necessary confidentiality orders were made. The evidence had to be put into a form fit for presentation to a public hearing. Those with

a legal interest in the inquest and its findings had to be afforded procedural fairness.

52. Some observers noted that this inquest took far longer than the inquiries into terrorist attacks in France that occurred in 2015. Such comments fail to recognise the difference between Australia's common law system and the civil law systems of Europe. In a coronial inquest in Australia, bereaved family members and other interested parties have the right to question police officers in open court about how those officers responded to the events that led to the deaths, a privilege no French citizen enjoys in a system which values the needs of the state above the interests of the individual. It was reassuring that all of the senior police officers asked about this issue expressed a commitment to open justice and executive accountability.
53. Notwithstanding the relative speed with which this inquest was conducted, there is a basis for concern that the time taken to finalise it could have delayed improvements that would otherwise have been undertaken by the NSWPF. Commanders of the TOU gave evidence that a debrief that would usually occur after the unit deployed to a high-risk incident was postponed because of the need to ensure that evidence for this inquest was not degraded as a result of witnesses' memories being influenced by discussing the incident with others involved. When approached about the matter, I indicated that the debrief could occur as soon as the witnesses had been interviewed or had provided statements.
54. As it transpired, when the debrief did take place, no substantive changes were effected and so no harm was done by the delay. Nonetheless, the issue warrants a constructive response.
55. Operational officers should be able to speak freely and frankly in order to identify opportunities for improvements in practices, equipment, leadership, and so on. That should happen as soon as possible

after deployment. It is foreseeable that if they anticipate that what they say will be recorded and used to embarrass or attack their colleagues in a public hearing they will be less likely to be candid. That could result in opportunities for improvements in performance and safety being lost.

56. The preservation of untainted evidence and the benefits of timely debriefing can both be accommodated. Chapter 20 contains a recommendation designed to achieve these ends.

Outline of this report

57. This report is divided into five parts containing 20 chapters. A confidential report dealing with aspects of ASIO's involvement with Monis was provided only to specified officials.
58. **Part I** deals with matters that preceded the siege: Monis' personal history; the offences with which he had been charged; his successful applications for bail; state and Commonwealth counterterrorism arrangements; and the NSWPF's policy for responding to high-risk situations.
59. **Part II** describes what is known of Monis' preparation for the siege, and the events of 15 and 16 December.
60. **Part III** presents the evidence given by expert witnesses on what occurred during the siege and the police response. This includes the autopsy findings; ballistics reports; and evidence on the policing of terrorist attacks.
61. **Part IV** contains the analysis of the evidence; the court's conclusions on contentious issues; and the inquest's recommendations.
62. **Part V** outlines the logistics and course of the investigations and the inquest.

Conclusions, findings and recommendations

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This section of the report lists the conclusions and recommendations. The evidence on which they are based and the reasons for them are set out in their respective chapters.

The *Coroners Act 2009* s. 81 findings are at the end of this section.

Part I: Background and context

Chapter 1: Monis' history

1. To carry out its functions, the inquest needed to probe Monis' background and his activities before the siege. The information obtained helps explain the context in which the siege took place and may also help authorities identify and intercept potential future terrorists. The court is aware that this biographical outline will likely add to Monis' notoriety and could make him a role model for other religious fanatics. However, the adage "know your enemy" must be given weight.
2. Only limited information could be obtained about Monis' life in Iran. However, it was established that he was relatively privileged, with access to tertiary education, comfortable housing in a secure location, and employment that suggested government connections and favour. There are indications that he was involved in political intrigue.
3. After Monis arrived in Australia in 1996, he quickly gained employment in the security guard industry and seemed to adopt a settled lifestyle. He obtained permanent residence and later citizenship by claiming he would be harmed if he returned to Iran because he had opposed the government there.
4. He made frequent trips overseas and drove expensive cars. It is unclear where he obtained funding for these activities.
5. He had little contact with the Iranian-Australian community but formed sporadic friendships with a few recent immigrants from the Middle East.
6. His attempts to establish himself as a religious leader in the Sydney Shia community failed. Throughout his period in Australia, Monis adopted a number of wildly different guises: a devout cleric, a Greek businessman, an aspiring bikie.
7. He had a turbulent personal life, coercing and deceiving the women he became involved with. After he came to Australia, he married, had two children, and divorced.
8. He was charged with numerous sex offences against women who responded to his claim to offer "spiritual healing". He was also charged with arranging the murder of his ex-wife. None of these charges had come to trial by the time of the siege.
9. From 2000 until his death, Monis was involved in public protests and other forms of political activism. Increasingly, that activism focused on religious issues and on Australia's involvement in armed conflict in the Middle East.
10. In the last 10 years of his life, Monis saw numerous doctors and psychologists in connection with what can be broadly termed mental health problems. No firm or reliable diagnosis was reached.

Conclusion: Monis was not psychotic

11. *Monis undertook the siege in a controlled, planned and quite methodical manner marked by deliberation and choice. He was not suffering from a diagnosable categorical psychiatric disorder that deprived him of the capacity to understand the nature of what he was doing. The evidence does not support a finding that Monis entered the Lindt Café with the express intention of killing some or all of the hostages. However, in light of his psychopathology, I conclude that he fully understood that the death of hostages was a real possibility, and that the prospect of such an outcome was of no concern to him.*

Chapter 2: Bail

12. When Monis took hostages in the Lindt Café, he was at large on bail, awaiting trial on sex offences charges and of being an accessory to the murder of his ex-wife. The inquest reviewed the responses of police and prosecutors to Monis' applications for bail, and the granting of those applications.

Bail application on murder charges

Adequacy of presentation of the Crown case

13. The inquest examined the actions of the solicitor with the Office of the Director of Public Prosecutions (ODPP) who appeared in court when Monis applied for bail on the charges relating to the murder of his Australian ex-wife.

Conclusion: Oral submissions

14. The oral submissions of the ODPP solicitor who appeared for the prosecution to oppose Monis' application for bail on 12 December 2013 were inadequate.

Conclusion: Written submissions

15. The ODPP solicitor who appeared for the prosecution to oppose Monis' application for bail on 12 December 2013 should have filed written submissions setting out the grounds of his opposition.

Conclusion: Was the correct test identified?

16. When opposing Monis' application for bail on 12 December 2013, the ODPP solicitor who appeared for the prosecution erroneously advised the court that Monis did not have to show "exceptional circumstances" before he could be granted bail.

File management

17. Generally speaking, an inquest would not be concerned with mundane matters like file management and the completion of internal forms. However, in this case important original documents were discarded instead of being retained on the ODPP file so that the history of the matter could not be divined from it. Further, the serious concerns of the investigating police about how Monis came to be granted bail were not recorded.

Conclusion: ODPP file management

18. The ODPP solicitor responsible for the Monis murder matter until it was transferred to the Sydney city office failed to comply with office policies requiring him to keep on file all relevant documents. Further, some of the remarks he included on the Court Result form after Monis' bail application on 12 December 2013 were less candid than would be expected. The ODPP did not have in place any system that brought these deficiencies to light.

Recommendation 1: ODPP file management

19. *I recommend that the Director of Public Prosecutions initiate reviews of the training in file management given to lawyers employed by the Office of the Director of Public Prosecutions to ensure important original documents are not discarded and that the files accurately reflect relevant events.*

Police response

20. The officer in charge of the murder investigation and her immediate superiors were concerned that Monis was granted bail and wanted the Director of Public Prosecutions (**DPP**) to consider bringing an application in the Supreme Court for a review of the bail decision. The NSWPF made no application to the DPP for that to occur.

Conclusion: Police response

21. In view of the limited information provided by the more junior officers with direct knowledge of the case, the senior officer who decided not to seek to have Monis' grant of bail on the murder charges reviewed by the Supreme Court acted reasonably.

The sex offences

22. In October 2014, having earlier been charged with three sex offences, Monis was charged with a further 37 such offences. The charges were initiated by serving a court attendance notice rather than by arresting him.

Conclusion: Arrest vs court attendance notice

23. Police made a mistake when—two months before the siege—they failed to arrest Monis on the new sex offence charges and instead initiated those charges by serving court attendance notices on him. That error increased Monis' chances of being granted bail. Complex and competing public and private interests must be balanced when an officer is considering whether to initiate a criminal charge by arrest or by issuing a court attendance notice. Currently, officers are given no guidance as to how to do that.

Recommendation 2: Guidelines for when to arrest

24. *I recommend that the Commissioner of Police issue guidelines to assist officers to determine when they should exercise their powers of arrest and take an accused into custody rather than proceeding by way of a court attendance notice.*

Conclusions: Experience of prosecutor and access to criminal histories

25. The ODPP solicitor who appeared when the new sex offences first came before the court on 10 October 2014 was sufficiently experienced to handle the matter, but he had received inadequate training and supervision in the short time he had worked in the office.
26. The prosecutor should have applied for Monis to be remanded in custody in relation to the sex offences and for his bail on the murder-related charges to be reviewed.
27. Neither the ODPP lawyer nor the police involved appreciated that some of the new charges related to offences allegedly committed while Monis was on bail for Commonwealth offences related to a letter-writing campaign against the families of Australian soldiers killed in the Middle East. As a result, this relevant fact was not put before the court.
28. This omission occurred partly because details about Commonwealth offences are difficult for state agencies to access. Barriers to the free exchange of criminal-history information among national and state-based law enforcement and prosecuting agencies have the potential to adversely impact the effectiveness of those agencies, as occurred in this case.

Recommendation 3: Access to criminal histories

29. *I recommend that the Law, Crime and Community Safety Council develop a mechanism to ensure that all information on criminal history (including bail) that is relevant to the investigation and prosecution of criminal offences is readily accessible to police and prosecutors across all Australian jurisdictions.*

Conclusion: Conceding bail

30. Despite the objection of the officer in charge, the ODPP solicitor who appeared when the new sex offences were preferred did not oppose Monis' application for bail and did not consult or seek advice from any more senior officer in the ODPP. Although he had worked in the office for less than two months and had never appeared in a bail application, he was not required to consult or seek advice.

Recommendation 4: Policy concerning bail concessions

31. *I recommend that the DPP develop a policy for overseeing lawyers' exercise of the discretion not to oppose bail that takes into account the seriousness of the offences involved; the experience of the prosecutor appearing; and the views of the police officer in charge of the investigation, insofar as those views are based on facts relevant to bail determinations.*

Chapter 3: Security agencies' involvement post 2008

32. Monis came to the attention of security agencies in the years before the siege as a result of his public demonstrations and political activism. This raises questions about what police and other security agencies knew about Monis beforehand and how they assessed him.
33. The NSWPF, the AFP and ASIO all had reasons to scrutinise Monis' political activity. ASIO's interest in Monis arose before he arrived in Australia and continued until the days before the siege, though ASIO did not focus on his political activism until 2008. The AFP became interested in Monis as a result of the letter-writing campaign mentioned above. The NSWPF investigated Monis in connection with sex offences allegedly committed against clients of his "spiritual healing" business and the murder of his Australian ex-wife. As a result of these investigations, the NSWPF preferred charges against him. All three agencies assessed complaints made to the National Security Hotline in the week before the siege.
34. Chapter 3 of this report details what can be published about how the relevant agencies discharged their responsibilities to assess the risk Monis posed at various times. The assessment of whether those responses were adequate and recommendations aimed at improving them are contained in Part III of the report.

Conclusions: Security agencies and Monis

35. There was frequent interaction between various law enforcement and security agencies and Monis in the years leading up to the siege. The response of the AFP and the NSWPF was proportionate to what they knew or should have known about Monis at the time. The analysis concerning ASIO is contained in Chapter 18.

Chapter 4: Counterterrorism in Australia

36. Understanding how the siege was managed requires appreciation of the different organisational structure and roles of the law-enforcement, counterterrorism, and intelligence agencies involved. This chapter outlines these structures and roles and those of the various interagency committees, as well as the protocols under which they operate.
37. Part III of this report describes how these bodies performed during the siege; Part IV critiques that performance.

Chapter 5: Response to high-risk situations

38. Police forces in Australia and around the world face the challenge of determining how best to respond to instances of actual or threatened violence or other dangerous incidents. For many years, Australian policing authorities have shared ideas and sought to arrive at a common approach to responding to such situations.
39. Sophisticated guidelines have been developed that define high-risk situations and stipulate in general terms how they should be responded to. Units within the NSWPF have been given special responsibilities for discharging the functions referred to in the guidelines.
40. It was important for the inquest to examine whether the guidelines were complied with in this case and whether they needed further revision. Chapter 5 gives some detail on the content of the guidelines; the organisational structure of the units that apply them, and the tactics they employ. Chapter 7 describes how the guidelines were applied during the siege; Part IV analyses whether that application was appropriate.

Part II: The siege

Chapter 6: Monis' preparations for the siege

41. The most obvious potential source of information on what Monis was trying to achieve and who, if anyone, assisted him, was his partner, Amirah Droudis. However, she declined to voluntarily provide information to the court. I did not compel Ms Droudis to give evidence because doing so could have jeopardised her trial for the murder of Monis' ex-wife, which took place while the inquest was underway. Ms Droudis was convicted of the murder but still has an appeal pending.
42. Therefore, the inquest had to rely on other means of attempting to trace Monis' movements in the days before the siege and establish the source of the gun he used. Chapter 6 details the findings of those inquiries.
43. In the days before the siege, Monis appears to have adhered to an unremarkable routine. He attended an appointment at Centrelink, and on the afternoon before the siege he reported to police as required by the conditions of his bail.
44. On the afternoon of 13 December he drained his bank accounts, which held a total of \$850. A little later, he purchased for \$70 the backpack he carried throughout the siege.
45. He had only \$210 in his wallet after the siege, so it can be speculated that he put the rest of the money towards purchasing the shotgun with which he terrorised the hostages during the siege. The history of the gun has been established, but who provided it to Monis has not. Those investigations are continuing.
46. On 14 December 2014, Monis made the final post on his website, sheikhharon.com. As noted in Chapter 1, the post included an image of children's corpses beneath the heading, *"This is an evidence for terrorism of America and its allies including Australia. The result of their airstrikes."*

Chapter 7: Events at the Lindt Café

47. Chapter 7 details what happened during the siege, including how the security and counterterrorism arrangements described in earlier chapters were implemented by the relevant agencies.
48. To the extent possible, it recounts events in chronological sequence and seeks to present the siege from the perspective of both the responders and the hostages. The factual findings as to what occurred provide a foundation for the critical analysis of the management of the siege in Part IV of this report.
49. From the morning of 15 December until 2.15 a.m. on 16 December, the siege response was managed by three different teams of NSW police commanders at two locations. To assist in situating the activities of those officers and police working under them, this chapter is divided according to the three command periods, with a fourth section devoted to the key events after 2 a.m. on 16 December.
50. *Morning:* This period extends from Monis' approach to the café until about midday, when the command of then Assistant Commissioner Michael Fuller and Superintendent Allan Sicard came to an end. It takes in the

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beginning of the siege; the first contact between those in the café and police; and the initial steps taken by police to contain the scene, identify Monis and begin negotiations.

51. *Afternoon*: This period commences when Assistant Commissioner Mark Murdoch assumed overall command of the operation at the Police Operations Centre (**POC**) and ends with his handover to Assistant Commissioner Mark Jenkins at approximately 9 p.m. This period also corresponds to Afternoon Forward Commander's time as Police Forward Commander (**PFC**).
52. *Evening*: This section covers the period from 9 p.m., when Asst Commissioner Jenkins and Night Forward Commander assumed command at the POC and Police Forward Command Post (**PFCP**) respectively, until about 2 a.m., when the siege came to a head.
53. *Resolution*: The final section addresses the events after 2 a.m., including the escape of hostages at 2.03 a.m., the murder of Tori Johnson, the Emergency Action and the death of Katrina Dawson.

Chapter 8: The hostages' experience

54. All of the hostages were interviewed by investigators. Most gave evidence at the inquest. Their evidence was crucial to understanding what occurred and has been relied upon in forming the narrative set out in Chapter 7. Chapter 8 presents further sections of what the hostages said during their interviews and evidence. This chapter does not augment the factual findings made in other parts of the report but places on the public record excerpts of their accounts in direct speech so that readers can better understand what they went through. This chapter preserves the voices of the hostages.

Part III: Expert evidence

Chapter 9: Expert evidence and reviews

55. The nature of the incident, the agencies involved, the real-time objective evidence, the contamination of the scene, and Monis' history combined to create a very challenging, and politically sensitive, factual and theoretical matrix to unpack.
56. An apparent terrorist incident in the heart of Sydney had resulted in the deaths of three people. It had prompted a major police response, involving two NSWPF command centres, a negotiation unit and a significant number of Tactical Operations Unit (**TOU**) operatives. The AFP, ASIO and the armed forces were involved to varying degrees. Specialised tactics, strategies, and equipment were deployed by various agencies.
57. There is minimal video footage of events inside the café, and the audio drawn from surveillance devices gave, at best, an incomplete picture. The hostages were traumatised by the siege and, understandably, their recollection of events was at times imperfect. Many officers who had entered the café were also unable to recall precisely who did what and when. In view of the extremely challenging, stressful and dynamic nature of the Emergency Action (**EA**), that is not surprising.
58. To adequately address all of the issues, it was necessary to enlist the assistance and advice of a variety of experts. Chapter 9 provides an overview of the investigations those experts conducted and the conclusions they reached.
59. The critical-incident investigation team, under the command of NSWPF Detective Chief Inspector Angelo Memmolo, was placed on standby during the siege because it was the "on-call" team from the State Crime Command Homicide Squad. It commenced the investigation as soon as the scene had been cleared by paramedics and bomb disposal officers and continued that investigation under my direction throughout the inquest.
60. Det Chief Insp Memmolo enlisted an array of technical experts from a range of forensic disciplines to analyse the crime scene. Their fields of expertise included:
 - blood spattering;
 - sound and acoustic analysis;
 - DNA and fingerprints;

- crime scene examinations;
 - ballistic examinations and laser testing;
 - forensic imaging, including 3D laser reconstruction technology; and
 - botanical examination (in relation to the wood from the café chairs).
61. Autopsy evidence was obtained from the forensic pathologist who examined the bodies of the deceased. This helped to explain where Katrina, Tori and Monis were when they were shot and which weapons fired the projectiles in question.
 62. A review by an independent emergency medicine specialist contributed to conclusions about the quality of care provide to Katrina Dawson.
 63. A psychiatric review helped inform the conclusion about Monis' mental state referred to in Chapter 1.
 64. Ballistics evidence was crucial to assessing whether snipers could have ended the siege earlier. It also helped to reconstruct events during the Emergency Action.
 65. A digital three-dimensional recreation of the crime scene helped in determining the positions and fields of view of various individuals at specific times.
 66. A team of highly experienced senior police officers from the U.K. was engaged to review the way the siege was managed and to provide expert evidence on alternative strategies and tactics.
 67. Internationally renowned experts in terrorism, counterterrorism and radicalisation also provided reports and gave evidence.

Part IV: Analysis, conclusions and recommendations

Chapter 10: A terrorist incident?

68. Chapter 10 summarises the evidence of internationally renowned experts in terrorism and radicalisation who reviewed what was known about Monis and what occurred during the siege. Their evidence helped the court determine whether the siege should be classified as a terrorist incident, and if so whether it was inspired by Islamic State (IS).
69. The inquiry examined whether Monis was motivated to act by IS leaders' calls for their supporters to commit acts of terrorism in the group's name or whether he was on a personal crusade and decided to use IS to make himself seem more dangerous. Did he cloak himself in IS rhetoric so he would be feared rather than mocked?
70. Unlike most IS-inspired criminals, Monis did not immediately kill those he had taken hostage. A list of contact details of some Muslim prisoners found in his pocket after the siege may indicate that he expected to survive the siege and be sent to prison. By applying the opinions of experts to the facts uncovered by the investigation, the inquest sought to explain the nature of the attack.

Conclusion: Was the siege a terrorist incident?

71. Even with the benefit of expert evidence, it remains unclear whether Monis was motivated by IS to prosecute its bloodthirsty agenda or whether he used that organisation's fearsome reputation to bolster his impact. Either way, he adopted extreme violence with a view to influencing government action and/or public opinion concerning Australia's involvement in armed conflict in the Middle East. That clearly brings his crimes within the accepted definition of terrorism.

Chapter 11: Command and control

72. Command and control refers to the system of management structures and arrangements used by a police organisation when responding to significant incidents or events, either planned or spontaneous. Chapter 11 examines how the NSWPF's command and control system operated during the response to the Lindt Café siege and makes recommendations to address perceived shortcomings.

Conclusion: Transition to high-risk situation response

73. The transition from a first response by general-duties police to arrangements for the management of a high-risk situation proceeded as planned, and no deficiencies in those arrangements were apparent. The Tactical Operations Unit was called out, the Police Operations Centre was stood up, and a Police Forward Command Post was established.

Conclusion: Transition to counterterrorism arrangements

74. The transition from the system for dealing with a routine high-risk situation to that for a terrorist incident proceeded smoothly and in accordance with relevant policies. No deficiencies in the arrangements were apparent, apart from the lacuna in the *Tactical Operations Unit Management Operational Guidelines* referred to below.

Conclusion: Consistency between high-risk situation response protocols

75. Deployment of the Tactical Operations Unit to high-risk situations is performed in accordance with protocols set out in that unit's *Management Operational Guidelines*. The NSWPF's command and control arrangements for responding to a terrorist incident are set out in the Task Force Pioneer and Strike Force Eagle protocols. In parts, the *Management Operational Guidelines* do not acknowledge the special arrangements created for responding to terrorist incidents.

Recommendation 5: Review of TOU Management Operational Guidelines

76. *I recommend that the NSWPF review the Management Operational Guidelines to resolve any inconsistency between them and relevant counterterrorist protocols.*

Conclusion: Deficiencies in command decision logging and dissemination

77. There are deficiencies in the NSWPF systems for recording decisions made by police commanders responding to high risk situations and the reasons for those decisions, and for disseminating some command decisions. These deficiencies hindered aspects of the siege response.

Recommendations 6: Review of logging systems

78. *The development (recommended in Chapter 12) of an integrated intelligence system that allows police officers secure access to all information platforms should also provide for the recording of all command decisions and the reasons for them, and for the dissemination of those decisions.*

Conclusion: Adherence to command arrangements during the siege

79. The command arrangements set out in the Pioneer and Eagle protocols were generally understood and adhered to during the siege response. There were, however, some anomalies. There were some lapses in communication that may be attributable to the fact that State Protection Group officers continued to report up their usual lines of command and failed to also report to the Police Forward Commander information vital to his functions. Neither the Eagle protocols nor the *Tactical Operations Unit Management Operational Guidelines* nor the negotiators' equivalent provide guidance to State Protection Group officers on how they should interact with the Police Forward Commander, who is required to be selected from outside the State Protection Group.

Recommendation 7: Documenting changes to line command

80. *I recommend that the NSWPF remedy the lack of detailed guidance on how State Protection Group officers should interact and communicate with the Police Forward Commander, and that such guidance be included in policy documents and reinforced with training.*

Should SPG officers be excluded from the Police Forward Commander role?

81. The inquest considered whether the potential for miscommunication among tactical officers and negotiators and the Police Forward Commander was increased by the fact that the Police Forward Commander is required to be an officer from outside the State Protection Group. In some instances, tactical officers and negotiators relayed information up their chain of command and left the Police Forward Commander out of the loop, prompting Recommendation 7 above. This raised the question of whether the prohibition on the Police Forward Commander being a State Protection Group officer should be relaxed.

Conclusion: Non-SPG Police Forward Commander

82. The disadvantages of prohibiting current members of the TOU from assuming the role of Police Forward Commander during a high-risk situation are outweighed by the advantages of minimising the likelihood that the Police Forward Commander will have a personal allegiance to, or preference for, either negotiation or tactical intervention.

Involvement of executive officers

83. The Pioneer and Eagle protocols allocate decision-making in terrorism incidents to specific operational officers within the command and control regime. There is a clear dividing line between senior executive officers of the NSWPF and operational officers responsible for decisions about the management of terrorist incidents. Because there was *some* evidence that three of the most senior officers in the NSWPF might have become involved in operational aspects of the management of the siege, and because any operational matter was likely to bear on coronial issues, then Police Commissioner Andrew Scipione, Deputy Commissioner Catherine Burn and Acting Deputy Commissioner Jeffrey Loy were called to give evidence to the inquest.

Conclusions: Executive officer involvement in operational matters

84. **Acting Deputy Commissioner Loy:** There was no suggestion of inappropriate operational involvement by ADC Loy.
85. **Deputy Commissioner Burn:** There is no evidence to suggest that DC Burn deliberately deleted text messages to avoid disclosing them to the inquest. It would have been preferable for all relevant records to have been retained, but I accept DC Burn's evidence that the deleted texts contained nothing of significance. Her discussion with AC Jenkins, which was noted in his log, was routine and of a type to be expected in the course of a commander's reporting on events to an executive officer. I find that nothing DC Burn did during the siege was of an operational nature. There is no suggestion that she interfered inappropriately in operational matters or that she failed to intervene when she should have taken action. It was plain that she had, and worked with, a clear understanding of the distinction between the role of an executive officer and that of an operational officer.
86. There is no basis for criticising DC Burn for complying with a direction from the Commissioner to rest for a few hours. The direction was prudent, and her compliance with it was reasonable.
87. **Former Commissioner Scipione:** At 11.59 p.m., the then Commissioner sent an email to ADC Loy and AC Jenkins concerning a YouTube post made by one of the hostages. This email concerned an operational matter. I accept that the Commissioner intended it to be a suggestion rather than a

direction. However, it was likely to be interpreted as something more. In any event, it was unwise for him to make a suggestion about an operational matter without first discussing it with relevant officers and informing himself of the consequences of the proposal. It is plain that no harm was done by the former Commissioner's email. However, it does illustrate the types of risks that can arise from executive involvement in operational matters.

Duties of the Police Forward Commander

88. The inquest heard evidence that in addition to coordinating the response to events in the stronghold, the PFC was also responsible for overseeing traffic redirection, public transport movements, family liaison, issues with buildings surrounding the stronghold, and setting outer perimeters.

Conclusion: Duties of the Police Forward Commander

89. There is a danger in major high-risk situations that if the Police Forward Commander is also responsible for external and tangentially related matters, he or she may be distracted from the primary goal of resolving the incident.

Recommendation 8: Police Forward Commander's scope of responsibility

90. *I recommend that the NSWPF review the division of tasks among the various officers responsible for responding to major high-risk situations to enable Police Forward Commanders to focus exclusively on their primary goals and that officers engaged in matters not directly related to the resolution of the incident be required to report to an officer other than the Police Forward Commander.*

Management of 000 calls

91. The 000 operators continued having to receive and handle calls from the stronghold well after police high-risk situation management protocols were in place. This impeded communication between the hostages and the negotiators.

Conclusion: Transfer of 000 calls

92. Calls from hostages to 000 continued to be handled by 000 operators throughout the siege. Those operators had no way of knowing what was occurring in the stronghold and no mechanism for quickly and reliably transferring the calls to police officers who had that knowledge. Various steps were taken to try and expedite the transfer to informed police officers, but these were not always effective.

Recommendation 9: Transfer of 000 calls

93. *I recommend that the NSWPF establish procedures and the technical capability to ensure that telephone calls from hostages in sieges or the victims of other ongoing high-risk situations are expeditiously transferred to officers involved in responding to the incident.*

Chapter 12: Investigations and intelligence

94. Chapter 12 critiques the collection, analysis and dissemination of intelligence during the siege and recommends improvements in areas where shortcomings appear to have existed.

Conclusion: Intelligence and investigation systems

95. The use of multiple information-sharing systems and databases by various NSWPF units responding to the siege was not ideal. It resulted in information not always being made available in a timely manner or disseminated in a format that would make it most useful. Such deficiencies have the potential to degrade operational effectiveness.

Recommendation 10: Integrated intelligence platform

96. *I recommend that the NSWPF investigate the development of an integrated intelligence system that allows selected officers secure access to all information platforms and to record and share operational decisions.*

Conclusion: Timing of search

97. The strong imperative to search Monis' residence outweighed the reasons police gave for hesitating to do so. The fact—apparent only in hindsight—that the search failed to turn up anything of significance does not justify the failure to conduct it in a timely fashion.

Conclusion: Failure to review National Security Hotline complaints

98. During the siege, police intelligence analysts should have reviewed complaints about Monis previously made to the National Security Hotline. However, I am not persuaded that their failure to do so had an impact on the management of the siege because the content of the complaints (which related to Monis' Facebook page) overlapped considerably with information that was made available to police early in the siege. Accordingly, it is unlikely that a review of the complaints would have made any meaningful difference to the assessment of the risk Monis posed.

Conclusion: Identifying the hostages

99. Having regard to the high-pressure context and the volume of information being received and disseminated by police, initial errors in estimating the number of hostages and establishing their identities are explicable. I do not consider that these errors had any detrimental effect on the police response to the siege. They were not of a magnitude that might have affected the risk assessment of the incident. Police had identified all the hostages by 4 p.m.

Conclusions: Debriefing escaped hostages

100. The debriefing of the hostages who escaped during the afternoon was adequate and the information it yielded was disseminated appropriately.
101. The short time between the escapes just after 2.00 a.m. and the initiation of the EA necessarily limited the debriefing of the final group of escaped hostages. It meant that almost nothing from those debriefs was, or indeed could have been, conveyed to the police commanders.
102. However, given the importance of information about the shot fired by Monis at 2.03 a.m. to deliberations on initiating the EA, a member of the incident management team should have been tasked to contact those conducting the debriefs to urgently seek information about the shot, including whether it was believed to have been fired at the hostages.
103. The welfare of the escaped hostages was appropriately considered after each escape.
104. In a large-scale operation such as the response to this siege, it is inevitable that some officers brought in to perform tasks such as debriefing escaped hostages will not have the same level of situational

awareness as the tactical officers and negotiators, who are deeply involved in attempting to resolve the incident. As a result, they may not appreciate the significance of—and will therefore not seek—some of the information the hostages may be able to provide.

Recommendation 11: Pro-forma debriefing sheets

105. *I recommend that the NSWPF consider developing a pro-forma debriefing sheet containing standard questions relevant to all or most high-risk situations, which can be supplemented by the negotiation coordinator and the tactical commander to maximise the likelihood that all available relevant information will be obtained during hostage debriefings. Such measures would also aid contemporaneous documentation of information derived from debriefs and assist in relaying all relevant information to command.*

Conclusion: Dissemination of hostage communications

106. Most relevant information covertly obtained from within the café was promptly and effectively disseminated in a form that was accessible to those who required it—in particular, officers at the Police Forward Command Post, including the TOU and negotiators.
107. There was at least one significant exception, namely the 1.43 a.m. text from Tori which described Monis' increasing agitation and his desire to release a hostage. This message should have been passed on urgently to the Police Forward Command Post, particularly to the Police Forward Commander, Tactical Commander, and the negotiation cell; and to the Police Operations Centre.
108. The failure to transmit the message was a significant omission. However, it is not possible to conclude that events would have unfolded differently had it not occurred.

Conclusion: Audio surveillance devices

109. The deployment of an audio surveillance device within the café had the potential to significantly assist police in shaping their response to events during the siege. That potential was not fully realised because of the technical limitations of the available equipment and because of a shortage of human resources and inadequate coordination of the available personnel.
110. The NSWPF did not have the technology necessary to undertake remote audio surveillance of the inside of the café, so its officers were forced to rely on access granted by the AFP. This meant that the audio captured by the devices in question was not monitored or disseminated as effectively as it might have been.

Recommendation 12: Acquisition of audio surveillance technology

111. *I recommend that if it has not already done so, the NSWPF acquire the audio surveillance technology that in similar circumstances would allow a device to be monitored in the Police Forward Command Post and/or the Police Operations Centre, and that the organisation ensures that its capacity in this regard keeps pace with technological advances in the area.*

Conclusion: Video material

112. Although it took many hours to do so, officers of the State Technical Investigation Branch set up adequate relays of visual coverage of the outside of the café into the Police Operations Centre and

the Police Forward Command Post. Given the important contribution of this facility to situational awareness in the command centres, a dedicated officer should have been nominated to monitor the screens in both places. The benefits of sophisticated audio and video surveillance devices will be maximised only if such devices are adequately monitored and the information they afford is appropriately disseminated. At times during the siege, neither of those things happened.

Recommendation 13: Audio and video surveillance

113. *I recommend that the NSWPF review its personnel arrangements and structures for the monitoring of surveillance devices, including the number of officers allocated to a listening or viewing post for monitoring purposes, and the demarcation of roles, including primary monitor, scribe/log keeper, and disseminator. I also recommend that clear communication channels be established for reporting data captured during such surveillance, including via integrated electronic intelligence-sharing platforms or applications.*

Chapter 13: Negotiation

114. The primary strategy of the NSWPF for responding to sieges is one of containment and negotiation. That involves controlling entry, exit and communications from and to the stronghold and communicating with the hostage taker/s to identify their demands and the conditions under which they might release the hostages and surrender to police. That approach was adopted during the Lindt Café siege. It failed. Chapter 13 examines how the “contain and negotiate” strategy was applied and makes recommendations designed to improve performance in future incidents.

Conclusion: The use of containment and negotiation

115. “Contain and negotiate” was the appropriate initial response to the siege. It continued to be so even after the siege was assessed to be a terrorist event. How long it remained the appropriate primary response depended upon a rigorous evaluation of its effectiveness. There is no evidence that an adequate evaluation was made.
116. Reassessment of the “contain and negotiate” strategy would not necessarily have led to the termination of negotiations. However, it should have led to changes in the approach to negotiation while alternative measures for resolving the siege were also considered.

Negotiation restrictions in the National Counter-Terrorism Plan

117. The assessment that the siege was terrorism-related brought into effect restrictions contained in the *National Counter-Terrorism Plan 2012* on the making of concessions to terrorists’ demands. This had the potential to complicate the negotiations.

Conclusion: The impact of the National Counter-Terrorism Plan

118. The prohibition in the *National Counter Terrorism Plan 2012* against making concessions to terrorists did not prevent the negotiators in the Lindt Café siege from actively exploring opportunities to engage with Monis. However, some clarification of what demands cannot be acceded to is required. Further, the Australia New Zealand Counter-Terrorism Committee documents and State Protection Group documents should be updated to refer to the latest versions of the *National Counter-Terrorism Plan*.

Recommendation 14: Concessions to terrorists

119. *I recommend that the Secretariat of the Australia–New Zealand Counter-Terrorism Committee prepare*

guidelines regarding the interpretation and scope of the restrictions contained in Clause 92 of the National Counter Terrorism Plan 2012. The Secretariat should also update relevant Australia–New Zealand Counter-Terrorism Committee documents, and the NSWPF should update State Protection Group documents, to refer to the latest versions of the National Counter-Terrorism Plan.

Conclusion: Attempts to engage with Monis

120. It is not suggested that the negotiators failed to adequately pursue opportunities to engage with Monis because of any lack of diligence or commitment. Rather, it appears that their practice lacked the sophistication necessary to generate options, probably because that had never been necessary in their previous work dealing with domestic sieges.

Conclusion: Responses to Monis' demands

121. It was entirely appropriate for police not to accede to Monis' demand to speak to the Prime Minister. Doing so would have breached the prohibition against acceding to terrorists' demands. However, Monis' reasons for seeking an on-air debate could have been explored, and police could have told the hostages why the demand could not be met. The failure to do the latter increased the hostages' frustration and sense of abandonment.

122. Similarly, it would have been dangerous to allow Monis to speak live on national radio. Such a broadcast could have induced widespread fear and even panic. However, here too a compromise could have been explored, such as an offer to let a released hostage read a statement prepared by Monis. The opportunity to use this demand to foster engagement with Monis was not sufficiently considered.

123. The same applies to Monis' demand for an IS flag. The decision to refuse the request was reasonable. The failure to explore why Monis wanted the flag and explain why it would not be provided was counterproductive.

124. The moving of police and parked vehicles out of Phillip Street in response to demands by Monis was reasonable and appropriate. The failure to pursue engagement with him on this matter and to seek to extract reciprocal concessions from him, or at least obtain an acknowledgement that police were being cooperative, were missed opportunities.

125. Monis' demand for the lights in Martin Place to be extinguished was mismanaged by the negotiators and by those above them in the chain of command. It was a demand that could have easily been granted, and it provided an opportunity to engage with Monis with a view to extracting concessions. None of those who were made aware of the demand pursued it until after midnight, and the prolonged failure to address it only increased Monis' anger and frustration.

Conclusion: Assessment of progress in negotiations

126. No progress towards a negotiated settlement of the siege was made at any stage. The negotiators failed to appreciate this because they did not undertake a structured assessment of whether headway was being achieved. They had no system or procedures for undertaking such an assessment. The Police Commander and the Police Forward Commander did not press them for advice on whether the negotiations were advancing towards a resolution of the incident, nor did the commanders insist that more proactive strategies be used.

Recommendation 15: Negotiator training

127. *The sections above dealing with negotiators' attempts to engage with Monis, their responses to his demands, and their assessment of progress demonstrate deficiencies in current practice. To respond to those deficiencies, I recommend that the NSWPF conduct a general review of the training afforded to*

negotiators and the means by which they are assessed and accredited. Specifically, the review should consider the training provided regarding:

- *measuring progress in negotiations;*
- *recording of information, including the systems by which that occurs;*
- *the use of third-party interveners;*
- *additional approaches to securing direct contact with a person of interest; and*
- *handovers.*

128. *The NSWPF should consider drawing on international experience when reviewing its negotiator training.*

The Consultant Psychiatrist

129. A consultant psychiatrist was called in by police and arrived at the Police Forward Command Post at about 1.15 p.m. He remained there, providing advice to negotiators and participating in telephone conferences between the Police Forward Command Post and Police Operations Centre, until the end of the siege.

Conclusion: The role of psychological advisers in siege responses

130. The NSWPF has no policy spelling out the role of a consultant psychiatrist or psychologist if one is retained to assist in the response to high-risk situations. It was apparent that the police commanders, police negotiators and the Consultant Psychiatrist involved in the Lindt Café siege response lacked a shared understanding of the limits of the psychiatrist's role. It is essential that all those involved in responding to a high-risk situation have a clear understanding of each other's roles.

Recommendation 16: Role description for psychological advisers

131. *I recommend that the NSWPF develop a comprehensive policy that describes the role and function of a psychological adviser engaged to assist in responses to high-risk situations and that all those involved be made familiar with that policy.*

Conclusion: Consultant Psychiatrist's advice

132. The Consultant Psychiatrist's participation in the siege response was suboptimal in four respects: he was permitted to give advice about negotiation strategy and tactics, he made erroneous and unrealistic assessments about what was occurring in the stronghold, he gave ambiguous advice about the nature of Monis' behaviour, and he was permitted to go beyond his area of expertise to give advice about Islamic terrorism.

133. Having more psychological advisers available would lessen the likelihood that individual practitioners might assume authority by expanding their role, while a more diverse panel of experts would both obviate the perceived need for psychological advisers to give advice outside their area of expertise, and give siege responders access to more reliable information.

Recommendation 17: Expanded panel of experts

134. *I recommend that the NSWPF consider expanding the panel of psychological advisers it retains and the range of disciplines it consults.*

Conclusion: Adequacy of risk assessment

135. The Police Forward Commanders and Police Commanders made assessments of the threat Monis posed based on information from a variety of sources. They were presented with summaries of the intelligence that had been gathered, given regular briefings by the Tactical Operations Unit and negotiators, and also given advice from the Consultant Psychiatrist.
136. It is now very difficult to disentangle the various strands of information and advice they took into account. However, the evidence strongly points to the conclusion that commanders underestimated the threat Monis posed. This was partly because they were not given a complete and balanced picture of the available intelligence, partly because they placed undue reliance on the Consultant Psychiatrist (who himself underestimated the risk), and partly because they did not adequately challenge or test information and advice they received about the mood in the café or the likelihood that Monis might harm the hostages. While this is obvious in hindsight, with more rigorous analysis it could also have been discerned at the time.

Conclusion: Missed calls

137. Eight calls by hostages to a number they had been told would connect them with a negotiator were not answered—four around 8.00 p.m. and another four between 12.30 a.m. and 1.00 a.m. An unknown number of calls were also diverted to other telephones within the Police Forward Command Post. That these calls were missed represents a significant failure in a basic component of siege management—the maintenance of open communication between hostage/s and negotiators. It is likely that the calls between 12.30 and 1.00 a.m. were not answered because all the negotiators were involved in a handover briefing.

Recommendation 18: Negotiation team handovers

138. *I recommend that the NSWPF review its procedures to ensure that handovers between negotiation teams are staggered so that a fully briefed officer is always available to receive a call from the stronghold.*

Conclusion: Negotiation Unit staffing

139. The Negotiation Commander was overburdened and could not be relieved. Inevitably, his performance would have degraded as he became fatigued. The Negotiation Coordinator was not replaced after his shift ended, and the officer assigned to intelligence gathering and dissemination was not replaced when she was assigned to other duties. In view of the shortfalls in personnel devoted to various negotiation functions during the siege, it is evident that the Negotiations Unit was understaffed.

Recommendation 19: Review of Negotiation Unit staff numbers and profile

140. *I recommend that the NSWPF review the number, rank and function of the officers comprising the Negotiation Unit.*

Conclusion: Rank of negotiators

141. U.K. policing organisations, which have greater experience in dealing with terrorist incidents, do not require negotiators to cease acting in that role when they are promoted to commissioned officer rank. I accept the NSWPF's submission that having commissioned officers act as negotiators introduces some complications, but I consider that the benefit of staffing such positions with the best officers available outweighs those concerns and conclude that the current prohibition is counterproductive.

Recommendation 20: Rank of negotiators

142. *I recommend that the NSWPF review its policy of requiring negotiators to relinquish that role when they are promoted to commissioned officer rank.*

Conclusion: Negotiator training

143. Negotiators do not receive adequate training in dealing with terrorists. The training of negotiators, which focuses on dealing with domestic high-risk situations, does not adequately equip them to engage effectively with terrorist/s in a siege. There are cadres of Police Forward Commanders and Police Commanders specially trained to deal with terrorist incidents; the same should be true of negotiators.

Recommendation 21: Specialist training for terrorist negotiations

144. *I recommend that the NSWPF develop a cadre of counterterrorist negotiators and provide them with appropriate training to respond to a terrorist siege.*

Conclusion: Record keeping

145. The NSWPF has no policy requiring commanders or negotiators to record negotiation positions and tactics, the demands made by a hostage taker, or any progress or lack of it in moving a high-risk situation towards resolution. Accordingly, during the siege there was no provision for recording these items in a readily accessible form. This was not simply a bureaucratic shortcoming; it had significant consequences and may have influenced such substantial decisions as whether “contain and negotiate” should be continued or whether a Deliberate Action should be initiated. These shortcomings were not the fault of the individual officers involved—they resulted from a gap in the NSWPF’s policies and procedures.

Recommendation 22: Recording of negotiation positions

146. *I recommend that the NSWPF develop policies that require the recording of negotiation strategies and tactics, demands made by a hostage taker, and any progress towards resolution (or lack thereof) in a form readily accessible by commanders and negotiators.*

Conclusion: Negative impact of media reporting

147. During the siege, some information was broadcast that had the potential to compromise the safety of hostages and to undermine the police negotiation strategy. These broadcasts were not deliberate but occurred because there were no comprehensive arrangements for alerting the media to the potential harm that could be caused by proposed broadcasts or publications.

148. There was no evidence that any media outlet would not refrain from publishing material if it knew that doing so could compromise the police response to an ongoing terrorist incident. However, there is no mechanism for police to alert media outlets about material whose publication could cause harm, or for reporters and broadcasters to make their own inquiries in that regard.

Recommendation 23: Review of media publication of terrorist incidents

149. *I recommend that the Commissioner of Police consider seeking an agreement with news media outlets whereby the NSWPF will establish a way for such outlets to rapidly and confidentially determine whether publishing specific material could compromise the response to an ongoing high-risk situation and the media in turn will agree not to publish such material without first alerting a nominated senior police officer of their intention to do so.*

Chapter 14: Snipers

150. From soon after the siege commenced, snipers were positioned in three locations overlooking the café and began reporting what they could see happening inside. Although heavily armed, the snipers at no stage fired at Monis. Chapter 14 examines why.

Conclusion: Authority to use deadly force

151. The snipers and the police commanders believed that police did not have lawful authority to shoot Monis because he did not pose an imminent or immediate danger to the hostages. That belief was an unduly restrictive view of their powers. This interpretation of the circumstances failed to have sufficient regard to Monis' possession of a shotgun and suspected IED, his threats, his claimed allegiance to Islamic State, his unwillingness to negotiate, and his continuing to unlawfully deprive the hostages of their liberty.
152. Nonetheless, I can readily appreciate why individual officers might be inclined to take a cautious approach to interpreting their powers. Their careers and even their own liberty could hinge on the later concurrence by others in the criminal justice system that their resort to deadly force was justified. I make no finding critical of the snipers who concluded they were not lawfully justified in shooting Monis before Tori Johnson was killed.
153. It may be that the special powers available to police responding to terrorist incidents should include a more clearly defined right to use force.

Recommendation 24: Use of force in terrorist incidents

154. *I recommend that the Minister for Police consider whether the provisions of the Terrorism (Police Powers) Act 2002 should be amended to ensure that police officers have sufficient legal protection to respond to terrorist incidents in a manner most likely to minimise the risk to members of the public.*

Conclusion: Sniper locations

155. The exploration of sniper locations was not as comprehensive as it could have been. It would have been preferable for a reassessment of other possible locations to have taken place, particularly after nightfall. However, the locations chosen had reasonable visibility into the stronghold and there is no evidence that better sniper locations were available.

Conclusions: Human resources

156. Neither the absence of a second breacher (an officer tasked and equipped to penetrate barriers to enable a sniper to fire) nor the absence of a dedicated communications officer in the Westpac building, negatively affected the snipers' performance.
157. However, the failure to place a sniper coordinator in the Police Forward Command Post was not in keeping with national Police Tactical Group doctrine or with the way in which the Tactical Operations Unit trains. There was no obvious reason to depart from those guidelines during the siege response. While there is no compelling evidence that having a sniper coordinator as part of the management team in the Police Forward Command Post would have improved the performance of the sniper cells in this incident, no reason was identified for departing from this nationally recognised standard procedure. On occasions, such departures could degrade the quality of the response to an incident.

Recommendation 25: A sniper coordinator in the PFCP

158. *I recommend that the NSWPF review its policies to ensure that the usual arrangements for placing a sniper coordinator in the Police Forward Command Post are departed from only for sound operational reasons that are recorded.*

Conclusion: Arms and equipment

159. The snipers were armed and equipped in accordance with the relevant standards. Their arms and equipment were not sufficient to overcome the challenges of the unique situation in which they found themselves. This was not due to any lack of planning or training. It was simply impossible to equip the snipers in a way that covered all possible eventualities, and the circumstances they faced on this occasion were not reasonably foreseeable.

Conclusion: Technical capability

160. At the two locations from which snipers might have had an opportunity to fire at Monis—the Westpac building and Channel 7—the snipers lacked the technical capability to shoot him without creating unacceptable risks to the hostages. The glass of the windows at which they were positioned was toughened, and even if it could have been breached before a shot was taken, the resulting noise would have posed a substantial risk of alerting Monis.

Conclusion: Opportunities to shoot

161. The only opportunity to shoot Monis before he killed Tori arose between about 7.38 p.m. and 7.48 p.m. During that time, only part of the back and side of the head of a person thought to be Monis was visible through White Window 4.¹ The snipers in the Westpac building were not certain that person was Monis. Because most of the window was obscured by a flag, they could not see whether there were any hostages immediately behind or beside the individual in question. Therefore, they could not discount the risk that any hostages who were nearby might be killed or injured if they tried to shoot him. In those circumstances, the snipers' decision not to fire was entirely reasonable.

Chapter 15: Forced resolution

162. Police did not try to enter the café until after Monis killed Tori. Chapter 15 analyses whether they should have initiated a Deliberate Action (DA) or an Emergency Action before that occurred and critiques their actions when entry was effected. The sole purpose of this review is to inform future responses to high-risk situations.

Conclusion: Emergency Action triggers

163. The triggers for the execution of the Emergency Action were the death or serious injury of a hostage or the imminent or immediate threat of such events.

Conclusion: Appropriateness of Emergency Action triggers

164. The primary and secondary triggers for initiation of an Emergency Action were appropriate. There was no requirement for further "contingency triggers", although better planning for possible incidents that would require a prompt response would have improved the efficiency of the response if any of those incidents had eventuated. (This issue is addressed in Recommendation 26.)

Conclusion: Recording the Emergency Action triggers

165. There are no sound reasons why the triggers for an Emergency Action should not be recorded, either in the plan itself, in a central decision log and/or on iSurv, the electronic police log. I am conscious of the need to avoid requiring officers to document their decisions in a way that distracts from their primary responsibilities. But a requirement that Emergency Action triggers be recorded could not possibly be said to have such an impact.

¹ The window on the Martin Place side of the café furthest from the main entry doors.

Recommendation 26: Recording EA triggers

166. *I recommend that NSWPF policies be amended to require the recording of the triggers for Emergency Actions. Consideration should be given to stipulating that “contingency triggers”—specific events that will require initiation of an Emergency Action or some other agreed response—should also be recorded.*

Conclusion: Assessment of risk

167. The commanders involved in the response to the siege had insufficient guidance to help them assess whether the risk of Monis killing or injuring a hostage had escalated to the point where it outweighed the risk associated with a forced entry. The evidence of the Police Forward Commander at the relevant time suggests that he was so concerned with the possibility that Monis might activate an IED during an Emergency Action that he had difficulty applying the secondary triggers and effectively negated their effect.

168. Because high-risk situations such as sieges are so variable and so dynamic, secondary triggers for the initiation of an Emergency Action cannot be comprehensively described in concrete terms. Consequently, imponderable or unquantifiable evaluations cannot be avoided. Fixed, rigid or prescriptive rules would be counterproductive. Nonetheless, guidance can and should be given to aid police commanders in assessing when such triggers have been met.

Recommendation 27: Assessing imminent and immediate risk

169. *I recommend that the Australia New Zealand Policing Advisory Agency and the Australia–New Zealand Counter-Terrorism Committee review the Australia–New Zealand Guidelines for Deployment of Police to High-Risk Situations and the Police Tactical Group Operations Manual to ensure that those documents give commanders guidance on how to assess imminent or immediate risk.*

DA planning process

170. A Deliberate Action involves four stages:

- the formulation of the DA plan;
- approval of the content of the plan by the Police Forward Commander and the Police Commander;
- authorisation of the plan by the Police Commander, such that it can be initiated at a time of the Police Forward Commander’s choosing; and
- the initiation of the plan.

171. A Deliberate Action plan was formulated but it was never approved, authorised or initiated.

Conclusion: Preparation of the Deliberate Action plan

172. The precise cause of the delay in developing the Deliberate Action plan was not established. This plan should have been available for consideration by police commanders at an earlier stage than it was.

173. The delay between the completion of the Deliberate Action plan and its consideration by the Police Forward Commander and the Police Commander suggests that the task was not afforded the priority it warranted. Considering the lack of progress with the negotiations, it is difficult to see why the Deliberate Action plan was not considered with a greater sense of urgency.

Conclusion: Adequacy of the DA plan

174. Tactical operatives of the Australian Defence Force concluded that the Deliberate Action plan was feasible, and the U.K. policing experts and Tactical Operations Unit commanders gave evidence that the plan was appropriate. I readily accept that evidence.

Conclusion: Should the DA plan have been approved?

175. The Deliberate Action plan should have been approved. Approving it would have had no disadvantages and might have enabled the tactical officers to be better prepared were it eventually initiated.

Should a DA have been initiated?

176. Initiating a Deliberate Action to storm the café before Monis made clear his intention to kill anybody would have posed unavoidable risks. However, the evidence of both senior TOU officers and the U.K. policing experts was that the DA plan entailed a lower level of risk than the EA plan. According to the U.K. experts, the fact that a DA would have entailed risk does not necessarily mean it should not have been authorised and initiated. One said that a DA should occur if *“the risk of not doing it [is] greater than the risk of doing it”*.
177. By entering the stronghold at a time of their choosing, tactical police increase their chances of surprising the hostage taker and thus reducing the risk to hostages. This approach is safer for the tactical officers and safer for the hostages. That said, all forced entries entail very considerable risks.
178. The police commanders in this case were reluctant even to consider a Deliberate Action. There were good reasons for caution. The possibility that Monis had an IED could not be discounted, and depending upon its detonation device, it might have proved impossible to disable him before he could activate it. As the day wore on and the identity of the hostage taker, his crimes and his psychopathology became known to the police commanders, they undoubtedly took comfort from the fact that although Monis had made threats of violence, nobody in the stronghold had been killed or injured.
179. While it now appears they were wrong to do so, at the time the subject-matter experts—the negotiators and the Consultant Psychiatrist—continued to advise commanders that:
- the negotiations were progressing;
 - the stronghold was calm;
 - Monis’ behaviour was not consistent with IS methodology—he was merely *“grandstanding”*; and
 - towards the end of the siege, Monis was beginning to *“settle”* for the night.
180. In light of the flawed advice they received, it was reasonable for the police commanders to conclude a Deliberation Action was not warranted.
181. It could be argued that the police commanders should have more rigorously taxed their subordinates to prove that the negotiations were progressing or to generate more effective engagement with Monis. However, their reluctance to initiate a DA that could have led to the deaths of all hostages and the entry teams was understandable, based on the information they were given.

Conclusion: Should a DA have been initiated?

182. Given the state of their knowledge on the night, and the NSWPF’s commitment to a “contain and negotiate” strategy, it cannot be said that it was unreasonable for police commanders to refuse to authorise and initiate a DA.

Rethinking “contain and negotiate” in terrorist incidents

183. The reluctance of commanders to consider a DA may have arisen in part from organisational culture. “Contain and negotiate” was adopted as the primary approach to sieges and other high-risk situations after the NSWPF and other policing organisations were trenchantly criticised for rushing into dangerous situations, precipitating deadly confrontations, or allowing dangerous suspects to escape. So entrenched has this perspective become that one of the commanders referred to a Deliberate Action as the “*last resort*”.
184. The outcome of the Lindt Café siege suggests that the “contain and negotiate” strategy needs to be more rigorously assessed in the context of terrorist incidents. I consider that the re-evaluation of training and policy regarding “contain and negotiate” ought to extend not only to “active shooter” situations but to terrorist actions where the hostage taker’s diminished expectations of survival may render the strategy inappropriate.

Conclusion: Protocols and training in DA planning and approval

185. The unjustified refusal of successive police commanders even to approve a DA plan and uncertainty among them about aspects of the planning and approval processes suggests that protocols for and/or training in DA planning and approval are inadequate.

Recommendation 28: Reform of guidelines to DA planning

186. *I recommend that the Australia New Zealand Policing Advisory Agency and the Australia–New Zealand Counter-Terrorism Committee review the Australia–New Zealand Guidelines for Deployment of Police to High-Risk Situations and the Police Tactical Group Operations Manual to ensure that they adequately describe all aspects of the Deliberate Action planning and approval process and present commanders with appropriate guidance on relevant considerations.*

Recommendation 29: Review of training for DA planning and approval

187. *I recommend that the NSWPF review the training provided to its officers in relation to Deliberate Action planning and approval.*

Conclusion: Cultural reluctance to initiate a DA

188. For historical reasons, the NSWPF may have become so wedded to “contain and negotiate” that its senior officers are unduly reluctant to initiate a Deliberate Action in siege situations. When dealing with terrorists, this reluctance is problematic. The NSWPF has recognised that where an “active shooter” continues to threaten the safety of members of the public, securing the scene and waiting for negotiators to arrive may not be the most effective way to limit casualties. Similarly, the “contain and negotiate” approach may not be the best response to a terrorist incident if the offender/s believe that whether or not they survive, their cause will benefit from the publicity generated by a protracted siege. This issue should be resolved by consultation within the Australasian policing alliance, informed by international counterterrorism experience.

Recommendation 30: Reconsideration of response to terrorist incidents

189. *I recommend that the Australia New Zealand Policing Advisory Agency liaise with the Australia–New Zealand Counter-Terrorism Committee to determine whether more proactive policies should be developed for responding to terrorist sieges.*

Conclusion: Timing of EA

190. The decision to send Tactical Operations Unit operatives into the café was unquestionably one no commander would want to face. The risks for the officers and the hostages were immense. However, after a brief period to allow officers to gather relevant information, an EA ought to have been initiated following Monis' first shot at 2.03 a.m. That event made it clear that negotiations had little or no chance of resolving the siege, and that the hostages remaining in the café were at extreme risk of harm. The 10 minutes that elapsed without decisive action by police was too long.

Conclusion: Use of distraction devices

191. An unnecessary and excessive number of distraction devices were deployed during the Emergency Action. That was not the fault of individual Tactical Operations Unit officers: the NSWPF has no policy or procedure regarding the use of such devices.

Recommendation 31: Use of distraction devices

192. *I recommend that the NSWPF develop a policy regarding the use of distraction devices and the training of officers in their use.*

Conclusion: Use of hearing protection devices

193. According to the expert evidence, failure to wear hearing protection during an Emergency Action may degrade performance and reduce situational awareness. Since the siege, the NSWPF has acquired new hearing protection devices. The NSWPF has indicated that the effectiveness of the new devices is still being evaluated.

Recommendation 32: Use of hearing protection devices

194. *I recommend that the NSWPF evaluate whether the use of noise-attenuation devices should be mandated when explosive distraction devices are used.*

Conclusion: Shots fired

195. Monis fired two shots from his shotgun at the Tactical Operations Unit officers of Alpha Team as they were preparing to enter the café to rescue the hostages. Fortunately, the pellets from both shots went high, striking the door surround. It was lawful and entirely appropriate for the Tactical Operations Unit officers to return fire.

196. Officer A fired his M4 rifle 17 times. That may seem like a large number, but those shots were discharged over only a few seconds. I accept that Officer A kept firing until he perceived that Monis was no longer a threat, as he had been trained to do. His use of force was not excessive.

197. Officer B was the first into the café. He entered via the Phillip Street door a second before Officer A. He commenced firing almost immediately and fell to the ground when he was struck in the face by a projectile. When he regained his feet, he took cover. There is no foundation for a conclusion that he fired after he stood up. I find that Officer B was lawfully justified in firing at Monis when he did and that he did not use excessive force.

198. Not all the bullets fired by the officers struck Monis. Some hit furniture that he had stacked around himself as a barrier. Many bullets fragmented when they hit the furniture and other objects in the café. With the exception of one round that struck Monis in the buttock, all the bullets that hit him caused wounds to his upper body and head.

199. It is tragic that fragments of one or more of the bullets fired by either Officer A or B struck and killed Katrina Dawson and highly regrettable that three other hostages were wounded. It is true that the more bullets fired, the greater the risk that this would happen. However, I accept that the officers had to ensure that Monis was completely incapacitated before they stopped firing to guarantee that he could not shoot them or the hostages or activate the bomb they feared he had in his backpack. The officers did not fire indiscriminately or excessively. Katrina was taking cover on the floor. The officers could not have seen her and could have done nothing to enhance her safety that was consistent with their primary imperative to incapacitate Monis. Her death was a terrible accident, which occurred after Monis left the officers with no option other than to storm the café.

Conclusion: Firearms and ammunition

200. The carbine rifles used by the Tactical Operations Unit officers during the Emergency Action were appropriate for the mission. Given the U.K. experts' observation that 5.56mm pointed soft-point ammunition is "suitable" for law enforcement use and is used by many agencies, no criticism is warranted in respect of the choice of ammunition.
201. The evidence does not support a conclusion that the selection of a different type of ammunition would have either increased or decreased the likelihood of injury to the hostages. It is impossible to balance the risk created by bullet fragmentation against the risks of overpenetration or a greater propensity to ricochet.
202. However, the choice of ammunition for use in close-quarters combat is an area of evolving research and knowledge. The most up-to-date information suggests that better alternatives to the ammunition currently used by the NSWPF may be available.

Recommendation 33: Review of alternative ammunition

203. *I recommend that the NSWPF undertake a formal assessment of alternatives to the TOU's current soft-point ammunition to determine whether a more appropriate form of ammunition is reasonably available.*

Chapter 16: Family liaison and hostage management

204. In addition to seeking to resolve the siege as safely as possible, police had to minimise the distress of the hostages' family members, who were understandably distraught. Chapter 16 outlines what occurred and suggests ways in which the liaison process could be made more responsive to the needs of victims and their families.

Conclusions: Family liaison

205. The family reception centre was inappropriately situated and inadequately equipped. The hostages' families were given infrequent and inadequate briefings. Katrina and Tori's families were treated insensitively in some respects and confirmation of their loved ones' deaths was unduly delayed.

Recommendation 34: Family liaison

206. *I recommend that the NSWPF develop a comprehensive policy and set of procedures in relation to family liaison capability for high-risk situations. Those policies and procedures should ensure that:*
- *The capability is scalable depending on the nature of the incident.*
 - *An appropriately senior officer is responsible for overseeing the liaison process. He or she should have direct access to officers in the Police Forward Command Post for the purpose of conveying and receiving information in a timely manner.*

- *A dedicated family liaison officer (or officers) is assigned to each family and is given responsibility for managing the needs of that family.*
- *Officers are given guidance on communicating with families, including the appropriate frequency and content of briefings both during and after an incident.*
- *Officers are advised of the proper process for gathering and disseminating intelligence from family members.*

Recommendation 35: Casualty identification and delivery of death notices

207. *I recommend that the NSWPF review its policies, procedures and training to ensure the rapid identification of persons killed or injured in high-risk situations. Those policies should provide appropriate guidance on how and when death messages ought to be conveyed following such incidents.*

Chapter 17: ADF and AFP involvement in the siege response

208. The inquest gave rise to a range of issues concerning three Commonwealth agencies: ASIO, the ADF and the AFP.
209. This chapter outlines the role played by the ADF and the AFP during the siege, with a particular emphasis on the sharing of information and resources between those entities and the NSWPF. Findings as to ASIO's role, to the extent that these can be published, are contained in Chapter 18.

Conclusion: ADF call-out

210. The preconditions for a call-out set out in Part IIIAAA of the *Defence Act 1903* (Cth) were not met because the NSWPF considered it had the capacity to respond effectively to Monis' actions and did not advise the NSW government otherwise.

Should the ADF be called out in all terrorist incidents?

211. State and territory police are the primary responders to terrorist incidents. The ADF can only assume responsibility for such an incident if, on an application for assistance from a state or territory, the Commonwealth is satisfied that the state or territory's police force is unable to mount an adequate response.

Conclusion: The ADF and terrorist incidents

212. The challenge global terrorism poses for state police forces calls into question the adequacy of existing arrangements for the transfer of responsibility for terrorist incidents to the ADF. The foreshadowed comprehensive review of the ADF's role in domestic counterterrorism operations—including as to the legislative and policy framework for call-out (**ADF Review**)—is an opportunity to review the call-out threshold.

Recommendation 36: ADF call-out arrangements

213. *I recommend that the ADF Review confer with state and territory governments about the criteria governing applications for the ADF to be called out pursuant to the Defence Act 1903 (Cth) with a view to determining:*

- *whether further guidance is required on the criteria to be used by states and territories in determining whether to apply for Commonwealth assistance; and*
- *if so, what criteria ought to be stipulated.*

Conclusion: Consistency between ANZCTC protocols and *Defence Act*

214. There is no requirement that every armed intervention in response to a terrorist incident is to be carried out by the ADF. However, there is some inconsistency between the *Defence Act 1903* (Cth) provisions regarding ADF call-out and the position set out in the Australia New Zealand Counter-Terrorism Committee documents.

Recommendation 37: Consistency between *Defence Act* and ANZCTC protocols

215. *I recommend that the ADF Review give consideration to amending the Australia–New Zealand Counter-Terrorism Committee protocols to ensure that they provide sufficient guidance as to the respective roles of the ADF and state police tactical groups. Such guidance should accord with the legislative framework in Part IIIAAA of the Defence Act 1903 (Cth).*

Conclusion: ADF support short of call-out

216. The *National Counter-Terrorism Handbook* envisages that the ADF will provide advice, assistance and support to state police tactical groups in situations where the call-out threshold is not met. ADF liaison officers attended the Police Forward Command Post during the siege, but their potential role was not well understood by the police commanders and they were not utilised as effectively as they might have been.

217. Some senior NSWPF officers seemed uncertain about the role of ADF liaison officers, particularly regarding the provision of advice, equipment or assistance where no ADF call-out has occurred.

Recommendation 38: Procedures for obtaining ADF assistance

218. *I recommend that the ADF Review, in consultation with the police forces of the states and territories, examine the guidance available to ADF officers and state and territory police regarding:*

- *the role of ADF liaison officers;*
- *the availability of ADF assistance in the absence of a call-out; and*
- *the procedures to apply in relation to requests for, and the provision of, equipment or advice by the ADF.*

Conclusion: Sharing information between the AFP and the NSWPF

219. The AFP provided the NSWPF with access to surveillance technology the NSWPF did not possess and supported the siege response in other ways. Important information contained in Tactical Information Reports compiled by AFP officers during the siege and relevant to the NSWPF's response to the siege was not provided to the NSWPF, and questions remain as to whether other important information was adequately shared. There is a basis for concern about the mechanism for sharing information between the two agencies.

Recommendation 39: Review of information sharing arrangements

220. *I recommend that the Commonwealth Attorney-General, in consultation with the states and territories, review existing arrangements for information sharing between federal, state and territory agencies during terrorist events to determine whether those arrangements (and the guidance provided to officers in respect of them) adequately facilitate the efficient identification and transfer of pertinent information between agencies.*

Chapter 18: ASIO and Monis

221. The inquest sought evidence from ASIO to determine whether Monis should have been detected as a security risk of politically motivated violence (**PMV**).
222. Because of the inherent sensitivity of ASIO's work and its holdings, which invoke strong public interest immunity concerns on the grounds of national security, the inquest received that evidence in accordance with a strict regime of access to documents, rigorous storage and handling requirements, and closed court hearings.
223. This chapter of the report comprises an open, public version, and a second, larger, closed (classified) version. Access to that 'closed' version is restricted for reasons of national security.

The 2008 investigation: Factual background

224. The change in ASIO's consideration of Monis (to a PMV focus) may be traced to 4 July 2007, when an academic interviewed on the Channel Seven breakfast programme 'Sunrise' made comments about the (then recent) arrest of Dr Mohammed Haneef and Muslim doctors in the United Kingdom. Monis took umbrage at the academic's comments. From late 2007 he made increasingly provocative public statements that caused ASIO to undertake an investigation in 2008 into Monis' possible involvement in, or support for, PMV.
225. That investigation commenced in 2008 and was finalised in 2009 (**2008 investigation**).

Conclusion: ASIO's 2008 investigation

226. ASIO's 2008 investigation into Monis' risk was balanced, comprehensive and appropriate in the circumstances. Information outside the strict realm of security indicators was appropriately taken into account, and is a useful demonstration of the relevance of context when assessing the risk of politically motivated violence.

Access to information

227. During the inquest it became apparent that there were a number of restraints to the free flow of information that could hinder ASIO's capacity to discharge its functions.

Conclusion: Correspondence regarding terrorist organisations

228. There does not appear to be an effective policy in place to require the Commonwealth bureaucracy to forward correspondence received by it to ASIO where that correspondence is relevant to security considerations. The Senate Legal and Constitutional Affairs References Committee inquiry into the "Handling of a letter sent by Mr Man Haron Monis to the Attorney-General" made several recommendations in that regard in September 2015.

Recommendation 40: Correspondence referral

229. *I recommend that the Commonwealth Attorney-General liaise with ASIO to develop a policy to ensure that where correspondence is received by a government agency, minister or public office holder, from a non-government entity, and that correspondence is relevant to the security assessments of the author, the correspondence be referred to:*
- ASIO; and
 - a *Fixated Threat Assessment Centre* (see Chapter 19).

Conclusion: ASIO's assessments of Monis from 2009 to November 2014

230. After the 2008 investigation, and during the period from 2009 to November 2014, the subsequent assessments conducted by ASIO relating to Monis, and ASIO's consideration of Monis, were in my view, adequate and appropriate. Monis remained on ASIO's radar and was susceptible to ASIO scrutiny as and when required.

Triaging of the National Security Hotline reports

231. Eighteen reports to the National Security Hotline (NSH) about Monis' public Facebook page were referred to ASIO between 9 and 12 December 2014. By 12 December 2014, all of these NSH reports had been "triaged" by ASIO. The siege intervened before a full/complete assessment took place. As a result, these 18 "leads" were still "open" as at 15 December 2014.

232. In my view, the analysts appropriately discharged their duties in triaging the NSH reports and acquitted themselves with diligence and skill. In doing so, they also demonstrated a general attitude of thoroughness and conscientiousness. The rating allocated to these NSH reports was appropriate. The resulting prioritisation timeframe was acceptable. That is so given the resourcing and work flow requirements of ASIO at the time, and in particular, the volume of apparently more serious cases with which it was then confronted.

233. While Monis' public Facebook page (being the subject of the reports) did contain confronting and provocative content, there was nothing indicative of a desire or intent to undertake an act of PMV nor suggestive of a capability or intention to commit PMV.

Conclusion: ASIO's management of the NSH reports

234. I consider that the treatment and management of the National Security Hotline reports by ASIO in the period between their first receipt and the siege, including their triage, was adequate and appropriate.

Assessing the risk of politically motivated violence

235. In keeping with its statutory responsibilities to identify security threats, ASIO has developed a sophisticated, dextrous and comprehensive system for assessing and detecting PMV. The evidence before this inquest indicates that ASIO approaches its tasks conscientiously and thoroughly.

236. However, evidence before the inquest exposed two significant aspects of the PMV risk assessment process that I consider require recalibration by ASIO. They are the scope of leads triaging, and the criteria used for assessing PMV. Details about those two issues, and how I consider they ought be addressed, are dealt with in the closed version of this chapter.

Conclusion: ASIO's approach to Monis

237. In raising the topics above, I do not intend to convey criticism of the way ASIO approached Monis prior to the siege. However in my view, the gaps and shortcomings identified in the closed version of this chapter could have real bearing on future assessments of political motivated violence risk by ASIO.

The challenge of lone actors

238. In considering ASIO's assessment of the risk of PMV in relation to Monis, an issue arose as to whether ASIO is sufficiently equipped to deal with the challenges posed by lone actors.

239. It was generally acknowledged that lone actors are inherently mercurial and capricious in their presentation, creating significant challenges for detection and prevention.

240. Further detail about this issue is included in the closed version of Chapter 18.

Accessing mental health information

241. It is apparent that identifying lone actors may be assisted by improved access to mental health information about individuals in the community.
242. This is an area for useful reform.

Conclusion: Australian Psychological Society Code of Ethics

243. Clause A 5 2 of the Australian Psychological Society's *Code of Ethics* (2007) only permits disclosure of information gained from a client where the client identifies a specific individual (or individuals) as a target for potential violence. It does not allow psychologists to disclose information to law enforcement/intelligence/security agencies about more generalised threats of violence or harm.

Recommendation 41: Review of disclosure rules

244. *I recommend that:*

- *the Commonwealth Attorney-General and ASIO confer with the Australian Psychological Society regarding the restrictions in clause A 5 2 of the Code of Ethics (2007) with respect to radicalisation, terrorism and politically motivated violence; and*
- *the Australian Psychological Society consider amending clause A 5 2 of the Code of Ethics (2007) to enable psychologists to report risks of a terrorist nature.*

Privacy and information sharing

245. The extent to which information held by one government agency may be shared with another government agency is predominately guided by the legislation under which the agency providing the information operates, together with relevant privacy acts.
246. With respect to health-related information, a NSW government agency or health organisation can pass information they hold directly to ASIO only if they believe that passing the information is necessary to lessen or prevent a serious and imminent threat to life, health or safety of the individual or another person, or a serious threat to public health and safety. It is easy to imagine a situation in which an agency has information that is relevant to an ASIO assessment of a person's risk of PMV but which does not meet these criteria.
247. The current limitations on information disclosure to ASIO contained in NSW privacy legislation may therefore, in certain circumstances, not cater well for the identification and assessment of present terrorism threats.

Conclusion: Privacy legislation constraints

248. The *Privacy and Personal Information Protection Act 1998* and *Health Records and Information Privacy Act 2002* have the potential to impinge upon ASIO's ability to access the information and records it needs.

Recommendation 42: Privacy legislation review

249. *I recommend that the Premier of New South Wales consider whether the Privacy and Personal Information Protection Act 1998 and the Health Records and Information Privacy Act 2002 should be amended to ensure that there is appropriate access to health related information available to ASIO (consistent with recommendation 12 of the report of the Martin Place Siege Joint Commonwealth–New South Wales review).*

ASIO's response to the siege

250. Information sharing by ASIO during the siege was also considered as part of Segment 3. This issue is dealt with in detail in the closed version of Chapter 18.

Conclusion: ASIO's response to the siege

251. There were a few examples of information that ought to have been shared by ASIO with the NSWPF during the siege. Among them is one document in particular that I consider would have assisted the NSWPF in responding to Monis. In my view, it should have been shared, and the reasons for its not having been shared are unpersuasive. This issue is dealt with in detail in the closed version of this chapter. However, it can be recorded here that the document comprised an internal email sent at 19.55 on 15 December 2014 titled "*Haron—brief [...] summary on possible motivation*". It contained three dot-points on Monis' activities and possible motivations, and was "*based primarily*" on previous reports (one of which had been disseminated to the NSWPF earlier in the day), officers' recollections, and information from Monis' website and two Facebook pages.

Improvements and change

252. There was evidence that since the siege ASIO has attempted to improve certain of its communications methods, to enable the faster release of information.

253. However, it is not apparent that any internal changes have been made which would address the issue of the non-supply of information held by ASIO referred to above.

Recommendations: Other recommendations

254. I have made recommendations on areas that can generally be described as triaging, information management, the assessment of politically motivated violence, and interagency information sharing and cooperation. Those recommendations are contained in the closed version of Chapter 18.

Chapter 19: Fixated persons

255. The inquest examined measures that might help prevent individuals like Monis from becoming radicalised and engaging in violent acts. The answer appears to lie in early identification of such people and engaging with them before the risk they pose is actualised. Lone-actor terrorists are often mentally ill or unstable, but many fall into the category of what psychologists term "fixated individuals".

256. Prior to the siege, no one government agency undertook a holistic assessment of the risks Monis posed to the community. Many agencies knew about part of his life, or had insight into him from a particular vantage point. It is only now, with the benefit of hindsight, that this inquest can piece together the whole mosaic of Monis as a person. Understanding him and others like him is crucial to thwarting the threat posed by fixated lone actors.

257. In other jurisdictions, fixated threat assessment centres assemble information about individuals from a variety of sources and apply a risk-assessment matrix to identify targets for intervention. Initiating contact with fixated persons can help authorities to better understand whether they pose a risk of violence or are in need of other legal or medical intervention. It is likely that such a system would have identified Monis as someone who needed to be assessed from this perspective.

Conclusion: Gaps in identifying potentially dangerous persons

258. Current arrangements for identifying and assessing the risks posed by self-radicalised and isolated or fixated individuals who are not necessarily committing crimes tend to be fragmented rather than

holistic, piecemeal rather than coordinated, and not presently focused on fixated persons. The recent announcement of the NSW Police Commissioner, Mr Fuller, that he intends to create a unit to attempt to identify lone-actor terrorists is commendable. In my view, this unit should work collaboratively with NSW Health and have access to all necessary data.

Recommendation 43: A Fixated Threat Assessment Centre

259. *I recommend that the NSWPF, in conjunction with NSW Health, establish a Fixated Threat Assessment Centre to identify and gather information about fixated persons, assess the risks they pose, and attempt to mitigate such risks through early intervention.*

Conclusion: Relevance to ASIO's work

260. There is potential for the work of a Fixated Threat Assessment Centre to overlap with that of ASIO. ASIO's ability to meet the challenges posed by lone actors would be increased by the ability of such a centre to assess individuals in their broader context, and if a more complete picture of them were available. That is, risk assessments would be likely enhanced if ASIO were apprised of up-to-date information about a potential lone actor's criminal, medical and social history and activity, being information that does not traditionally fit within the narrower confines of 'security' related material. In some cases, that information may inform the criteria by which PMV risk is assessed by ASIO. That is likely to be especially so in the context of fixated persons who are possibly also radicalised.

Recommendation 44: Liaison with ASIO

261. *I recommend that ASIO liaise with the Fixated Threat Assessment Centre with a view to both agencies cooperating in the identification, assessment and management of fixated, radicalised individuals.*

Part V: Logistics

Chapter 20: Inquest logistics

262. The new territory charted by this inquest may provide a useful guide for others embarking upon a similar undertaking. In addition, there were occasions when the process and scope of the inquest were matters of public comment and debate. It is therefore appropriate that a record be made of how this inquest came to take the shape it did, and what it sought to achieve. This chapter also contains a recommendation designed to allow for earlier debriefing of operational police officers without undermining the integrity of an inquest subsequent to the debriefing.

Conclusion: Delay of remedial action

263. Inquests into deaths that occur in the course of a police operation may delay the identification and implementation of improvements in police practices and procedures. An alternative mechanism to allow reforms to proceed expeditiously without undermining the integrity of the inquest is desirable.

Recommendation 45: The LECC and critical incident debriefs

264. *I recommend that the Minister for Police undertake a review of the Law Enforcement Conduct Commission Act 2016 with a view to enabling the Law Enforcement Conduct Commission to facilitate urgent debriefs and confidential internal reviews of critical incidents focused on improving current practice.*

Section 81 findings

265. As a result of considering all of the documentary evidence and the oral evidence given at the inquest, I am able to confirm that the three deaths investigated by this inquest occurred and I make the following findings in relation to them.

Katrina Dawson

The identity of the deceased

The person who died was Katrina Watson Dawson.

Date of death

Ms Dawson died on 16 December 2014.

Place of death

She died in the Royal Prince Alfred Hospital in Camperdown, New South Wales.

Cause of death

The cause of her death was gunshot wounds.

Manner of death

Ms Dawson died when police stormed the Lindt Café in Martin Place in order to free her and others who had been taken hostage by an armed person. A bullet or bullets fired at that person by police officers ricocheted and fragmented and accidentally struck Katrina as she lay on the floor seeking safety, mortally wounding her.

Tori Johnson

The identity of the deceased

The person who died was Tori Enstrom Johnson.

Date of death

Mr Johnson died on 16 December 2014.

Place of death

He died in the Lindt Café, Martin Place, Sydney, New South Wales.

Cause of death

The cause of his death was a gunshot wound to the head.

Manner of death

Mr Johnson died when a person who had held him and others hostage in the Lindt Café intentionally shot him in the back of the head with a shotgun at close range. Tori died almost immediately.

Man Haron Monis

The identity of the deceased

The person who died was Man Haron Monis.

Date of death

Monis died on 16 December 2014.

Place of death

He died in the Lindt Café, Martin Place, Sydney, New South Wales.

Cause of death

The cause of death was multiple gunshot wounds.

Manner of death

Monis died when police officers stormed the café where he had been holding hostages and they returned fire after Monis fired at them as they entered. The police officers who shot Monis reasonably believed that was necessary to protect themselves and others in the café.

The following pages contain testimonials prepared at my invitation by Katrina and Tori's families. They are reproduced here verbatim.

Katrina Dawson

There is so much to say about Katrina. She never said it herself though. She was a quiet achiever. She was modest and subtle, understated and dignified.

Katrina was very fortunate to grow up in a family that provided her with wonderful opportunities to learn and experience so much. She was one of those people who took those opportunities with both hands and ran with them. She knew she was extremely privileged, but never took it for granted. She was always helping others; her family, friends and community.

At school, Katrina threw herself into a multitude of sporting and extra-curricular activities, but never sacrificed her studies. She achieved a perfect Tertiary Entrance Rank of 100 per cent and was a prefect, the Captain of Debating and a member of the school's top basketball team.

She went on to attend the University of Sydney where she achieved First Class Honours in Law and participated in various sporting teams that included rowing, basketball and intervarsity heptathlon.

While at the University of Sydney, Katrina lived on-campus at The Women's College where she was elected Senior Student in 1998. She fully appreciated the opportunities residing at the college provided throughout her studies, not only because she formed lifelong friendships, but because she relished being part of an environment that encourages excellence in whatever areas the students had chosen to pursue.

At the heart of it all, a wonderful young Australian woman of immense capacity, strength of character and purpose. Coming into her own, into the fullness of her life, into the fulfilment of sure foundations, of reaching her extraordinary potential. So much more, for her to do...She was not too good to be true, but very nearly so."

—The Honourable Dame Quentin Bryce AD CVO

She furthered her studies by completing a Masters of Law from the University of New South Wales, specializing in Human Rights Law where she obtained a High Distinction average.

Anyone who thought that Katrina's considerable success came effortlessly would be mistaken. One mark of greatness is the ability to make the difficult appear effortless, and Katrina certainly had that quality, but her many and varied successes were born of hard work, dedication, determination, and more often than not, sleep deprivation ... No client who ever briefed Katrina ever got anything less than 100 per cent commitment from her ... There is no doubt that Katrina had great professional and academic qualities, for which she should be justly remembered, but it was her personal qualities that made her a truly exceptional human being.

—Jason Potts, Barrister and Colleague of Katrina

Katrina began her legal career at top tier law firm Mallesons Stephen Jaques where after five years she rose to the rank of Senior Associate. In 2005 she was called to the Bar and won the Blashki & Sons prize for the highest aggregate in the bar exams. Once at the Bar, she appeared in the High Court of Australia on at least three occasions and appeared unled several times in the NSW Court of Appeal.

Katrina was universally loved and respected – and occasionally feared – by her opponents at the Bar. She was fiercely committed to her clients and across every detail. And all of this was done with a smile and unfailing courtesy. Her qualities matched what every barrister should aspire to be: seriously intelligent, highly principled, ethical to a fault, unerringly fair and supremely efficient.

“Katrina was quite simply one of the finest young barristers at the Bar. Not just in the sense of her legal skills, although these were exceptional—Katrina had an instinct for justice. She always did the right thing.”

—Jeremy Stoljar SC, Barrister and Colleague of Katrina

Katrina recognised the responsibility that came with privilege. She was heavily involved in volunteer work throughout her studies and work life. She volunteered at the Redfern Legal Centre, worked pro bono on the District Court Duty Solicitor Scheme and was instrumental in the establishment of Ask! Legal Service for Kids run by the Ted Noffs Foundation. At the Bar, she continued volunteering in the community and was Wishgranter for the Make a Wish programme for critically ill children for the Starlight Foundation.

As a wife, sister and daughter, Katrina was loving and selfless, and as a mother, she was perfect. She was dedicated to her family and determined to make sure she gave her kids a loving home with the same opportunities that she was fortunate to have had. Most of all, she wanted them to have fun, as demonstrated by their birthday parties. The cakes she baked for them were legendary and the outfits she prepared for their dress up parties were worthy of the stage! Katrina had a huge capacity for love and friendship. She built very close, special relationships and always made time for her friends. For someone so extraordinary, she was incredibly down-to-earth and often downright silly, with a wicked sense of humour. To her friends she was just Treen—a gorgeous, funny girl who was always there to listen, to laugh and to help out in a crisis.

“If there is one thing above all that we can learn from Katrina’s example, it is how to love, to show love, to use love, and by loving to make other people and places better. I believe Katrina’s greatest achievement was to make sure that those she loved knew that she loved them—her children, Paul, and all of her family and friends.”

—Julie Taylor, Barrister and Colleague of Katrina

Katrina Dawson – Achievements

Examples of Community Involvement

- Helped found Ask! A Legal Centre for Kids with the Ted Noffs Foundation
- Volunteer at Redfern Legal Centre
- Volunteer Wishgranter for the Make a Wish programme with the Starlight Foundation
- Volunteer for Médecins Sans Frontières

Career Information

- Senior Associate & Solicitor at Mallesons Stephen Jaques – 2000 to 2005
- Barrister – 8th Floor Selborne Chambers – 2005 to 2014
- Blashki & Sons Prize for the Highest Aggregate in the Bar Exams – 2005

University Achievements

- Senior Student, The Womens College within The University of Sydney
- Masters of Laws (Human Rights) (UNSW) 2004 – High Distinction Average
- Bachelor of Laws (Hons 1st Class) (Syd) 1999
- Michael Harmer and Associates Award for Anti-Discrimination Law (1999)
- Womens College Prizes: Grace Frazer Prize (1995), Leonie Star Prize (1995),
- Ellen Bundock Prize (1996, 1998) and Womens College Scholarship (1996)
- Bachelor of Arts (Syd) 1997
- Sydney University Athletics Intervarsity Team 1997
- High School Achievements
- Ascham Member of School Committee (Prefect) – 1994
- HSC Tertiary Entry Rank 1994 – 100 (Equal 1st in NSW)
- French (3 Unit) – 2nd in State
- Modern History (3 Unit) – 9th in State
- Latin (2 Unit) – equal 3rd in State
- Maths (2 Unit) – 6th in State
- Ascham Captain of Debating – 1994
- Ascham Basketball Firsts – 1994

Other

- Awarded Scholarship to attend the Sorbonne, Paris – final year law
- Alliance prize for French
- Qualified ski instructor (Whistler)
- Representative at Winds of Change conference, University of Technology, Sydney, paper published – 1998

Tori Johnson

by his partner, Thomas, and his parents, Rosie and Ken

Tori Johnson 26 June 1980 – 16 December 2014

Tori's dream was to become an architect. He was an incredibly creative person appreciating design, materials, shapes etc and when walking along streets on his travels he would observe what had been created in his environment.

Tori and I met in 2000. We lived close to New York City during the September 11 attacks and were luckily not directly affected by the attacks, although many of our friends and friends of friends lost their loved ones back then. Little did we know how the world would change in the years to come nor how 13 years later it would mean the end of our life together as we knew it. Tori and I were made for each other. We are so lucky that our two souls found each other in this world, growing up in countries on complete opposite sides of this world; but we found each other and knew we belonged together—indefinitely. Our love grew each day over the 14 years—and we both could feel this. Our minds were at peace when in each other's company—not much needed to be said. We knew how the other one felt and what he was thinking. With the exception of being at work we did not spend one minute apart. All interests we had we shared passionately. Travelling the world, exploring history and other cultures, tasting foreign foods and appreciating nature. There was so much in this world Tori would have still liked to discover: The mountains of Japan, the glaciers of Antarctica, the forest of the Amazon, the pyramids of the Incas, the carnival in Rio and so much more. He will need to see it through my eyes now.

Tori had the kindest heart—he was a very gentle, loving and sensitive person. He was humble and fair. He loved life. He used to tell me “all I want is for you to be happy”—I could have not been happier going through life with my darling Tori. He never demanded anything and Tori and I never argued about anything. Family was always important to both of us—so we both maintained very strong links to our families. He had so much more love to give.

Up until 2012 Tori worked as restaurant manager in Darling Harbour. Stressful weekends, long hours and physically hard work. It started to affect his health and I suggested to him to leave work and take up architecture or a design course. Something he always wanted to do. He planned to build a house for us one day. In his free time he would source ideas from magazines, the internet or take pictures of interesting buildings. He never got around to do a course. After he was attacked over a taxi on his way home from work on a Saturday night, we decided he needed to leave Darling Harbour and seek employment in a safer environment. So he took up the position as manager of the Lindt Café at Martin Place. He was overqualified for this role and although he enjoyed it, it was not his dream job. Our dream was to move to the country, build a house and get a dog. That simple. We already had found the meaning of our life—our love for each other. Tori started to build a model of what our future house could look like. It is still sitting in our living room. He told me it would have a huge surprise and he obviously could not tell me what it was—I will never know what he meant.

In September 2014 I worked on a new hotel opening here in Sydney. The hotel opened in November that year. But from September until his death in December I worked nonstop. We never had a weekend off together again. He was so patient, caring and supportive during this time in any possible way. I fell asleep with my head in his lap every night—I will never forget. Nearing the end of my project in December Tori was getting excited—change was coming and a new adventure would bring new experiences, excitement and opportunities...

When I received the phone call in the morning of December 15, I felt it was all coming to an end. Tori being the manager I immediately understood the risk and threat to his life. My young man who could not hurt a fly, lived a selfless life in pursuit of his happiness and derived his meaning of life by caring and being there for the ones he loved. He never had a choice but to stay with the hostages—and he knew this. Any actual or attempted escape would mean somebody would get hurt. Tori had more courage than anybody else that night. He was not only a brave man. He knew he was abandoned and he knew he would die. After one of many fired shots that missed, he put himself back on his knees to be finally shot in his head. There is no word to describe what he has experienced or gone through. Our lives will never be the same—my heart is broken forever.

I can feel him present every day. Tori is with me—in my heart. Our love for each other is still growing and can never be taken away by anything or anybody. It will continue to exist for a long time after our lives have come to an end. Until then I carry our love in my heart. It is the best I can do. Remembering the most beautiful being I have ever met and who I was so lucky to spend the most beautiful 14 years of our lives together.

In Loving Memory of my partner darling Tori—We will never forget.

—Thomas

Tori I sit staring at the sunspot, on the terrace, where you always sat and imagine your gentle smiling face looking up at me saying...

“You can do this, I’m here with you”

Always supporting me.

This is the most difficult story I have ever had to write. Talking about you in the past tense. It’s so final. Almost too much for me to bear.

I have kept you alive the past two years attending the Inquest. Listening, over and over again to evidence of the last ten minutes of your life when you were still very much alive and still full of hope.

I have been walking your track from your home to the city. The walk you did every day.

Talking to you.

Feeling your hand in mine.

Touching the beautiful Plane trees that line your street.

You loved them so much.

Remembering how we would both look forward to autumn when we could play in the fallen leaves.

I take you everywhere I go. My heart is heavy with your weight but I will never complain. I will never let you go. I only wish I had been there to hold you when you left this Earth. To thank you for the most wonderful 34 years.

Tori, you trod lightly on this Earth. You saw the beauty in everything.

You expected very little and gave so generously of your time to others.

You were a man of few words, but with a powerful presence.

Listening intently and compassionately to the hidden silences. Able to read between the lines and understanding the depth of what was not said.

You had an innate ability to read our minds. You knew when we needed you and you were always there for your family, friends and colleagues.

You didn’t speak ill of others, always finding a way of thinking more kindly to a situation. You knew how to make everyone feel important.

You were a humble man but a man of contradictions.

As with that humility came great strength of character.

You were also a man of vision. You had great dreams for the future and with your diligence and determination they would have become a reality.

Tori, you did not waste a moment of your life. You valued all you had and took nothing for granted. To know this brings me some solace.

You amazed me from an early age, as you took on the responsibility of keeping peace and tranquillity in the family.

Your insight into life, beyond your years and the wisdom you showed was astounding.

You truly lived up to the meaning of your name!

You cared for my needs as much as I yours but I often had to remind you that you were a little boy and such responsibility should not be on your shoulders.

You did not listen! It was always in your nature to be the Protector.

You were never interested in toys. To be helpful whenever you could made you feel useful and content.

A work ethic that you carried into your adult life.

We shared a love of nature, spending long hours walking in the bush and by the sea. Gathering discarded elements of nature to bring home for future creativities such as sculpture or table decoration or gifts.

We shared a passion for cooking. Inspiring each other, sharing recipes. Nothing pleased you more than having family and friends around your table, spoiling us with your culinary expertise and ambience. Your warmth and hospitality is dearly missed. Intricate drawings of flowers, wire sculpture, painting, architectural models. Your creative energy was endless.

The World tugged on your sleeve and at the age of fifteen you set off on your first lone adventure as an exchange student. I still enjoy reading your diary of that time. Your excitement at the architecture, the art and of course the food!

I sobbed waving you goodbye. You hugged me tightly and whispered

“this is what you have encouraged me to do all my life so you mustn’t cry”

I knew I had to be as brave as him.

It was the beginning of a lifetime of adventures where you met the love of your life and came back to settle in Sydney.

You never took your life for granted. You lived every day to the fullest.

Loving with the biggest heart.

Giving with the widest arms.

Working as hard as you could for those who were lucky enough to have you in their employ.

You seemed to know and have the balance needed for true happiness. Something that eludes most of us in a long lifetime.

I have endless respect for you, the child that gave me so much joy and the man you became.

You were too much to lose my beautiful son.

Since your death I struggle every day to understand what happened and try not to weave blame into your memory.

You would never have abandoned the women left in the cafe that night.

You took your responsibilities very seriously as always.

You deserved to have hope that those in charge were trying to save you.

For me to realise that your life was treated as expendable is beyond belief and unforgivable.

—Rosie

Torii

It's been a hard day
Trying to hold my heart
That's breaking

Went to peaceful place
Veggie garden

Full of memories
Of you and I
Inspiring our existence
Feeding our bodies
And soul

We gave thanks

Drops of water
Still on a leaf
Sun warming
Basket of greens

Nourish this wounded mama

Searching for a sign
That you are here
No longer of this Earth
I fear

Be here still

Keep searching

—*Rosemary Connellan*
Mama of Tori Johnson

Born Torii Johnson in Sydney 1980 to Ken and Rosie.

“Tori” as he preferred, took his name from the Japanese Shinto Torii gateway, meaning the space between the physical and the spiritual, located in Lake Akan in Hokkaido Japan.

Tori grew up with his brother Jamie on a 10 acre property in the Cattai region of the Hawkesbury River region near Sydney. His formative years consisted of all of the adventures two young brothers could share, loving the freedom of country life, hopping on dad’s tractor and digging around in the garden with mum whilst picking flowers and veggies.

At an early age, Tori showed signs of creativity, determination, leadership and respect. His confidence manifested in a variety of ways. At the age of 15 years old he designed and built a 20 sq metre cabin in the forest complete with a working fireplace, on our property in Matcham near Sydney. As there were lots of frequent guests, Tori would be quietly collecting objects that he found in the rainforest and arranged them on the dining table creatively. His creative prowess was invariably noticed and appreciated. It was whilst he was attending the last year of his high schooling that he requested being an exchange student, electing Aosta in northern Italy as his choice. This was followed by his desire to study at the “Caesar Ritz” University Of Hotel Management in Brig Switzerland. He completed the 4 year course, graduating with an honours degree. It was during his University studies that he met his life partner, Thomas. They were inseparable, working hard and travelling extensively, living in Boston USA and The Maldiv Islands. Deciding to return and settle in Sydney, they set up home and each found employment in their respective managerial roles.

It was at a time later that they were deciding to leave the city and establish themselves in the country near Sydney. This was to be the next chapter in their symbiotic pursuit of happiness. Tori had designed and made a maquette of their new dwelling, paying attention to creative detail of their new dwelling design but it would take a little longer, so he decided to stay on as Manager of the Lindt Cafe in Martin Place. It was during this time that the unexpected happened. What preceded his fatal execution by an IS inspired terrorist act, was testimony to how he lived his life.

His character was always to respect all those he encountered, his training didn’t teach him that, it was innate, he was always known for his consideration and pleasant demeanour and his devotion to making everyone he encountered feel welcome. His added personal touches were his signature. It was no surprise to all that knew him that he would have made sure that every last hostage in the Cafe was safe and free before he would leave. Unfortunately, this was not the way it ended.

Tori’s act of bravery and valour during the siege will never be forgotten, his selfless act of love to his fellow human beings remains a symbol of peace and love to all mankind.

—Ken Johnson

Part I: Background and context

1 Monis' history

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1. Monis was a mysterious and macabre individual who went from shunning attention to actively seeking it—from actions so secretive that not even his partners knew about them to outlandish public stunts in full view of television cameras.
2. While claiming to be an eminent Muslim cleric, Monis used a “spiritual healing” business to gain access to women, many of whom he sexually assaulted. At times he had hundreds of thousands of dollars in his bank accounts, though he never seemed to work consistently. He claimed to be a refugee whose family was imprisoned in Iran, and also said he had been an intelligence agent for Iran and the United States. He made many unexplained trips overseas, was involved with radical Islamists in Australia, and tried to join an outlaw motorcycle gang.
3. His political activism repeatedly drew the attention of Australian law enforcement and intelligence agencies, but for the most part those activities remained just on the right side of the law.
4. To carry out its functions, the inquest needed to probe Monis’ background and his activities before the siege. The information obtained helps explain the context in which the siege took place and may also help authorities identify and intercept potential future terrorists. The court is aware that this biographical outline will likely add to Monis’ notoriety and could make him a role model for other religious fanatics. However, the adage “know your enemy” must be given weight. That said, the gaps in our knowledge of Monis are startling.

Monis in Iran

Family background and education

5. Monis was born Mohammad Hassan Manteghi on 19 May 1964, in Boroujerd, Iran. Boroujerd is in Lorestan province, about 390 km southwest of Tehran. Little is known about Monis’ life in Iran. The following summary was pieced together from the few available official records and from evidence provided to the inquest by witnesses including one referred to in this report as Mr FG, who knew Monis as an adult in Iran and later migrated to Australia.
6. Monis was the youngest of six children and the only son of Zahra Bahmani and Mohammad Hassan Manteghi. Like the vast majority of Iranians, he was raised as a Shi’ite Muslim. Mr FG told the inquest that Monis never spoke to him about his family, although he knew Monis’ father had died when he was a teenager. Mr FG said he once took a parcel to Monis’ mother’s home in southern Tehran at Monis’ request. Mr FG recalled that her house was very old and situated in a poor part of town.
7. Monis completed his primary and secondary education in Tehran and was an average student. He then attended Imam Sadegh University, the training ground of many prominent officials in Iran.
8. In 1983, while Monis was at university, he met and married Zahra Mobasheri, who later became a professor at the university. His wife’s father, Habibollah Mobasheri, was general secretary and deputy to the founder and president of Imam Sadegh University, the eminent cleric Ayatollah Mahdavi Kani (d. 2014). This family connection gave Monis access to Ayatollah Kani and, through him, to a number of senior clerics, politicians and government officials. Monis claimed to have established friendships with some of these men.
9. After graduating, Monis attended the Abdol Azim College of Hadith Sciences, a theological academy attached to a Shi’ite shrine in southern Tehran.
10. In 1986, Monis and his wife had their first child, a girl. A second daughter was born in 1995.
11. Monis told Australian immigration officers that in the late 1980s, he began corresponding with the leader of the Ahmadi sect of Islam in London. This sect is an offshoot of Sunni Islam whose members are regarded as heretics by both Sunnis and Shi’ites.
12. He claimed that in 1988 he had done some work for the Ahmadi on a translation of the Koran. He said he had become convinced of the Ahmadi interpretation of Islam and secretly joined the sect. He also said he had been summoned to the Iranian Ministry of Intelligence and Security (sometimes known as MOIS or more widely as VAVAK) in Tehran and questioned about his involvement with the Ahmadi. He used this claimed association with the Ahmadi sect and alleged MOIS’ interest to support his application for refugee status in Australia.
13. In 1994, Monis was accepted as a *hojatoleslam*, or “authority on Islam”, a Shi’ite teacher who ranks below an *ayatollah*. The inquest saw a video recording of a ceremony apparently associated with Monis’ elevation.¹ After moving to Australia, Monis dishonestly claimed and used the title *ayatollah*.

1 A copy of that video may be viewed [here](#) and is contained on the USB accompanying the hard copy of this report.

Business activities

14. From August 1994 to May 1995, Monis founded four companies in Iran: *Salehan-i Amal Co Ltd*; *Amelan Kheir Co Ltd*; *Rahyan Kheir Co Ltd*; and *Kheir Andis-han Co Ltd*.
15. Using these companies and the connections he had made through his father-in-law, Monis is said to have illicitly obtained government-owned tyres and textiles and sold them for profit, falsely claiming that some of the profits would go to charity. During this period, Monis became a client of the accounting firm where Mr FG worked, and the two men struck up a friendship. Mr FG told the inquest that Monis' business dealings were lucrative and that such trading, while not entirely legal, was common in Iran among those with government connections.
16. Monis would occasionally talk to Mr FG about powerful people he knew, including Major General Hassan Firoozabadi, who until mid-2016 was the highest-ranking member of the Iranian military after Ayatollah Ali Khamenei, the President and Commander in Chief.
17. According to Mr FG, Monis lived in a large, luxurious apartment near Imam Sadegh University. It was situated on a gated street where government and university officials also lived; the street's entrance was manned by security guards.
18. To illustrate Monis' status and influence at that time, Mr FG told the court that one day when he was due to meet with Monis, he dislocated his shoulder. He phoned Monis from a public hospital in Tehran to reschedule the meeting. Monis told Mr FG to wait and do nothing until he arrived. He then took Mr FG by taxi to an expensive new private hospital and personally paid for his treatment. At the hospital gate, a security guard asked Monis to show identification. When Monis did so, Mr FG recalled that the guard looked "a little scared". Mr FG said he suspected that Monis had connections to the intelligence community but never asked Monis about this.

Contact with U.S. intelligence

19. In July 1995, Monis travelled to Romania for two weeks. He claimed that during this trip he approached the United States diplomatic post in Bucharest and was interviewed by a U.S. agent.
20. Monis later claimed that the agent asked to meet him again in a different country. Monis said he travelled to Cyprus and contacted the U.S. agent, who

arrived there a few days later. Monis stated that he gave the agent some important documents regarding Iranian security issues.

21. In November 1995, Monis travelled to Malaysia. He later told Australian officials that on this trip he again made contact with U.S. intelligence agents and handed them a computer disc containing secret information. According to Monis, the agents asked him to register a business in Malaysia so he would have a legitimate reason to travel there.
22. In January 1996, Monis made a second trip to Malaysia during which he obtained a three-month visa to visit the United States. Mr FG travelled with Monis to Malaysia, at Monis' suggestion.
23. He later told Australian officials that he went from Malaysia to Singapore, ostensibly to extend his Malaysian visa, and travelled from there to Washington, D.C. While in the U.S., he said he was taken to the headquarters of the Central Intelligence Agency (CIA), where he met with several high-ranking officials and the person in charge of the Iran desk. He said that after six days, he returned to Malaysia.
24. Mr FG told the inquest that he and Monis went to the airport in Tehran together. There Monis gave him the equivalent of about \$US6000–7000 in German currency to take to Malaysia for him. As they prepared to board the flight, Monis said they had better not be seen together but did not explain why. They boarded separately and did not sit together on the plane. When asked why he thought Monis would not want to be seen with him, Mr FG said he had always known Monis to be fussy and "a little paranoid". He said Monis always thought someone was spying on him, while Monis, in turn, was always "monitoring" other people. Mr FG said Monis used to advise him to do the same.
25. Once in Kuala Lumpur, the two men met and caught a taxi together but did not stay in the same hotel. Monis came to Mr FG's hotel the next morning. They spent the day together but did not meet again.
26. Monis returned to Iran after Mr FG. He later spoke to Monis on the phone but Monis did not tell him how long he had been in Malaysia or mention his travel to the US.
27. Mr FG did not see Monis again, or learn of the circumstances in which Monis left Iran permanently, until he himself moved to Australia in 2001.

The travel agency

28. In about April 1996, while still a director of the four

- companies referred to above, Monis became the manager of the *Rahelenoor Tour and Travel Agency*, which was owned by an influential reformist politician, Rasul Montajabnia. A number of families who wanted to emigrate from Iran sold their assets and paid Monis large sums to help them get visas and tickets and establish themselves in their destination country. After several months in this job, Monis reportedly defrauded his customers of 750 million rials (the equivalent of \$A550,000) and left Iran for Australia, leaving Mr Montajabnia to take responsibility.
29. Some in Iran have apparently suggested that Monis was working undercover for Iranian intelligence and was tasked with financially ruining Mr Montajabnia and discrediting him and fellow reformists. These included Mir Hossein Mousavi, a former Iranian prime minister, and Mehdi Karroubi, who were candidates in the controversial Iranian presidential election of 2009 and who have been under house arrest since 2011.
 30. After the siege, the former commander of Iran's Law Enforcement Forces, Brigadier General Ismail Ahmadi Moghaddam, stated that Monis was wanted by Iranian authorities on charges of fraud. Indeed, the Iranian government had previously issued arrest warrants against him, had made enquiries about him with Interpol, and had sought his extradition. However, there had been and remains no extradition agreement between Iran and Australia.
 31. After arriving in Australia, Monis told Australian immigration officials he had been obliged to leave Iran because he was a dissident. He said a friend in government had been supplying him with information that Monis passed on to U.S. intelligence. He claimed that Iranian intelligence officials had begun to suspect Monis' friend was the source of the leak and had interviewed Monis about their relationship. Monis said he left Iran shortly after this interview.
 32. In July 1996, while he was still managing *Rahelenoor Tours and Travel*, Monis applied for an Australian working visa through an unrelated travel agency named *Vala Tours*. On 9 September 1996, Monis bought a return ticket to Australia for the equivalent of \$A3000. On 1 October 1996, Monis applied for and received a short-stay business visa at the Australian diplomatic post in Tehran.
 33. This application was referred to the Australian Security Intelligence Organisation (**ASIO**) for routine checking. ASIO issued a non-prejudicial assessment, meaning that it had no security concerns about Monis. On 10 October 1996, the Department of Immigration granted Monis' application for a business visa.
 34. On 26 October 1996, Monis left Tehran on Iran Air flight 814 to Kuala Lumpur, then flew on to Sydney on Malaysian Airlines flight 123. Monis left without informing his employer or wife, who eventually divorced him. He arrived in Sydney on 28 October.
 35. A week later, ASIO received potentially adverse information about Monis, none of which related to a terrorist threat to Australia or an intent to commit politically motivated violence. Based on this information, ASIO launched an investigation on 5 November and asked the Department of Immigration to add Monis to the Movement Alert List database. ASIO's subsequent dealings with Monis are dealt with in Chapters 3 and 18.
 36. On 18 November, Monis applied for a protection visa, claiming to be a political refugee. He was granted a bridging visa while this application was considered.
 37. In a written statement in support of his application, Monis claimed that his involvement with VAVAK and the CIA, and his trips to Romania, Cyprus, Malaysia and the U.S.—supposedly to liaise with the Americans—meant that he could be executed if he returned to Iran. He also claimed that a book of poetry he had written and self-published expressed dissident political views and that he had received death threats as a result. In this submission, Monis said that after returning to Iran from the U.S. he had continued his work for VAVAK so as not to arouse suspicion. However, according to Monis, it soon became evident that the CIA had used information he provided, and VAVAK identified Monis as the source of the leak. This story differs from his later claim to immigration officers that a friend in VAVAK had leaked the information to Monis. In his written statement, Monis also made reference to his association with the Ahmadi sect.
 38. At Monis' request, Amnesty International Australia, through its International Secretariat in London, assessed the veracity of the grounds he cited in support of his application. In a letter to the Department dated 30 April 1997, a refugee coordinator from Amnesty International Australia said the organisation supported the granting of a protection visa.

Monis comes to Australia

Circumstances of his immigration

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39. A migration agent helped Monis prepare the written submission and other documents for his protection-visa application. Monis then attended an interview at the Sydney office of the Immigration Department on 16 September 1997. Two immigration officers were present, along with Monis, his migration agent and an interpreter. The interview lasted one full day and was conducted largely in Farsi (Persian). Monis' migration agent said it was the longest interview of its kind that he had attended.
40. The transcript of the interview with immigration officials shows that Monis did not perform well. In response to competent and searching questions Monis' responses lacked coherence. When pressed to clarify his claims, he changed some parts of his story.
41. A week before the September 1997 interview, the Department of Immigration asked ASIO to evaluate the claims Monis had made in his application. About a year after the interview, on 3 July 1998, the Department referred Monis' case to ASIO for a security assessment, which was launched on 23 November 1998.
42. In January 1999, ASIO issued an adverse security assessment of Monis. It found that his continued presence in Australia posed an indirect, and possibly a direct, risk to national security, but not in relation to politically motivated violence. It recommended that a protection visa not be granted.
43. In November 1999, ASIO commenced an investigation into Monis. On 25 February 2000, its officers interviewed him and, as noted in Chapter 3, ASIO ultimately concluded that Monis did not pose a risk to national security and there were insufficient grounds for an adverse assessment.
44. Six months later, on 23 August 2000, Monis was granted a protection visa. In 2004, he became an Australian citizen. By then he had changed his name to Michael Hayson Mavros.
45. On 1 January 1998, Monis started working for Ultimate Security Pty Ltd as a security guard at Greenfield Shopping Village, in Edensor Park in western Sydney. He worked under the supervision of Hassan (Gary) Zoabi, who gave evidence at the inquest.
46. Mr Zoabi said Monis presented as clean, tidy and punctual. He engaged well with other people and gave helpful answers to customers' questions. In Mr Zoabi's view, Monis was "impeccable" in his interactions with customers. He had a "very polite manner", was "softly spoken" and did his job very well. Mr Zoabi was able to rely on him.
47. He said Monis had spoken about his background and political connections in Iran but not about his personal life in Australia. Monis tried to talk to him about religion but stopped doing so when Mr Zoabi indicated his lack of interest.
48. Mr Zoabi said Monis had asked him "a lot of questions about Australia, the law, how do you do this, which department handles that, this or the other". Mr Zoabi thought this was understandable because Monis was new to Australia and did not yet know how things worked here. He said he gave Monis as much information as he could. When Monis resigned, Mr Zoabi wrote a favourable reference for him.
49. On 16 July 1999, Monis applied to incorporate an association called *Daftar-e-Ayatollah Manteghi Boroujerdi* (Office of Ayatollah Manteghi Boroujerdi) with the Department of Fair Trading. As noted above, Monis never attained the rank of *ayatollah*. Monis listed the purposes of the association as "to promote the spiritual matters and teaching and education and engage in humanitarian, religion and charity", and the principal activities of the association as "publication of books, newspaper [sic] etc, Establishment of schools and teaching religious duties and other similar activities". There is no evidence that the association ever undertook any of these activities.
50. In early 2000, Monis moved to Perth, where he worked at Persian Carpet Gallery in the suburb of Nedlands. He was employed to supervise a number of sales staff, but soon became the store manager. In December 2000, however, Monis was demoted as a result of some employment dispute to the position of "gatekeeper", and in February 2001 he was physically evicted from the carpet gallery by the police.
51. Monis brought proceedings for unfair dismissal.

Early employment in Australia

45. On 23 April 1997, while his protection-visa application was pending, Monis rented a flat in the western Sydney suburb of Auburn and got a driver's licence. He also attended a security-guard training school, where he was certified in the use of a revolver and a semi-automatic pistol. He never obtained a firearms licence. At that time, employees of security firms were not required to have firearms licences; the licence of the firm allowed them

The proceedings were not contested, and Monis was awarded a total of \$14,413.03 in compensation.² He appears to have returned to Sydney in early 2001, before this judgement was handed down. It is unclear whether he received any of the compensation money. His tax return for the financial year to 30 June 2002 showed a total taxable income of \$13,821 and a total business income of \$49,694.

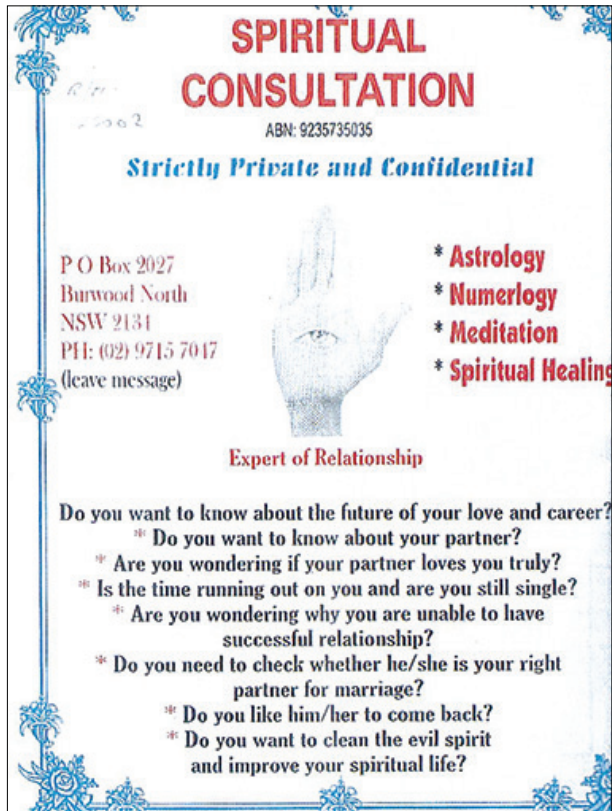


Fig. 1-1. An advertisement for Monis' spiritualist services

53. Back in Sydney, Monis started a “spiritual healing” business, claiming he had the power to rid women of evil spirits and demons. Figure 1-1 shows an advertisement for the business. In his role as a healer, Monis sexually assaulted numerous female clients. These offences became the subject of criminal charges which are detailed below.

Access to money

54. Financial records gathered by the inquest reveal that Monis earned a modest income at best. Despite this, during his first years in Australia he appeared to live beyond his means.

55. Mr Zoabi noted that Monis drove a new-model white Mitsubishi Lancer, which he thought was rather

extravagant for a recent migrant to Australia.

56. Amin Khademi, an Iranian exile, met Monis soon after arriving in Australia in 1999. He rented a room in Monis' Sydney flat and later visited him in Perth on a trip paid for in full by Monis. He recalled that Monis had a comfortable standard of living in Perth. He lived near the beach in a furnished two-bedroom apartment with an ocean view, and drove a late-model black Jeep.
57. From 26 April 2006 to 31 October 2008, Monis transferred odd sums totalling \$8798 to a recipient in Thailand, and \$260 to a person in Singapore. He also received irregular sums from unusual sources. A woman in Canada apparently sent him a total of \$2979 in three separate transfers in 2008, and \$1974 in two transfers in 2009. In 2008 he also received a single transfer of \$3275 apparently from another woman in Montenegro.
58. Between 2004 and 2008, Monis travelled extensively. He made 12 visits to Thailand, two to Singapore, and one visit each to the United States, Canada, Hong Kong, Fiji and New Zealand.
59. One source of income seems to have been loans or gifts from people apparently impressed by his claimed religious status. Between 1998 and 2013, various acquaintances gave Monis a total of about \$30,000.
60. Otherwise, it is unclear how Monis supported his lifestyle and paid for his trips abroad. If his “spiritual healing” business was successful, records obtained from the Australian Taxation Office do not indicate this. Indeed, for many years Monis received Centrelink payments in the form of either Austudy or Newstart allowances.

Personal life

61. In an attempt to learn how Monis went from being a businessman seeking refugee status to a hostage-taking criminal, the inquest looked into Monis' personal life.
62. Monis' sometime flatmate Amin Khademi first met Monis—as Mohammad Manteghi—in late 1999 at the home of a mutual friend. About two weeks later, Monis offered Mr Khademi the spare room in his Auburn flat, and Mr Khademi moved in soon after.
63. Monis set a number of conditions for the flat-sharing arrangement. Mr Khademi was not to invite friends to the premises or open the door to anyone. He was never to enter Monis' room, which was kept

² *Manteghi v Peter Faeghi Group* [2001] WAIRC 390.

- locked at all times, even when Monis was inside it or went to the bathroom.
64. Monis moved to Perth about six months after Mr Khademi moved in. He maintained his lease on the flat, and Mr Khademi continued living there. Monis' bedroom remained locked. A couple of times during his absence, Monis gave another man permission to stay at the flat. When this happened, the man stayed in the living room and slept on the couch.
 65. While in Australia, Monis had fairly long relationships with four women, two of whom he married. These relationships provide considerable insight into Monis' character and private or even secretive behaviour. Outwardly, the relationships appeared relatively normal. On closer examination, however, they show that Monis had considerable powers of persuasion and manipulation and that he callously exploited even people who loved him. He met all four women through his "spiritual healing" business. Each of them believed—initially, at least—that her relationship with Monis was exclusive; in fact, he was often seeing two or three women at once. All the women suffered greatly as a result of their relationships with Monis.
 66. Monis' now deceased Australian ex-wife (who is not named for legal reasons) began dating him in August 2002. She knew him as Michael Hayson and believed he was born on 2 June 1976³ to an Egyptian mother and Greek father. He told her he was a non-practising Muslim; she too was a Muslim.
 67. She and Monis were engaged in February 2003, married in August the same year, and later had two sons. At the time of the wedding, Monis was still legally married to his wife in Iran (she later divorced him *in absentia* in 2006).
 68. As time went on, Monis became more and more involved with his religious activities and with sheikhharon.com, a website he had set up to publish his views on religious and political issues. He also became increasingly strict and aggressive, insisting that his wife and children associate only with Muslims.
 69. In the mid-2000s, Monis' Australian wife sought a divorce. According to her affidavits during the Family Court custody proceedings over their sons, Monis spent only two or three nights a week in the family home and refused to say where he spent the other nights. He spent little time with his children and did not support the family financially.
 70. Monis initially fought for custody of the children, but eventually withdrew the proceedings, writing in a letter to the presiding Federal Magistrate that "God is the decision maker" and that he would "rely on God's court". His ex-wife retained custody, and Monis was granted access every second Sunday.
 71. In April 2013, Monis' Australian ex-wife was stabbed to death. Although he was charged as an accessory to her murder, he again sought custody of his sons. The Family Court refused his application and awarded custody to his ex-wife's parents.
 72. Meanwhile, in about August 2002, Irene Mishra began a nine-year relationship with Monis, whom she knew as Michael Hayson.
 73. In 2003, while Monis was still married to and living with his then wife, he and Ms Mishra shared an apartment in Wentworthville, Sydney. Monis was presented to Ms Mishra's family and friends as an Egyptian. Her family were told that he worked as a spiritualist; her friends were told he worked in information technology and that his job required him to travel frequently.
 74. By about 2010, Ms Mishra knew about Monis' marriage, his children, his divorce and custody dispute, but the relationship continued.
 75. In late 2010, Ms Mishra's family were shocked to learn that she had converted from Hinduism to Islam. This became a source of discord among them. Ms Mishra began supporting Monis' political activities and appeared as "Sister Fatimah" in a video he posted online under the name Sheikh Haron. Wearing a black *niqab* (a veil with a cloth covering the face), she spoke about her conversion, thanked "Sheikh Haron" for teaching her, denounced idol worship and smashed a statue of the Hindu god Ganesha.
 76. In 2011, Monis stopped seeing Ms Mishra for about seven months. When he contacted her again, Monis said he had been with another woman during that time. (This appears to have been Amirah Droudis, who is discussed below.) In early 2012 Ms Mishra nevertheless became engaged to Monis—or believed she was engaged to him.
 77. Monis took advantage of Ms Mishra financially. She paid \$3000 towards the cost of a Laro motorcycle whose sole rider was Monis. Later, she took out two car loans at his behest. These were used to buy a BMW sedan and a Mercedes hatchback for the exclusive use of Monis and Ms Droudis.
 78. Ms Mishra died of natural causes in May 2012.

3 Monis' date of birth was in fact 19 May 1964.

- Monis did not attend her funeral.
79. Amanda Morsy was in a relationship with Monis from January to July 2003. During much of this period he was married and also seeing Ms Mishra.
 80. Ms Morsy knew Monis as Michael Hayson. She told the inquest she was introduced to him by a mutual friend who owned a function centre. She agreed to meet him because they were both Muslims and she thought it might be a good match. She said he was not particularly affectionate and their relationship remained quite formal. She preferred not to go out with him alone because *"there was something odd about him"* that made her feel uncomfortable. Instead, Monis would join her while she was out with her sister or her relatives; he would pay for all their food and drinks.
 81. Monis told Ms Morsy that he was Romanian. She did not recall him ever mentioning Iran. She did not know whether he had been married in the past. She described him as *"very kind, generous, intelligent, but he kept to himself"*. She did not know a lot about him. To Ms Morsy Monis did not come across as a religious man: he drank alcohol, though not to excess, never wore religious robes, and never suggested he was a cleric.
 82. Monis struck Ms Morsy as being very well off. He bought her gifts, including clothes and a 24-carat gold necklace. He offered to pay for a suite of bedroom furniture, but she declined that gift because she thought *"it was a bit too much"*. Monis had three expensive cars: a Mercedes, a Jeep and a Peugeot 306. He lent Ms Morsy the Peugeot, and she drove it for two or three months. At one point he discussed offering a friend of hers about \$20,000 to set up a fashion-design business in which he would have a 50 per cent stake.
 83. As for what Monis did for a living, she knew only that he was an accountant and that he had *"a spirituality business that he would conduct from home"*.
 84. Ms Morsy told the inquest that she found Monis secretive and this bothered her. She was never able to contact him after 8 p.m. Monis would say that was because clients called him then. She never went to his home, though he once insisted on taking her and her mother to a flat he had rented in Cronulla to show them the view. The flat was empty.
 85. Ms Morsy and Monis discussed marriage. Monis even asked her mother for permission to marry her. Ms Morsy talked about the proposal with her mother; both concluded they felt uncomfortable about it. Soon afterwards, Ms Morsy and Monis parted ways.
 86. Amirah Droudis was Monis' partner from 2006 until his death.
 87. When Ms Droudis first met Monis, in 2003, her name was Anastasia Droudis and she was a moderate or social member of the Greek Orthodox Church. Monis was introduced to her as Michael Hayson, the son of an Egyptian mother and Greek father.
 88. The inquest heard evidence from Ms Droudis' cousin, Anastasia (Sue) Droudis. Sue was present on the day in 2008 when Monis was introduced to the extended family. They were told he was a 39-year-old accountant and a practising Muslim. Sue Droudis said her cousin informed the family that if they could not accept her boyfriend's religious faith, they were not to visit her again. The extended family agreed to accept Monis.
 89. In July 2008, Ms Droudis converted to Islam and changed her name to Amirah. Sue Droudis observed that while her cousin and Monis were physically affectionate and clearly in love, Monis would not engage with the family. When they asked him simple questions about his work or background, he would change the subject and become evasive.
 90. On Christmas Day 2008, an emotional Monis proposed to Droudis in front of her family. Sue Droudis photographed the proposal. When she pointed the camera at Monis, he raised his arms to hide his face. A few weeks later, Droudis told the family that she and Monis had married in a private ceremony at a mosque in Queensland.
 91. Ms Droudis and Monis were still living together at the time of the siege.
 92. The only relatively normal relationship of which the court heard evidence was that between Monis and his barber, Anthony Hancock, who knew Monis as Michael Hayson and saw him fairly regularly between August 2002 and August 2005.
 93. Mr Hancock told the inquest that Monis would come to his shop twice a week to have his head shaved with a razor. For the first six months, Monis was polite but said little. Every time Mr Hancock would try to engage in conversation, Monis would answer only "yes" or "no". After Mr Hancock told Monis that the female hairdresser who worked in the shop was his wife, Monis became *"a lot more friendly and open"*. However, he still *"didn't really talk that much"* and *"was always very secretive"*.

94. Monis began to invite Mr Hancock and his wife out to dinner with him and his then fiancée (later his ex-wife). Mr Hancock also attended Monis' wedding, at which Monis was introduced as Dr Michael Hayson. He told the inquest that at the wedding he learned more about Monis' wife in "*five minutes than I did getting to know Michael over a couple of years*". Over time, Mr Hancock came to know Monis' children and his parents-in-law as well.
95. Monis told Mr Hancock that he came from Egypt and that his mother was Greek and his father Egyptian. Mr Hancock said it took Monis about seven months to tell him that he was a spiritualist by trade.
96. After Mr Hancock and his wife sold the barber shop, Monis asked Mr Hancock to come to Monis' office and shave his head in the bathroom there. Mr Hancock did this for about two months. He said Monis' office was the living room of a residential unit in a block of flats with electronic security. The room contained a wide-screen TV, a camera on a tripod, and four or five other cameras. When he asked about the cameras, Monis explained that he filmed many of his spiritualism sessions with clients.
97. Mr Hancock recalled Monis saying he would often stay the night at the apartment:

I asked him why do you stay here when you're married. You have a wife at home, and he just said, "Well, business is business, and my wife trusts me and she must not question me about where I am or what I do."
98. Not long after, Mr Hancock lost touch with Monis until 2012, when Monis visited Mr Hancock's new barber shop in Burwood. He told Mr Hancock that he and his wife had separated and that he was seeking full custody of the children.
99. In about April 2013, Mr Hancock learned from media reports that Monis' ex-wife had been murdered. Several months later, he saw Monis with Amirah Droudis. Monis told him he had changed his name from Hayson to Monis. When Mr Hancock asked about this, he recalls Monis being "*a little bit dismissive*" and saying "*just call me Man Monis*". Mr Hancock's last contact with Monis was in July 2013.
100. Monis was in intermittent contact with family members in Iran. Between mid-September 2013 and the end of June 2014, he exchanged emails with his Iranian ex-wife and his daughters, which show that he was still being kept abreast of family affairs. The emails from his family expressed concern about Monis' welfare and a desire to hear

from him more often. They gave updates about the health of his mother and the hospitalisation of his Iranian ex-wife, and informed him that one of his daughters had been accepted into university. His other daughter emailed to ask for money and seek permission to marry.

Criminal offences

101. Monis was well known to police long before the siege began. He had a criminal record and was on bail pending trial on other charges when he died. This section details his known offences. The question of his bail is dealt with in Chapter 2.

Postal offences

102. Between 26 November 2007 and 14 August 2009, Monis sent numerous letters to the families of Australian soldiers killed in service in Afghanistan and to the family of an Australian Trade Commission official who was killed in a bombing in Jakarta. He got family members' names from media reports of the deaths, then found out their addresses.
103. The letters, all signed "Sheikh Haron", were several pages long and followed a similar pattern. They would start with expressions of sympathy, then ask why similar sympathy had not been shown for innocent people killed during the conflicts in Iraq and Afghanistan. Monis called the dead soldiers evil criminals and murderers and suggested that they would go to hell. He likened one soldier's body to the "dirty body of a pig" and compared another to a Nazi following the orders of Hitler.
104. Monis sent copies of many of the letters to individuals in high public office, including the Prime Minister, the Minister for Defence, the Chief of the Defence Force, the Commonwealth Attorney General, and the Commissioner of the Australian Federal Police (AFP). He also published copies of letters on his website, www.sheikhharon.com.
105. In April 2008, AFP officers visited Monis. They told him that the recipients found the letters offensive and harassing, and that if he continued sending such letters his actions would be investigated with a view to charges being laid. Monis replied that he could write letters to whomever he wanted. He sent several more letters in the ensuing months.
106. On 20 October 2009 he was charged with 13 counts of using a postal service to cause offence, menace or harass. He was released on bail.
107. Monis protested the charges by chaining himself to

a railing outside the Downing Centre courthouse complex in central Sydney. This attracted considerable media attention.

108. Monis challenged the charges in the High Court of Australia, arguing that the inclusion of the postal offence in the Criminal Code infringed the freedom of political communication implied in the Constitution. His challenge was unsuccessful.
109. On 6 September 2013, after entering a plea of guilty to the postal offence charges, Monis was convicted in the NSW District Court. He was placed on a two-year good behaviour bond and ordered to perform 300 hours of community service.
110. Monis appealed against his conviction and sentence to the NSW Court of Criminal Appeal. His application for the appeal to be heard in the High Court was dismissed on 12 December 2014. Monis' appeal before the Court of Criminal Appeal was still pending at the time of the siege.

Murder charges

111. In the late afternoon of 21 April 2013, Monis' Australian ex-wife went to his apartment building in the western Sydney suburb of Werrington to collect her sons after an access visit with their father. She was attacked in the stairwell outside Monis' flat, stabbed 18 times, doused in petrol and set alight. Her attacker then fled. She died from her injuries.
112. On 15 November 2013, Amirah Droudis was charged with the murder, and Monis was charged as an accessory before and after the fact.
113. The prosecution argued that Monis had planned the murder after losing custody of his sons and that he had taken careful steps to insulate himself from blame.
114. Two or three weeks before the murder, Monis took out an insurance policy on his home and its contents. After the murder, he made a claim over an alleged theft from his flat. He also made—but later abandoned—a claim for damage to his property from the petrol fire. The Crown argued that Monis sought to create the impression that his ex-wife had interrupted a burglar, who had killed her to cover his tracks.
115. For the day of the murder, Monis created an iron-clad alibi. He reconnected with friends he had not seen in years and arranged to spend 21 April with them at a park and then a local swimming pool. During the day, he filmed several videos with a camera which had been recently recalibrated to the correct time. On the way home from the pool—at around the time his ex-wife was due to arrive at his flat—Monis staged a car crash outside a police station. He then complained of chest pains and was taken to hospital by ambulance.
116. At the time of the siege, Monis was on bail pending trial on for these murder charges.
117. On 2 November 2016, Ms Droudis was convicted of murder in the Supreme Court of New South Wales. While the defence claimed that Ms Droudis was not the perpetrator, it did not contest the Crown case that Monis organised the murder.

Sexual assault charges

118. On 14 April 2014, Monis was charged with three counts of indecent and sexual assault against a client of his "spiritual healing" business in 2002. The victim said he had committed these offences during "therapy" sessions to help her resolve personal problems. Monis was released on bail.
119. While police were investigating these allegations, six other former clients of Monis also made allegations against him.
120. On 10 October 2014, Monis was charged with a further 37 counts of sexual or indecent assault, including against these six women. All but one of the assaults had allegedly been committed between 2002 and 2010, in some cases while he was on bail for the postal charges. One assault was allegedly committed while Monis was on bail awaiting trial for the initial three sexual assault charges and the accessory to murder charges.
121. None of the seven alleged victims knew any of the others, but their accounts of his modus operandi are very similar. Monis used a number of different premises for his "healing" business. All offered privacy and contained a sofa bed. When a new client came to see Monis, he would listen to her concerns and inform her that she was under a spell or curse. He would say that to treat her affliction he would need her to take off her clothes. While she disrobed, Monis would leave the room as one would expect a doctor to do. He would return with a bowl of water and a brush and start "painting" areas of the woman's body, talking soothingly as he did so. From this he would shift to massaging, then indecent touching, and finally full intercourse.
122. When a client objected or resisted, he would tell her that sexual energy was the only way to cure her problem, or threaten to harm her with his magic

powers if she refused the “treatment”. Although none of the women wanted sexual contact with Monis, he coerced them to submit to his demands without ever using physical force.

123. Given the number of complainants and the similarities among their claims, it seems very likely that Monis would have been convicted if these charges had proceeded to trial.

Political activity

124. By the time of the siege, Monis had engaged in numerous political protests that had brought him to the attention of authorities, as outlined in Chapter 3.

125. Monis' first political protests in Australia were aimed at Iran. In November 2000, he staged a hunger strike outside the Western Australian Parliament in Perth. Dressed in the black robes of a Shi'ite cleric, he claimed his daughters were being held hostage by the Iranian government.

126. In January 2001, again wearing clerical robes, he staged a three-week protest outside the NSW Parliament in Sydney, during which he chained himself to the fence and again claimed his wife and children were hostages of the Iranian regime.

127. In 2004, Monis instructed his solicitor, Mr Frank Arguedas, to write to the Department of Immigration complaining about the delay in his citizenship application. Monis attributed the delay to his Muslim background, and Mr Arguedas was unable to persuade him otherwise. When Monis' application was approved, he demanded a private citizenship ceremony, claiming that his safety would be at risk if any photos of him were published. If a private ceremony was not possible, he asked that Iranians, Afghans or Pakistanis be excluded from any public ceremony. He told Mr Arguedas such people might pass information to whoever was “chasing him”. His request for a private ceremony was granted.

128. During 2004–2006, Monis also instructed Mr Arguedas to write repeatedly to the Customs and Border Protection Service claiming that he was treated “as a prime suspect target” by Customs officers at Sydney Airport. Monis said he was treated differently from other passengers each time he passed through the airport. In the letters, he complained of continuing harassment and “*psychological torture*”, requested surveillance tapes, and threatened to protest by chaining himself outside the airport in his “uniform”.

129. Mr Arguedas told the inquest that Monis once flew

to New Zealand and back on the same day “... *just ... to bamboozle Customs. To make people believe that he was doing something [illicit].*”

130. In all, Mr Arguedas wrote 16 letters of complaint on Monis' behalf over an 18-month period. On Monis' instructions, he would regularly copy these letters to the Prime Minister as well as agencies such as ASIO and the Australian Federal Police.

131. During this period, Mr Arguedas secured two meetings with Customs officers who unsuccessfully sought to reassure Monis that he was not being singled out for persecution. On 23 May 2006, Monis lodged a formal complaint with the Customs Service.

132. When Monis was charged with sending offensive letters, Mr Arguedas stopped representing him. Monis tried to persuade him to stay on, claiming he would make Mr Arguedas a “famous solicitor”.

133. On 30 August 2007, Monis registered the domain name www.sheikhharon.com. He used this website to post videos, diatribes on various topics, copies of his offensive letters and his other letters to public officials and prominent citizens, as well as media releases calling attention to his letters and protests. Monis later set up YouTube accounts under the names Peaceactivist and Sheikh Haron, and a Facebook page. These accounts served as additional platforms for his protests and pronouncements. (The Facebook page was taken down during the siege for terms-of-use violations.)

134. Monis kept up a frantic letter-writing campaign from August 2007 until October 2014, although the volume of correspondence reduced from 2011 onwards, as his attention seems to have been diverted to the custody battle with his ex-wife and his various criminal charges. Monis wrote to:

- Prime Minister John Howard, copying the Commonwealth Attorney-General and others, regarding the content of a segment on Channel 7's *Sunrise* program about Dr Mohamed Haneef, an Indian national who was controversially detained in Australia on suspicion of ties to terrorists in the U.K. and later exonerated;
- Commonwealth Attorney-General Robert McClelland regarding a set of “instructions to terrorists” Monis had delivered in a speech at Martin Place, asking if it was legal to describe Al-Qaeda head Osama bin Laden as “lovely”, expressing concern about the availability of material that Monis believed supported

- suicide attacks by non-Muslims, and stating that Monis had registered a company named Hizbullah Australia;
- Commissioner of the AFP Mick Keelty, copying the Commonwealth Attorney-General and others, setting out a range of questions about and criticisms of the AFP;
 - the Australian Press Council, copying the Commonwealth Attorney General and others, complaining about media reports on the letters Monis had sent to the families of deceased Australian soldiers;
 - Queen Elizabeth II, copying the Commonwealth Attorney General, identifying “a few problems” in Australia (this letter was read aloud by Monis on a DVD);
 - Premier of Victoria John Brumby, copying the Prime Minister and others, stating that the Victorian bushfires of February 2009 were a terrorist attack;
 - the Victorian Magistrate Peter Reardon, copying the Prime Minister, Commonwealth Attorney-General and others, demanding an explanation for His Honour’s reaction to a Muslim defendant’s refusal to stand before the court, with a separate letter inviting him to a debate;
 - British Prime Minister Gordon Brown, stating that Monis wanted to send condolences to the families of the 237 British soldiers killed in Afghanistan since October 2001, but that the Australian Government would not allow it;
 - Australian Prime Minister Tony Abbott, seeking a debate to be broadcast live on television;
 - Pope Benedict XVI, arguing that Jesus Christ did not die on the cross;
 - the chief executive officer of Qantas, claiming there had been intentional interference with several Qantas aircraft and that these acts constituted terrorist attacks;
 - CBS News in the U.S., stating that it had wrongly reported that Monis was a Shi’ite and a radical; and
 - Commonwealth Attorney-General George Brandis, asking if it was legal for Monis to send a letter to “Caliph Ibrahim” (Abu Bakr al-Baghdadi), the leader of ISIS.
135. Monis also used his website as a platform to issue *fatwas* (Islamic legal rulings) on topics as diverse as the Indian actor Shah Rukh Khan and U.S. President Barack Obama.
136. In one *fatwa* he referred to the American, British and Australian heads of state as war criminals. He also posted a video titled “Suicide Fatwa” in which a woman discussed “*legitimate suicide attacks*”,⁴ and faxed a “media release” to the Israeli Embassy titled “*Sheikh Haron’s fatwa about suicide bombing coming*”. He issued a “*Thank you message*” to “*Mujahids in Pakistan for Jihad against oppression*” and a statement describing those responsible for the 2002 Bali bombings as “*martyrs*”.
137. On 16 October 2009, Monis faxed a “media release” to the NSW Police Force titled “Exclusive released [*sic*], in the name of God, Terrorist Attack in Australia in October 2009. See page ‘announcements’ on the website www.sheikhharon.com Best regards, Website of Mufti Sheikh Haron.” Six days later, apparently as a result of this fax, the Australian Federal Police requested the suspension of Monis’ website.
138. Within a few months, the website was back online with an overseas host. Monis continued posting on the site until shortly before the siege.
139. Alongside his letter-writing and internet campaigns, Monis continued staging public protests.
140. On 16 June 2008, he held a protest outside the Sydney studios of the Seven Network (opposite the building that would later house the Lindt Café) over a 2007 segment on the *Sunrise* program. (Monis had written to Prime Minister John Howard about the same program.)
141. A week later, accompanied by a woman in a *niqab*, Monis staged a protest outside the Commonwealth Parliament in Canberra (Figure 1-2).
142. On 4 July 2008, Monis and an unknown woman stood outside the Seven Network studios holding a placard stating that the United States was involved in terrorism.
143. On 10 November 2008, Monis chained himself to a railing outside the Downing Centre court complex in central Sydney and held up an Australian flag and a hand-written sign stating “*Dear Kevin [Rudd, the then Prime Minister], don’t kill Afghan civilians any more*” (Figure 1-3). Police allowed him to remain in place until 6 p.m. Monis returned the next morning to resume the protest. When police observed that he had not submitted the proper

4 A copy of the video may be viewed [here](#) and is contained on the USB accompanying the hard copy of this report.



Fig. 1-2. At Parliament House



Fig. 1-3. Protesting at the Downing Centre, Sydney



Fig. 1-4. Posing as a Rebel bikie

“Form 1” notice of intention to hold a public assembly, he unchained himself and left.⁵

144. Later that day, November 11, he went to a police station and said he wanted to hand out pamphlets at the Cenotaph on Martin Place. He was advised not to do this because it could upset people visiting the Cenotaph for Remembrance Day. Monis agreed and was given a “Form 1”. He submitted this to police two days later.
145. On 25 November Monis returned to the Downing Centre and held up a sign stating “Australians don’t want war.” He repeated this exercise two days later.
146. Monis also sought the support of prominent members of the Muslim community. In January 2010, he met with the Grand Mufti of Australia. In a statement to the inquest, the Mufti condemned Monis’ actions before and during the siege but gave no details of what he and Monis discussed during their meeting.
147. Keysar Trad, an Islamic community leader, told the inquest that he first learned of Monis through news reports about the offensive letters. Mr Trad said that what he read about Monis online left him unsure whether he was a genuine Muslim.
148. Monis and Mr Trad arranged to meet at a park in the Sydney suburb of Campsie. Mr Trad told the court that:

... the most part of [the conversation] was expressing my concern about his letters. Why did you send these letters, and he said to me—and I’m not quoting verbatim, but just the ideas that he expressed—he said he was very concerned about the people dying in Afghanistan and that he wanted to get these concerns out there because he

5 Footage of the incident may be seen [here](#) and is contained on the USB accompanying the hard copy of this report.

wanted to stop the killing; and I said, well, you’re going about this completely the wrong way. I said we’re all concerned about human death. We’re all concerned about innocent people getting caught in the crossfire between armies and militants and so forth, but this is not the way to go about it. You’re hurting your cause by going about it this way and you are hurting innocent families, and I did put the question to him, I said, “Do you really want to cause anger and upset to the parents of these soldiers?” and I remember his response saying, “No. I don’t. But I just want to get this message across” and I said to him, “Well, you have to change your approach.”

149. Mr Trad said he offered to arrange a meeting between Monis and a senior cleric, which seemed to interest Monis. Asked why he thought that might be, Mr Trad said:

The impression I got is that—just to have himself included because he—I’m pretty sure that he was fairly isolated at that time; that he did not find anywhere to actually fit in in the [Sydney Muslim] community.
150. During late 2012 and 2013, Monis attempted to join two chapters of the Rebels outlaw motorcycle gang and posed for photographs in a bandanna and “1%” T shirt (Figure 1-4). However, the gang refused to admit him and later took his bike.
151. On 22 January 2014, Monis and Amirah Droudis held a protest in Parramatta. Monis wore a clerical robe, had chains around his neck and wrists, and held a sign stating “I have been tortured in prison for my political letters”.⁶
152. At about the same time, Monis started to become

6 A copy of that video may be viewed [here](#) and is contained on the USB accompanying the hard copy of this report.



Fig. 1-5. Attending a Hizb ut-Tahrir conference

more involved with the radical Islamic organisation Hizb ut-Tahrir.⁷ In June 2014, he was photographed in the audience at one of the group's conferences (Figure 1-5).

153. Three months later, Monis attended a Hizb ut-Tahrir protest in Lakemba against a police counterterrorism operation. He was photographed wearing a white robe and headband and raising a clenched fist. He later shared links to these photographs on his Facebook page (Figure 1-6).
154. In mid-November 2014, Monis posted on his website a statement in Arabic that included the words: "I pledge allegiance to God, his Messenger, and the Caliphate of the Muslims" and "Peace be upon the Commander of the faithful and the Caliph of the Muslims, the Imam of our time." Soon afterwards, he posted: "I used to be a Rafidi ['rejector'—a derogatory term for Shi'ites], but not anymore. Now I am a Muslim, Alhamdu Lillah [praise to Allah]." The significance of these posts is addressed in Chapter 10.
155. A few weeks before the siege, Monis set up a Twitter account with the handle @sheikh_haron. He posted 157 tweets, the last on 14 December 2014. Several of these contained links to videos, including graphic images of dead children.
156. In the first week of December 2014, Monis posted a photo on his public 'Sheikh Haron' Facebook page. That photo depicted a graphic image of dead children and was captioned "An evidence for terrorism in America and its allies including Australia, the result of their airstrikes." This prompted a number of complaints from members of the public to the National Security Hotline, as described in Chapter

7 Hizb ut-Tahrir advocates the reestablishment of a Caliphate and has been banned in several European countries. It is referred to in more detail in Chapter 10.



Fig. 1-6. Protesting a police counterterrorism operation

3. The day before the siege, on 14 December 2014, Monis posted the same photograph of dead children on his website with the message:

Islam is the religion of peace, that's why Muslims fight against the oppression and terrorism of USA and its allies including UK and Australia. If we stay silent towards the criminals we cannot have a peaceful society. The more you fight with crime, the more peaceful you are. Islam wants peace on the Earth, that's why Muslims want to stop terrorism of America and its allies. When you speak out against crime you have taken one step towards peace.

Contact with security agencies

157. As noted above, Monis' contact with ASIO stemmed from 1996, when he first sought to come to Australia. The years from then until the siege were punctuated by his repeated appearances on ASIO's radar. There were various reasons for those appearances, but most relevant for this inquest was the risk he posed of committing or inciting an act of politically motivated violence. Details of ASIO's interactions with and assessment of Monis are contained in Chapter 3 and Chapter 18.

Mental health

Introduction

158. A number of aspects of Monis' behaviour raise the question of whether he suffered from a mental illness or personality disorder immediately before and during the siege and, if so, whether it played a causal role in the siege.
159. In the last decade of his life, Monis saw numerous doctors, psychologists and psychiatrists in connection with mental health problems. At times he

consulted one health-care provider without mentioning that he was being treated by another. Since he gave them all different and incomplete histories, it is not surprising that they arrived at different diagnoses.

Treatment history

160. In the second half of 2005, a general practitioner referred Monis to Dr Daniel Murray, psychiatrist at St John of God Health Care in Burwood, Sydney. Monis said he was being harassed, discriminated against and “psychologically tortured” by Australian Customs Service officers when he passed through Sydney airport. Monis told Dr Murray he had been forced to leave Iran and that his family were political prisoners there.
161. Dr Murray diagnosed mild depression. He prescribed an antidepressant (fluoxetine, or Prozac), and a sedative (zolpidem).
162. It seems likely that Monis’ visits to Dr Murray were part of a deliberate effort to prove that he was suffering harm as a result of his treatment by the Australian Customs Service, with which he was in dispute.
163. Between May 2009 and September 2011, Monis saw 10 different GPs and mental-health clinicians. In most cases he complained of psychosomatic symptoms, including dizziness, weakness in his leg, shaking, and pain all over his body. Tests and examinations revealed no physical ailment. One doctor made a provisional diagnosis of delusional disorder, but this was never followed up.
164. From May 2010, Monis saw Dr Kristin Barrett, a psychiatrist attached to the Canterbury Community Mental Health Team. He had seven consultations with her over 16 months. At his first few visits, Dr Barrett thought Monis showed signs of paranoia. He wore a cap and sunglasses and avoided eye contact. He was guarded, and Dr Barrett found it difficult to elicit information from him. He told Dr Barrett he was being watched by various groups in both Iran and Australia. He claimed the surveillance had been going on for many years and that he was even being watched in the bathroom.
165. At the time, Dr Barrett diagnosed chronic schizophrenia, though she noted that Monis was usually high-functioning (meaning he could work and interact socially). She prescribed risperidone, an antipsychotic drug often used to treat schizophrenia or bipolar disorder, and later sertraline, an antidepressant. Over the ensuing months, Monis’ paranoid delusions seemed to become less intense, and Dr Barrett concluded that the drug treatment was helping him.
166. In September 2011, Monis told Dr Barrett he had not taken any prescribed medication for three months and did not want any further treatment. Dr Barrett thought his mood appeared stable and that his overall behaviour seemed appropriate and responsive. She therefore discharged him from care.
167. During the inquest, the diagnosis of schizophrenia was examined. Dr Barrett said it was a “*working diagnosis*” and that Monis did not proffer enough information for her to make a definitive diagnosis. She agreed that while some of the beliefs Monis initially described (such as that he was being watched in the bathroom) were delusional, some might merely be exaggerations.
168. After Monis was charged in early 2014 with being an accessory to his ex-wife’s murder, he was briefly held on remand and was assessed by staff of Justice Health and the Department of Corrective Services. He said he had never had a mental illness.
169. In January and February 2014, after he was released on bail, Monis visited three GPs complaining of depression and insomnia. Each doctor referred him to a psychiatrist, but there is no evidence that Monis followed up any of these referrals. It seems that his visits to the GPs were prompted by stress related to the charges and to his period in jail.
170. On 14 April 2014 Monis was again placed on remand after being charged with multiple sexual assaults. During the six weeks he spent in jail, he again denied any history of mental illness. After he was released on bail, he did not consult any more doctors.

Other forensic medical reviews

Ora reports

171. On 20 August 2013, the police team investigating the murder of Monis’ ex-wife (Strike Force Crocker), asked Kimberley Ora, a clinical psychologist with the Police Forensic Services Group Behavioural Science Team, to carry out a psychological assessment of Monis and Amirah Droudis. Ms Ora was given access to police records including letters and affidavits written by Monis.
172. Ms Ora’s reports were tendered in the inquest. While she had properly declined to make a formal diagnosis on the ground that she had not directly assessed Monis, in her report Ms Ora observed that he was grandiose, arrogant, lacking in empathy and

preoccupied with his own self-importance. Ms Ora said such attributes are common among individuals with a narcissistic personality type. She added that narcissists often have a fragile sense of self-esteem, which makes them respond well to praise and badly to negative feedback.

Psychiatric review

173. The inquest asked an eminent forensic psychiatrist, Dr Jonathan Phillips, to give his considered opinion on Monis' mental health and mental history. Dr Phillips did so in a lengthy report that was tendered to the inquest.
174. Dr Phillips, using the nomenclature of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-5), distinguished between categorical (or true) psychiatric disorders and personality disorders. In lay terms, that equates to distinguishing between mental illnesses—including depression-spectrum disorders and psychotic disorders such as schizophrenia—and personality disorders, such as paranoid personality disorders, antisocial personality disorders and borderline personality disorders. Whereas categorical psychiatric disorders are medically treatable, personality disorders are managed. Dr Phillips explained key differences between categorical psychiatric disorders and personality disorders. A categorical psychiatric disorder causes the patient to suffer greatly, whereas a personality disorder causes others, rather than the person with the disorder, to suffer. Another distinction is that a categorical psychiatric disorder can impair judgement, mental capacity or choice, whereas a personality disorder tends to leave those capacities largely intact.
175. Dr Phillips accepted that Monis might have experienced episodic, sub-syndromal mental health issues, mainly in the form of depression-spectrum symptoms, a delusional pattern of thinking, and obsessional preoccupations. However, he found no convincing evidence that Monis suffered from any diagnosable categorical psychiatric disorder at the time of the siege.
176. While Dr Murray had identified symptoms of anxiety and depression, Dr Phillips considered they were not severe enough to justify a diagnosis of a depressive disorder.
177. As to Dr Barrett's "working diagnosis" of chronic schizophrenia, Dr Phillips said there was no convincing evidence that Monis' condition amounted to chronic schizophrenia. In his view, the apparent improvement in Monis' condition after he began taking the antipsychotic drug risperidone could be attributed to its anxiolytic (anxiety-relieving) effect.
178. Dr Phillips concluded that Monis had a severe longstanding complex personality disorder with antisocial and narcissistic features and some paranoid features. He did not have impaired judgement and was capable of choice and deliberation in his actions.
179. In his report, Dr Phillips wrote that Monis had for many years led "a secretive, self-serving life" in which he was "driven at all times by his own idiosyncratic desires" and that he lacked "any sense of understanding of the sensitivities of others". He noted Monis' role in the murder of his former wife, his deliberate efforts to hide that role, his use of his spiritual healing business as cover for sexual assault, and the careful planning evident in the Lindt Café siege.
180. Dr Phillips' conclusions are consistent with the views of the mental health clinicians available to police (particularly negotiators) during the siege, as addressed in Chapter 7 and Chapter 13.
181. He identified narcissism as a significant personality trait in Monis and told negotiators that a narcissist could be a very dangerous specimen if his sense of self-importance was threatened.
182. Dr Wright spoke to the Consultant Psychiatrist assisting the negotiators at around midnight on 15 December 2014 to discuss Monis' personality. Both psychiatrists had been made aware of the charges of accessory to murder and sexual assault laid against Monis and were provided with information from the Justice Health records and NSW Health databases about Monis' earlier attendances at mental-health services. Dr Wright recalled that they reached a consensus that Monis was a manipulative, narcissistic criminal.
183. When he initiated the siege, Monis was a narcissist, a man with exaggerated ideas of his own importance and a strong sense of entitlement. He was antisocial, manipulative and deceitful, with little or no capacity for empathy, and had experienced episodic delusions of persecution.
184. Elsewhere in this report, the risk Monis posed at various points during the siege is examined. The evidence concerning his psychopathology suggests that Monis presented a danger to the hostages in that if his plans were frustrated or he perceived that he had been "disrespected", he might react violently. It should not be inferred from this that

it was possible on the basis of Monis' psychopathology alone to predict that he would turn violent at a specific point during the siege. Rather, his narcissism meant he could become dangerous if his self-image was threatened.

Conclusion: Monis was not psychotic

185. Monis undertook the siege in a controlled, planned and quite methodical manner marked by deliberation and choice. He was not suffering from a diagnosable categorical psychiatric disorder that deprived him of the capacity to understand the nature of what he was doing. The evidence does not support a finding that Monis entered the Lindt Café with the express intention of killing some or all of the hostages. However, in light of his psychopathology, I conclude that he fully understood that the deaths of hostages were a real possibility, and that the prospect of such an outcome was of no concern to him.

2 Bail

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Introduction

1. When Monis entered the Lindt Café on 15 December 2014, he was on bail awaiting trial on an assortment of serious charges: being an accessory to the murder of his Australian ex-wife and committing 40 sexual and indecent assaults against seven different women. He had allegedly committed the murder-related offences and three of the sex offences while he was on bail for Commonwealth charges related to his sending of offensive letters to the families of Australian servicemen killed on active duty in Afghanistan.
2. In view of the seriousness of the pending charges, their number, and the circumstances surrounding some of the alleged offences, many observers questioned why Monis had been freed on bail rather than remanded in custody. Had he been held in custody, he could not have committed the siege because the charges would not have been disposed of by December 2014, and in view of the strength of the Crown case on at least some of the charges, it is very likely Monis would have been convicted and imprisoned for many years.
3. Bail law has long been a contentious issue in New South Wales, and the applicable legislation has been amended several times.
4. Remanding in custody a person who has been charged but not convicted of an offence undermines the effect of the presumption of innocence. If the person is not granted bail and is acquitted at trial, he or she may have been punished as severely as a guilty party, if not more so. Conversely, if a person on bail commits a further offence, it can be argued that public safety has not been given proper consideration. Clearly, these are competing public interests that are difficult to balance.
5. The Bail Act was amended after Monis had been charged with the murder offences and before he was brought before the court on the first of the sex offences. As a result, his bail applications were dealt with under different laws.
6. His December 2013 application in connection with the murder charges was heard under the *Bail Act 1978* (**1978 Bail Act**). His applications on 22 May and 10 October 2014 in connection with the sexual assault charges were heard under the *Bail Act 2013* (**2013 Bail Act**), which came into effect on 20 May 2014. Partly in response to Monis having been on bail, after the siege, the Act was amended again.
7. The inquest could not inquire into or review the decisions of the magistrates who granted Monis bail. Like all court decisions, these could be reviewed only by a court higher in the same hierarchy as the decision-making court, and at the instigation of one of the parties. What this inquest could and did do was to review the responses of police and prosecutors to Monis' applications for bail, and the granting of it.
8. An inquest inevitably views a sudden and violent death in retrospect. By contrast, those making decisions about the deceased before the death are not in a position to foresee it. The inquest recognised the need for great care to ensure that its findings were not infected by hindsight bias.
9. No one could have predicted what Monis would do on 15 December 2014 and all of those with knowledge of the criminal justice system appreciate that the police and Office of the Director of Public Prosecutions (**ODPP**) lawyers carry very large case-loads. Nonetheless, by December 2013, when he was charged over the murder of his ex-wife, Monis was known to the authorities as a problematic figure as a result of his previous offences and his political activism. His prosecution was clearly not going to be a run-of-the-mill affair, and the authorities should have taken this into account. Indeed, the ODPP had marked Monis' case for transfer to Group 6, a specialist unit that handles only complex and high-profile cases. Monis' bail applications warranted equally careful consideration. For the reasons set out below, it appears this did not always eventuate.
10. This chapter details how numerous decisions by police and prosecutors combined to reduce the likelihood of Monis being remanded in custody. In some cases, these were simple mistakes impossible to eliminate in a high-volume, busy system that essentially depends upon individuals integrating complex data into subjective assessments. No human-based system can be error free.
11. However, better training and supervision can improve performance, and better systems can make it easier for dedicated professionals to get it right more often. That is the focus of the recommendations.
12. In his opening address on 29 January 2015, Mr Gormly, Senior Counsel Assisting, announced that the inquest would examine aspects of Monis' bail. At the opening of the second bracket of evidence on 17 August 2015, he confirmed that would occur,

Challenge to jurisdiction

noting that on the last occasion Monis was before the court (i.e. eight weeks before the siege), he had been granted bail because despite an assessment that he posed a high risk of causing further harm, it was believed the risk could be mitigated by attaching conditions to the grant of bail.

13. The siege proved that calculation to be flawed, although it must be acknowledged that the bail assessment was an attempt to predict the future whose failure was only demonstrated by hindsight.
14. On 21 April 2015, Senior Counsel Assisting convened a meeting with the legal representatives of all those who were expected to seek leave to appear before the inquest. Attendees were given a provisional list of issues to be investigated, which included the following questions regarding bail:
 - What was Monis' bail history?
 - Did prosecuting authorities or police respond appropriately to Monis' applications for bail?
 - Was any decision to grant him bail infected by error? If so, what actions were taken with respect to an appeal against the decision to grant bail? Were such actions reasonable?
15. Counsel Assisting noted that institutions were entitled to claim legal professional privilege but asked whether, given the inquest's purpose, it would be appropriate for them to do so.
16. After this meeting, inquest staff identified the ODPP solicitors from whom statements would be requested and set out the topics each solicitor needed to address. In a letter to the NSW Crown Solicitor on 20 May 2015, the court asked that these statements be provided by 15 June 2015.
17. The Crown Solicitor, on behalf of the ODPP, replied on the same day, questioning the proposed scope of the inquest and stating that:
 - the questions about bail in the provisional issues list were beyond the proper scope of the inquest;
 - if the inquest sought to investigate these questions it would fall into jurisdictional error;
 - the ODPP requested a ruling on the question; and
 - the ODPP would await a ruling before providing the requested statements.
18. On 25 May 2015, the Director of Public Prosecutions (**DPP**) was granted leave to appear before the inquest. The next day, the DPP's counsel raised the issue of the scope of the inquest in court. Parties

that wished to express a view on the issue were invited to make written submissions; oral argument was heard on 4 June. The Commonwealth of Australia supported the DPP's position; the Commissioner of NSW Police neither supported nor opposed the DPP's application but provided helpful submissions dealing with the relevant law. The families of Tori Johnson and Katrina Dawson strongly opposed the application.

19. On 5 June, I dismissed the DPP's application.
20. The ruling was based on the interpretation of the relevant statutory provisions and consideration of higher court rulings dealing with the scope of an inquest. It is noteworthy that had the inquest not examined this issue, there would have been no independent public examination of the response of prosecuting authorities to Monis' application for and grant of bail—matters of considerable public concern.

Legal professional privilege

21. A second issue, and one that had a pervasive effect on the inquest's investigation into aspects of Monis' bail, was a claim of legal professional privilege by the Director of Public Prosecutions.
22. As was noted in the Introduction, legal professional privilege is an indispensable element of our legal system. Failure to ensure that clients and legal advisers can talk freely and frankly in private would restrict the public's ability to seek comprehensive legal advice and, in turn, interfere with the administration of justice generally. Clients are therefore entitled to object to the disclosure of such communications in legal proceedings.
23. This privilege belongs to the client. Unlike public interest immunity, it is not recognised by a court unless a claim is made. Clients can, and frequently do, waive legal professional privilege. In the inquest, the DPP claimed legal professional privilege over communications between the legal officers employed by his office and the police officers involved in Monis' prosecution. This claim was the subject of repeated challenges by parties to the inquest and required the court to issue regular rulings. The claim was rejected in parts and upheld in others. As a result of the claim, however, the inquest was prevented from fully examining all relevant aspects of Monis' bail history.
24. The claim of legal professional privilege also caused difficulties for the inquest because at times police and ODPP lawyers seemed to be seeking to blame

each other for perceived or actual shortcomings. Because of the DPP's claim, the police officers involved were prevented from disclosing all they had told ODPP lawyers about Monis' bail applications, and vice versa.

Expert evidence

25. To ensure that the inquest had an objective basis on which to assess questions of bail law and practice, a Bail Panel was convened. It comprised an eminent senior lawyer and highly experienced more junior lawyers with a detailed understanding of bail law, policy and practice.¹ The Panel was asked a series of questions by those assisting the inquest and provided two reports. The Panel also gave helpful oral evidence on which the court relied in resolving some of the issues discussed below.

The first bail application

26. On 15 November 2013, Monis was charged with being an accessory before and after the murder of his Australian ex-wife. His partner, Amirah Droudis, was charged with committing the murder.²

27. Both Ms Droudis and Monis were denied police bail. When they were taken before court later that day, neither applied for bail. Accordingly, they were remanded in custody to appear at Penrith Local Court on 22 November 2013.

28. By that date, the DPP had exercised the right conferred on him by the *Director of Public Prosecutions Act 1986* to assume responsibility for the prosecution of both Ms Droudis and Monis. A solicitor employed by the ODPP, Brian Royce, appeared on behalf of the DPP.

29. No bail application was heard on that day because an interpreter had not been arranged to translate witness interviews that the defence solicitor, Emanuel Conditis (who appeared on behalf of Monis and Ms Droudis), wished to rely on. In any event, there was insufficient court time available to hear the application, which Mr Conditis estimated could take an entire day. The bail applications were adjourned for hearing on 12 December 2013.

30. In discussing how much time would be needed to resolve the applications, the presiding magistrate

and Mr Conditis agreed that the material the defence wished to rely on should be provided to the court beforehand. Mr Conditis also foreshadowed providing written submissions in support of his application. Mr Royce, for the DPP, did not commit to providing written submissions in response. The court ordered that the defence material be filed by 9 December 2013 but did not order that written submissions be filed.

31. On 5 December, the ODPP facilitated compliance with that order by sending to the court a bundle of documents the defence had said it intended to rely on. On 9 December, Mr Conditis sent the court further defence material, together with a 32-page written submission in support of the bail application. These submissions were provided to Mr Royce on 11 December.

32. When the bail applications were heard the following day, after some brief opening statements by Mr Conditis, his Honour left the bench to read the written submissions. When he returned, the magistrate called on Mr Royce to respond to the defendants' case for bail as set out in Mr Conditis' written submissions.

33. Mr Royce started by saying that whereas Ms Droudis' murder charge meant she had to show exceptional circumstances to be granted bail, there was no presumption for or against Monis being granted bail because he was charged as an accessory only.

34. Mr Royce acknowledged that the Crown case was purely circumstantial: nobody had purported to identify Ms Droudis as the female assailant at the murder scene. However, he said her alibi could be shown to be false. Further, nobody else had a motive for murdering Monis' ex-wife or would have access to the secure unit block where she was killed. Mr Royce said the only reasonable explanation for Monis' bizarre behaviour at the time of the murder was that he had been trying to create an alibi.

35. The magistrate was obviously persuaded by the written and oral submissions of the defence that the Crown case was weak. Mr Royce was not able to convince him otherwise. The magistrate granted bail with sureties, with the conditions that Monis report regularly to police and that he not contact specified prosecution witnesses.

36. The officer in charge (OIC) of the murder investigation, Detective Senior Constable Melanie Staples, was very disappointed with the outcome. She believed that Mr Royce had not adequately put the case against bail. She and a colleague met with Mr

1 Ian Temby AO QC, Matthew Johnston SC, Rebekah Rogers and Jane Sanders.

2 On 2 November 2016, Amirah Droudis was found guilty of that murder in the Supreme Court of New South Wales.

Royce after the proceedings. Detecting her disappointment and anger, Mr Royce said that if the police wished to do so, they could ask the DPP to have bail reviewed in the Supreme Court.

Adequacy of prosecution presentation of Crown case against bail

Oral submissions

37. In November 2013, before the question of bail was first brought before the court, Det Sen Const Staples prepared a letter to the magistrate who would first consider bail, on the day Monis was arrested. The letter made several points, including that the alleged offences had been committed while Monis was on bail for the postal offences; that Monis could be a flight risk; and that s. 9C of the 1978 Bail Act applied, meaning that in the absence of exceptional circumstances, bail should not be granted. (This letter is referred to below as the **bail letter**.) As noted above, no bail application was made on that day, so the bail letter was not presented to the court.
38. Giving evidence at the inquest, Det Staples was adamant that she had given the letter to Mr Royce when they met at the Penrith Local Court on 22 November. However, after the siege the letter was absent from the ODPP file. Given the deficiencies in Mr Royce's file management practices, this absence does not necessarily indicate that he never received the bail letter. Mr Royce did not deny that he might have received it. However, he said in his statement that he did not recall any details of his meeting with Det Staples that day or the court appearance. On balance, it is more likely than not that the bail letter was given to him.
39. Det Sen Const Staples had other substantial communications with Mr Royce. She met with him, spoke to him by telephone and emailed him a total of five times between 19 and 22 November in anticipation of the bail application being heard on the latter date. She gave him a document entitled "Investigations into the purported alibi of Ms Droudis" and another entitled "Reply to defence submissions".
40. Det Staples conveyed further relevant information to Mr Royce in additional meetings, telephone calls and emails after the 22 November appearance and before the bail hearing on 12 December. The evidence indicates that she did all that could reasonably be expected of her to assist Mr Royce in opposing bail.
41. However, the transcript of proceedings on 12

December 2013 indicates that not all relevant information was put before the court and that in opposing bail, Mr Royce did not adequately explain some information. Points not mentioned or inadequately argued included:

- *The murder had occurred when Monis was on bail for the Commonwealth postal offences.* No mention was made of this. Submissions to the inquest on behalf of the DPP argued that the magistrate could not have relied on these offences to deny bail. However, that is not the reason Mr Royce did not raise them: he admitted he did not realise the overlap even though it was referred to in the defence's written submissions.
- *Section 9C of the Bail Act* meant that there was an onus on the defence to show exceptional circumstances existed before Monis could be granted bail. (See below, "Was the correct test identified?")
- *Evidence that Ms Droudis' alibi was weak.* This was mentioned by Mr Royce, but in somewhat confusing terms, and key aspects were omitted. Submissions to the inquest on behalf of the NSWPF contended that Ms Droudis' claim to have reliable alibi witnesses could have been shown to be false. The police submissions argued that pointing this out would have countered the magistrate's assessment that the Crown case was weak. It was submitted on behalf of Mr Royce that he did effectively engage with the alibi issue to the satisfaction of the magistrate. However, it is clear that when police said they had a witness who could contradict Ms Droudis' claim that she was at home on the day of the murder, Mr Royce dismissed the idea largely on the basis of that witness's appearance and without speaking to him. Mr Royce evidently judged the witness to have a mental illness that would have compromised his credibility. However, Det Staples had a doctor's report affirming the man's capacity to be a reliable witness.
- *The fact that Monis had an alibi was irrelevant.* The Crown did not allege that Monis was present at the scene at the time of the murder.
- *Monis lacked ties to the community.* This topic was addressed in the bail letter. Det Staples also detailed Monis' lack of community ties in an email to Mr Royce. In the email, she noted that Monis' children were in the care of their grandparents, he had no other family members in Australia, his passport had been returned to

him, and he had communicated with an Iranian woman about meeting her in Malaysia.

- *Monis posed a flight risk.* When this risk was raised by the magistrate, Mr Royce provided no information except to say that he knew the police had concerns and that he would get instructions. He did not do so. Mr Royce said at the inquest that he did not recall whether he knew about the matters of concern to the police but that having since reviewed them he had concluded they were not persuasive and/or not relevant to the failure-to-appear considerations set out in the Act.
42. It was submitted on behalf of Mr Royce that, apart from the s. 9C issue, he had made forensic decisions not to present further argument concerning the above points. That is difficult to accept. All were matters of relevance to the bail determination, and they should have been actively ventilated before the magistrate. They were matters on which Mr Royce had been given information by the officer in charge of the investigation. On behalf of the DPP, it was submitted to the inquest in support of Mr Royce's performance in court that he possessed insight and perspicacity. Those attributes were not evident in the transcript of the bail hearing or in Mr Royce's evidence to the inquest.
 43. It is clear that, having read the defence's written submissions, the presiding magistrate took an interventionist approach, frequently interrupting Mr Royce in an effort to clarify matters of concern in resolving the bail application. Mr Royce dealt with these interruptions as best he could. However, as he acknowledged in his written statement and oral evidence to the inquest, he eventually concluded that the case was going against him and that further argument would be futile. From then on, he said, he "*did not address further points in detail*".
 44. A review of the transcript of the bail proceedings on 12 December 2013, Mr Royce's evidence, and the submissions of the parties leads inescapably to the conclusion that Mr Royce failed to prepare diligently or effectively for the bail application. He did not marshal all the information provided by the investigating officer which should have been put before the court. I accept that he was very busy and that this was but one of numerous matters for which Mr Royce was responsible. I also accept that the presiding magistrate did not make things easy for him. However, the overall impression is of an inadequate response to the applications for bail by Monis and Ms Droudis.

Conclusion: Oral submissions

45. The oral submissions of the ODPP solicitor who appeared for the prosecution to oppose Monis' application for bail on 12 December 2013 were inadequate.

Written submissions

46. It is also of concern that while the defence filed and served detailed written submissions, Mr Royce relied solely on oral submissions. He sought to explain this by saying that written submissions were unusual in bail matters in the Local Court, that it was his usual practice to respond orally, and that his practice was very busy at the time in question.
47. By contrast, it is noteworthy that in the two contested bail applications made by Monis in 2014, his solicitors filed written submissions. I do not accept that reliance on written submissions in bail applications in the Local Court is as rare as Mr Royce suggested.
48. Further, Mr Royce failed to present the Local Court with a written chronology. This would have assisted the court to understand the web of events involved in the Crown case against both Monis and Ms Droudis. It is also likely to have revealed that Monis was on bail for the postal offences when the murder was committed.
49. In view of the seriousness of the charges, the fact that the defence provided a detailed written analysis, and the time gained by the initial three-week adjournment of the bail application, an efficient and effective solicitor would have prepared written submissions relying on the detailed information provided by Det Staples.
50. It is acknowledged that Mr Royce did not receive the defence's written submissions until late in the afternoon on the day before the hearing. However, legal practice frequently requires long and late working hours. In any event, Mr Conditis had foreshadowed on 22 November that he intended to rely on written submissions and had confirmed this in his 6 December letter to the court, which was copied to the ODPP.
51. The expert Bail Panel was of the view that Mr Conditis' written submissions called for a written response. At the very least, a written chronology should have been handed up. Mr Royce's claim that the rest of his practice would have suffered had he

spent time producing written submissions in reply to those of the defence is not convincing. If he was really so overworked that he could not adequately prepare for this bail hearing, he should have approached his Managing Lawyer for assistance.

52. The submission to the inquest on behalf of the DPP claiming that the magistrate read the defence submissions only “by accident” is nonsense. The bail application was a “special fixture”. It is usual for a magistrate in those circumstances to go off the bench and read whatever submissions are provided. The magistrate’s requests that the defence solicitor guide him to the most relevant parts do not suggest that the submissions were not going to be read.
53. There was a clear need for the ODPP solicitor to counterbalance the significant effect of the defence’s written submissions. Mr Royce’s failure to prepare, file and serve written submissions and/or a chronology in response to those submissions, coupled with the deficiencies in his oral submissions, meant the bail application was not opposed by the ODPP as effectively as the investigating police were entitled to expect when the DPP was appearing on behalf of the prosecution.

Conclusion: Written submissions

54. The ODPP solicitor who appeared for the prosecution to oppose Monis’ application for bail on 12 December 2013 should have filed written submissions setting out the grounds of his opposition.

Was the correct test identified?

55. The Bail Act 1978, which was in force when the murder-related bail application was heard, provided in s. 9C that bail was not to be granted “*in respect of an offence of murder unless ... the court is satisfied that exceptional circumstances justify the grant of bail*”.
56. In his oral submission to the Local Court, Mr Royce said that s. 9C applied to Ms Droudis but not to Monis, since Monis was charged only as an accessory. This was at odds with the defence submission, which conceded that both accused had to meet the “exceptional circumstances” requirement. Mr Royce proceeded to argue the bail application on the basis that this requirement did not apply to Monis and that there was no presumption against Monis being granted bail. (Of course, if Mr Royce did not consider the defence’s submissions to be an accurate statement of the law, it would have been unethical for him to take advantage of his opponent’s differing view.)
57. Mr Royce also told the Local Court that Monis was involved in a joint criminal enterprise to kill the victim. However, according to Mr Royce:

His absence from the crime scene and the lack of direct evidence of an agreement with Droudis reflected the nature of the charge currently before the court, that is he’s an accessory before the fact rather than he’s charged as a principal in the murder itself.
58. Monis was indeed charged with being an accessory to the murder of his ex-wife. However, the court attendance notice initiating that charge listed the offence as “*Murder. Accessory before the fact to an offence*” and then provided the particulars of the murder. There is no discrete charge of being an accessory to a crime. Section 346 of the *Crimes Act 1900* provides that:

Every accessory before the fact to a serious indictable offence may be indicted, convicted, and sentenced ... as a principal in the offence.

The High Court in *Johns v the Queen* (1980) 143 CLR 108 confirmed that this provision means an accessory before the fact is to be dealt with as a principal when being charged, convicted and sentenced.
59. The DPP submitted to the inquest that s. 346 was only a machinery provision that enabled an accessory to be charged as a principal. Accordingly, the DPP did not support the conclusion that s. 9C applied to Monis.
60. After some hesitation, the Bail Panel took the view that s. 9C of the Bail Act did apply in Monis’ case, although its members conceded that this conclusion rested on some complex statutory interpretation.
61. Asked how he reached the opposite conclusion, Mr Royce gave varying explanations. None was entirely satisfactory. However, it seems clear that he had previously considered the question and discussed it with colleagues, and that the results of those discussions led him to the position he took during Monis’ bail application.
62. I conclude that s. 9C did indeed apply to Monis. It seems that Mr Royce did not fully understand the relevant law and that he failed to undertake sufficient research on the issue or seek sufficient advice. As a result, he erroneously informed the Local Court that Monis did not have to show “exceptional cir-

cumstances” before being granted bail.

63. Although this error is troubling, there is no evidence that it was the result of carelessness or cavalier disregard for his responsibilities. Mr Royce’s claim that other experienced lawyers in the employ of the ODPP were similarly misinformed might suggest a need for remedial action. However, the law has since been overhauled in a manner that makes this precise question redundant.
64. The error also calls into question the efficacy of the ODPP’s in-house continuing legal education. However, as no evidence was sought in relation to that issue, no conclusion can be drawn or recommendation made.

Conclusion: Was the correct test identified?

65. When opposing Monis’ application for bail on 12 December 2013, the ODPP solicitor who appeared for the prosecution erroneously advised the court that Monis did not have to show “exceptional circumstances” before he could be granted bail.

File management and Court Result form

66. Mr Royce acknowledged that he did not cause copies or originals of all the material given to him by Det Sen Const Staples to be added to the ODPP file; nor did he make notes for that file of instructions he received from her by telephone. He conceded that examining the file after he had finished with it would not have enabled a person to understand what had transpired in connection with the bail application.
67. According to Mr Royce, he kept a “working file” in his room that contained copies of material related to the bail application. He said he discarded that file during a clean-up in about November 2014. Mr Royce denied getting rid of any material after the siege. He explained that he considered the documents he discarded to be working documents that he was free to dispose of when he finished the work he was instructed to undertake. He could not adequately explain why he did not attach these documents to the official file for the benefit of others who would assume responsibility for the case. He said there was no ODPP policy that required him to retain documents of that kind.
68. The ODPP provided the inquest with a copy of Research Flyer 20, an internal policy document setting out staff obligations with respect to file management and document control. That document requires staff to make file notes of all significant contacts and to ensure the preservation of records.
69. The Managing Lawyer of the ODPP’s Penrith Office gave evidence that no significant documents should be destroyed unless there were copies of them in the relevant file. She insisted that the file should reflect the history of the case.
70. The Managing Lawyer also said she regularly reviewed Mr Royce’s files and found them to be “maintained exceptionally well. They were always well tabulated, they were in order, there were file notes ...” and so on. To be fair, it would be difficult for her to know whether a document was not in a file if she was unaware of the document’s existence.
71. The Managing Lawyer also told the inquest that regular audits were conducted in which staff from other offices would come to the Penrith office, examine files from a randomly generated list, and report on the state of file management.
72. In accordance with standard practice, after the bail hearing Mr Royce prepared a Court Result form, which he signed and placed on the ODPP file. Of concern is the concluding note, which states: “OIC at court did not urge/request consideration of review.”
73. Although this was strictly true, Mr Royce was aware that the OIC, Det Staples, was so angry after the hearing that she was unable to speak to him. Her obvious dissatisfaction with the outcome prompted Mr Royce to advise Det Staples’ colleague about the procedure for seeking a review of the bail decision.
74. Mr Royce told the inquest that he did not record the OIC’s dissatisfaction or his advice because the Court Result form was used only to record results, what submissions were made and what was tendered into evidence. This is inconsistent with his note that the OIC did not request a review of the decision.
75. It was submitted to the inquest that the OIC’s dissatisfaction was not unusual, since police are generally unhappy when bail is granted over their opposition. Such arguments are specious. This was clearly far more serious than the usual disappointment.
76. Mr Royce was clearly mistaken in his view that he did not need to preserve on the file the documents given to him by the investigating officers and notes of his conversations with them. His practices departed from those of a reasonably conscientious lawyer and appear to be inconsistent with

the policies of the ODPP.

77. It is of concern that the ODPP did not have in place any system that brought these deficiencies to light.
78. As to the concluding remarks Mr Royce wrote on the Court Result form, given the circumstances, the notes were arguably misleading and at least less candid than would be expected.
79. Further, the file note contains no explanation of the basis on which bail had been granted in relation to such serious charges. There was no way that another lawyer examining the file could understand how this result had come about, particularly as no court transcript was ordered. Basic principles of file maintenance would have called for this to be documented. That was all the more necessary because as soon as the bail application was disposed of, the Monis/Droudis murder file was to be transferred from the ODPP's Penrith Office to Group 6 in the city, and Mr Royce knew that this transfer was to occur.

Conclusion: ODPP file management

80. The ODPP solicitor responsible for the Monis murder matter until it was transferred to the Sydney city office failed to comply with office policies requiring him to keep on file all relevant documents. Further, some of the remarks he included on the Court Result form after Monis' bail application on 12 December 2013 were less candid than would be expected. The ODPP did not have in place any system that brought these deficiencies to light.

Recommendation 1: ODPP file management

81. *I recommend that the DPP initiate reviews of the training in file management given to lawyers employed by the ODPP to ensure important original documents are not discarded and that the files accurately reflect relevant events.*

The police response

82. After parting with Mr Royce after the bail hearing, Det Sen Const Staples telephoned her team leader, Detective Inspector Jason Dickinson, and expressed her dissatisfaction with the way the opposition to bail had been argued. He instructed her to create a report outlining her concerns.
83. Det Staples did this by completing a form titled SCC Situation Report (**SITREP**). In the SITREP, she criticised the efficacy of the ODPP lawyer's opposition to bail. She asserted that Mr Royce "*did not address the fact that Droudis' alibi had been discredited*" and that much of the material police had provided to him was not referred to in court. She wrote that these failures, by contributing to the court's perception that the Crown case was weak, had played a major role in the decision to grant bail.
84. The SITREP did not mention the s. 9C issue or the fact that the DPP lawyer had failed to mention that the murder offences were allegedly committed while Monis was on bail. The report did not recommend or suggest seeking a review of the bail decision.
85. The SITREP was distributed up the chain of command by Detective Inspector Dickinson. Over the next few days, the Head of Homicide, Detective Superintendent Michael Willing, and the Assistant Commissioner State Crime Command, Mark Jenkins, discussed whether to request that the DPP seek a Supreme Court review of the grant of bail.
86. The day after the bail application, Det Insp Dickinson called the Managing Lawyer at the ODPP's Penrith office about the concerns with Mr Royce's performance and to explore whether the decision could be reviewed. He was told that the file had been transferred to the city office of the ODPP to be handled by Group 6.
87. The Police Prosecutions Commander, Chief Superintendent Tony Trichter, was consulted as to the best method for seeking such a review. He confirmed what Detective Inspector Dickinson had already been told by the ODPP managing lawyer at Penrith, namely that the police should write to the DPP setting out their concerns and asking the DPP to consider seeking a Supreme Court review.
88. On 17 December, Det Insp Dickinson called Lisa Viney (the ODPP lawyer in charge of Group 6) to discuss the matter, but she had no knowledge of it as the file had either not yet arrived at Group 6 or had not yet been allocated. In a note of the conversation, she recorded that there would be a request for "*a review via TT*", which she explained was a reference to police seeking consideration of a bail review via a letter that would be sent by Chief Superintendent Trichter to the DPP.
89. Det Insp Dickinson urged Ms Viney to allocate the matter to a competent lawyer because of its seriousness and complexity. He also said that the investi-

- gating officer would send material to help that lawyer familiarise himself or herself with the matter. In due course, that material was sent.
90. Det Insp Dickinson approved a draft letter to the DPP and sent it to Detective Superintendent Michael Willing and Assistant Commissioner Jenkins. Since the letter did not note the deficiencies in Mr Royce's performance, these shortcomings remained unknown to AC Jenkins (whose only other source of information was the SITREP). In particular, AC Jenkins was not told about Mr Royce's failures to argue that s. 9C required Monis to show exceptional circumstances; to explain the basis on which police assessed Monis as a flight risk; or to note that the murder had been committed while Monis was on bail for the Commonwealth postal offences. While the draft letter mentioned these points as considerations against the granting of bail, it did not make clear that Mr Royce had failed to draw them to the magistrate's attention.
 91. On 20 December, Det Supt Willing and AC Jenkins considered the draft letter and discussed the situation with Det Insp Dickinson. He told them the managing lawyers at the ODPP were reluctant to initiate a review and had taken a fixed position on that. He also suggested that the time of year—approaching Christmas—made it more difficult to persuade the ODPP that a review should proceed. The evidence does not support these assertions by Det Insp Dickinson.
 92. In any event, AC Jenkins told the inquest he decided against sending the draft letter because he believed there was little prospect that it would cause the DPP to initiate a Supreme Court review. He said he was also unsure whether a review or an appeal would succeed. The matter rested there. The DPP was never asked to consider taking the issue of the bail grant to Monis to the Supreme Court for review.
 93. There is no basis to conclude that Ms Viney, the head of Group 6, should have initiated review proceedings on the basis of her phone conversation with Det Insp Dickinson. She did not have sufficient information to do so. She told the Inspector how to go about seeking a review if the NSWPF were so inclined. The established protocol she described coincided with the one also suggested by the Police Prosecutions Commander, Chief Supt Trichter. And indeed, that advice was followed insofar as a letter was drafted and submitted for AC Jenkins' consideration.
 94. These facts call into question whether the police officers who believed bail should not have been granted adequately explored and pursued avenues for a bail review.
 95. The evidence indicates that the decision maker on this issue, AC Jenkins, was not adequately briefed on matters relevant to the decision because Det Sen Const Staples and Det Insp Dickinson failed to include all the relevant material in the SITREP and in the draft letter.
 96. AC Jenkins was erroneously informed in the SITREP that the prosecutor had failed to mention the weakness in Ms Droudis' alibi. In fact this had been mentioned, though arguably ineffectively. He was not told in the SITREP, in the draft letter or in conversation about the s. 9C issue; about the prosecutor's failure to explain to the court the basis on which police assessed that Monis posed a flight risk; or about the fact that the murder had been committed while Monis was on bail. All this information was directly relevant to AC Jenkins' consideration of whether to formally approach the DPP for a review.
 97. As the DPP submissions to the inquest correctly pointed out, if a review had been initiated, a Supreme Court judge would have considered the matter *de novo*, so any deficiencies on Mr Royce's part would have had no effect. However, that fact is irrelevant to an examination of the decision not to seek a review. Assistant Commissioner Jenkins might well have felt more inclined to seek a review if he had been aware that pertinent considerations had not been put before the magistrate who granted bail.
 98. In deciding not to approach the DPP to seek a Supreme Court review of Monis' grant of bail, the responsible officer within the NSWPF acted reasonably, based on the information he had. The individuals who briefed him did not provide him with all the evidence relevant to his decision.
 99. There is no basis to conclude that staff of the ODPP should have instigated such a review without receiving a written request from the NSWPF. The ODPP lawyer who appeared before the inquest considered it unlikely that the Supreme Court would reverse the bail decision, and the two managing lawyers to whom Insp Dickinson spoke did not have enough information to determine whether they should initiate the review process.
 100. It appears that after Monis was granted bail on the murder charges, there was a degree of uncertainty among police in State Crime Command over how they should go about asking the DPP to consider seeking a bail review in the Supreme Court.

101. There was miscommunication between the police officers involved. Further, when the Detective Inspector responsible for making the decision contacted two managing lawyers in the ODPP, he formed a mistaken view that the ODPP was unwilling to consider a review.
102. These issues would normally be the subject of recommendations. However, some of these deficiencies were noted by the Commonwealth–New South Wales Joint Review (the paper-based exercise that occurred in the month following the siege). It recommended that the ODPP and the NSWPF develop a memorandum of understanding governing the process for seeking reviews of bail decisions, including the process for rapid escalation of contentious bail issues. The DPP's submissions to the inquest indicate that this has been done.

Conclusion: Police response

103. In view of the limited information provided by the more junior officers with direct knowledge of the case, the senior officer who decided not to seek to have Monis' grant of bail on the murder charges reviewed by the Supreme Court acted reasonably.

Subsequent bail hearings

First sex offences charges

104. On 14 April 2014, Monis was arrested and charged with three indecent and sexual assault offences. These were allegedly committed in 2002 against a woman who answered his advertisement for "spiritual healing" services.
105. The NSW Sex Crimes Squad set up a strike force to investigate the woman's complaints and related matters. The OIC of the investigation was Detective Senior Constable Denise Vavayis. Members of the strike force established contact with police investigating the murder of Monis' ex-wife, and the two groups met periodically.
106. When he was arrested on the sex charges, Monis was refused police bail. When he came before the court later that day, the magistrate also denied him bail. In her view, his alleged involvement in the murder of his ex-wife meant that he posed too great a risk to the safety of the complainant.
107. On 20 May 2014, the 2013 Bail Act came into effect. The new Act did away with the presump-

tion against the granting of bail for certain serious offences and replaced it with a two-step risk test. This required courts to assess whether the accused posed an unacceptable risk and, if so, whether that risk could be sufficiently mitigated by placing conditions on a grant of bail.

108. Two days later, Monis made an application for a release order on the basis that there was relevant information which had not been before the court when bail was initially refused.
109. Det Vavayis urged the ODPP solicitor appearing in the matter, Larisa Michalko, to oppose the application, which she did.
110. Monis' counsel submitted that it was in his client's favour that he had been on bail for four years (on the Commonwealth postal offence charges) and had complied with its terms and conditions. The prosecution opposed bail on the basis of the seriousness of the offences and fear for the safety of the complainant. Although the woman was not named in the court attendance notices, the prosecution submitted that Monis had demonstrated his ability to locate people when he tracked down the victims of the postal offences.
111. It seems that neither Det Vavayis nor Ms Michalko realised that Monis' alleged involvement in the murder of his ex-wife had occurred while he was on bail for the postal offences.
112. The magistrate found that there was an unacceptable risk that Monis would endanger the safety of the complainant. However, she also found that the risk could be sufficiently mitigated by imposing conditions on his bail. She granted bail on condition that Monis provide sureties, surrender his passport, reside at his address at Wiley Park, not contact the complainant, and report daily to police.

Request for review

113. Concerned by the grant of bail, Det Vavayis emailed the ODPP solicitor who had ongoing responsibility for Monis' matters, Linda Barnes, to ask about the prospects of a Supreme Court review.
114. Ms Barnes replied that because Monis had been on bail for the postal offences for a number of years and had complied with its conditions "*and did not commit any offences*" during that time, in her view an appeal was unlikely to succeed. Her belief that Monis had not offended while he was on bail was, of course, mistaken.
115. Ms Barnes also suggested in her email in reply that

“If he is charged in relation to other complainants, then police can make a fresh decision regarding bail.” By this point, police had indeed foreshadowed laying a number of further sex charges against Monis. The significance of this comment became clear in due course because when police preferred further charges in October 2014, they did not arrest Monis. This issue is dealt with below.

116. Det Vavayis discussed Ms Barnes’ opinion on the likely success of a bail review with her superiors. Police decided not to pursue the matter.
117. The Bail Panel convened by the inquest considered that Monis’ 22 May 2014 bail application was adequately handled by police and the ODPP. As noted above, both the OIC and the prosecutor involved in the sex-charges bail hearing overlooked the fact that Monis had allegedly committed the murder offences while he was on bail for the Commonwealth postal offences. However, given that the initial three sex offences allegedly took place in 2002, this was unlikely to have produced a different result even if it had been drawn to the Local Court’s attention.

Further mentions

118. All of Monis’ charges came before the Local Court again on 18 June and 31 July 2014. Bail was continued on each occasion, and police made no application for a review of his bail conditions.

Additional sex charges

119. After the initial three sex charges were laid, officers from the Sex Crimes Squad strike force conducted further interviews with former clients of Monis. Six more women claimed that Monis had indecently or sexually assaulted them between August 2002 and September 2010. All the assaults allegedly occurred after the women responded to Monis’ advertisements for “spiritual healing” services.
120. As a result, by early October 2014, Det Vavayis considered that the strike force had collected sufficient evidence to lay another 40 charges of indecent and sexual assault against Monis. Three of these charges were to replace the three charges already laid.
121. Police officers did not rearrest Monis. Instead, they filed future court attendance notices (**CANs**) requiring him to appear at Penrith Local Court on 10 October 2014, the date on which the murder charges and the initial three sex charges were listed for mention.

122. The facts sheets filed with the CANs each contained submissions setting out the grounds on which police opposed granting bail to Monis. These grounds included the seriousness of the alleged offences; Monis’ criminal history, including the fact that he was currently on bail for the murder offences; and fears for the safety of the complainants.
123. When the matters came before the court, the prosecutor, Andrew Chatterton, did not oppose bail. He said the prosecution considered there was an unacceptable risk that the accused would interfere with witnesses, but that risk could be mitigated by the imposition of conditions mirroring those attached to Monis’ bail on the initial three sex charges.
124. These circumstances raise two questions:
 - Should Monis have been arrested when the new charges were laid, rather than issued with CANs? and
 - Did the prosecutor adequately assess and articulate the risks of granting bail to Monis?

Arrest vs court attendance notice

125. Pursuant to ss. 47 and 53 of the *Criminal Procedure Act 1986*, police can commence proceedings for an indictable offence by filing a court attendance notice with the court and serving it on the accused.
126. This procedure precludes the police determining whether the accused should be granted bail—that question is considered by the magistrate presiding when the charges set out in the CANs are first mentioned in court.
127. Police may also commence criminal proceedings by arresting and charging a person they reasonably suspect of having committed an offence. In such cases, under the 2013 Bail Act (Part 5), the officer laying the charges must ensure that an authorised officer decides whether the accused should be granted bail. If the accused is not granted police bail, he or she must be taken before a court as soon as is reasonably practical.
128. Section 99 (1)(b) of the *Law Enforcement (Powers and Responsibilities) Act 2002 (LEPRA)* provides that to exercise the power of arrest, an officer must be satisfied arrest is necessary for one or more of nine reasons enumerated in the subsection, including:
 - to ensure that the accused appears in court,
 - to prevent interference with witnesses,
 - to protect the safety of any person, and

- because of the nature and seriousness of the offence.
129. In the fact sheets relating to the new charges, police stated that Monis should be refused bail because of the seriousness of the offences and the risk he posed to the safety of the complainants. Given this concern, should the new sex offence charges have been commenced by arresting Monis? If this course had been followed, Monis' suitability for bail could have been dealt with immediately. To put the question another way, is it inconsistent for police to state that an accused person should be refused bail by the court, yet to allow that person to remain at large until the charges come before the court?
 130. It was submitted on behalf of the police that the two issues are separate and not directly related. The power of arrest is circumscribed by s. 99 of LEPR in a way that prohibits police from using it as a mechanism for reviewing the bail status of an accused person. Indeed, Det Vavayis went so far as to suggest that to arrest someone for this purpose would be unlawful.
 131. That might be so if there were no other legitimate grounds for Monis' arrest. However, there were other grounds.
 132. When Det Vavayis was giving evidence, it was drawn to her attention that the s. 99 criteria cited above were applicable to Monis' new charges and that arrest would have been justified. Her reasons for rejecting that proposition were not persuasive.
 133. It was also submitted on behalf of the NSWPF that since Monis was already on bail for the murder-related charges and the initial three sex charges, and since bail for all of those charges and the new sex charges could be considered when he appeared in court on 10 October 2014, nothing would be gained by arresting him on the new charges, especially as the new charges mostly related to incidents that occurred many years earlier.
 134. The Bail Panel did not agree with Det Vavayis' suggestion that an arrest would have been unlawful. However, it did conclude that laying the charges by way of Court Appearance Notices was acceptable.
 135. Recent Supreme Court authority confirms that decisions on the granting or refusal of bail should not rest on the views of the arresting officers but on the facts underpinning those views: *JM v R* [2015] NSWSC 978. However, if the police believed they had a factual basis for opposing bail, it is difficult to understand why those same facts would not have justified arresting Monis. Indeed, the ODPP had advised police to do that in May 2014.
 136. There is some inconsistency in the police position: they explain their failure to formally seek a review of the grant of bail to Monis on the basis that the ODPP lawyer was the legal expert and that she recommended against a review, but they did not follow the advice of that same lawyer when she recommended that fresh charges be initiated by arrest.
 137. It was submitted by the Dawson and Johnson families that whenever police oppose the granting of bail to an accused person, they should arrest him or her. While concerns that lead police to oppose bail will frequently coincide with circumstances that activate the power to arrest, decisions whether to initiate charges by CAN or by arrest will probably need to be more nuanced than that.
 138. An officer's power of arrest is circumscribed by the provisions of s. 99 of LEPR. This section necessarily describes the circumstances in which arrest can occur in fairly general terms that are open to subjective interpretation. The law recognises that depriving a person of their liberty solely on the basis of suspicion is fraught with risk. Accordingly, police should not arrest someone if charging them by way of a CAN would suffice.
 139. An officer's discretion to initiate charges must be exercised independently—that is, the charging officer must be satisfied that a charge is warranted. However, that does not mean guidance should not be given as to which method of charging is to be preferred. Currently, the NSWPF has no policy to guide officers in relation to this sensitive issue.
 140. In view of the seriousness of the charges, the justifiable fear that Monis might track down and interfere with the complainants, and the increased flight risk arising from the stronger prosecution case based on numerous complainants, arresting Monis and charging him with the 37 new sex offences would have been appropriate. The police claim that it would not have been lawful confuses the improper purpose of arresting a person to have their bail reviewed with the permissible grounds for arrest set out in LEPR s. 99(1)(b).
 141. Arrest would have resulted in an immediate consideration of whether Monis should be granted bail; utilising CANs did not allow this to happen. Det Vavayis' decision not to arrest Monis was an error, based, it seems, on her misunderstanding of the effect of LEPR s. 99.

142. The failure to arrest Monis did not mean the ODPP lawyer who appeared when the fresh charges subsequently came before the court on 10 October was precluded from making a detention application. But if those charges had been initiated by arresting Monis and he had been refused police bail, he would have been in custody until he appeared in court and the burden would have fallen to his lawyers to make a release application.
143. In theory, the outcome of both applications should be the same if the facts remained unchanged. In bail hearings, neither side carries an evidentiary onus—the court makes the decision after applying the tests set out in the Act. However, in practice, if Monis had been arrested, the active demonstration that police regarded him as an unacceptable risk and the marshalling of evidence by the prosecutor to support that position would have increased the likelihood that he would be remanded in custody.

Conclusion: Arrest vs court attendance notice

144. Police made a mistake when—two months before the siege—they failed to arrest Monis on the new sex offence charges and instead initiated those charges by serving court attendance notices on him. That error increased Monis' chances of being granted bail. Complex and competing public and private interests must be balanced when an officer is considering whether to initiate a criminal charge by arrest or by issuing a court attendance notice. Currently, officers are given no guidance on how to do that.

Recommendation 2: Guidelines for when to arrest

145. *I recommend that the Commissioner of Police issue guidelines to assist officers determine when they should exercise their powers of arrest and take an accused into custody rather than proceeding by way of a court attendance notice.*

Prosecutor's experience

146. On 1 September 2014, the ODPP solicitor Andrew Chatterton assumed responsibility for the Monis file, including the murder-related charges and the then-current sex offence charges. He had originally studied and practised law in England. He had been employed by the ODPP for less than two months when he appeared on behalf of the prosecution at the 10 October 2014 mention of the Monis charges.
147. At that stage, Mr Chatterton had never appeared in a bail hearing in NSW and had not undertaken any in-house training in the area since joining the ODPP. He had, however, read online resources available to all ODPP lawyers. Mr Chatterton told the inquest that the English bail system was quite similar to the NSW regime and that he had appeared in hundreds of bail matters there.
148. Mr Chatterton had been given a three-week handover by the ODPP's Linda Barnes of all the matters for which he was to assume responsibility, including the Monis matters. It would be wrong to suggest he was too inexperienced or underqualified to appear in the preliminary stages of the Monis proceedings, including those dealing with bail. However, it is difficult to understand why he was not required to practise under direct supervision of a lawyer more experienced in local practice before he was left to manage his own serious cases.
149. The DPP submissions listed the training and supervision enjoyed by all the other lawyers who had carriage of the Monis matters at various stages. In each case, it was far more comprehensive than the preparation afforded Mr Chatterton. The DPP submissions also mentioned that a senior lawyer had conducted state-wide training seminars in relation to the new Bail Act. Mr Chatterton was not given the opportunity to attend any of these seminars. Either it was assumed that his experience in England meant he did not require any formal training or supervision with regard to bail applications in NSW, or his needs for training were inadvertently overlooked.

Prosecutor's preparation

150. During the handover, Ms Barnes told Mr Chatterton that further sex charges were likely to be laid against Monis and that police were likely to initiate these charges by arresting him. This accorded with the advice she had given Det Vavayis.
151. Soon after he took over the Monis file, Mr Chatterton met with the officers responsible for the murder-related charges and the sex charges, Detectives Staples and Vavayis respectively. He was aware that the charges were to be mentioned in court on 10 October 2014 and seems to have made reasonable efforts to familiarise himself with the briefs.

152. Some time before 9 October 2014, Mr Chatterton was made aware that the new sex charges were to be initiated not by arrest but by way of future court attendance notices.
153. Mr Chatterton and Ms Vavayis discussed the nature of the new, pending charges and the attitude of the police towards bail in a number of phone calls in the week before the matter came to court. Although Mr Chatterton was not provided with any written material at that stage, he told the inquest that he was given a general idea of the nature of the charges and the supporting evidence. He knew the allegations were similar to those made by the complainant in the three charges that had already been before the court.
154. At an early stage in their consultations, Mr Chatterton told Det Vavayis that he thought it would be difficult to successfully oppose bail because the risk Monis posed had not increased since he was last before the court on similar charges and because in the intervening period he had apparently complied with all the terms of his bail—as he had done over a number of years previously.
155. Mr Chatterton told the inquest that Det Vavayis accepted his analysis of the law relating to the situation and agreed with his proposal that bail not be opposed. Det Vavayis was adamant that she did not agree. She told the inquest she was unable to persuade Mr Chatterton to oppose the bail application that Monis' solicitor had foreshadowed. It seems most likely that she acquiesced in Mr Chatterton's decision not to oppose bail; in any event, she had little choice in the matter. The evidence clearly indicates, however, that she was against bail being granted and at no time resiled from that position.
156. Monis' solicitor Phillip Green was served with the CANs for the new sex charges on the morning of 9 October. At about 1 p.m., he rang Mr Chatterton to ascertain his attitude to bail. Mr Chatterton said he had not yet seen the material but that he would get some instructions and get back to Mr Green.
157. The prosecution material was delivered to Mr Chatterton later that afternoon. At about 5 p.m., before he had read the documents, he phoned Mr Green. He said the Crown would neither consent to nor oppose bail when the new charges came before the court the following morning, provided the same conditions were attached as had applied to the initial three sex charges. Mr Chatterton told the inquest that he felt he had sufficient understanding of the charges and the Crown case to make that concession before he had read the material. He

added that in any event, if his view had changed as a result of reading it overnight, there was nothing to stop him from opposing bail the next day.

158. On the basis that the prosecution would not contest the granting of bail, Mr Green told Mr Chatterton he would have Ms Droudis' solicitor appear on his behalf to represent Monis.
159. Mr Chatterton read the material that night. His views about bail did not change.

Court mention on 10 October 2014

160. Before the court hearing on 10 October, Mr Chatterton again discussed the case with Det Sen Const Vavayis and with her boss, Detective Sergeant Eugene Stek. The officers maintained their position that bail should be opposed, and Mr Chatterton maintained his view to the contrary.
161. Undoubtedly, prosecutors need to be able to exercise discretionary judgement on a range of matters they confront in the course of their work. However, in recognition of the vast difference in seniority and experience among lawyers employed at the ODPP, some decisions should not be finalised without input from a sufficiently experienced and senior officer. Such decisions include a decision not to oppose bail on serious charges when the OIC has expressed concerns about this.
162. Submissions on behalf of the Director of Public Prosecutions in this matter indicate that he is considering the issue and agrees that junior lawyers should be required to consult with more senior lawyers before conceding bail. If the DPP has not progressed beyond "considering" this question more than two years after the events, some stimulus for resolving it appears warranted.
163. The proceedings on 10 October were very short. The court was informed of the position with respect to some outstanding material to be included in the prosecution's murder brief before it could be served on the defence and dates were set for the defence's response. Orders were also made for the service of the brief in the new sex offence charges. The magistrate extended bail in relation to the earlier sex charges. He was then asked to deal with bail in relation to the new charges.
164. Mr Chatterton told the court that he considered Monis posed an unacceptable risk of interfering with witnesses, but he conceded that the risk could be mitigated by the imposition of conditions mirroring those already applied to Monis' bail for the

- earlier charges. That was accepted by the defence, and on that basis bail was granted.
165. Strictly speaking, the parties to criminal proceedings cannot decide by agreement whether bail will be granted or refused: that is for the court to determine. Under the 2013 Bail Act, if the prosecution wishes to oppose bail it should make a detention application; alternatively, the defence can make a release application if it intends to request bail.
 166. In practice, however, the parties' legal representatives usually discuss the question of bail and explore whether they can reach an agreement. If they do, they put the results of their negotiations before the court for its consideration. That is what occurred in this case.
 167. A busy Local Court magistrate will rarely probe the basis of the proffered agreement, assuming, in an adversarial jurisdiction, that the lawyers for the defence and prosecution will have appropriately considered all relevant matters. Regrettably, in this case that assumption seems to have been misplaced.
 168. Mr Chatterton was unaware that Monis was on bail for the postal offences when he allegedly committed both the murder offences and the three most recent sex offences. Mr Chatterton was not told of this by Det Vavayis and did not deduce it for himself.
 169. The 2013 Bail Act stated in s. 17(3)(e) that in assessing unacceptable risks, the court should consider whether the accused had "*previously committed a serious offence while on bail*". Should that clause be interpreted to mean convicted of an offence, or does it include being charged with an offence? Even if the first, narrower interpretation is correct, paragraph (a) of the same section stated that the court should take into account the accused person's criminal history. The fact that Monis had allegedly committed some of the new offences while on bail should have been put before the court.
 170. Given the change in circumstances since bail had last been considered, the Bail Panel concluded that Mr Chatterton should have made a detention application.
 171. Mr Chatterton considered that he had unfettered discretion to decide whether to oppose or "consent" to bail. He told the inquest that his supervisors had said nothing to the contrary and that there was no protocol or guideline delineating parameters within which he should operate. Indeed, he was not even required to record his reasons for making the concessions that resulted in bail being granted unopposed.
 172. It was also submitted to the inquest that the prosecutor could not have pursued a detention application because there was insufficient time to give the required written notice of the application to the defence before the hearing. That claim is baseless. There is no indication that the defence would have opposed time being abridged so the application could have been decided on its merits. Alternatively, the matter could have been stood over for a day or so to give the defence sufficient time. Equally, the magistrate could have dispensed with written notice if it was in the interests of justice to do so.
 173. Neither Det Vavayis nor Mr Chatterton realised that Monis was on bail at the time he allegedly committed the three most recent sex offences. Neither made sufficient inquiries about this issue, even though Monis' lawyers had emphasised his supposed compliance with bail in previous hearings.
 174. Mr Chatterton apparently failed to appreciate that the 37 new alleged offences and the six additional complainants meant the charges against Monis were now significantly more serious and the prosecution case significantly stronger than when he was last granted bail.
 175. In part, this was due to oversight by the individuals involved. The information was available, but it was not readily accessible.
 176. Numerous witnesses gave evidence about the practical difficulties confronted by NSW police officers and ODPD prosecutors seeking details about the bail history of defendants charged with Commonwealth offences.
 177. The difficulty arose here because the Commonwealth postal offences were preferred by the Australian Federal Police. Bail history with respect to such charges could have been sought, and would have been made available to the state authorities, but an AFP bail history is not routinely produced in applications for bail in relation to charges preferred by the NSWPF.
 178. The system should be reconfigured to ensure that state police have readier access to all relevant information, including bail history in Commonwealth matters or charges in other states.
 179. As Australians become more mobile, it is increasingly likely that information relevant to prosecuting an individual in one state will be held in the police records of another state or the Commonwealth. Police records should be merged into a

single database continuously updated in real time. The development of such an archive will require the cooperation of all states and territories and the Commonwealth.

180. The lengthy sentence likely to be imposed if Monis were convicted, and the fact that some of the new sex offences, as well as the murder-related offences, were allegedly committed while he was on bail for the postal offences, meant the risk of Monis breaching bail was higher than before.

Conclusion: Experience of prosecutor and access to criminal histories

181. The ODPP solicitor who appeared when the new sex offences first came before the court on 10 October 2014 was sufficiently experienced to handle the matter, but he had received inadequate training and supervision in the short time he had worked in the office.
182. The prosecutor should have applied for Monis to be remanded in custody in relation to the sex offences and for his bail on the murder-related charges to be reviewed.
183. Neither the ODPP lawyer nor the police involved appreciated that some of the new charges related to offences allegedly committed while Monis was on bail for Commonwealth offences related to a letter-writing campaign against the families of Australian soldiers killed in the Middle East. As a result, this relevant fact was not put before the court.
184. This omission occurred partly because details about Commonwealth offences are difficult for state agencies to access. Barriers to the free exchange of criminal-history information among Commonwealth, state and territory law enforcement and prosecuting agencies have the potential to adversely impact the effectiveness of those agencies, as occurred in this case.

Recommendation 3: Access to criminal histories

185. *I recommend that the Law, Crime and Community Safety Council develop a mechanism to ensure that all information on criminal history (including bail) that is relevant*

to the investigation and prosecution of criminal offences is readily accessible to police and prosecutors across all Australian jurisdictions.

Conclusion: Conceding bail

186. Despite the officer in charge's objection, the ODPP solicitor who appeared when the new sex offences were preferred did not oppose Monis' application for bail and did not consult or seek advice from any more senior officer in the ODPP. Although he had worked in the office for less than two months and had never appeared in a bail application, he was not required to consult or seek advice.

Recommendation 4: Policy concerning bail concessions

187. *I recommend that the DPP develop a policy for overseeing lawyers' exercise of the discretion not to oppose bail that takes into account the seriousness of the offences involved; the experience of the prosecutor appearing; and the views of the police officer in charge of the investigation, insofar as those views are based on facts relevant to bail determinations.*

Quality assurance within the ODPP

188. In addition to the matters discussed above, analysis of the response by the various ODPP solicitors to Monis' bail applications highlighted a number of shortcomings in such areas as an understanding of the law relating to complicity and its interaction with bail legislation; the desirability of written submissions and/or a chronology in complex cases; and the need for an effective handover when a file is transferred from one ODPP lawyer to another. The evidence suggested that these shortcomings were isolated lapses by busy practitioners who otherwise generally worked to a high standard.
189. For that reason they are not the subject of discrete recommendations. However, it is assumed that senior managers within the ODPP will carefully review the evidence relating to these issues and take remedial action as necessary.

Was Monis free because of these failings?

190. Innumerable factors contributed to Monis being motivated and able to perpetrate the Lindt Café atrocities.

191. The inquest scrutinised the circumstances in which he was granted bail because the number and nature of the criminal charges Monis faced at the time of the siege raise questions about whether he was a known danger to the public.
192. Did the authorities do all they could reasonably have done to ensure that Monis was held in custody until those charges could be dealt with? For the reasons outlined above, the answer is, “No, not in all cases.” That raises a further question: If the authorities had made the best case for his being refused bail, is it likely that Monis would have been in custody on December 15?
193. It is impossible to say whether Monis would have been granted bail on the murder charges if an effective advocate had drawn all relevant factors to the presiding magistrate’s attention, including the s. 9C requirement that exceptional circumstances be shown before bail could be granted. The Bail Panel expressed the view that Monis might well have met the “exceptional circumstances” test, as Ms Droudis did. The murder charges were based on a circumstantial case that did not appear overwhelming or conclusive. However, by the bail hearing in mid-October, Monis’ situation was quite different from that of Ms Droudis. In addition to the murder charges, he faced a large number of charges for sex offences allegedly committed over many years, in some cases while he was on bail for other offences.
194. As has been detailed above, there were deficiencies in the way prosecutors dealt with the question of bail for the sex charges, including not even opposing bail when the most numerous and most serious of those charges came before the court.
195. As the charges against him accumulated, a reassessment of the risk Monis posed was warranted. No such assessment occurred. Instead, with the prosecution’s consent, his bail on the initial murder and sex charges was extended, and the fresh sex charges were looked at in isolation. Had prosecutors undertaken an all-inclusive review of his alleged offences, his criminal history, and the bases on which bail had previously been granted, it is far less likely that Monis would have been at large on bail on 15 December 2014.
196. Similarly, while the police officers who preferred the various charges grumbled about Monis being granted bail, they did not take effective steps to have those decisions reviewed. When they had the chance to arrest him over the final tranche of sex charges, police chose to file CANs instead.
197. As was noted above, police and ODPP lawyers discussed the possibility of requesting a Supreme Court review of the grants of bail to Monis. Since this avenue was never pursued, it is impossible to know what might have resulted.
198. In examining whether the outcome would have been different if Monis’ bail applications had been handled differently—and whether changes in the practices of the NSWPF or ODPP might have improved the outcome—the inquest necessarily focused on mistakes and missed opportunities. It found that at times ODPP lawyers did not approach Monis’ bail application in the most effective way, and that investigating police officers made some mistakes that affected the question of bail and then missed opportunities to correct them.
199. However, there is no evidence that any of the police officers or prosecutors involved recklessly disregarded their onerous responsibilities. Indeed, all of the evidence supports the opposite conclusion. It indicates that they were hard-working, committed professionals who were extremely busy and took their difficult jobs seriously. In some cases they erred and should have done better. Such shortcomings are regrettable, but none of us performs to the highest standard every day and at all times, and none of the police or prosecutors could have foreseen how Monis would abuse the liberty he was granted. Those involved in his bail applications bear no responsibility for what Monis subsequently did. He alone was to blame for the deaths investigated by the inquest.

3 Security agencies' involvement post 2008

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Introduction

1. Monis' political activism in the years preceding the siege raises questions about what police and other security agencies knew about him beforehand and how they assessed him. Their task in assessing what risks he might have posed bear parallels with the challenge that necessarily confronted bail authorities (see Chapter 2).
2. The Australian Security Intelligence Organisation (ASIO) has a specific statutory mandate to identify and investigate threats to national security¹ both within and outside Australia. ASIO's role is to identify and assess possible threats to Australia's security or to the lives and safety of Australians in sufficient time and with sufficient accuracy to prevent such threats eventuating. In this respect, ASIO's work is predictive, an exercise in informed risk management aimed at enabling governments to take preventive action.
3. ASIO has wide powers to undertake surveillance and information-gathering, but the limits of its powers are clearly set. It is not a policing body. It has no powers of arrest. If ASIO obtains information predictive of a national security risk, it must pass that information on to an entity that has the powers to act upon it, such as the police.
4. The police—both the Australian Federal Police (AFP) and state police—also have a role to play in assessing and dealing with security risks within Australia. As noted in Chapter 4, there is a strong tradition of information sharing and investigative cooperation between state police, the AFP and ASIO through Joint Counter Terrorism Teams (JCTTs). Police have developed specialist counter-terrorism units. Within the NSWPF, these are the Terrorism Investigation Squad (TIS) and the Terrorism Intelligence Unit (TIU).
5. In 2008 Monis attracted the attention of police and ASIO with his increasing use of inflammatory language in letters and on his website sheikhharon.com (Sheikh Haron website). Their separate assessments were that he did not pose a direct threat to security and that he had a minimal following in the community. Their conclusions were justified.
6. Thereafter, Monis remained on the security radar.

¹ The term 'security' is defined in the *Australian Security and Intelligence Organisation Act 1979* (Cth) as the protection of Australia and its citizens from a range of threats, including most relevantly: espionage; sabotage; politically motivated violence; and the promotion of communal violence.

Days before the siege, a series of complaints to the National Security Hotline (NSH) about content on the Sheikh Haron Facebook page again brought Monis to the attention of police and ASIO.

7. This chapter details what can be published about how the relevant agencies discharged their responsibilities to assess the risk Monis posed at various times. Information about ASIO is also contained in Chapter 18.

ASIO interaction with Monis

8. It is a matter of public record that ASIO had cause to assess and deal with Monis starting in 1996, when he applied to enter Australia from Iran. What can be publicly disclosed regarding those assessments and contacts is set out below and in Chapter 18.
9. As was noted in Chapter 1, Monis first came to ASIO's attention when his application for a business visa was referred to ASIO by the Department of Immigration for routine checking. Ten days later, ASIO issued a "non-prejudicial assessment", meaning that it had no security concerns about Monis. Shortly thereafter, the Department of Immigration granted him a visa.
10. Three weeks later, and a week after Monis arrived in Australia, ASIO received some potentially adverse information about Monis, none of which related to a terrorist threat or an intent to commit politically motivated violence. Based on that information, ASIO initiated an investigation of Monis.
11. On 18 November 1996, Monis submitted an application for a protection visa. This was subsequently drawn to ASIO's attention, apparently as part of a normal or routine system in place at the time.
12. On 18 May 1998, while that application was still being considered, Monis contacted ASIO's public line claiming to have information about the upcoming 2000 Sydney Olympics. This was the first of a long series of calls to ASIO by Monis, most of which seemed to amount to little more than nuisance calls.
13. ASIO interviewed Mr Monis on two occasions and concluded that he had no information relevant to national security.
14. On 3 July 1998, the Department of Immigration referred Monis' protection visa application to ASIO for security assessment. Later that year ASIO conducted a security assessment interview of Monis.
15. In early 1999, ASIO provided the Department of

Immigration with an adverse security assessment on Monis. It stated that his continued presence in Australia posed an indirect, and possibly a direct, risk to national security, though not in relation to politically motivated violence. ASIO recommended against the issuing of a protection visa.

16. In November 1999, ASIO commenced an investigation into Monis. Early in 2000, it conducted a second security assessment interview with Monis, after which a formal assessment was made that Monis did not pose a direct or indirect threat or risk to national security.
17. On 12 September 2001, the day after the 9/11 attacks, Monis called the ASIO public line and volunteered information alleging Iran funded the attacks. After conducting an investigation and interviewing Monis on five occasions, ASIO concluded that Monis' claims were not credible, and the investigation ceased in September 2002.
18. In March 2002, Monis informed ASIO of an apparent planned protest at the Iranian embassy in Canberra.
19. On 18 June 2003, ASIO interviewed Monis after he called the ASIO public line expressing concern over the delay of his Australian citizenship application. The following year, ASIO advised the Department of Immigration that in its assessment, Monis did not pose a direct or indirect risk to national security.
20. Over the next few years, Mr Monis made several calls to the ASIO public line to raise various matters (see Chapter 1). Nothing appears to have come from any of those calls.
21. For example, on 15 July 2005, a week after the London Underground bombings, Monis called the ASIO public line claiming he had urgent information relating to suicide attacks. ASIO officers met with him on the same day. Monis offered to help ASIO, claiming he had contacts with information on al-Qaeda and other terrorist groups. ASIO officers concluded that his claims were not credible.
22. In February 2007, Monis called the public line again and requested a meeting with ASIO officers. During the meeting, he said he wanted to become a teacher of Islam so he had changed his name to Man Haron Monis to make him more readily identifiable as a Muslim. He said he wanted to steer young Muslims away from terrorism but believed they would be more responsive to his message if he tempered his pro-Western views. He presented a three-page "plan" offering to become a source for ASIO. ASIO declined the offer and told its officers not to accede to Monis' requests for contact. It cited concerns about his motivations for contact, his unusual behaviour, and the fact that he had provided no information of security relevance so far.
23. In April 2008, ASIO initiated an investigation into Monis given his inflammatory public statements. The closed portion of this report relating to ASIO includes a full examination of that investigation. Some parts of that examination are included in the open version of Chapter 18.
24. What can be said publicly is that partway through the investigation, on 4 August 2008, ASIO indicated to the NSWPF that at that point in time it had no information to suggest that Monis posed a direct threat to security. ASIO noted that items on the Sheikh Haron website might inspire others to undertake acts relevant to security, but indicated it had no information to suggest Monis had a strong or growing following in Australia, or connections with overseas persons or groups of security interest.
25. On 9 November 2008, ASIO officers assessed the letter Monis had written to the families of the Bali bombers, in which he stated that Muslims would attack Australia and Australians would be killed. They concluded that while this could be interpreted as a threat, it could also be interpreted as the expression of a belief that the Australian Government's position on the Bali bombings could incite Muslims to take action.
26. On 5 December 2008, the ASIO investigation into Monis concluded that:
 - there was no information to indicate that Monis' known associates, in Australia and overseas, were of security concern;
 - Monis was not involved in politically motivated violence or the promotion of communal violence; and
 - the Sheikh Haron website did not pose any significant threat to security.
27. This assessment noted that Monis:

was not involved in politically motivated violence and has not tried to incite communal violence. While [Monis] endeavours to use language that is ambiguous and open to interpretation, he makes sure not to cross any lines and tries to ensure he can protect himself from allegations of inciting terrorism.
28. On 28 July 2009, ASIO provided a report on Monis

to Commonwealth and state agencies. It stated that while Monis had used provocative and inflammatory language, he had not articulated a specific threat and that *“at this time, there is no indication Sheikh Haron or his associates are likely to personally engage in violence”*. In other words, at that time ASIO found no indication that Monis posed a threat to national security.

29. What occurred over the following five years is of particular interest to the inquest given the growing proximity of the siege and Monis' alleged criminal conduct in that period. However, aside from some limited matters regarding ASIO's handling of NSH reports received in December 2014, and that which can be included in the public version of Chapter 18, the majority of analysis concerning ASIO's activity in relation to Monis from 2008 to 2014 must be dealt with in a closed Chapter of this report.

Police

30. Monis came to the attention of both the NSW Police Force and the AFP as a result of his letter-writing campaigns, website, and protest activities, and also because of the charges over his postal offences, the murder of his ex-wife, and his alleged sexual assaults (outlined in Chapter 1).

NSW Police

31. In mid-June 2008, after the Sheikh Haron website announced that “Sister Amirah” (Droudis, Monis' partner) would stage a protest in Martin Place, Monis was put under surveillance by the NSW Joint Counter Terrorism Team (JCTT).
32. On 16 June 2008, the AFP and NSW police jointly conducted JCTT surveillance of the protest, during which Ms Droudis distributed pamphlets titled “War on Islam” to members of the public near the corner of Elizabeth Street and Martin Place (near the Lindt Café). At one point, she entered the café, where she remained for nearly an hour reading a newspaper. The next day, the JCTT continued surveillance of Ms Droudis and began surveillance on Monis to ensure there was no threat to the public.
33. On 19 June, JCTT members went to Monis' home and spoke to him about his true identity, his views about suicide attacks, and the items published on his website.
34. In August 2008, the NSWPF Terrorism Intelligence Unit provided a briefing note in relation to Monis. By that stage police regarded him as a serial let-

ter writer, were monitoring his website, and were aware of videos on the Sheikh Haron YouTube channel featuring Ms Droudis and other women. Police had also received advice from ASIO, as set out above, that ASIO had no information to suggest Monis represented a direct threat to security.

35. The TIU proposed that police conduct an “intelligence probe” of the activities of Monis, Ms Droudis and their associates. That probe included investigating Monis' telephone records, seeking information regarding his mental health, and monitoring the Sheikh Haron website and YouTube channel.
36. In September 2008, after Monis sent a letter to the Victorian Minister for Police, Victoria Police asked the NSWPF for intelligence holdings regarding Monis; this was duly provided.
37. In late 2008, the TIU provided a brief to the NSW Police legal advice section regarding Monis' online activities. The TIU's assessment was that his publications did not give rise to any offence—in particular, that the publications were sufficiently ambiguous not to amount to incitement. The TIU found that Monis had very limited support within the community and that inflammatory remarks made in letters and on his website had *“proved baseless”* and appeared designed to draw attention and provoke a response. Police assessed that Monis' *“nuisance activities”* were likely to continue and might escalate.
38. By December 2008, police in the TIU had identified a pattern of escalating rhetoric from Monis aimed at inducing a response from law enforcement and security agencies. Monis' statements, while inflammatory, remained ambiguous enough to avoid criminal liability. A similar assessment in February 2009 described a statement by Monis as *“his usual non-specific ambiguous rhetoric”* and found that he was seeking to elevate his public profile and draw the attention of government and the media. Later that month, a meeting regarding “Sheikh Haron” was attended by two TIU officers, a Terrorism Investigation Squad officer, and two AFP officers. It aimed to identify possible/likely offences he had committed and share information that might assist in investigating them.
39. In October 2009, the TIU concluded that while Monis' public statements were becoming increasingly provocative, they were not credible. While it is clear that police gave attention to each additional public statement he made after this, their assessments were made against the background of his history and this conclusion.

40. On 17 October 2009, a media release was sent by fax to the Surry Hills Police Station announcing a terror attack that month and referring readers to the Sheikh Haron website for further details. As a result, the TIU issued an intelligence briefing. This set out a summary of provocative statements from the website since March 2008 and noted that while those statements had been assessed as not credible, the most recent statement required further investigation. It recommended that Monis be interviewed.
41. In November 2009, Monis was assessed by the AFP in conjunction with the TIS, ASIO, and the ADF. The collective view was that Monis did not pose a threat to national security.
42. In November 2012, the TIU issued an intelligence briefing to other law enforcement agencies regarding persons of interest during the visit of Their Royal Highnesses The Prince of Wales and The Duchess of Cornwall. Monis was included in a 15-page list of individuals who might pose a threat. The briefing noted his history of protests and a DVD he had sent to Her Majesty Queen Elizabeth II.
43. In November 2013, in its last assessment before the siege, the TIU stated that Monis had a long history of making inflammatory statements on his website but had never been considered a direct security threat. It concluded that Monis had some potential to become a terrorist in the future because of his radical Islamic beliefs. However, at that point in time there was nothing to indicate Monis was involved in any terrorism-related activities.

AFP

44. In late 2007, the AFP commenced investigating Monis in relation to letters he sent to the family of an Army private who had been killed in Afghanistan. Those letters and similar letters to other families were the subject of an investigation named Operation Picton. Monis was ultimately charged with postal offences. Due to the lengthy investigative and procedural history of those charges, the AFP was generally aware of Monis from late 2007 to December 2014.
 45. As part of the investigation for postal offences, officers from the AFP visited Monis in April 2008 to warn him that he would be charged if he persisted in issuing such letters.
 46. Also during the first quarter of 2008, the AFP dealt with letters sent by Monis to various officials and copied to the Commissioner of the AFP and others.
- Generally the AFP concluded that these were nuisance letters—Monis' claims were not credible, there were no threats or abuse, and no response was warranted.
47. In late May 2008, after a video titled "Suicide Fatwa" was posted on the Sheikh Haron website (in which a woman discussed "*legitimate suicide attacks*"), the AFP began monitoring the site. An AFP information report, circulated to various AFP sections, noted that the website was well known and that:

Sheikh Haron is known to Protective Intelligence [within the AFP] as a serial correspondent with Australian and other office holders ... Whilst initial examination of the so-called fatwa only gives justification for suicide bombings when necessary to save lives, the accompanying YouTube video goes further ...
 48. It was during this period that Monis established his website and began publishing provocative content, including "*fatwas*" against the U.S. President, among others.
 49. In early June 2008, an AFP profile of Monis included an intelligence assessment which stated that Monis possibly had mental health problems and that the extremism in his rhetoric appeared to be increasing. While Monis had not displayed a propensity for violence, the greater concern was his potential influence on others. The assessment noted that the scope of his influence was not known, although he did not appear to have a high level of influence or credibility in the broader Islamic community.
 50. On 9 September 2008, an AFP officer reviewed a media release issued on the Sheikh Haron website referring to a "*physical attack in Australia on oppression by Soldier Sister Fatima*" on 11 September. He concurred with the NSWPF view that Monis was an attention seeker and the information did not represent a credible threat.
 51. On 22 September 2008, AFP officers identified posts on the Sheikh Haron website which appeared to be moving beyond praise for terrorist acts to urging participation in them. The information was sent to the Commonwealth Director of Public Prosecutions (CDPP), who indicated that while the posts were not sufficient grounds to lay a charge, the language in them was becoming stronger. The NSW JCTT maintained a watching brief on the website with a view to referring any further material of concern to the CDPP.
 52. In December 2008, the JCTT sought legal advice

- from the CDDP about the DVD sent by Monis to Her Majesty Queen Elizabeth II, in which "Sister Amirah" described the risk Australia faced as a result of Prime Minister Kevin Rudd's support for the execution of the Bali bombers. The CDDP found that the DVD's content did not constitute an offence.
53. In January 2009, the NSW JCTT liaised with the United States Secret Service in relation to a DVD, again narrated by "Sister Amirah", issuing a "fatwa" against U.S. President Barack Obama.
 54. From late 2008 into the first quarter of 2009, AFP officers were regularly monitoring the Sheikh Haron website, noting particularly inflammatory posts. In February 2009, the AFP requested an AUSTRAC check of Monis' financial transactions.
 55. In September 2009, as part of its investigation into the postal offences, the AFP conducted surveillance on Monis to ascertain his residence and work locations. Their investigation intensified from this point onwards as they compiled a brief of evidence.
 56. On 20 October 2009, the AFP executed a search warrant at Monis' Croydon Park residence, and subsequently arrested and charged him with postal offences.
 57. On 22 October 2009, the website sheikhharon.com was removed by the internet service provider at the request of the NSW JCTT; police later learned that soon afterwards, on 3 December, Monis established a new website at sheikhharon.net, hosted by an internet service provider in Hong Kong. The AFP monitored this website and liaised with Hong Kong authorities about its content and possible removal.
 58. As noted above, in November 2009, the AFP in conjunction with the TIS, ASIO, and the ADF concluded that Monis did not pose a threat to national security.
 59. In November 2011, an AFP profile document of Monis included an intelligence assessment that noted his fixation on Western involvement in the wars in Iraq and Afghanistan, and his letters to law enforcement agencies and families of deceased soldiers.
 60. On 9 June 2012, Monis joined a protest conducted by members of the Islamist group Hizb ut-Tahrir outside the embassies of Iran, Saudi Arabia, and Turkey against those countries' support for the Syrian regime. The AFP monitored the protest and issued an information report detailing Monis' involvement.
 61. In April 2013, the AFP issued an operational intelligence report on a recent Bike and Tattoo Show held by the ACT chapter of the Rebels outlaw motorcycle gang. It noted among other things that Monis had been one of the interstate attendees.
 62. Also in April 2013, the AFP undertook a project to identify Australians who might be connected to the conflict in Syria. Monis was identified given his public involvement in Syria-related protests in 2012, but the AFP concluded there was no information to suggest he was directly linked to the conflict and no further analysis was warranted.
 63. On 29 September 2014, an AFP officer involved in Operation Picton circulated an email to other members of the team about an article and media photographs of Monis attending a Hizb ut-Tahrir protest at Lakemba in response to counterterrorism raids.

Reports to the NSH

64. In addition to the investigations of Monis summarised above, the NSW Police, AFP and ASIO also received reports about Monis via the National Security Hotline.
65. Before the siege, the NSH received 41 reports about Monis. Of these, 23 were made in the period 2008 to 2010 and concerned Monis' protest activities and the Sheikh Haron website and YouTube channel.
66. Then, in the period 9–12 December 2014, a further 18 reports were made to the NSH about content on the Sheikh Haron Facebook page. Seven of these were referred to NSW Police. All 18 were referred to ASIO and the AFP for assessment.
67. The Facebook page included a number of images and comments that may be described as containing anti-Western sentiment. Most prominent was a graphic photograph of dead children captioned: "An [sic] evidence for the terrorism of America and its allies including Australia. The result of their airstrikes".
68. The concentration of these reports over a four-day period suggests that they were a coordinated exercise, and several reports contained identical information about Monis' background, including the details of the postal offences, murder charges, sexual assault charges, and his association with the Rebels outlaw motorcycle gang.

ASIO assessment

69. ASIO analysts conducted initial assessments on

these reports between 9 and 12 December 2014; including a review of the Facebook page by an analyst with relevant language skills. These preliminary assessments concluded that the posts did not indicate capability or intent to engage in terrorism or politically motivated violence. How those preliminary assessments were made, and related questions, are addressed in detail in the closed version of Chapter 18 and, to the extent possible, in the public version of that chapter.

70. Complaints about Monis to the NSH were considered on 10 December 2014 as part of a daily review of Western Australia-related NSH reports conducted by WA police, the WA JCTT, and ASIO. This consideration noted Monis' postal offences and that he was a resident of NSW. It was agreed there was no need for an interview or follow-up, and the lead was closed.

AFP assessment

71. Officers at the NSW branch of the AFP reviewed each of the 18 reports made to the NSH. The first stage of each review was to create a case note and conduct computerised searches in respect of "Sheikh Haron" and the person who made the complaint; relevant information was added to the case note. The NSH reports and case notes were then given for review to an AFP officer who worked in counterterrorism intelligence.
72. On 11 December 2014, the AFP officer performed a triage exercise in relation to the first of the NSH reports to determine whether it should be the subject of further investigation or referral. To do this, he considered an AFP profile of Monis and looked at his Facebook page. He later said he thought he looked at the Sheikh Haron website but could not recall precisely. His principal question was whether there was any sign of an intention and/or capability to commit politically motivated violence. He concluded that nothing in the NSH report warranted further investigation or referral and chose to archive the report. In making this decision, he took into account the fact that the report had already been passed on to ASIO and would be considered in the context of any additional material held by that agency. The officer considered three more of the NSH reports later the same day and concluded that they too did not warrant further investigation or referral.
73. A number of the case notes on the 18 NSH reports noted that the report in question was "*not CT related*" and that Monis was already known to police.
74. This was the extent of the AFP's review and assessment of the December 2014 complaints about Monis to the NSH.

NSW Police assessment

75. As noted above, seven of the 18 NSH complaints received in December 2014 were referred to NSW Police and assessed by the Terrorism Intelligence Unit.
76. TIU officers undertook an initial triage to assess the credibility of each referral. That process included a consideration of whether the information was of a time-critical nature or suggested an imminent terrorist attack; whether it contained information relating to ideologically, politically or religiously motivated violence; and whether it had any relevance to national security. Based on these considerations, a complaint was given a priority rating of "Urgent", "Priority", "Routine" or "Information Only" before being assigned to an officer to complete a full assessment.
77. A TIU officer triaged five of the NSH complaints on 10 December 2014. In relation to the first complaint, the officer noted that the Sheikh Haron Facebook page contained graphic images of dead children. He took screen shots and attached them to the file in case Facebook removed the page before the referral could be assessed.
78. He rated this complaint "Routine" priority and assigned it to a colleague for a full assessment. The siege occurred before that full assessment was conducted.
79. In relation to the other four complaints triaged on 10 December 2014, the officer noted that these concerned the same subject matter as the first, so he linked them to the first complaint and marked them "Information Only".
80. A different TIU officer triaged the remaining two complaints on 11 December 2014. He viewed the pictures and the anti-Western comments on the Sheikh Haron Facebook page, but saw no threats of imminent violence. He was aware that Sheikh Haron was Monis and that the TIU had assessed Monis in 2009 in relation to his letters to the families of deceased soldiers. The officer searched police holdings and realised there had been a number of similar complaints about the Facebook page and that the first—which had been triaged the previous day—had already been allocated for assessment. Accordingly, he submitted these final two complaints for closure.

81. As at 14 December 2014, the first of the NSH complaints had yet to receive a full assessment by the NSWPF.
82. It may be accepted that as at 10 and 11 December 2014, nothing on the Sheikh Haron Facebook page itself indicated an increased level of threat or imminent plans for politically motivated action or violence by Monis. Accordingly, the "Routine" priority rating was justified.
83. The relevance of the complaints about the Sheikh Haron Facebook page crystallised when Monis was identified as the hostage taker during the siege. At that time, police undertaking investigative and intelligence functions as part of Strike Force

Eagle (see Chapter 4) should have had—but did not have—regard to these NSH complaints. This is discussed further below.

Conclusion: Security agencies and Monis

84. There was frequent interaction between various law enforcement and security agencies and Monis in the years leading up to the siege. The response of the AFP and the NSWPF was proportionate to what they knew or should have known about Monis at the time. The analysis concerning ASIO is contained in Chapter 18.

4 Terrorism and counterterrorism in NSW

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Introduction

1. Inquiring into the nature of terrorism, and assessing whether Monis was a terrorist and the siege a terrorist incident may seem to some an otiose exercise. He was clearly malevolent and very dangerous; on one view, labels are irrelevant. Nevertheless, developing an understanding of Monis' motivations may assist to prevent similar threats by identifying potential offenders before they cause harm. This exercise is undertaken in Chapter 10.¹
2. Whatever Monis' motivations, the police response to the siege treated it as a terrorist event. Understanding how the siege was managed therefore requires an appreciation of the different roles of the law-enforcement, counterterrorism and intelligence agencies involved. This chapter outlines these roles and those of the various interagency committees, as well as the protocols under which they operate. How these bodies performed during the siege is described in Part III of this report and critiqued in Part IV.

What is terrorism?

3. Terrorism has been variously defined for different purposes, but is generally recognised as meaning violence or threats of violence in pursuit of political change.² While a criminal may employ violence to "terrorise" a victim (by waving a gun in their face, for example), a criminal is not ordinarily concerned with influencing public opinion. By contrast, the fundamental aim of a terrorist's violence is to influence domestic or international politics, express a political grievance, or draw attention to a cause.³
4. The *Criminal Code Act 1995* (Cth)⁴ (**Criminal Code**) defines a terrorist act as an action or threat of action that causes serious harm, death or property damage, carried out with the intent of advancing a political, religious or ideological cause, and coercing or influencing the government or intimidating the public or a section of the public.⁵

1 In addressing this topic, I acknowledge the considered contribution made to this inquest by experts in the areas of terrorism and radicalisation: Professor Bruce Hoffman, Professor Greg Barton, Associate Professor Roger Shanahan, Dr Kate Barrelle, and Dr Clark Jones.

2 Hoffman, B (2006), *Inside Terrorism*, Columbia University Press, p.40.

3 *ibid.*, pp.36–37.

4 Schedule 1 to the *Criminal Code Act 1995* (Cth).

5 See s. 100.1 and s. 100.2.

5. Early in the siege, Monis declared that it was an attack on Australia by Islamic State.
6. Islamic State is a Sunni Islamist extremist group inspired by a fundamentalist reading of the Koran. It champions the return of the Islamic Caliphate, or empire, in which fundamentalist Sunni Islam is the only accepted religion and where *sharia*, the legal system based on Islamic religious precepts drawn from the Koran and *Hadith*, is the only law.
7. IS (originally ISIS) began as a franchise of al-Qaeda but has grown to rival that organisation. Between 2012 and 2014, it captured substantial territory in northern Iraq and Syria. In mid-2014, after its forces seized the Iraqi city of Mosul, ISIS renamed itself Islamic State and announced the establishment of an Islamic caliphate governed by *sharia*, comprising settlements along the Tigris and Euphrates rivers in northern Iraq and southern Syria. Over the previous 12 months, ISIS had recruited some 12,000 foreign fighters; that number had doubled by the end of 2014. Islamic State has demanded that all Sunni Muslims pledge allegiance to its Caliphate and vowed to extend its reach worldwide. Its members or supporters have carried out terrorist attacks in many countries outside the Middle East, including Europe and the United States.
8. Islamic State is a proscribed terrorist organisation under s. 102.1 of the Criminal Code;⁶ that is, it is an organisation that is directly or indirectly engaged in preparing, planning, assisting or fostering the doing of terrorist acts or which advocates such acts.

Australia's counterterrorism capacity

9. Historically, identifying threats of terrorism in Australia was the responsibility of security intelligence agencies, particularly ASIO.
10. However, in the wake of the terrorist attacks on the U.S. on 11 September 2001, terrorism offences were introduced into the Criminal Code and law enforcement agencies began approaching terrorism as a species of crime.
11. Australia's national counterterrorism arrangements are structured to reflect our federal system of government: states and territories have primary responsibility for the operational response to and investigation of terrorism occurring in their jurisdictions. The

6 See *Criminal Code (Terrorist Organisation—Islamic State) Regulation 2014*.

Commonwealth provides support to the states and territories as requested and as appropriate.

Australia–New Zealand Counter-Terrorism Committee

12. A number of bodies and arrangements between the Commonwealth, states and territories are aimed at coordinating Australia’s counterterrorism efforts.
13. In 1978, in the wake of the Hilton Hotel bombing,⁷ the Standing Advisory Committee on Commonwealth/State Cooperation for Protection against Violence (**SAC-PAV**) was established. Its principal aim was to develop a set of national arrangements and agreements for responding to threats or acts of politically motivated violence.
14. In 2002, SAC-PAV was reconstituted as the National Counter Terrorism Committee (**NCTC**) with a broadened mandate covering prevention of terrorism and the management of its consequences.⁸
15. In 2012, it was agreed that New Zealand would become a full member of the NCTC, and the name was consequently changed to the Australia–New Zealand Counter-Terrorism Committee (**ANZCTC**). Its objectives include:
 - maintaining the National Counter-Terrorism Plan (**NCTP**);
 - providing expert strategic and police advice to heads of government;
 - coordinating effective national counterterrorism capability; and
 - maintaining effective arrangements for sharing relevant intelligence and information between all relevant agencies and jurisdictions.
16. The ANZCTC comprises senior police, representatives from the Prime Ministers’ departments, and senior officials from relevant Commonwealth agencies.

National Counter-Terrorism Plan

17. The NCTP sets out Australia’s strategic approach to preventing and dealing with acts of terrorism. It is the primary document on Australian national counterterrorism policy and arrangements.

⁷ In which NSW police officer Constable Paul Birmistriw and two Council workers, William Favell and Alex Carter, were killed after a bomb exploded outside the Hilton Hotel on George Street, Sydney, during the first Commonwealth Heads of Government Meeting (CHOGM).

⁸ Intergovernmental Agreement on Australia’s National Counter-Terrorism Arrangements, 24 October 2002.

18. At the time of the siege, the third edition of the NCTP, dated 2012, was in place. In relation to counterterrorism policy, this edition stated at Clause 92:

*Australia’s policy is, wherever possible and appropriate, to resolve terrorist acts through negotiation to minimise the risk to life. **Australia will not make concessions in response to terrorist demands.** Police will maintain a cadre of trained negotiators and a containment and deliberate/emergency action capability. Defence also maintains containment and deliberate/emergency action capability.* [Emphasis added.]

19. This provision differs in some respects from its equivalent in the second (2005) edition of the NCTP, which stated at Clause 64:

*Australia’s policy is, wherever possible and appropriate, to resolve terrorist incidents through negotiation to minimise risk to life. **Australia will not make concessions in response to terrorist demands. However, in siege/hostage situations minor concessions may be made to further the comfort and health of hostages.** Negotiators: Police will maintain a cadre of trained negotiators. Use of force: Police will maintain a containment and deliberate/emergency action capability. The ADF also maintains such a capability that may be called upon under the provisions of DFACA.* [Emphasis added.]

20. This assumes relevance because at the time of the siege, the National Strategy for Terrorist Negotiation (see below) wrongly made reference to the terms of Clause 64 from the 2005 edition. In any event, an inconsistency or at least ambiguity arises between the directive to resolve terrorist incidents through negotiation, with “minor concessions” for the benefit of hostages, and the directive to make no concessions to terrorist demands. The way the NSWPF interpreted and applied this policy during the siege is addressed in Chapter 13.

National Security Hotline

21. The National Security Hotline (**NSH**) was established in late December 2002 following the terrorist bombings in Bali earlier that year, in which members of the group Jemaah Islamiya killed 88 Australians. The NSH operates 24 hours a day and receives reports (via telephone, email, and so on) of possible signs of terrorism. It also provides information to callers on a wide range of national security matters.
22. Information received by the NSH is passed on to

law enforcement and security agencies for analysis and further investigation. The extent to which those matters are investigated or any action taken is purely a matter for the recipient organisation.

ASIO

23. ASIO has a central role in Australia's counterterrorism arrangements. Its functions include obtaining, correlating, evaluating and communicating intelligence relevant to "security",⁹ which is defined as including the protection of the Commonwealth, states and territories and their residents from politically motivated violence (which includes terrorism).¹⁰ The functions and powers of ASIO are described in Chapter 18.

Joint Intelligence Group

24. A Joint Intelligence Group (**JIG**) may be raised when either Commonwealth or state/territory police consider it warranted. It comprises representatives of police and other agencies as required (e.g. ASIO, the ADF), and provides intelligence support to commanders of a police response to a terrorist incident.
25. The JIG has functional teams of two kinds:
- JIG cells, made up of officers who collect and analyse information on a specific topic or issue (depending on the nature of the incident) and produce "cell reports" at regular intervals; and
 - a Joint Analysis Group (**JAG**), which provides intelligence advice in response to specific queries from command and maintains an overview of the intelligence generated by the JIG cells. At regular intervals it issues intelligence summaries (**INTSUMs**), which comprise current information from cells, JAG's own assessment, and key considerations.
26. The JIG teams are coordinated by the JIG coordinator, who reports to a JIG commander. The JIG commander is generally based at the police operations centre along with JIG liaison officers, to facilitate the passage of information.
27. Once the Lindt Café siege was recognised as a terrorist incident, a JIG was stood up, staffed by police and ASIO officers. In due course, JIG cells and a JAG were established. These commenced issuing reports and INTSUMs at roughly two-hourly intervals from 4 p.m. The contribution of the JIG to the

response to the siege, which primarily took the form of INTSUMs, is described in Chapter 7 and addressed in Chapter 12.

Joint Counter-Terrorism Team

28. In each state and territory, a Joint Counter-Terrorism Team (**JCTT**) has been established to maintain general intelligence collection and analysis capabilities, as well as to conduct specific investigations in terrorism-related matters. The JCTT comprises law enforcement officers from the state or territory in question, plus officers from the AFP and ASIO.
29. The NSW JCTT, which was formally established in 2007, comprises officers from the AFP, ASIO, the NSWPF Terrorism Investigation Squad, and the New South Wales Crime Commission (**NSWCC**).

ANZCTC Manuals

30. Among documents maintained by the ANZCTC are guidelines and manuals relevant to Australia's counterterrorism response. Those of particular relevance to the inquest are:
- Guidelines for Responses to Bombs and Person Borne Improvised Explosive Devices;
 - a Marksman's Manual;
 - a Police Tactical Group Operations Manual, which includes attachments on Close Quarters Tactics and Method of Entry;
 - the National Strategy for Terrorist Negotiation;
 - the National Counter Terrorism Handbook (**NCTH**); and
 - Guidelines for Terrorism Incident Reception Centres.
31. The Police Tactical Group Operations Manual sets out in detail the actions to be taken by a Police Tactical Group (**PTG**)¹¹ when responding to threats or incidents of terrorism. The aim of the manual is to provide a standardised approach for PTGs in order to enhance interoperability in the event of a multijurisdictional response to a high-risk incident. It details roles and responsibilities and provides a template for command structure.

NSW counterterrorism arrangements

32. As noted above, the states and territories have primary responsibility for the operational response

9 s. 17 of the Australian Security Intelligence Organisation Act 1979 (Cth) (ASIO Act).

10 s. 4 of the ASIO Act.

11 This is the generic term/acronym used. The actual name of this group differs across states and territories: for instance, it is known within the NSWPF as the State Protection Group (SPG).

to and investigation of terrorism occurring in their jurisdictions.

33. Accordingly, the NSW Government has primary responsibility for preventing, preparing for and responding to acts of terrorism within NSW.
34. In 2003 the NSWPF established a group now known as the Counter Terrorism and Special Tactics Command (**CT&STC**). Details of this command are set out in Chapter 5.
35. The NSWPF is authorised to use special powers to prevent a terrorist act or to investigate a terrorist act under the *Terrorism (Police Powers) Act 2002* (NSW).
36. These powers include stopping and searching people and vehicles, and entering and searching premises. The Commissioner or Deputy Commissioner of Police can authorise the exercise of such special powers with the mandatory concurrence of the Minister of Police.
37. During the siege, the Commissioner issued an authorisation under the *Terrorism (Police Powers) Act*.

Task Force Pioneer and Strike Force Eagle

38. In 1990, the NSWPF established Task Force Pioneer (**Pioneer**) to respond to acts of terrorism within NSW. Pioneer is a command and control model or structure that sets out the lines of authority and activation processes to be used during a response to an incident.
39. A primary aspect of Pioneer is the establishment of a cadre of commissioned officers who are trained and rehearsed in the management of terrorist-response operations.
40. The guideline document for Pioneer observes that the NCTP and the NCTH outline the responsibilities, authorities and mechanisms to prepare for, prevent, respond to and recover from acts of terrorism and their consequences. It may be inferred that the training of commissioned officers in the management of terrorist response operations under Pioneer is conducted in accordance with the NCTP and the NCTH.
41. The NSW Police Commissioner's executive team validates and approves suitable officers to be included in the Pioneer Counter Terrorism Command Cadre. The Assistant Commissioner, CT&STC, is responsible for maintaining and reviewing the Pioneer arrangements and ensuring members of the cadre are appropriately trained, prepared, resourced and exercised.
42. Once Pioneer is activated, only an authorised person (the NSW Police Commissioner or designated Deputy Commissioners) can appoint a police commander, police forward commander and/or controller in relation to terrorism operations.
43. On the morning of 15 December 2014, Pioneer was activated once the siege was recognised as a terrorist incident. Two Pioneer-trained commanders, Assistant Commissioner Mark Murdoch and another officer who will be referred to in this report as Afternoon Forward Commander, took over at the Police Operations Centre and Police Forward Command Post respectively.
44. Strike Force Eagle (**Eagle**), which is subordinate to and complements Pioneer, is an adaptable model for the criminal investigation of a terrorist incident.
45. The Strike Force Eagle Standard Operating Procedures (**SOPs**), produced in 2012, set out the command structure of Eagle and various aspects of investigation and intelligence management. In a police operation, the commander of Eagle is based at the Police Operations Centre and reports directly to the police commander. Reporting directly to the commander of Eagle is a Senior Investigating Officer, who manages and coordinates investigation, intelligence (including the JIG), as well as planning and logistics and public information.
46. The Eagle SOPs also designate various teams (as required, depending on the nature of the incident) and the police command areas to be drawn upon for these teams. For instance:
 - *The investigation management and brief preparation team* is to comprise officers from the TIS, the Robbery and Serious Crime Squad, and the JCTT. This team is responsible for overall investigation coordination and management, as well as strategic direction.
 - *The crime scene investigation team* is to comprise officers from the Homicide Squad and Property Crime Squad. This team is responsible for management of the crime scene, liaison with forensics, and exhibits management.
 - *The witness/victim management team* is to comprise officers from the Sex Crimes Squad and the Fraud and Cybercrime Squad. This team is responsible for overall management of witnesses, including obtaining statements and providing support to witnesses and victims.

47. Eagle is usually initiated after the activation of Pioneer. This occurred on the morning of the siege, and Eagle arrangements were implemented under a commander who will be referred to in the remainder of this report as Eagle Commander.

Watch lists

48. According to the evidence put before the inquest, neither ASIO nor the NSWPF, nor any other Australia

lia law enforcement agency, maintains watch lists or applies the concept of watch lists in terrorism investigations. Persons of interest are not targeted simply because they are on a “list”. All investigations are based upon an allegation and/or reasonable suspicion that there is a threat to security (in the case of ASIO), or that a terrorism offence has occurred or is likely to occur (in the case of police). Accordingly, Monis’ name was not on any “watch list”.

5 The response to high-risk situations

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Introduction

1. Police forces in Australia and around the world face the challenge of determining how best to respond to complex instances of actual or threatened violence or other dangerous situations. For many years, Australian policing authorities have shared ideas and sought to arrive at a common approach as to how to respond to such situations.
2. Sophisticated guidelines have been developed that define high-risk situations and stipulate in general terms how they should be responded to. Units within the NSW Police Force have been given special responsibilities for discharging the functions referred to in the guidelines.
3. It was important for the inquest to inquire into whether the guidelines were complied with in this case and whether they needed further revision. This chapter outlines the content of the guidelines, the organisational structure of the units that apply them, and the tactics they employ. Chapter 7 describes how the guidelines were applied during the siege; Part IV analyses whether that application was appropriate.

The development of the ANZPAA guidelines

4. In October 1991, the then National Police Research Unit (NPRU) Board of Control resolved that the NPRU should study a recommendation in the report by the National Committee on Violence, namely that police administrators should:

Adopt a nationally agreed set of guidelines outlining standard operational procedures for police to be deployed in situations assessed as high risk.
5. As a result, three separate sets of National Guidelines were developed: *National Guidelines for the Deployment of Police in High Risk Situations*, *National Guidelines for the Deployment of Police Negotiators* and *National Guidelines: Police Use of Lethal Force* (collectively, **the National Guidelines**). These were endorsed by the Australasian Police Ministers Council in 1994.
6. In 2005, the National Guidelines were amalgamated into one document entitled *National Guidelines for Deployment of Police to High Risk Situations, Deployment of Police Negotiators and the Use of Lethal Force—2005* (the **2005 National Guidelines**).
7. The 2005 National Guidelines contained a definition of high-risk situations which was adapted and included by the NSWPF in the *Tactical Operations Unit, Management—Operational Guidelines 2008*.
8. The NPRU became the Australasian Centre for Policing Research. It was one of 17 organisations incorporated into the Australia New Zealand Policing Advisory Agency (**ANZPAA**) when it was created in 2007.
9. In February 2013, an ANZPAA workshop led to the creation of the *Australia New Zealand Guidelines for Deployment of Police to High Risk Situations 2013* (the **ANZPAA Guidelines**). These were drawn up in accordance with the *National Counter-Terrorism Plan*, 3rd edition 2012 (**NCTP (3rd ed.)**).
10. The ANZPAA Guidelines set out the “core guidelines” for the management of high-risk situations, including the deployment of police negotiators and the use of lethal force by police. These guidelines were designed to help achieve consistency in training and response and interoperability between jurisdictions.
11. In summary, the ANZPAA Guidelines define high-risk situations by reference to the degree of force officers would be justified in using to respond to actual or imminent violence or a threat of violence. The definition also provides that certain criteria can be applied to assist in determining whether particular circumstances would constitute high-risk situations. The criteria include matters such as the history and current behaviour of the person presenting the threat and assessments made by police as to the nature and extent of any violence the person might carry out.
12. In some respects, the criteria that police need to apply in deciding whether particular circumstances constitute a high-risk situation are difficult to understand. It is certainly arguable that any set of circumstances in which resort to deadly force is foreseeable and reasonable should be classified as a high-risk situation.
13. It is important to note that high-risk situations are not limited to terrorist attacks or events. As the ANZPAA Guidelines suggest, the circumstances and situations that may be defined as “high risk” may vary widely. The key determinant is ultimately the assessment made by the relevant police agency as to the nature and extent of the real or impending violence or threat, and the degree of force that may need to be applied in response.

The Counter Terrorism and Special Tactics Command

14. In 2003, following a number of significant international terrorist incidents, the New South Wales Government provided funding to establish a counterterrorism coordination command within the NSW Police Force. This command brought together a number of existing units, including the Protective Security Group, the State Protection Group (**SPG**) and a new Terrorism Investigation and Intelligence Team.
15. In 2007, NSWPF counterterrorism arrangements were subjected to a full functional review. As a result, a significant restructuring occurred. Most relevantly, a new Counter Terrorism and Special Tactics (**CT&ST**) Command was created.
16. In general terms, the mission of the CT&ST Command is to protect the people of NSW from acts of terrorism and politically motivated violence. It comprises five complementary units: the Coordinated Response Group, the Operations Group, the Anti Terrorism and Security Group, the SPG, and the Business Support Unit. The Coordinated Response Group is a multi-agency command primarily focused on developing, coordinating and implementing counterterrorism policies and strategies. The Operations Group is responsible for conducting research, education and community engagement in respect of terrorism and counterterrorism. The Anti Terrorism and Security Group is focused on terrorism investigation and intelligence, dignitary protection and witness protection.
17. The SPG is responsible for the strategic coordination of policy and procedures related to high-risk policing activity and the strategic management and operational oversight of NSWPF responses to high-risk situations. In practical terms, the SPG is the unit with the hands-on responsibility for overseeing and conducting high-risk police operations generally, subject to specific arrangements for terrorist attacks or threats.
18. The SPG is made up of five specialist units: the Tactical Operations Unit (**TOU**), the Dog Unit, the Negotiation Unit, the Police Armoury, and the Rescue and Bomb Disposal Unit.
19. The TOU is the NSW police tactical group. Under the auspices of the ANZCTC, police tactical groups (**PTGs**) were established in each Australian state and territory to provide a specialist capability to respond to, contain and resolve high-risk sit-

uations, including terrorist incidents and siege/hostage situations.

20. The TOU guidelines set out the circumstances in which the TOU can be activated and provide guidance on how high-risk situations are to be resolved, and when and how force will be used. The principal operating strategy for the resolution of high-risk situations is specified as containment and negotiation.

The training and use of negotiators

21. The “contain and negotiate” strategy is also set out in the 2011 Negotiation Unit guidelines. These require that when the TOU responds to a high-risk situation, the Negotiation Unit will be called out as well, while the other specialist units that make up the SPG might be used on a case-by-case basis. Members of the TOU and the Negotiation Unit gave evidence that the two units work very closely together on a regular basis.
22. The position of Negotiation Unit Commander, established when the unit was set up in 1991, was the first full-time negotiation position in any Australian police force. The commander has responsibility for the overall management of police negotiation services within NSW. In practical terms, the commander selects, trains, evaluates and supervises police negotiators. Since October 1996, Graeme¹ has been the NSWPF Negotiation Unit Commander. The Negotiation Unit Coordinator is Reg.
23. On 15 December 2014, all Negotiation Unit staff, apart from Graeme and Reg, worked for the unit on a part-time basis. These were police officers from various commands and areas of police work. In total, there were 184 part-time police negotiators spread across country and metropolitan NSW. (On 3 April 2016, a second Negotiation Unit Coordinator position was created, giving the unit three full-time negotiators. This position was filled by the police negotiator Ross.)
24. There is a policy restriction that limits the rank of an officer who may work as an active police negotiator to Senior Sergeant. Once an officer is promoted to commissioned rank, he or she is prohibited from working as an active negotiator.
25. In the Sydney metropolitan area, police negotiators are grouped into teams. During a given week,

¹ The true names of all negotiators and TOU officers were made the subject of a non-publication order for security reasons, and pseudonyms were used in lieu of those officers' names.

- one of the teams is on call and available to respond to high-risk situations as they arise and to other calls for negotiator assistance. When negotiators are called out, the members of the on-call team are formed into a specific team for the situation or incident. A standardised structure is used for such teams, with a negotiation team leader, primary negotiator, secondary negotiator, and fourth member/recorder.
26. In order to train police negotiators to a set standard and to keep their skills and abilities current and up to date, the NSWPF, through the SPG Negotiation Training and Development Committee, has developed a NSW Police Negotiation Training Program (the **Negotiation Training Program**).
 27. The program is set out in the Negotiation Unit guidelines. It has three phases. Phase 1 involves a two-week residential training program, which was previously conducted at the NSW Police Force Academy in Goulburn but is now held at a venue in Sydney. After police officers complete the Phase 1 residential program, they are competent to conduct police negotiations as primary negotiators and are thus deployed into the field for negotiation work.
 28. Those police officers who complete Phase 1 may return 12 months later for Phase 2, which involves a one-week residential training program. A further 12 months must pass before the police officers can return for the final, Phase 3, residential training program. Having completed it, officers obtain an Advanced Diploma of Public Safety (Police Negotiations).
 29. After police officers complete the Negotiation Training Program, they are accredited as police negotiators and can act in the role of team leader during a negotiation. In order to maintain that accreditation, they must undergo reaccreditation every two years. Reaccreditation can be achieved in a number of ways, including via completing a further one-week course or having some form of involvement in negotiator training or counterterrorism exercises.
 30. Reg explained in his evidence that when he completed his negotiator training some years ago, most of the course was taught by Graeme. Graeme also writes most of the program materials, with some assistance from the members of the SPG Negotiation Training and Development Committee. It appears that Graeme still teaches a large part of the Negotiation Training Program. However, more teachers from outside the NSWPF are now used. The Negotiation Training Program covers topics such as active listening, use of whiteboards, the roles of individual negotiation team members, and the types of psychiatric conditions that negotiators may encounter, as well as how they may affect negotiations.
 31. Police negotiators are also trained in relation to the possible use of psychiatrists or psychologists as consultants during negotiations. That training includes information on the areas in which psychiatrists/psychologists may provide advice, such as compiling subject profiles, predicting behavioural patterns and analysing psychological considerations and interpreting hidden messages in communications from subjects. Notably, no instruction is given regarding specific limits on the areas within which psychiatrists/psychologists are permitted to provide advice.
 32. Beyond the Negotiation Training Program described above, some limited training is provided to some police negotiators in respect of terrorism and counterterrorism. The terrorism/counterterrorism negotiation training course is held annually and involves teachers from within the NSWPF and from the broader counterterrorism community. Reg explained that the course is pitched at a fairly basic level and involves some instruction on how to deal with religion in the negotiation setting. Reg's description was corroborated by evidence given by other negotiators, such as Peter. Reg also told the inquest that negotiators were taught that negotiating with terrorists can be difficult depending on their motives and demands.
 33. The terrorism/counterterrorism negotiation training appears to include reference to the Australian government policy position, spelled out in clause 92 of the NCTP (3rd ed.), that concessions will not be made in response to terrorist demands. A similar but more qualified policy position was stated in Clause 64 of the National Counter-Terrorism Plan 2005 (**NCTP 2005 (2nd ed.)**). The negotiators who gave evidence at the inquest were unable to say precisely what guidance they received during training as to how the policy prohibition on making concessions to terrorist demands is to be accommodated during negotiations in terrorist incidents.
 34. Reg stated that the additional training provided to negotiators in respect of terrorism/counterterrorism did not involve instruction on particular techniques that might be involved in negotiating with terrorists. Rather, negotiators were taught that the same tactics and strategies applied irrespective of the setting of the negotiation.

35. Given the role of the Negotiation Unit in high-risk policing under national counterterrorism arrangements, the training provided to negotiators in respect of terrorist and counterterrorism is coordinated through the ANZCTC and reflects agreed national guidelines, procedures and principles. The intention is that the NSW Negotiation Unit and other similar units established by police agencies in the states and territories are interoperable and thus able to respond and perform in any jurisdiction.

The history of “contain and negotiate”

Darren Brennan and David Gundy

36. It is important to place the creation of the State Protection Group and the NSW Police Force’s adoption of a principal operating strategy of resolving high-risk situations by containment and negotiation into a historical context. There is a basis for concern that this strategy had led to a degree of inflexibility; this will be analysed further in Part IV.

37. On 27 April 1989, David Gundy was shot and killed at his house in Marrickville when the NSWPF Special Weapons and Operations Squad (**SWOS**) conducted an armed raid, under a search warrant, in pursuit of a suspect in the fatal shooting of a police officer. The suspect was not in the house at the time. The SWOS team of eight officers, armed with firearms and a sledgehammer, forced entry to Mr Gundy’s home before dawn. He was killed in his bedroom by a shotgun blast from a SWOS team member. David Gundy’s death was subsequently the subject of a Coronial Inquiry and a report by Commissioner Hal Wootten, as part of the Royal Commission into Aboriginal Deaths in Custody.

38. On 17 June 1990, Darren Brennan was shot and seriously injured in his bedroom in Glebe when eight Tactical Response Group (**TRG**) officers conducted an armed raid. The TRG officers were acting under a search warrant after receiving information that a police badge was being offered for sale at Mr Brennan’s house and that there was also marijuana inside. Darren Brennan’s shooting was the subject of an inquiry before the Police Tribunal.

39. The Coronial Inquest, Royal Commission and Police Tribunal findings made significant criticisms of the police actions in respect of David Gundy and Darren Brennan. As a result, the SPG was established (on 23 June 1991) to undertake strategic coordination of policy and procedures related to high-risk

policing and strategic management and operational oversight of the NSWPF’s responses to high-risk situations.

40. The shootings of David Gundy and Darren Brennan also brought about a change in police practice, which had previously been to force entry into strongholds in order to arrest offenders or execute search warrants. The NSWPF reviewed that practice in the broader context of how to respond to and manage high-risk situations.

41. That review included reference to developments in the U.S. and U.K. The NSWPF identified that best practice internationally was to contain a stronghold and then negotiate with the occupant. It therefore adopted containment and negotiation as the principal police operating strategy for resolving high-risk situations.

An international development

42. An expert team of police from the U.K. gave evidence at the inquest. In its 14 March 2016 report, the team acknowledged that in Britain, “contain and negotiate” remains the default approach to siege situations with a view to minimising the risk to hostages, the wider public, responders and hostage takers. The team explained that in the vast majority of siege/hostage situations, where there is an identified stronghold but no immediate risk to life or imminent serious injury, the preferred tactical option is to establish containment of the location and negotiate the surrender of the hostage taker in order to secure the safe release of any hostages.

43. The U.K. review team did however acknowledge that the recent emergence of Islamic extremism, in the form of attacks by al-Qaeda and Islamic State adherents, and the rise in active shooter attacks,² particularly in the U.S., had necessitated a change in approach and tactics. Assistant Commissioner Mark Murdoch of the NSWPF gave similar evidence. Both the U.K. review team and AC Murdoch indicated that while “contain and negotiate” remained the appropriate default approach to responding to high-risk situations, there was a need in certain circumstances to move quickly from attempting containment to early intervention.

44. Thus, in recent times there have been adjustments

² Active shooter attacks occur where a person is actively engaged in killing or attempting to kill people in a populated area. In 2015, the ANZCTC issued a policy entitled “Active shooter guidelines for places of mass gathering”.

to the containment and negotiation doctrine overseas and in Australia. “Contain and negotiate” remains the NSWPF’s principal operating strategy for addressing high-risk situations, but it has begun training first-responder police officers in how to deal with active shooters, also known as active armed offenders. Additionally, AC Murdoch confirmed that the NSWPF is currently reviewing its “high-risk guidelines” in order to factor in exceptional circumstances like active armed offender situations, where “contain and negotiate” would be counterproductive and could culminate in the unnecessary loss of life. By high-risk guidelines, the Assistant Commissioner presumably meant the Negotiation Unit guidelines and the TOU guidelines. As at the date of this report, it would appear that they remain under review.

TOU training and deployment

45. As noted above, all Australian state and territories have a PTG responsible for responding to and containing high-risk situations, including terrorist incidents. The NSWPF’s tactical group is the Tactical Operations Unit.
46. Each state and territory’s PTG trains and conducts operations in accordance with PTG national doctrine, standards and processes. These are set out in the *National Counter-Terrorism Handbook (NCTH)* and, in particular, the *PTG Operations Manual*. Additional direction is also provided in the ANZPAA Guidelines. This facilitates interoperability between the PTG units from different jurisdictions—they can work together, and members from one PTG unit can be called in to assist or relieve operatives in another state or territory where a need arises.
47. As part of the national, coordinated network of PTGs, the NSW TOU regularly trains and exercises with other state and territory PTG units. Training courses and exercises are conducted under the auspices of the ANZCTC, by reference to national training standards set by the ANZCTC.
48. Specific detail of the ANZCTC national training standards for PTG units is subject to appropriate protection under a regime of non-disclosure and non-publication orders made during the inquest. While the inquest received into evidence the key ANZCTC documents, the protective orders prevent their publication in this report.
49. The TOU’s mission is to provide operational support to all police involved in responding to high-risk incidents. Tactical Advisor³ indicated in his evidence that between January 2008 and August 2015, the TOU was called out to 1345 separate incidents, of which 110 could be classified as siege-type situations. The Lindt Café siege was the first terrorist siege to which the TOU had been deployed. Accordingly, all of the other 109 siege-type situations to which Tactical Advisor referred were domestic in nature. The non-siege incidents involved the pre-planned arrest of armed and dangerous offenders; searching premises; providing escorts and security for internationally protected persons, heads of state and holders of high public office; and providing support services for particular major operations.
50. The long duration of the Lindt Café siege led to a need for assistance from other PTGs. While PTG unit members from Queensland and the ACT travelled to Sydney, they were not ultimately deployed.
51. All TOU officers must complete the TOU New Operator Training Program, which is broken up into three phases: basic tactical operations, advanced tactical operations, and counterterrorism tactical operations. TOU officers can then complete a TOU Specialist Training Program. Across the two TOU training programs, there are 30 individual skill sets that must be mastered. As one would expect, TOU officers must be competent in a wide range of skills, including firearms use, less-lethal tactics, vehicle use, methods of entry and close-quarters tactics.
52. All TOU officers, once appointed to the unit, must maintain accreditation across a mandatory set of fitness disciplines and skills. They undergo reaccreditation on an annual or biannual basis, depending on the relevant discipline or skill.
53. Tactical Commander explained in his evidence that TOU trainees are trained in scenarios reflecting high-risk situations and assessed against their ability to work under those conditions.

Involvement with the ADF

54. The ADF has acquired a range of capabilities that could assist in the management of domestic terrorist incidents.
55. The ADF became aware of the siege at an early stage and deployed officers to liaise with the NSWPF and to act as observers. The nature and extent of the ADF’s involvement in the siege response became a matter of interest to both the inquest and the public

³ The Commander of the Tactical Operations Unit.

from an early stage of the investigation. The extent and adequacy of that involvement will be further considered in Chapters 7 and 17.

56. Before that consideration is undertaken, it is helpful to understand the framework governing the ADF's potential involvement in terrorist incidents, noting that to date the ADF has never been called out as a result of a terrorist incident.
57. Section 51(vi) of the Constitution empowers the Commonwealth to make laws concerning the naval and military defence of Commonwealth and the states. That general power is supplemented by s. 114, which precludes the states from raising or maintaining military forces without the consent of the Commonwealth, and by s. 119, which obliges the Commonwealth to:

protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.
58. In accordance with this constitutional framework, as well as the legislation and agreements made under it, responses to domestic terrorist incidents are managed by state and territory police forces. The ADF is not, generally speaking, called upon to play a role in the resolution of domestic incidents.
59. Nevertheless, s. 119 of the Constitution clearly contemplates a role for the Commonwealth in domestic incidents, in certain circumstances. The *Defence Act 1903* (Cth) provides the machinery by which s. 119 of the Constitution operates. Relevantly, Part IIIAAA of the Defence Act establishes a "call-out" mechanism whereby the Governor-General, on the advice of the Commonwealth Government, may authorise the ADF to become involved in the response to a domestic disturbance following a request from a state government.⁴ Such authorisation can be granted only if the Prime Minister, Attorney General and Defence Minister are, upon application for assistance from a state, satisfied that the state is not able, or is unlikely to be able, to protect itself from the relevant violence or threat of violence.
60. Before the enactment of Part IIIAAA of the Defence Act, the primacy of state and territory agencies was recognised in Clause 2.4 of the Agreement on Australia's National Counter-Terrorism Arrangements (24 October 2002) which provided that

State and Territory governments and their agencies have primary operational responsibility for dealing with a terrorist situation in their

4 Section 51B, *Defence Act 1903*.

jurisdiction

while noting that

Commonwealth agencies have a role in a terrorist situation and will support the states and territories as appropriate.

61. Similarly, the NCTP (3rd ed.) dictates that state and territory police agencies have primary responsibility for the operational response to terrorist events occurring in their jurisdictions.⁵
62. In addition to considering the extent and adequacy of the Australian Defence Force's involvement in the response to the Lindt Café siege, Chapter 17 of this report will consider whether the ADF ought to have a greater role in similar future events.
63. For present purposes, it is appropriate to note that the role of the ADF in terrorist incidents is not limited to circumstances where it is called out pursuant to Part IIIAAA of the Defence Act. The policy position as concerns the provision of assistance by the ADF to state police agencies when the ADF has not been formally called out is set out in the National Counter Terrorism Handbook. In effect, the Handbook provides that the ADF maintains certain specialist counterterrorist capabilities that can, in response to sufficiently grave threats, be allocated to support the states and territories in dealing with the situation.
64. While the ADF has never been called out to respond to a terrorist incident, a number of steps have been taken to prepare for such an eventuality. The army has established two Tactical Assault Groups (TAGs): TAG-East and TAG-West, based in Sydney and Perth respectively. These groups are designed to be able to rapidly deploy to conduct domestic counterterrorist operations.
65. The TOU and other state and territory PTGs regularly undertake exercises with the ADF TAG groups, during which high-risk siege situations are a particular focus. Both Tactical Advisor and Tactical Commander⁶ confirmed their knowledge of and involvement in such exercises.
66. Tactical Commander, who has a background in ADF Special Forces and thus had been directly involved in ADF counterterrorism training as well as TOU training, expressed his opinion that there were

5 Clause 21, NCTP (3rd ed.).

6 Tactical Adviser is the Commander of the TOU and thus has overall responsibility for the TOU's operations, administration and compliance. Tactical Commander has primary responsibility for coordination of day-to-day TOU operations.

minimal methodological differences between the ADF and the various PTGs in terms of preparation, planning and resolution of high-risk situations. Beyond that comment by Tactical Commander, no specific evidence was put before the inquest as to the particular training given to ADF members in relation to terrorist incidents or other high-risk situations. Similarly, no other evidence was given as to the specific content of the joint exercises conducted by the ADF and the TOU and other PTGs. As noted in Chapter 17, there were limits on what evidence could be called on this issue. These stemmed from the facts that the ADF was not called upon to use force during the Lindt Café siege and that specific details of counterterrorism training and methodology would be subject to legitimate public interest immunity.

IEA, EA and DA

67. As part of the coordinated, national approach to high-risk policing, all state and territory PTGs, including the NSW TOU, adopt a common approach and common terminology for the use of force to resolve high-risk situations.
 68. Essentially, three forms of police action or modes of operating are countenanced in relation to such use of force. They are an Immediate Emergency Action (**IEA**), an Emergency Action (**EA**) and a Deliberate Action (**DA**). The use of those mechanisms in the siege are described in Chapter 7 and analysed in Part IV. This section describes their nature and functions.
 69. While a coordinated national approach is taken to the police response to high-risk situations pursuant to ANZCTC and ANZPAA arrangements, the key source documents that govern PTG operations and the deployment of police to high-risk situations are not entirely consistent, particularly in their definition of EAs and DAs.
- which the police action may occur. IEA plans tend not to be particularly detailed or sophisticated, as they are intended to stay in place only until a more detailed EA plan can be drawn up. Further, IEA plans are often created at a time when limited police resources are available to be utilised in the event that police action has to be taken.
71. By contrast to EA and DA plans, IEA plans do not require formal approval by the Police Commander or the Police Forward Commander. They are drawn up by a nominated PTG member (in NSW, a member of the TOU).

Emergency Action (EA)

72. An EA plan is a more detailed and sophisticated form of action plan than an IEA. It involves PTG action to resolve a high-risk situation in response to critical events. An EA plan is drawn up after more information and intelligence is obtained during the police response to a high-risk situation, and it replaces an IEA plan. Essentially, an EA plan will provide for a form of police action involving the use of force in response to an action or event where death or serious injury occurs or seems likely to occur. An Emergency Action is, by its nature, reactive. It is initiated when police have, in effect, lost control of a high-risk situation, and when neither a Deliberate Action nor any other form of police action is likely to bring about a resolution. An EA is thus a tactical last resort.
73. An EA plan is designed and drawn up by a PTG member who is designated EA Commander (in NSW, a member of the TOU). It requires formal approval, ordinarily from the Police Forward Commander, though sometimes, particularly in larger and more complex high-risk situations, the Police Commander—an executive-ranked officer usually located in a Police Operations Centre. The parameters or triggers for initiation of the EA plan are predetermined.
74. The trigger for an EA is invariably a violent or threatening circumstance that calls for immediate forced, armed intervention. If an EA is “triggered”, that signals the end of the “contain and negotiate” strategy. The idea of a trigger is only relevant in an emergency action. It does not apply to a DA. The use of a DA also signals the end of “contain and negotiate” (though the process of negotiation may continue pending the police intervention), but a DA is planned, not “triggered”. The question of the applicable EA trigger during the Lindt Café siege was a focus of attention in the evidence. It is closely

examined in Chapter 15.

75. The definitions of an EA vary between the ANZPAA guidelines, the NCTH and the *PTG Operations Manual*.
76. In the ANZPAA guidelines, Emergency Action is defined as follows:

PTG action taken to resolve a situation where an unacceptable risk of mortal or serious injury, or the imminent, immediate or unexpected loss of control of an incident, precludes taking Deliberate Action or any alternative action.
77. Emergency Action is defined in the *PTG Operations Manual* (and in essentially the same terms in the NCTH) as:

The use of force against offenders, carried out by Police or the ADF (under call-out provisions). Occurs in circumstances where the Police Forward Commander or the JTF Commander judges that an emergency action assault is required following an immediate, imminent or unexpectedly occurring event that is likely to harm people or property if emergency action is not taken.

Deliberate Action (DA)

78. A DA plan provides for a considered and pre-planned PTG action to resolve a high-risk situation at a time and in circumstances chosen by police. A DA plan thus involves proactive action—typically some form of assault, entry or diversionary tactic—which the police choose to initiate when they assess that the circumstances and environmental conditions allow the best chance of success.
79. Like an EA plan, a DA plan requires approval. However, there is a more formalised and involved process whereby a DA plan is created and may then be approved, authorised and initiated. A DA plan is designed and drawn up by a member of the relevant PTG (in New South Wales, the TOU) who is designated DA Commander. The Police Forward Commander will then present it to the Police Commander for approval (in terms of its design) and authorisation (for initiation). Approval and authorisation are discrete decisions and can occur either simultaneously or at different times.
80. Once the DA plan is approved and authorised, it is then passed back to the Police Forward Commander, who may initiate it at his or her discretion, with a view to maximising the prospects of a successful resolution of the situation. The DA is not to be initiated until the Police Forward Com-

mander determines that all alternative causes of action have been exhausted or are likely to fail. The Police Forward Commander will typically decide when to initiate the DA in consultation with the Tactical Commander.

81. The above description of a DA plan and how it may progress from creation to DA initiation is drawn from the ANZPAA guidelines, the *PTG Operations Manual* and also the TOU guidelines (even though, as noted above, these reference the now out of date 2005 National Guidelines).
 82. In the ANZPAA guidelines, DA is defined as:

Tactical action taken by a Police Tactical Group (PTG) to resolve a situation (which might include an assault, entry, diversionary tactic or similar) at a time predetermined by the Police Forward Commander or Police Response Coordinator (NZ) in consultation with the PTG, when circumstances and environmental conditions allow the best chance of success, and where the Police Forward Commander or Police Response Coordinator (NZ) is satisfied that all alternative courses of action have failed or are unlikely to resolve the situation.
 83. The definition of DA contained in the *PTG Operations Manual*, which uses essentially the same terms as the NCTH, is:

The planned use of force against offenders which may be undertaken by Police or by the ADF (under call out provisions) where the Police Forward Commander has made a reasonable and prudent judgment that alternatives have been exhausted or are likely to fail. Direct action will be taken at a time predetermined by the PTG, when circumstances and environmental conditions allow the best chance of success.
- ### IEA, EA and DA during the Lindt Café siege
84. The account of events in Chapter 7 discloses that an IEA plan and an EA plan were drawn up during the NSWPF response to the siege. The EA plan was documented and approved for use. The DA plan was drawn up and documented in considerable detail but never approved.
 85. An IEA plan was drawn up very soon after the TOU arrived at the Lindt Café on the morning of 15 December 2014. It was later superseded by the EA plan, which was approved by the then Police Commander, Assistant Commissioner Mark Murdoch. The EA plan was ultimately initiated at 2.13 a.m.

on 16 December, after Sierra Three 1 observed Tori being shot and reported this over TOU radio.

86. The reasons why the DA plan was considered but never approved, let alone authorised or ini-

tiated, are key questions examined in Part IV of this report. The content of the EA plan that was ultimately initiated—particularly the trigger set for EA initiation—will also be the subject of considerable analysis.

Part II: The siege

6 Monis' preparations for the siege

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Introduction

1. Among the key questions examined by the inquest were what Monis' goals or intentions were and whether he had any accomplices.
2. The most obvious potential source of information on these questions was Amirah Droudis. However, the Court could not compel Ms Droudis to give evidence because to do so could jeopardise her trial for the murder of Monis' ex-wife. The trial took place in the Supreme Court while the inquest was under way. As has been noted, Droudis was convicted of the murder but still has an appeal pending.
3. The inquest therefore had to rely on other means in an attempt to trace Monis' movements in the days before the siege and to establish the source of the gun he used. This chapter details the findings of those inquiries.

Monis' movements before the siege

4. Some time in the eight weeks before the siege, Monis obtained a prepaid Optus SIM card, which he used only during the siege with a black Samsung GT-E3309T mobile phone he had previously acquired. The account was registered in the name of another person who had no connection with the siege. The SIM for this phone was purchased from a phone store in Campsie. The phone was activated on 15 October 2014 and switched on again on 13 December. It was next turned on at 8.21 a.m. on 15 December in the Haymarket area of central Sydney. Monis himself never used the phone; instead, he ordered hostages to make and answer calls.
5. Before the siege, Monis used a different mobile phone, a Samsung GT-C3262. Investigators have found no connections between the events of the siege and the people with whom Monis was in contact (by phone calls or texts) in the weeks leading up to the siege.
6. On the afternoon of 10 December, Monis attended an appointment at the Jobfind Centre, Lakemba. This was a requirement for his continuing receipt of Centrelink benefits (Newstart allowance). A further Jobfind meeting was scheduled for 22 January 2015.
7. At 3.48 p.m. on 13 December 2014, Monis was in Campsie. He withdrew \$550 from a National Australia Bank ATM and \$300 from a Commonwealth Bank ATM. This exhausted all available funds in Monis' accounts.
8. A little later, Monis entered the Twin Shoes and Accessories Bag and Luggage store on Beamish Street, Campsie. This is one of only two stores in Sydney that sold the Camel Mountain brand backpack Monis wore during the siege. The backpack was priced at \$70.
9. Monis was recorded on CCTV leaving the store without a backpack, but it seems very likely that he returned later that day and bought the backpack he carried throughout the siege. The store was unable to provide the inquest with sales records, but it seems most likely that Monis paid for the backpack in cash.
10. After the siege, Monis' wallet contained \$210. Assuming that after making the ATM withdrawals he had at least \$850, which was reduced to \$780 by the backpack purchase, the obvious question is what he did with the remaining \$570 (or more) over the ensuing two days. This was naturally the subject of a thorough investigation by the police and those assisting me. That investigation did not provide clear answers.
11. One possibility is that Monis put that money towards buying the gun he used in the siege. This possibility is examined in more detail below.
12. At about 5 p.m. on 14 December, Monis reported to the Campsie police station in accordance with his bail obligations.
13. At 6.30 p.m., the mother of Amirah Droudis saw Monis pull up outside her Belmore home in Amirah's black Jeep. He parked directly outside the house. Mrs Droudis saw Monis walk away from the house towards the train station wearing a backpack. Less than an hour later, the Jeep was gone.
14. Monis may have spent the night of 14 December in his flat at Wiley Park, but it has been impossible to verify this. It is possible that he travelled to the CBD and stayed somewhere near Martin Place. However, checks with numerous accommodation providers in the city produced no confirmation.
15. A number of people reported seeing a man fitting Monis' general description in the Lindt Café either weeks or days before the siege. However, variations in the details of these reports and an absence of corroborating evidence—there is, for instance, no CCTV footage of Monis making such a visit—makes it impossible to determine for certain whether he did conduct some sort of reconnaissance.

16. However, it seems unlikely that he would embark on such a precarious operation in a location he was entirely unfamiliar with.
17. Certainly, Monis had been to Martin Place before: as related in Chapter 1, in June 2008 he had staged two protests against the *Sunrise* program outside the Channel 7 studios opposite the Lindt Café.
18. Despite intensive efforts, investigators have found no trace of Monis' movements into or within the CBD before his appearance on CCTV footage at 8.26 a.m. on the day of the siege.
19. Monis made the final post on his sheikharon.com website on 14 December 2014. As noted in Chapter 1, the post included an image of children's corpses beneath the heading "*This is an [sic] evidence for terrorism of America and its allies including Australia. The result of their airstrikes*".

The gun

20. The shotgun Monis took into the Lindt Café was a La Salle 12-gauge pump-action shotgun manufactured in 1960 by the French firm Manufrance and legally imported into Australia shortly thereafter. Records of its subsequent purchase history no longer exist.
21. Originally 1236 mm (48.7 inches) long, Monis' shotgun had been shortened at both the rear (butt) end of the wooden stock and the front of the barrel to an overall length of 583 mm (23 inches) (Figure 6-1). It is probable that the weapon was shortened to make it easier to carry and conceal.
22. Overall, Monis' shotgun was in fair working condition. It could hold up to four multiple-pellet cartridges: one cartridge in the chamber and three more in the magazine.
23. Monis entered the Lindt Café with a total of 28 shotgun cartridges from a range of manufacturers; all were very old (though still effective), having been produced in the 1990s. Monis fired five of the

cartridges during the siege. After the incident, two unfired cartridges were found in his shotgun and 21 unused cartridges were recovered from his pockets.

Source of the gun

24. It is likely the gun was a recent acquisition by Monis because police found no evidence of it during searches of Monis' premises earlier in 2014.
25. Monis' shotgun was not recorded in any of the firearms databases maintained at the state/territory or Commonwealth level. Prior to 1996, only handguns were required to be registered; long arms (shotguns and rifles) were not. However, the 1996 National Firearms Agreement required the registration or surrender of long arms as well.
26. Monis obtained his shotgun on the illicit market. Illicit firearms are categorised as falling into either the black or grey market. The black market comprises firearms illicitly obtained by individuals and criminal entities to assist in the commission of crimes. The grey market comprises long arms that were, to a large extent, once held lawfully but which were neither surrendered nor registered following the National Firearms Agreement and the associated amnesty and buy-back schemes. The Australian Crime Commission (which is now known as the Australian Criminal Intelligence Commission) considers that the majority of these firearms are held by persons who do not intend to use them for criminal purposes, though an unknown proportion of grey-market guns have subsequently been diverted into the black market. The black market also includes an unknown number of stolen and illegally imported weapons.
27. The Australian Crime Commission (ACC) describes the precise number of illicit firearms as an "*enduring intelligence gap*". In 2012, the ACC estimated that there were over 250,000 long arms and 10,000 handguns in the illicit firearms market.



Fig. 6-1. Comparison between a full-size pump-action shotgun (top) and the one Monis carried; dotted lines indicate cuts

The durability and long operational life of firearms ensure that those diverted to the illicit market can remain in circulation for decades. Monis' shotgun is one such example.

28. The source of Monis' gun was the subject of extensive investigation, which began the day after the siege when the NSWPF requested the assistance of the ACC.
29. In response to the request of the NSW Police, Gary Fleetwood, the manager of the Firearms Trace Program, undertook searches of the ACC's Firearm Transaction database and the National Firearm Licensing and Registration System. Neither of those searches yielded a result.
30. Subsequently, Mr Fleetwood conducted his own examination of the gun. In doing so, he noticed that there was a serial number on its barrel assembly. Using that number, he conducted a further search of the relevant firearms databases. Monis' gun did not appear in those searches, but three shotguns, of the same model and bearing similar serial numbers, did. Those guns were at one time all registered to owners in three Victorian towns.
31. Following a request from Mr Fleetwood, the Victorian police conducted a number of enquiries that led them to a long-defunct firearms dealer. No records of that dealer could be located.
32. As Mr Fleetwood was conducting his investigations, inquiries were made of the manufacturer in France. Those inquiries yielded information about the gun's importation into Australia, which suggested that the gun was initially sold by a Sydney retail outlet in about 1960. Investigators approached a source with connections to the now-defunct firearms retailer. He provided some information about the history of importation and sale of that type of gun into Australia at that time. This general information was helpful, but the business ceased trading many years ago and he no longer held any records of potential relevance to the specific weapon.
33. Ultimately, despite extensive inquiries, it was not possible to identify precisely how and when Monis acquired the shotgun. Based upon his movements

and bank records, it seems reasonably likely that he obtained it (along with the 28 cartridges) in the days immediately before the siege—perhaps on the weekend of 13 or 14 December.

Inferences regarding planning

34. It is clear that Monis engaged in some degree of planning, probably for days or weeks (rather than months or years) before the siege. He selected a high-profile site in the heart of the CBD. He obtained a shotgun and cartridges; a backpack into which he placed a stereo speaker with attached wires to give the impression of an improvised explosive device, or IED; and a mobile phone to be used exclusively during the siege.
35. He also assembled a headband bearing, in Arabic script, the slogans "*We are your soldiers, Muhammad*" and "*May Allah honour him and grant him peace*", as well as a black vest, a wristband and a flag, each bearing the *shahada*, or Muslim declaration of faith ("*There is no god but Allah, and Muhammad is his prophet.*")
36. After the siege, a note in Monis' handwriting was found in the café. It referred to Australia being under attack; three bombs at Martin Place, Circular Quay and George Street; and Monis' demand for a debate with Tony Abbott on live radio. The note is further discussed in Chapter 7. It is likely that Monis had prepared the note before entering the café, given that none of the staff or patrons saw him writing anything in the café. It provides a further indication of the planning Monis undertook before the siege.
37. Among items found on Monis' body after the siege was a handwritten list of names. Some of these were names of inmates at Long Bay Correctional Centre, accompanied by the inmate's Master Index Number, or identification number in custody. Monis had established a connection with least three of these men while he was remanded in custody in April–May 2014. Whether or not he intended to come out of the siege alive, it seems that Monis had prepared for the possibility of capture by compiling a list of prisoners he could contact if he ended up in jail.

7 Events at the Lindt Café

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Part 1: Morning

Introduction

1. The previous chapters have focused on the events preceding the siege and described the arrangements law enforcement agencies have in place for responding to high-risk situations and terrorist incidents. This chapter details what happened during the siege, including how those security arrangements were implemented by the relevant agencies.
2. To the extent possible, it recounts events in chronological sequence and seeks to present the siege from the perspective of both responders and hostages. The factual findings as to what occurred will provide a foundation for the critical analysis of the management of the siege in Part IV of this report.
3. During the course of 15 and 16 December, the siege response was managed by three different teams of police commanders at two locations. To assist in appropriately situating the activities of those officers and police working under them, this chapter is divided according to the three command periods, with a fourth section devoted to the key events after 2 a.m. on 16 December.
4. *Morning*: This period extends from Monis' approach to the café until about midday, when the command of Assistant Commissioner Michael Fuller¹ and Superintendent Allan Sicard came to an end. It takes in the beginning of the siege; the first contact between those in the café and police; and the initial steps taken by police to contain the scene, identify Monis and begin negotiations.
5. *Afternoon*: This period commences when Assistant Commissioner Mark Murdoch assumed overall command of the operation at the Police Operations Centre (POC) and ends with his handover to Assistant Commissioner Mark Jenkins at approximately 9 p.m. This period also corresponds to the Afternoon Forward Commander's time as Police Forward Commander.²
6. *Evening*: This section covers the period from the assumption of command at the POC and Police Forward Command Post by AC Jenkins and Night For-

ward Commander respectively until about 2 a.m., when the siege came to a head.

7. *Resolution*: The final section addresses the events after 2 a.m., including the escape of hostages at 2.03 a.m., the murder of Tori Johnson, the Emergency Action and the death of Katrina Dawson.
8. Despite the enormous amount of material gathered by investigators and those assisting the inquest and the helpful and considered testimony of hostages, piecing together precisely what happened in the café at certain times has not always been possible.
9. A number of cameras were pointed at the café, but none was inside it. An audio surveillance device captured some of what was said in the café, but the recordings it produced were incomplete and often unclear. The hostages gave informative and largely accurate accounts, but none was privy to every relevant event, and their memories were understandably not ordered in perfect sequence. The police officers concerned cooperated thoroughly with the investigation but, again understandably, their accounts were not always consistent or precise.

Early stages

Monis approaches the café

10. At 8.21 a.m. on 15 December, Monis switched on the mobile phone he had acquired for the siege. He was somewhere around Haymarket at that time.
11. At about 8.26 a.m., Monis was recorded on CCTV footage walking past the MLC Centre, on Martin Place between Pitt and Castlereagh Streets. He was wearing a dark baseball cap, military-style cargo pants with multiple pockets and a long-sleeved shirt, and carried a large black backpack.
12. Over the next few minutes, various CCTV cameras captured Monis moving east on Martin Place towards the Lindt Café. Soon after 8.30 a.m., a CCTV camera at the Reserve Bank of Australia recorded him walking through the café's main doors.³
13. In each of these recordings, Monis walks confidently and without hesitation; nothing in his movements suggests nervousness or uncertainty. He appears to know where he is going.

The Lindt Café

14. The Lindt Café is situated on the corner of Phillip
3. CCTV footage of Monis approaching the café can be viewed [here](#) and is contained on the USB accompanying the hard copy of this report.

1 Assistant Commissioner Fuller has since been appointed the Commissioner of Police. For convenience and consistency, he will be referred to in this report by the rank he held during the siege.

2 The names of the two officers who served as Forward Commanders after midday on 15 December 2014 are subject to non-publication orders. They are therefore referred to in this report as Afternoon Forward Commander and Night Forward Commander.



Fig. 7-1. Interior of the café; the main entrance is on the left

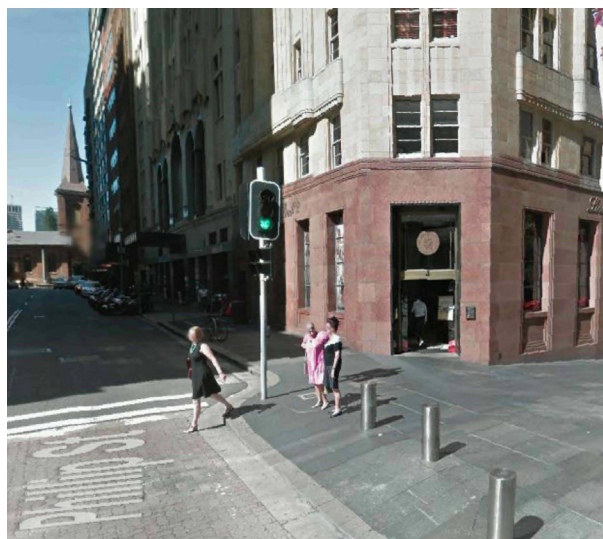


Fig. 7-2. Exterior of the café; Martin Place is on the right

Street and Martin Place, a pedestrian plaza in Sydney's CBD that runs uphill from George Street in the west to Macquarie Street in the east. The café is located in a key part of the CBD, close to Parliament House, Sydney Hospital, the Supreme Court and the State Library. A number of banks, media agencies and other well-known businesses have their offices nearby. The Reserve Bank of Australia is opposite the café, on Phillip Street. The Seven Network's city studios occupy the lower five floors of a building directly opposite the café, on Martin Place.

15. The café is on the ground floor of a 12-storey building at 53 Martin Place. The building is occupied principally by legal offices, including a number of barristers' chambers. Those offices are serviced by a set of lifts, accessed via a foyer that opens to Martin Place.
16. The café itself is constructed in grand style, with an open floor area, high ceilings and polished granite floors and columns (Figure 7-1). There are two public entrances.
17. The **main entrance** is through a pair of electronic sliding glass doors that cut obliquely across the Martin Place and Phillips Street corner of the building, at 45 degrees to both (Figure 7-2). The other public entrance is through a pair of older-style glass and wooden doors on the western side of the café (the **foyer entrance**). This entrance connects the café to the foyer of 53 Martin Place, where the lifts are located. A short set of stairs descends from the foyer onto Martin Place, where a pair of electronic sliding glass doors closes off the foyer to the street.
18. In addition to the two public entrances, there is a fire exit at the south-eastern corner of the café.

That exit is up a short flight of stairs leading from the kitchen and office area of the café. It comprises two doors, one leading from the café onto an enclosed landing, and the second leading from the landing onto Phillip Street. In December 2014, those doors could be opened only from the inside.

19. The kitchen itself was reasonably compact. The office adjacent to the kitchen was small and contained shelves, a small desk and chair, a landline telephone and a desktop computer. The other side of the kitchen area (on the south-western side of the café) featured a cold-storage and freezer area. Also on the south-western side was a set of steep, narrow stairs that led up to a staff locker area and the women's toilets. The men's toilets were more or less below these, down a short flight of stairs on the south-western side, adjacent to the foyer entrance.
20. The café proper was laid out in a fairly conventional fashion. There were three main rows of tables, the first of which was set against the northern wall of the café under windows that looked onto Martin Place. The other two rows of tables ran parallel to these tables, in an east-west direction. In addition to the three main rows of tables, there was a table immediately to the north of the foyer entrance. That table was set in front of an L-shaped seat which hugged the walls of the café. It was designated Table 40, and it would play an important role during the siege.
21. In the north-western corner of the café, there was an alcove with additional tables and chairs as well as a waiters' station. This area would also come to prominence during the siege.
22. The northern side of the café had four tall, narrow

windows looking onto Martin Place. The eastern side had four similar windows, though they were, with the exception of the southernmost window, largely covered with an advertising decal, which made it difficult to see in or out through the windows.

23. During the siege and in evidence, the windows on the Phillip Street side of the café were referred to by police as **Green Windows 1 through to 4** (numbered from left to right as viewed from outside the café). The windows on the Martin Place side of the café were described as **White Windows 1 through to 4** (also from left to right as seen from outside) (Figure 7-3).
24. Inside the café, about two metres in front of the main entrance, was a waiters' station and a glass welcome panel about 120 cm tall featuring the Lindt logo. The eastern side of the café also held a number of shelves for retail chocolate displays, and a "pick and mix" station where customers could select chocolates for purchase.
25. The main service area of the café was on the southern side of the main floor area. It featured a barista's station, a cash register and three separate display cases (Figure 7-4, next page).

The people in the café

26. The café was quieter than usual on the morning of the siege, perhaps because of the impending Christmas break. Nevertheless, in addition to Monis, there were 18 people trapped in the café when the siege began. Eight were staff members and ten were members of the public.
27. These 18 people would, over the following hours, be subjected to a terror that is difficult to imagine.

28. The hostages' grief, frustration and fear played out before the nation and the world. Their distress, the pleas they made and the messages they sent were widely broadcast and commented on. That commentary also touched on the decision of some hostages to escape and included speculation on how others might have behaved in the same situation. Such speculation is unfair, unhelpful and above all invalid: no one can say how they would have reacted if placed in the hostages' position.

Staff members

29. Of the eight staff members in the café, three (Tori Johnson, Harriette Denny and Paolo Vassallo) were permanent employees. The remainder were engaged to work in the café on a casual basis. They are listed in order of their arrival at the café on the day of the siege.
30. **Tori Johnson**. As is noted in the biography supplied by his family and included at the beginning of this report, Tori was the manager of the café. He ordinarily worked between Monday and Friday.
31. **Harriette Denny** was 30 years old at the time of the siege and had worked at the café for about 18 months as a barista. She was about 14 weeks pregnant. Harriette was a close friend of Tori's, and while she was rostered to start work at 7 a.m., she arrived closer to 6.30 a.m. so she could spend some time talking with Tori before starting work.
32. **Paolo Vassallo** is a chef and had worked at the Lindt Café since 2012. He was 35 years old at the time of the siege and had a good relationship with Tori, of whom he said in evidence: *"He was a good guy. He was a manager, but he was a friend. He could do both."* As was their habit, Tori, Harriette and Paolo had coffee together soon after they arrived

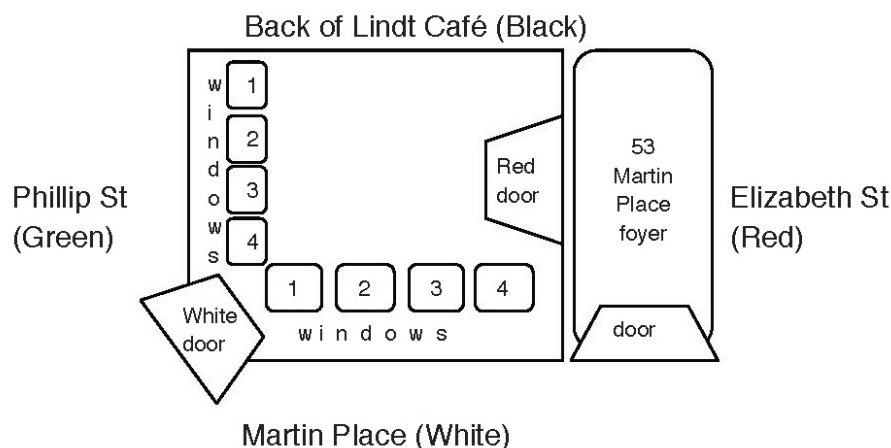


Fig. 7-3. Layout of the café showing the police numbering system for the windows

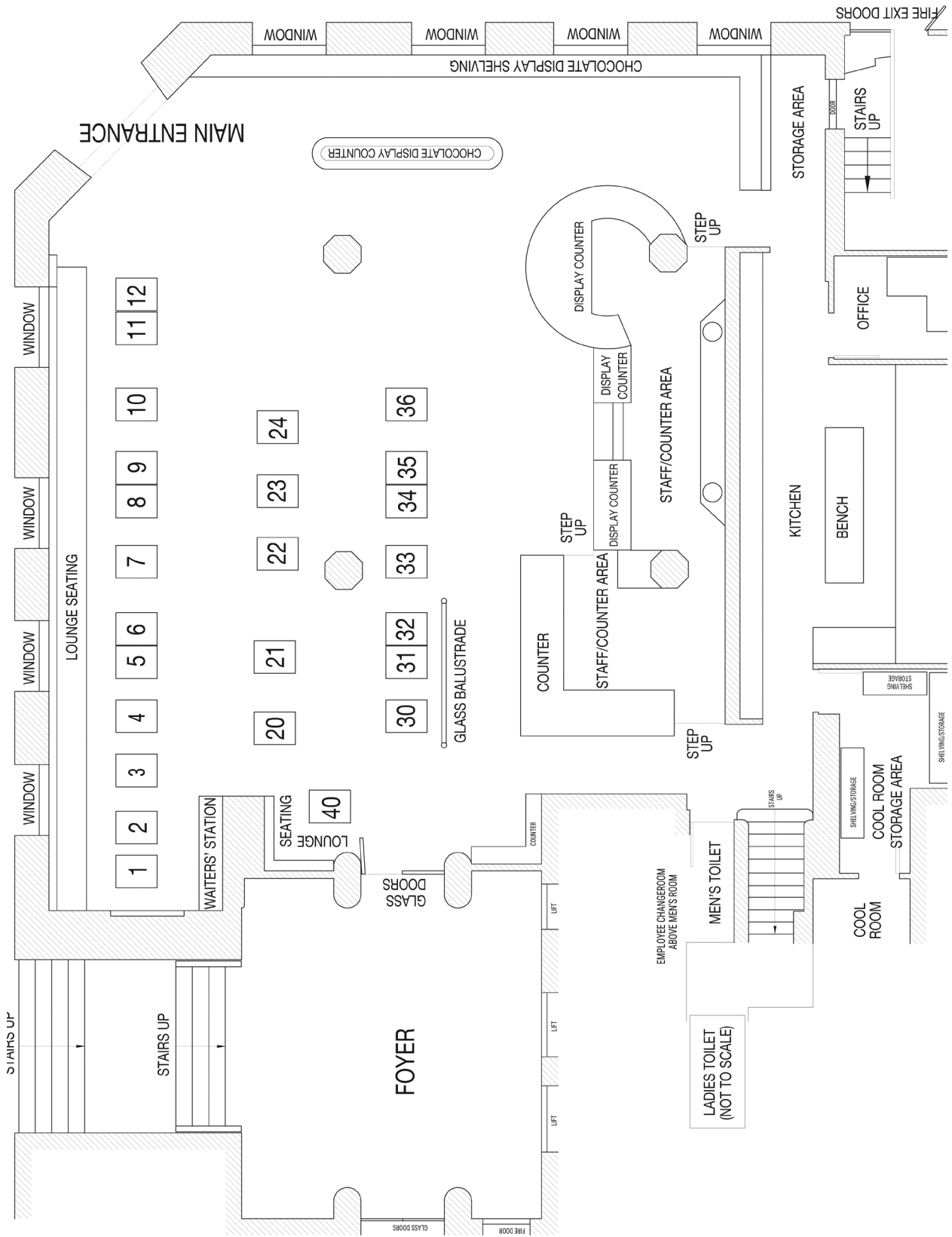


Fig. 7-4. Layout of the Lindt Café interior showing numbered tables; Phillip Street is at the top and Martin Place is on the left

at work and chatted about what they had done over the weekend. Paolo then went into the kitchen and began preparing for the day's trading.

33. **Jarrold Morton-Hoffman** was a 19-year old who was studying for a Bachelor of Arts (Communication) at UTS. He had been working part-time at the café for about six months as a waiter and sales assistant. He usually worked an afternoon shift, but on 15 December 2014 he was covering for a friend, so he arrived at about 6.50 a.m. for a shift starting at 7.00. After a few minutes of small talk with the other staff, he put his bag in the upstairs staff locker, donned the chocolate-brown apron that was part of the café uniform, and joined in preparing the café for its scheduled 7.30 opening.
 34. **Elly Chen** was a 22-year-old student in actuarial studies and finance at the University of NSW. She had been working at the café as a waitress for only three days when the siege occurred. She had met Tori, Jarrod and Fiona briefly on prior shifts. She arrived at the café at 8.30 a.m. and immediately began cleaning tables and serving customers.
 35. **Joel Herat** was also 22 years old and was a second-year commerce student at the University of NSW. He had been a waiter at the café since July 2014, working 25 to 35 hours per week. He quickly formed a friendship with Tori Johnson, whom he looked up to. He told the inquest Tori was an exceptional manager: *"He led from the front and was a mentor to me."* On 15 December, Joel arrived at work just before his scheduled 9.00 a.m. starting time. After dropping his bag, he took his place behind the chocolate retail counter that ran along the Phillip Street side of the café.
 36. **Ji Eun (April) Bae** was 20 years old and studying Visual Communications at the University of Technology Sydney. She had been working at the café as a barista for about a year. On the day of the siege, April started work at 9 a.m. and joined Harriette at the baristas' station, making coffee and tea.
 37. **Fiona Ma** was a 19-year-old student who had just completed her first year of dentistry at the University of Queensland. She had recently come to Sydney for the Christmas holidays and to visit her sister, Helen, who worked at the Lindt Café and helped her get a job there as a "Christmas casual". Fiona had started work only a week before the siege. On 15 December, her shift began at 9 a.m. She arrived a few minutes before that, put her personal belongings in the staff locker area, donned an apron and started waiting tables. She told the inquest that the first person she served was Monis.
- ## Customers
38. The ten customers trapped in the café during the siege are listed below in the order in which they entered the café.
 39. **Louisa Hope** was 52 at the time of the siege. She has multiple sclerosis, which forced her to retire early from her job as a project manager for Macquarie Bank. She had visited the café numerous times.
 40. **Robin Hope** is Louisa's mother. She was 73 and had come to the CBD with Louisa for a business meeting in an office on a higher floor in 53 Martin Place. They came into the café at about 8.30 a.m. to have breakfast before the meeting.
 41. **Stefan Balafoutis** was 40 years old. He had been a barrister for about 12 years and specialised in commercial litigation and intellectual property disputes. He was friends with Katrina Dawson and Julie Taylor, who both worked in chambers in the same building as him. The three met regularly at the Lindt Café.
 42. **Julie Taylor** was 35 years old and had worked as a barrister in the commercial sphere since 2007. She was 18 weeks pregnant. She had been close friends with Katrina Dawson for a number of years. They lived near each other and frequently drove to work together, including on the day of the siege.
 43. **Katrina Dawson** was 38 and an experienced commercial barrister. As noted above, she was close to both Julie and Stefan. More details about Katrina are in the biography provided by her family and reprinted at the beginning of this report.
 44. **Puspendu Ghosh** was a 35-year-old information technology professional who worked for a North Sydney company under contract to Westpac Bank. His office was in the Westpac Building at 60 Martin Place, on the corner of Macquarie Street diagonally opposite the Lindt Café.
 45. **Viswakanth (Viswa) Ankireddi** was 36 years old. He worked for the same company as Puspendu and was also contracted to Westpac.
 46. **Marcia Mikhael** was 43 and a project manager for Westpac. She regularly worked at the bank's Martin Place offices, where she had become friends with Puspendu and Viswa.
 47. **John O'Brien** was 82 years old. He was in the city for a doctor's appointment on nearby Macquarie Street; he usually followed such appointments with a visit to the Lindt Café for coffee and toast.

48. **Selina Win Pe** was a 43-year-old manager at Westpac who went to the café to buy some Christmas presents and have a quick cup of coffee. She did not know Marcia, Puspendu or Viswa, who also worked for Westpac.

Before the siege

49. After entering the Lindt Café at 8.33 a.m., Monis sat down at Table 36, which was at the end of the third row of tables, near the main entrance. Exactly what he did between then and the start of the siege more than an hour later remains the subject of some doubt.

50. At least at first, Monis does not seem to have done anything to draw the attention of staff members. Some time before 9 a.m., perhaps 20 minutes after he sat down, Elly Chen served him black tea. Elly did not notice anything unusual about his demeanour or actions.

51. Not long afterwards, Fiona Ma started her shift. Monis was the first customer she served. He asked her about cakes. She pointed out the relevant part of the menu and the glass case where the cakes were kept. Monis ordered a slice of chocolate cheesecake. Fiona entered the order into the automated system before turning to serve other customers.

52. After receiving Monis' order, Jarrod Morton-Hoffman went into the kitchen to prepare the cake for Fiona to take to Monis. He then remained in the kitchen helping Paolo Vassallo, the chef, prepare food and unpack deliveries.

53. After receiving his cake, Monis ordered more tea. While waiting for it, he asked Fiona if he could move to Table 40 (the one with the L-shaped seat adjacent to the foyer door). Fiona said yes, and when the tea was ready, she told Elly Chen (who was preparing to serve it) that Monis had moved.

54. Shortly after moving to Table 40, Monis asked two separate staff members to watch his bag while he went to the toilet. First he asked Harriette Denny, who agreed to do so. Then, having not yet been to the toilet (perhaps because he ran into his former barrister, as recounted below), he made the same request of Fiona Ma. Fiona agreed to watch the bag, and Monis went to the toilet.

55. Given that Monis' bag contained a shotgun, one might think the more natural choice would be to take the bag with him. But the ensuing events suggest that natural choices were not always to be expected of Monis.

56. For the first hour or so that Monis was in the café, it was very much business as usual.

57. Louisa and Robin Hope arrived in the café a minute or two before Monis and sat at Table 8 or 9, in the row closest to Martin Place. They ordered breakfast and ate it without incident.

58. At about 9 a.m., Katrina Dawson and Stefan Bala-foutis arrived in accordance with a prior arrangement to meet. They took a table immediately to the west of Robin and Louisa's. Louisa later remembered complimenting Katrina on her shoes.

59. At 9.22 a.m., Katrina texted Julie Taylor to ask whether she wanted coffee. A few seconds later, Julie texted, "*On my way,*" then sent another text asking Katrina to order her a weak coffee. Within minutes, Julie arrived at the café and sat down with Stefan and Katrina.

60. Meanwhile, in the nearby Westpac Building, Puspendu Ghosh, Marcia Mikhael and Viswa Ankireddi were also texting each other to arrange a visit to the Lindt Café.

61. At 9.30 a.m., Puspendu sent Marcia a message saying "*c u downstairs*". The three met in the foyer of 60 Martin Place and walked across Phillip Street to the café. They took a table near the foyer entrance, in front of the barista station. They visited the café so regularly that they jokingly referred to this position as "our table".

62. At about the same time, John O'Brien entered the café and ordered coffee and toast. He sat by himself at a table on the Martin Place side of the café.

63. Selina Win Pe arrived at about 9.35 a.m. She had intended just to buy some chocolates but decided to stop in the café, and sat down near Louisa and Robin Hope. Selina was the last of the hostages to enter the café.

Sliding doors

64. As a stark reminder of the arbitrariness of life, for every customer stuck in the café when the siege began, there was one who had departed just early enough, or arrived just late enough, to avoid being caught up in Monis' terror.

65. Three of those people were called to give evidence during the inquest.

66. At around 9.22 a.m., **Michael Klooster**, a barrister with chambers in 53 Martin Place, went into the Lindt Café to get a take-away coffee on his way to court. Mr Klooster knew Monis, having represented

- him in proceedings in the Family Court in September 2014.
67. Those proceedings took roughly a day and a half and afforded Mr Klooster a reasonable opportunity to assess Monis' character and intellect. Mr Klooster said in evidence that Monis had some unusual views. For example, he appeared to believe that the Commonwealth government had directed the Department of Family and Community Services to become involved in his child-custody dispute because of his letter-writing campaign.
 68. Nevertheless, he thought Monis seemed reasonably intelligent and not at all threatening. Even the exchanges they had on the subject of the Department's intervention were *"measured and controlled"*.
 69. As Mr Klooster waited for the coffee, Monis stood up at Table 40 and called his name. It was not until Mr Klooster approached the table that he realised the person calling him was Monis. During their previous interactions, Monis had been dressed in the robes of a Muslim cleric (described by Mr Klooster as a *"gown"*). Mr Klooster thought he failed to recognise Monis at first because he was wearing Western clothes.
 70. The two had a brief discussion about the family law proceedings and Monis' prospects of success on appeal. In response to a query from Monis, Mr Klooster explained that his chambers were in the building. He described their conversation as a *"friendly exchange ... like talking to someone at the bus stop"*. Monis did not appear nervous or apprehensive; nothing about him caused Mr Klooster to be suspicious of his intentions.
 71. Mr Klooster thought Monis was waiting for food or drinks to be served. Monis invited him to join him for a cup of coffee, but on account of his court commitment, Mr Klooster declined and left the café.
 72. Just before 9.40 a.m., **Tim Hutchinson**, a registered nurse, met a friend at Martin Place before a planned visit to the Art Gallery of NSW. They decided to get take-away coffee and settled on the Lindt Café, which was on their way. They walked to the café, were served, collected their coffee, and noticed nothing untoward until they reached the main entrance on their way out. When Mr Hutchinson and his friend had entered the café, the doors had opened automatically as they approached. Now the doors remained shut.
 73. It is now known that in response to a direction from Monis relayed by Tori Johnson, Jarrod Morton-Hoffman had turned a key in the control mechanism beside the doors to prevent them from responding to the sensor. That series of actions, however, had occurred fairly discreetly.
 74. When their approach did not trigger the sensor, Mr Hutchinson turned to his friend and said something to the effect of *"This is not usual."* Almost immediately, he noticed the green button next to the door, recognised it as a common device for manually opening electronic doors, and pressed it. The doors parted, and Mr Hutchinson and his friend left the café. Monis does not appear to have reacted to their departure; it may be that he was distracted and did not notice them leaving.
 75. **Rosemary Birt** was running late for a meeting with colleagues at the Lindt Café; in fact, by the time she arrived they had already gone. She rushed up to the main entrance and stood in front of it. The doors did not open.
 76. Ms Birt had been to the café before, so she knew of the foyer entrance. She made her way down Martin Place and up the stairs to the foyer. At approximately 9.41 a.m., she tried to open the doors to the café. They were locked.
 77. Ms Birt attracted the attention of a waitress inside the café (April Bae) by waving and calling through the glass doors. April came to the door, and Ms Birt attempted to tell her that she had friends inside the café. CCTV footage shows April gesturing towards the other door, in an apparent suggestion that Ms Birt should try entering from the other side of the café. April then walked away briefly, before returning and continuing to communicate with Ms Birt through the door. By then it was about 9.43 a.m.
 78. Fortunately for Ms Birt, she never got into the café. Though most in the café did not know it, the siege had effectively begun.

The start of the siege

79. Shortly before 9.40 a.m., Monis had returned from the toilet to his position at Table 40. By that stage he had been in the café about 70 minutes. He called Fiona over, asked what the manager's name was, then asked to speak with Tori. Fiona located Tori in the office adjacent to the kitchen and told him that "Table 40" wanted to see him. Fiona assumed Monis was a "complainer", though his demeanour did not suggest he was dissatisfied.
80. Fiona noticed that when Tori approached Table 40, Monis gestured for him to sit opposite him. Tori did

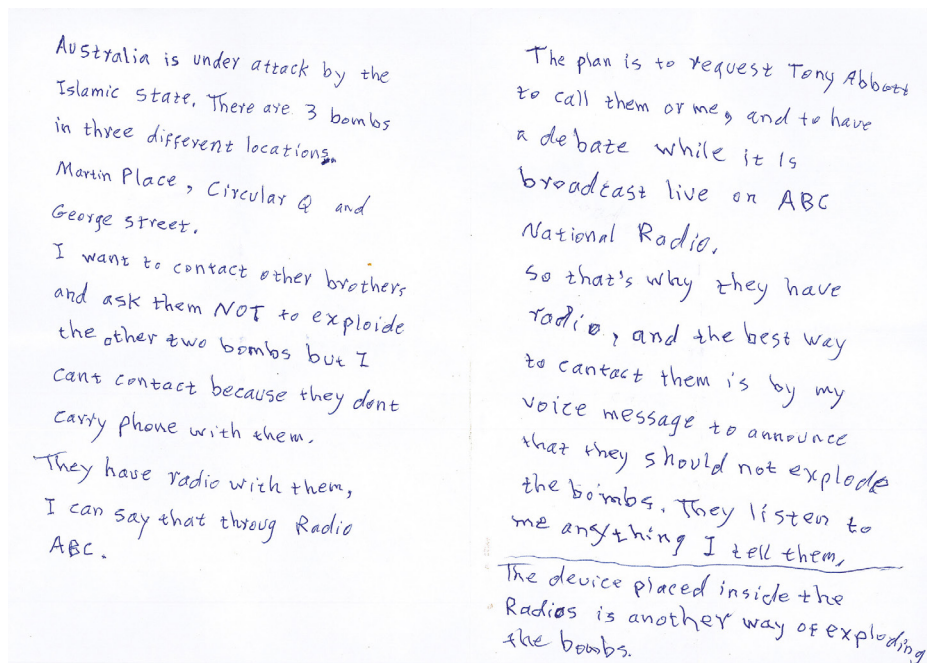


Fig. 7-5. The note Monis gave Tori, stating that Australia was under IS attack and demanding a debate with the Prime Minister

so. In evidence, Jarrod Morton-Hoffman said Tori was hunched towards Monis and appeared nervous.

81. Tori called Jarrod over to Table 40 and instructed him to close the café, saying words to the effect of: *"I need you to go and get the keys and lock the doors. We're closed. Everything is OK. Tell the staff to be calm."*
82. Jarrod went to the kitchen and asked Paolo where Tori's keys were. Paolo and Jarrod had a brief conversation in which Jarrod told Paolo that he thought the Reserve Bank was being robbed. At that stage, Paolo also thought that any unusual activity was occurring outside, rather than inside, the café. While Jarrod and Paolo were talking, Joel Herat approached and asked Jarrod what was wrong. Jarrod repeated what he had said to Paolo. He then handed Joel a Stanley knife and a pair of scissors, saying something along the lines of *"Dude, have these just in case. Something doesn't feel right."* Joel put the knife and scissors in the pocket of the apron he was wearing.
83. After speaking with Paolo and Joel, Jarrod got the keys out of Tori's bag and went to the main entrance doors. He locked them so they would not open automatically when people approached from outside or inside the café.
84. After locking the main entrance, Jarrod moved to the foyer entrance and secured it using bolts located at the top of the doors. CCTV footage shows that this occurred at approximately 9.40 a.m. While locking the doors, Jarrod appears on CCTV foot-

age to turn his head in the direction of Table 40 and then bend down towards that table for a few moments. Jarrod then walked towards the kitchen, apparently to make a note signifying that the café was closed.

The first 000 call

85. Precisely what Monis said to Tori while the two were sitting at Table 40 will never be known. What is clear is that at 9.41 a.m., Tori used Monis' phone to make a call to 000.
86. While Tori was on the phone, Fiona passed the table and saw a sheet of A4 paper in front of Tori. It bore the following message, which handwriting analysts later confirmed was written by Monis (see Figure 7-5):

Australia is under attack by the Islamic State. There are 3 bombs in three different locations Martin Place, Circular Q and George Street. I want to contact other brothers and ask them not to explode the other two bombs but I cant contact because they dont carry phone with them. They have radio with them, I can say that throug Radio ABC. The plan is to request Tony Abbott to call them or me, and to have a debate while it is broadcast live on ABC national Radio. So that's why they have radio, and the best way to contact them is by my voice message to announce that they should not explode the bombs. They listen to me anything I tell them. The device placed inside the Radios is another way of exploding the bombs.[sic]

87. Neither the handwriting analysis nor any other aspect of the investigation was able to determine when the note was written. None of the staff who served Monis noticed him writing, so it seems likely that he prepared the note before arriving at the café.
88. During the 000 call, Tori informed the operator that he had to read a message from the gunman. He then made a statement in substantially the same terms as the note.
89. Fiona did not hear what Tori was saying on the call. Neither did anyone else in the café. It seems that police became aware of the threats being made by Monis well before anyone in the café (save Tori) knew they were in danger.
90. Surprisingly, business continued more or less as usual within the café for the first few minutes that Tori was on the phone.

Something is amiss

91. While Tori was making the 000 call, Louisa and Robin Hope finished their breakfast. Louisa went to the counter and paid their bill. She told the inquest that the waitress who conducted the transaction did not speak at all and seemed “gobsmacked”. As she was paying, Louisa heard other customers complaining that the doors to the café would not open. That did not particularly alarm her, though she was somewhat surprised that staff members were not taking steps to open the doors.
92. After paying the bill, Louisa returned to her mother at their table on the Martin Place side of the café, and the two prepared to leave.
93. Meanwhile, outside the cafe, Ms Birt had been joined in the foyer of 53 Martin Place by several other people who wished to enter the café. One of them was Nathan Grivas, a staff member who was rostered to begin work at 10 a.m. On arriving at the foyer entrance, Mr Grivas also attempted to attract the attention of staff members inside the café.
94. A few moments later, Fiona Ma came to the door and held up a piece of paper with the word “Closed” written on it.
95. Shortly afterwards, Joel Herat approached the foyer door and affixed a piece of paper to it, perhaps the one that Fiona Ma had held up less than a minute earlier. He had a brief discussion through the door with Mr Grivas as he attached the sign.
96. Ms Birt saw two men sitting at Table 40. Her



Fig. 7-6. Monis' shotgun and a bag like the one he carried

- description of them indicates that they were Monis and Tori Johnson. In response to Ms Birt's knocking on the door and calling out, Tori looked at her, mouthed “*We're closed,*” and motioned that she should go away in a seemingly impatient manner.
97. Then—at approximately 9.47 a.m.—Ms Birt saw the man sitting opposite Tori stand up. He was holding a blue bag from which he extracted a sawn-off shotgun (Figure 7-6).
 98. He was very close to Ms Birt; she saw the gun and was terrified.
 99. By that time, there were eight people in the foyer waiting to get into the café, including a family with two young children. Ms Birt turned to hurry out of the foyer; she told the others that there was a man with a gun inside the cafe. In one of many touching glimpses of the humanity that horror can precipitate, CCTV footage of the foyer shows Ms Birt reaching out, taking Mr Grivas, a total stranger, by the wrist, and pulling him away from the door as she left. As soon as she exited onto Martin Place, Ms Birt dialled 000 and reported what she had seen.⁴
 100. As Ms Birt, Mr Grivas, and the others in the foyer were trying to get into the café, Selina Win Pe was trying to leave it. At about 9.45 a.m., she handed her credit card to a waitress to pay her bill. The

⁴ Footage of the events in the foyer can be viewed [here](#) and is contained on the USB accompanying the hard copy of this report.

waitress processed the payment and returned her card. To Selina's surprise, the waitress then told her that she could not leave the café because the doors were locked.

101. Selina attempted to explain that she needed to leave the café in order to get to a meeting. The waitress said she would have to speak with the manager and pointed at Tori, who by that time was speaking with the 000 operator.
102. Selina started walking towards Tori at Table 40. As she did so, Monis looked at her. She noticed that he had his right hand in the same blue bag Ms Birt had seen. As she approached the table, Monis stood and took a shotgun out of the bag.
103. He then addressed the room, saying words to the effect of *"Everything's going to be all right. You are all safe. The manager is speaking to the police so do not panic, everything is going to be all right. There is a bomb here."* Monis also said: *"There are other bombs as well. One is at Circular Quay and another one at Town Hall."*
104. According to Viswa Ankireddi, Monis spoke loudly enough for everyone in the café to hear, but it is clear that not everyone immediately appreciated what was happening. Mr Balafoutis, for instance, had his back to Monis, and although he heard him say something about a bomb, it wasn't until he looked at Julie and Katrina's faces that he realised just how serious the situation was.

Monis issues his first directions

105. After making his initial announcement, Monis directed everyone to move to the front of the café, along the northern wall fronting Martin Place. Those already sitting there—Robin and Louisa Hope and the three barristers—simply stayed at their tables.
106. Jarrod Morton-Hoffman, who had been in the office preparing a sign for the door, then came back into the main part of the café. He saw that Monis had moved the café staff and customers to the Martin Place side of the café. The staff members were located around the two tables nearest the main entrance, while the customers were arranged along the rest of the wall. Tori was by himself at a table in the middle of the room (having moved from Table 40). He was still on the phone. Monis was standing between Tori and everyone else.
107. At around this time, Monis directed the hostages to put their identification cards and mobile phones on a table. Most of the hostages complied. Monis did not gather up the items. As will be seen, his failure to do so allowed some of the hostages to surreptitiously retrieve their phones as the day progressed.
108. Monis had by this time changed some of his clothes: he had removed the baseball cap and put on a black headband and a black vest and wristband, all bearing Arabic inscriptions. The white script on the headband translated as *"We are your soldiers, Muhammad"* and *"May Allah honour him and grant him peace."* The script on the wristband and vest set out the *shahada*, or Muslim declaration of faith: *"There is no God but Allah, and Muhammad is his messenger."* None of the café's occupants could read Arabic, so they did not know what the texts meant.
109. After walking out of the kitchen, Jarrod had started making his way to the main entrance to post the sign Tori had told him to display. Monis called out to him in an aggressive manner; *"What are you doing?"* When Jarrod indicated he was going to post the sign, Monis stopped him and said, *"Sit the fuck down!"* in a tone that Jarrod described as aggressive.
110. As this was happening, Tori remained on the phone to 000, attempting as best he could to convey Monis' demands while answering the operator's questions about the situation at the café.
111. The 000 call is not easy to listen to. While Tori remains impressively calm, the level of tension is evident throughout. The tension was perhaps exacerbated by the regular interruptions of the operator who, in accordance with her training, interjected a number of times to ask questions. The information conveyed during the call was entered into an emergency response system and fed directly to police as it was received.
112. While the call did not proceed as smoothly as perhaps it could have, the 000 operator did not have any prior knowledge of the café or the events and ultimately made an accurate record of the key information Tori provided.
113. That information can be summarised as follows:
 - There were bombs in three locations, which should be evacuated: Martin Place/Channel 7, Circular Quay and George Street.
 - If police approached the hostage-taker, other "brothers" would explode those bombs.
 - The doors to the café were locked and the hostage-taker had a gun in front of Tori.
 - The hostage-taker wanted Prime Minister Tony Abbott to call him and have a debate,

which would be broadcast live on ABC radio.

- Monis could communicate with the other brothers (who did not have phones with them) via radio and tell them not to explode their devices.
 - There were about 20 people in the café.
 - The gun looked like a short shotgun and Monis was threatening everyone that he would shoot them.
 - Australia was under attack by Islamic State.
114. At times during the call Monis can be heard in the background, apparently telling Tori what to say. At one stage he stated, *“There is a problem, problem, he wants to fix it.”*
115. Towards the end of the call, Tori indicated that Monis had asked the hostages to put their hands up and was directing some of them to stand in front of the café’s doors and windows. He then hung up. The time was 9.53 a.m.⁵

A possible hostage release

116. While the hostages were being positioned around the café and at the windows, Monis said something that Katrina Dawson appears to have interpreted as meaning that she and Julie Taylor could leave the café.
117. In response, Katrina said, *“Can he come with us?”* in reference to Stefan Balafoutis. The three of them then moved towards the main entrance door. As they approached the door, however, Monis made it clear that they were not being released.
118. While Monis likely instructed Katrina and Julie to move in the direction of the door, it cannot be said with any confidence that he was permitting them to leave the café.
119. In his debrief interview on the afternoon of the siege, Stefan told police Monis had agreed to release the two women, saying, *“You two, you can go”* before Katrina persuaded Monis to allow Stefan to go as well.
120. This account does not accord with the recollection Julie Taylor expressed in her statement:

He said to Katrina and me that he wanted us to go to the door. He said something I didn’t understand because he had an accent. I thought that he might have been going to let us go and Katrina must

have thought the same. Katrina said, ‘Can he come with us?’ gesturing to Stefan. He said, ‘Why, are you all together?’ She said, ‘Yes, he’s our friend.’ He told us to put our hands in the air and walk to the door. When we got near the door he told us where to stand.

121. According to Julie’s statement, the three were then directed by Monis to stand inside the main front doors with their hands up.
122. By the time they gave evidence at the inquest, Julie and Stefan were fixed in their view that Monis had indeed offered to allow the two women to leave and that at Katrina’s request he was prepared to include Stefan, but that he had withdrawn that offer before the three could act on it.
123. Julie’s evidence was that she had not really understood what Monis had said, but had developed her view that Monis had made the offer on the basis that after making his original statement Monis had said something to the effect of, *“They’re nice”* and asked the rest of the group, *“Do you think they can go?”* None of this was included in the two statements Julie made soon after the incident, and none of the other hostages remembers such an exchange.
124. All things considered, Monis’ behaviour towards Julie, Katrina and Stefan was consistent with a desire to obstruct the largest and most exposed point of access to the café first. In particular, it fits with what Julie originally said she heard him say, that is: *“Go to the door.”*
125. It is unlikely that Monis had intended to allow any of the hostages to leave. It is more plausible that he simply agreed to let Stefan go with the two women to the doorway.
126. In any event, while they were standing at the doorway, Stefan whispered to Julie and Katrina something to the effect of: *“We should go.”* He was contemplating pressing the green button on the wall next to the doors and leaving through the main entrance. Julie rejected his proposal; she was scared that Monis would shoot them in the back as they left. A little while later she changed her mind and said very quietly, *“I think we should go,”* but neither Stefan nor Katrina answered. Julie could not tell whether they had heard her.
127. As the siege progressed and Monis repeatedly threatened to shoot the remaining hostages if anyone escaped, Julie made a conscious decision not to attempt to escape.

⁵ A recording of the 000 call can be heard [here](#) and is contained on the USB accompanying the hard copy of this report.

Hostages in the windows

128. Just after telling Katrina, Stefan and Julie to stand in front of the main entrance, Monis instructed the other hostages to take up positions in front of all the windows around the café. Marcia and April were positioned in front of the doors leading to the foyer.
129. From the outset, the hostages were told to close their eyes and put their hands up. It is difficult to imagine the terror they must have felt, eyes shut, hands in the air, as Monis shuffled around the café behind them, brandishing his shotgun all the while.
130. Images of the hostages in the café windows provided a powerful impression of their plight; a glance at their faces made it plain that they were under tremendous emotional strain.
131. Adding to this strain, Monis carefully monitored the hostages to check that they were keeping their eyes shut. This was exemplified by the experience of Stefan Balafoutis. After he had been at the main door for some time, Stefan felt a hand on his shoulder. The hand, it turned out, belonged to Fiona Ma. She informed him that she was going to take him to one of the windows and began to direct him. While he was being moved, Stefan slightly opened his eyes for a moment. Monis noticed almost immediately and admonished him: *“You with the white shirt, you opened your eyes. I told you not to open your eyes. That’s points against you. People can get points for them or points against them.”*
132. From time to time, Monis physically moved the hostages around. According to Jarrod, Monis typically did this by taking hold of his upper arm and directing him in what he described as a firm, though not overly forceful, manner.
133. At around 10 a.m., Monis took a black fabric flag bearing Arabic script out of one of his bags. He handed the flag to a hostage (likely Fiona), who in turn passed it to Jarrod (then standing on the bench in front of White Window 3, looking out onto Martin Place). After receiving the flag, Jarrod held it up in front of his chest, initially upside down and back to front. Monis told him he was not holding it in the correct position, so he adjusted the flag before holding it against the window above his head.
134. Initially some hostages thought the flag was an Islamic State flag (as did some police outside the café). It was, in fact, a flag depicting the *shahada* (the Muslim declaration of faith described above), which was also inscribed on Monis’ vest and wristband (Figure 7-7).
135. A key feature of the siege was that Monis, as a lone

Requiring hostages to assist



Fig. 7-7. Jarrod Morton-Hoffman holds up Monis’ *shahada* flag in White Window 3, on Martin Place

gunman, was attempting to hold 18 people hostage. It was never going to be possible for him to monitor all of them at once.

136. Perhaps in an effort to minimise the difficulties associated with the numerical imbalance, Monis frequently required hostages to perform tasks to assist him. This began at the outset of the siege, when Jarrod was asked to lock the doors, and continued throughout.
137. Soon after the café was locked, Monis started demanding that Fiona Ma do things like move hostages (who still had their eyes closed) from place to place, serve people food and water, and escort hostages to the toilet. At an early stage in the morning, he asked Fiona to move some chairs close to the public entrances to the café.
138. Fiona continued to perform tasks along these lines for the duration of the siege. As a result, she was often able to move around the café without being closely observed by Monis. She made use of the small amount of freedom this afforded her to assist other hostages, to comfort them and to convey information to the outside world.
139. At various times, other hostages also undertook tasks as directed by Monis. For instance, Monis required Jarrod to assist with food preparation, which allowed him to go into the kitchen unsupervised.
140. Monis also enlisted the hostages' assistance to access media reports of the siege. Such reports were a matter of particular interest for Monis throughout the siege. At around 10.30 a.m., he asked Louisa if she could stream ABC radio on her phone. She was not able to, so Jarrod volunteered to assist. Puspendu recalls hearing the radio playing not long thereafter.

Monis' words

141. Police were not able to establish effective audio surveillance of the café until the early evening of 15 December. The hostages, however, recalled that Monis spoke frequently during the morning.
142. In general terms, Paolo Vassallo observed that Monis repeated himself often. John O'Brien noted that from about 10.30 a.m. onwards, Monis *"wanted to complain about the war and other things ... He kept going on about Tony Abbott and what a liar he was, and sending soldiers overseas."*
143. Expressions of his political views aside, Monis issued a wide variety of directions to hostages and

asked a range of questions of them, in relation to the layout and operation of the café and also their personal lives. For instance, he asked both Puspendu and Viswa where they came from. He also asked some hostages about their religious beliefs and whether they had children.

Monis and Tori Johnson

144. Although at times Monis purported to engage in acts of kindness, those acts were at best self-serving or at worst highly manipulative extensions of his cruelty.
145. Nevertheless, the evidence indicates that at times he treated some hostages better than others. Monis seems to have consistently shown particular hostility towards Tori Johnson.
146. While Monis used many of the hostages' names, he referred to Tori simply as "manager" and often addressed him in an aggressive tone. It is not clear why this occurred. It may be that as both a mature adult man and the café's manager, Tori (who was 34) was perceived as a greater threat to Monis' authority than other hostages. Stefan Balafoutis, who was 40 years old at the time of the siege, also seems to have been subject to heightened hostility on Monis' part.
147. At various times during the morning, Monis appeared deeply suspicious of Tori, accused him of lying, and threatened to kill him.
148. Soon after the siege began, for example, Monis asked Tori a series of questions about the fire door to the café. After Tori told him that it was not possible to enter from the outside, Monis responded with words to the effect of *"If you are lying to me, I will shoot you."*

The first police response

149. Unsurprisingly, the 000 calls from Tori and Rosemary Birt quickly elicited a large police reaction.
150. In response to the call from Tori, the first transmission over the police radio network was broadcast at 9:45:08. It was directed to "city cars" and requested that any available vehicle make its way to Martin Place and Phillip Street, where the informant was being held at gunpoint at the *"Lindt Chocolate Shop"*. The broadcast also conveyed that there were three bombs involved: *"One in George Street, Channel Seven and Circular Quay."*
151. A number of police vehicles responded to the call. One of the first responders was Senior Constable

7 EVENTS AT THE LINDT CAFÉ

- Paul Withers, a motorcycle traffic officer who was at Walsh Bay when the initial broadcast was made.
152. At 9.46 a.m., he confirmed he would attend “*red and 5*”, meaning he would proceed with lights and siren activated and expected to arrive at the café within 5 minutes.
 153. Sen Const Withers arrived at the intersection of Elizabeth Street and Martin Place at approximately 9.49 a.m. He parked his motorcycle outside the Hotel Chambers, which occupies the lower level of the western end of 53 Martin Place.
 154. Rosemary Birt approached him in a distressed state and said words to the effect of “*There’s a man with a gun in the shop*” before gesturing towards the Lindt Café.
 155. Another motorcycle officer, Sen Const Glenn O’Keefe, arrived soon afterwards. He joined Sen Const Withers in directing people away from the café. Sen Const Robert Barber did likewise. The latter initially set to work preventing people from entering Martin Place before expanding the exclusion zone around the café when further officers arrived. Sen Const Barber also began clearing people out of offices that could be seen from the café.
 156. Meanwhile, sticking close to the external wall of 53 Martin Place, Sen Const Withers crept up to the foyer entrance. He went through the glass sliding doors leading from Martin Place before climbing the short set of stairs to the foyer, using a column immediately adjacent to the door for cover. Moments after entering the building, Sen Const Withers glanced around the column and waved briefly at a woman standing in front of the door with her hands up (now known to be Marcia Mikhael).
 157. Almost simultaneously, a number of people who did not know of the siege emerged into the foyer from the building’s lifts. Sen Const Withers directed those people to exit the foyer quickly before continuing his efforts to see into the café.
 158. Shortly after his entry into the foyer, at 9.54 a.m., Sen Const Withers made a broadcast in the following terms: “*Radio, I’ve got two female staff members with their hands up at the door. Both of them very visibly distressed. I can’t see any further around.*”
 159. Again peering around the column, Sen Const Withers was able to make eye contact with Marcia, who continued to face the door with her hands raised. April Bae was standing beside her, also with her hands raised.
 160. Marcia was obviously distressed: CCTV footage shows that she was crying, her hands were visibly shaking, and it appears she was hyperventilating.
 161. Notwithstanding her distress, Marcia noticed Sen Const Withers’ presence, so he set about trying to obtain indications from her as to what was happening inside.
 162. Using hand signals and mouthing words, Sen Const Withers asked Marcia how many offenders were involved in the siege. By clenching her right hand except for the index finger, she indicated that there was only one. When asked where the gunman was, Marcia used eye movements and a slight nod of her head to indicate he was to her right, in the north-western corner of the café.
 163. By that time, Sen Const Withers had been joined by two other officers, Plain Clothes Sen Const Brendan Rawling and Detective Sen Const Jeroen Huisman. Both officers remained behind Sen Const Withers, just inside the building’s foyer.
 164. Shortly after his first interaction with Marcia, Sen Const Withers eased himself further around the column towards the door. From his new position, he was able to see a number of other hostages spread around the perimeter of the café, facing outwards, also with their hands raised.
 165. In evidence, Sen Const Withers recalled that at about this time, he and the other two officers left the foyer at the direction of a superior officer. He stated that he then donned a bullet-proof vest and returned to the foyer. It appears that he was mistaken about this: the available CCTV footage suggests that no officers returned to the foyer after Sen Const Withers, Sen Const Rawling and Det Sen Const Huisman had left it.
 166. In any event, by easing himself further around the column, Sen Const Withers had been able to make some valuable observations about Monis. He saw that Monis was pacing up and down the café behind the hostages, that he was carrying a sawn-off shotgun in his right hand, and that he had on a black backpack.
 167. Sen Const Withers then looked around the column again and, noting that Marcia was still highly distressed, sought to calm her by making hand gestures in an attempt to indicate she should control her breathing. After doing so, at approximately 10.00 a.m., he broadcast his observations of Monis as follows:

Radio, the shooter is male Caucasian with a beard,

early 50s. He's wearing a black backpack, a black vest, a white T-shirt underneath. He has a sawn-off shotgun. He also has what appears to be wire running from his backpack out to his person.

168. In evidence, Sen Const Withers said the wire appeared to be coiled and white in colour. He said that after emerging from the centre of the top third of Monis' backpack, it trailed over his right shoulder. He believed the wire was associated with the bomb Monis had claimed to have.
169. After the siege, no physical evidence of such a wire was found, although there was in Monis' backpack a black coiled wire. It appears that Sen Const Withers' observation was not completely accurate. This is not a criticism of him: he was afforded only a few brief moments in which to observe Monis, who was moving around the room at the time. That his description was inaccurate in some respects is entirely unremarkable.
170. In a final broadcast, at 10.01 a.m., Sen Const Withers observed that there were at least a dozen hostages in the café.
171. At about 10.02 a.m, he was directed to withdraw from the foyer. Before he did so, he sought to draw Marcia's attention to his name badge and signalled to her that he would return.
172. During the inquest, Senior Constable Withers expressed disappointment that he was required to leave the foyer. He did not want to leave the hostages without support and he believed he could have continued to gather valuable intelligence. His bravery, compassion and dedication to duty are highly praiseworthy.⁶
173. Notwithstanding the objections he expressed to the inquest, the direction that Sen Const Withers withdraw and the associated decision that any contact with the café be made via trained negotiators and Tactical Operations Unit (TOU) operatives was consistent with the "contain and negotiate" strategy adopted by police. The appropriateness of that strategy will be further considered in Part IV.
174. Around the time that Sen Const Withers withdrew from the Martin Place foyer, officers also approached Green Window 1 on Phillip Street (the southernmost window, and the only one on that side not entirely obscured by advertising film). One

of those officers was Sergeant James Asimacopoulos, who gave evidence at the inquest.

175. Sgt Asimacopoulos said that when he peered through the window, he saw Monis wearing a large black backpack that appeared to be full. He noted that Monis was hunched over, which gave him the impression that the bag was heavy. He did not notice the wire reported by Sen Const Withers.
176. At approximately 10.04 a.m., Sgt Asimacopoulos made the following broadcast:
- He's got a backpack on his back. ... Yeah. He's got some sort of a bandana on—his head. White long-sleeved top. Possibly Middle Eastern appearance. He has got some sort of a vest and he's yelling, he's carrying on and looks like he's armed with a shotgun. He's got a vest of some sort and a large backpack.*
177. Sgt Asimacopoulos had in fact previously encountered Monis—whom he knew as "Sheikh Haron"—when Monis was staging a protest at the Downing Centre in 2009. Understandably given the passage of time, the brevity of the observations he made through the window, and the differences in Monis' clothing, Sgt Asimacopoulos did not recognise the gunman.
178. Sgt Asimacopoulos remained in place on Phillip Street until some time after TOU operatives arrived at that position. At approximately 10.27 a.m., he made a further radio broadcast: "*Just for an update, still got the people in the window. I can't spot the guy inside. Not exactly sure where he is. He doesn't appear to face to the windows like he was before.*"

Establishing command

179. While the first officers on the scene sought to make observations of the café and shepherd civilians to safety, the NSWPF command was establishing a framework for the management of the incident.
180. The Lindt Café sits within the Sydney City Local Area Command, which covers the CBD and extends to Surry Hills and Kings Cross. Given the café's location, the siege fell within the responsibility of the Local Area Commander, Superintendent Allan Sicard, who in turn reported to Assistant Commissioner Michael Fuller, the commander of the Central Metropolitan Region.
181. While en route to North Sydney at about 9.45 a.m., Supt Sicard heard the first radio broadcasts relating to the siege. He immediately changed route and headed towards the café.

⁶ Video footage showing Sen Const Withers' actions in the foyer can be viewed [here](#) and [here](#) and is contained on the USB accompanying the hard copy of this report.

182. He contacted Asst Commissioner Fuller and advised him of the unfolding incident. Both officers categorised the incident as a high-risk situation, as defined in the ANZPAA guidelines (see Chapter 5).
183. Asst Commissioner Fuller confirmed that he would activate the Police Operations Centre, a permanent facility some kilometres from the site of the siege, and assume the role of Police Commander in respect of the siege. He directed Supt Sicard to establish a Police Forward Command Post (**PFCP**) and serve as Forward Commander.

The initial strategy

184. Supt Sicard and Asst Commissioner Fuller discussed the specialist police units that were to be activated. They agreed that for immediate purposes, unless an Emergency Action was made necessary by the death or injury of a hostage, the overriding approach to the incident would be “contain and negotiate”.
185. As noted in Chapter 5, “contain and negotiate” was and is the principal operating strategy of the NSWPF in response to events such as the siege. It has been adopted by most comparable police forces in Australia and overseas. Its adoption at the Lindt Café was consistent with both the *ANZPAA Guidelines* and the National Counter-Terrorism Plan (3rd ed) (**NCTP**).
186. Asst Commissioner Fuller explained at the inquest that he considered “contain and negotiate” the most appropriate response because while Monis was armed and behaving in a threatening manner, he had not actually used his weapon and there was no basis for assuming he was about to do so.
187. AC Fuller took the view that forcing an entry into the café would very substantially increase the risk of harm to the hostages. As such, he believed “contain and negotiate” afforded the best chance of resolving the situation without loss of life.
188. Nevertheless, it is clear that from a very early stage in the police response to the siege, tactical options were also considered. After discussing what was known about events with the Superintendent in charge of the TOU (referred to in this report as Tactical Advisor), Asst Commissioner Fuller approved the use of Special Weapons and Tactics during the operation.
189. Such an approval permits specially trained officers from the TOU to deploy to a scene with a range of weapons (e.g. M4 carbines, sniper rifles) that extends beyond the standard-issue Glock handgun customarily carried by NSWPF officers.

190. At about 10.17 a.m., Asst Commissioner Fuller asked Tactical Advisor to arrange for an Emergency Action Plan to be drawn up. This was for use in the event that it became necessary to abandon the “contain and negotiate” strategy and conduct an armed entry into the café. It appears that by this time, the commander of the TOU at the scene (known as Tactical Commander) had independently taken steps to arrange for the preparation of such a plan.
191. The “trigger” (i.e. precipitating act or event) for an emergency entry into the café was a key issue considered at the inquest. It will be analysed in detail in Part IV of this report. For present purposes, it is sufficient to note that both Asst Commissioner Fuller and Supt Sicard decided to begin by securing or containing the scene; police would not enter the café unless doing so was essential to preserve the safety of the hostages.

Police Operations Centre

192. The Police Operations Centre is a facility equipped with a range of audiovisual and communications tools from which police can coordinate and manage the response of police and other authorities during significant operations, whether they be pre-planned (for example, New Year’s Eve celebrations) or spontaneously occurring (such as the siege). Through this coordination and oversight role, officers at the POC remotely provide support to police on the ground at a Police Forward Command Post.
193. By about 9.56 a.m., the POC for the siege had been opened and an Incident Management Team led by Asst Commissioner Fuller was being assembled.
194. As part of that process, Tactical Advisor and the Chief Inspector in charge of the Negotiation Unit (referred to in evidence and in this report as Graeme) were asked to attend the POC. Both officers had arrived there by 10.05 a.m.

Police Forward Command Post

195. At about 10.01 a.m., Supt Sicard arrived at the corner of Martin Place and Elizabeth Street and assumed command of the PFCP at the direction of Asst Commissioner Fuller.
196. By the time Supt Sicard took command, a variety of police resources had been activated and were en route. Other government agencies also began to respond. Ambulance personnel, for example, were on scene by 11 a.m.
197. Supt Sicard received a preliminary briefing from

the Tactical Duty Officer for the Sydney City Local Area Command. He then spoke to Sen Const Withers about the observations he made as he looked into the café through the foyer entrance.

198. Shortly after Supt Sicard's arrival on scene, at roughly 10.10 a.m., police established the PFCP in a Mobile Command Bus that they parked on Elizabeth Street, approximately 20 metres south of the intersection of Elizabeth Street and Martin Place.
199. The bus was equipped with a computer and radio but was somewhat cramped given the number of police involved in the operation.

Gathering information about the café

200. Early in their response, police identified a need to acquire further information about the café, particularly its layout and any possible modes of entry.
201. At about 10.30 a.m., Vince Mirenyi, the building manager for 53 Martin Place, attended the PFCP. He provided information about the building's security systems and possible modes of access to the café. He also gave officers access to the building's basement and a set of keys for the building, and showed them the way through the building to Phillip Street.
202. At about 10.50 a.m., police met with Andrew Rees, the Area Planning Manager of the City of Sydney Council, at his office and asked him to provide a copy of the floor plan for the Lindt Café. Mr Rees retrieved a copy of the plan and gave it to the officers, then went directly to the PFCP and assisted TOU officers in identifying the entries, exits and fire escapes within the café.

A new PFCP?

203. It quickly became apparent that it would not be possible to adequately manage the siege response from the Mobile Command Bus on Elizabeth Street.
204. Shortly after 11 a.m., a reception centre for any witnesses or released/escaped hostages was established at the NSW Leagues Club, which was in the same block as the Lindt café and had entrances on both Phillip and Elizabeth Streets.
205. At around the same time, the Leagues Club was also identified as a better location for the PFCP. Shortly after midday, the PFCP moved into that building.

Audiovisual feed

206. Given the café's location in the Sydney CBD and opposite the Seven Network studios on Martin

Place, the media began monitoring the events of the siege at a very early stage. Various media organisations, including Channel 7, began broadcasting live video of the café. These broadcasts were available at the POC but not, at least initially, at the PFCP.

207. The Lindt Café was also within view of CCTV cameras, notably a City of Sydney CCTV camera positioned above Phillip Street in Martin Place.
208. It appears that vision from this camera was also available at the POC and was viewed by officers there during the siege.
209. Some limited vision of the café was also afforded by two CCTV cameras in the foyer of 53 Martin Place.
210. During the morning, police commanders identified the need for access to audio-visual monitoring of the café. At approximately 11.50 a.m., for example, the State Technical Investigation Branch (**STIB**) was directed to seek access to footage from any CCTV cameras in the café. No such access could be obtained, since there were no working CCTV cameras in the café.
211. STIB was able to provide police with a number of visual feeds during the day, but these were not available to police commanders (at either the POC or the PFCP) until well into the afternoon. The adequacy of audio-visual information provided to the commanders will be further considered in Part IV.

Evacuations

212. As more police arrived in the period immediately following 10 a.m., the perimeter around the café was established in a progressively more formal way. Macquarie, Elizabeth and Phillip Streets were closed to traffic at an early stage and remained so for the duration.
213. Police also began to effect evacuations from nearby buildings.
214. At approximately 11.10 a.m., police sent a text message to the managers of buildings in the immediate vicinity of the Lindt Café asking them to arrange for the evacuation of their buildings. Overall, the evacuation process was orderly: the surrounding buildings were emptied in a timely fashion and without panic.
215. The evacuation of 53 Martin Place proved somewhat more complicated, since it was not possible to use the lifts or stairs that led to the foyer adjacent to the café. Nevertheless, all occupants of the building were evacuated safely.

Tactical Operations Unit

216. As described in Chapter 5, the TOU is a specialised unit within the NSWPF responsible for responding to high-risk situations involving, for example, armed offenders, the taking of hostages, or suspected terrorism. Among other things, TOU officers are trained in the use of special weapons, entry methods and close-quarters combat.
217. At about 9.45 a.m. on the morning of 15 December, the TOU officer known in this inquest as Officer B heard a radio broadcast about the siege. He informed both Tactical Advisor and Tactical Commander, who agreed that the TOU should immediately deploy to the incident. Tactical Advisor charged Tactical Commander with responsibility for advising the Forward Commander and overseeing the TOU operatives at the café.

Arrival of TOU teams

218. Tactical Commander and several other TOU officers reached the PFCP (then on Elizabeth Street) at about 10 a.m. After arriving on scene, the TOU officers prepared for a potential assault on the café and began replacing other officers who had positioned themselves in the vicinity of the café. Around the same time, two TOU officers (known in this inquest as Sierra One 2 and Delta Alpha) moved across Martin Place towards the Seven Network building and attempted to make some observations of the café. At approximately 10.20 a.m., Sierra One 2 made a broadcast over the closed TOU radio channel, describing the positions of hostages in the café and noting that Monis was pacing behind them and apparently shouting.
219. At about 10.24 a.m., Sierra One 2 realised that if Monis were to leave the café via the main entrance, TOU officers would not be in a position to immediately confront him. Accordingly, he suggested positioning “Alpha Team” officers on the Phillip Street side of the café.
220. In response to this, three TOU officers, including Officer B, moved to a position on Phillip Street to the south of Green Window 1. Several minutes later, they were joined by two further officers (Officer A and Alpha Two). Alpha Two was carrying a black metallic ballistic shield with a clear viewing port near the top. As soon as Alpha Two arrived, TOU officers began using the ballistic shield as cover to look through Green Window 1 into the café.
221. Looking through the shield’s viewing port, Officer B could see four hostages positioned against

windows and about 15 other hostages inside the café. Monis was walking around in close proximity to hostages and was pointing his shotgun at their backs. The TOU officers remained in this position on Phillip Street and continued to make observations until, as detailed below, Monis demanded that they move back.

Commencement of the iSurv log

222. At 10.27 a.m., the TOU activated an electronic log relating to the siege using the iSurv system, onto which a running commentary could be posted and documents uploaded. The iSurv log was accessible by members of the TOU and the Negotiation Unit via smart phone or computer tablet. It permitted those officers to record key observations made during the course of the siege in more or less real time.
223. It also allowed TOU and Negotiation Unit commanders to record and communicate key decisions they made in relation to siege management. The system was subject to some limitations, which are discussed in Chapter 11.

Emergency Action Planning

224. After arriving at the scene, Tactical Commander nominated Officer B as the Emergency Action commander and tasked him with the development of an Immediate Emergency Action Plan (**IEA Plan**)—in short, a preliminary plan outlining how TOU officers should respond if they were directed to enter the café to confront Monis (see also Chapter 5.)
225. Initially, TOU officers had very limited knowledge of the scene or the layout of the café. As first conceived, the IEA Plan involved a team proceeding up Martin Place and entering the café via the foyer of 53 Martin Place.
226. After becoming aware of the main entrance to the café and relocating to Phillip Street with other TOU officers, Officer B reformulated the IEA Plan to involve entry by two teams, initially designated Alpha and Bravo. He drew a rough diagram of this plan in his police notebook, together with a set of written instructions.
227. During a briefing involving Supt Sicard and Asst Commissioner Fuller at 10.32 a.m., Tactical Advisor observed that if Monis started shooting, it would be possible for seven TOU officers to enter the café “immediately”.
228. The IEA Plan was ultimately uploaded to iSurv at 10.51 a.m. The plan called for Alpha Team offi-

cers to attempt to breach Green Window 1 and, if appropriate, engage Monis through that window. Alpha Team officers were then to move to the main entrance to the café and breach it before making their entry to the café. At the same time, Bravo Team officers were to attempt to enter the café via the foyer entrance.

229. Having prepared the IEA Plan, Officer B turned to formulate the Emergency Action Plan (**EA Plan**) proper.
230. As the morning proceeded, further TOU operatives arrived on scene and police gained a greater understanding of the layout of the café and the 53 Martin Place building. The EA Plan evolved in accordance with these developments.
231. By midday, the TOU operatives on site had divided into three teams. Alpha Team comprised six officers and remained on Phillip Street, near the fire exits to the café. Bravo Team remained on Elizabeth Street. A third team of officers, Charlie Team, had started conducting reconnaissance of 53 Martin Place with a view to positioning themselves within the building.
232. The EA Plan did not take final shape until early in the afternoon of 15 December, when all available TOU officers had arrived and the layout of the café and surrounding building was better understood.

Searching for sniper locations

233. As the other TOU officers were positioning themselves and developing an IEA plan, police snipers began to search for locations that would allow them to effectively observe the café and, if circumstances called for it, to shoot Monis.
234. At around 10.50 a.m., two police snipers (Sierra One 1 and Sierra Two) went to the Seven Network building and noted that the mezzanine level had the potential to serve as a sniper position. In particular, they noted that this vantage point afforded police a view of all four café windows on Martin Place.⁷
235. While making observations of the building, the police snipers were informed by Seven Network personnel that the glass in their building was bullet resistant. Following these discussions, Sierra One 1 determined that it would not be possible for a sniper to take a shot from the mezzanine level. Accordingly, he left the building to see if more suitable firing positions could be located. Sierra Two remained in place and made observations from the

Seven Network building throughout the siege.

236. At approximately 11.30 a.m., Sierra One 1 investigated a covert position on Phillip Street to assess whether it would allow effective observations to be made or a shot to be taken. Ultimately, Sierra One 1 determined that the position, which was not inside a building, was not viable.
237. In the course of his reconnaissance, Sierra One 1 identified the Westpac Building on the corner of Martin Place and Phillip Street as a potential sniper location. A police sniper team took up a position in that building.
238. As this was occurring, the Reserve Bank of Australia was identified as another possible sniper location. At about 1 p.m. Sierra One 1 and another sniper, Sierra One 3, entered that building and spoke to security staff before identifying a possible firing position in the north-west corner facing the Phillip Street, or “green”, side of the café. That position allowed snipers a partial view through the southernmost window (Green Window 1). They could not see anything clearly through the other three windows. Nevertheless, they remained in position at the Reserve Bank for the duration of the siege.

Australian Defence Force involvement

239. Shortly after the siege commenced, the Commander of the NSWPF State Protection Group (who will be referred to in this report as Commander SPG) contacted the ADF and asked that an Army liaison officer be sent to the Police Operations Centre.
240. Major S, the Commanding Officer of the 1st Commando Regiment (which is part of the Special Operations Command), was directed to go to the POC to serve as a liaison officer. That role required him to: a) gain an understanding of the situation and report that information to the ADF; and b) act as a conduit for messages between police and the ADF.
241. Major S arrived at the POC at about 11 a.m. and met with Commander SPG and Tactical Advisor. He was supported by two other ADF personnel, who helped him establish secure communications with the ADF’s Special Operations Command.
242. Major S remained at the POC until he was relieved at approximately 10 p.m. During that time, he attended a number of briefings at the POC and provided regular updates to the ADF.
243. Later in the day, a number of other ADF officers were sent to the POC and PFCP (as well as the Joint

⁷ A 3D reconstruction of the snipers’ locations can be seen [here](#) and is contained on the USB accompanying the hard copy of this report.

Intelligence Group) in observation and liaison roles. In all, 11 ADF officers (four Majors, a Sergeant, a Warrant Officer Class 2, a Signaller and four Corporals) provided statements to the inquest about their activities during the siege.

Attempts at negotiation begin

244. The first of the NSWPF Negotiation Unit's on-call negotiators, Tina, arrived at the scene at approximately 10.01 a.m. She was soon followed by other negotiators, including the on-call Team Leader and Negotiation Coordinator (known to the inquest as Reg). At about the same time, Graeme (the Negotiation Unit commander) took up a position at the POC.

245. While negotiators arrived at the scene around 10 a.m., they were not yet in a position to make or receive calls. As they were making preparations, two further calls were made from within the café.

246. At 10.01 a.m., Monis ordered Louisa Hope to call 000. She made the call on her mother's telephone. The call lasted for more than 16 minutes. At one stage, Louisa told the operator:

... currently, there is a man who's holding us hostage. He's very calm, and he has a gun, and everyone's standing up at the windows so people can see.

She went on to state that Monis was waiting for Prime Minister Tony Abbott to call him and made reference to a live debate on radio. She then said that Monis had a bomb with him at the café and that further bombs had been placed at Circular Quay and on George Street.

247. Shortly after ending that call, Louisa dialled 000 again and had a brief conversation in which she conveyed the following message: *"So, he hopes that police do not make mistakes to come too close, and then we will be hurt, and the other bombs will be exploded."*

248. At approximately 10.20 a.m. Reg advised Graeme that the first negotiation team had assembled at the PFCP and was ready to commence negotiations.

249. At about 10.26 a.m., Graeme discussed the first 000 calls from the café with Assistant Commissioner Fuller. He confirmed that the hostage taker (whose identity was not then known) had demanded to speak to the Prime Minister live on ABC Radio.

250. At that stage, no other demands had been clearly expressed.

First contact

251. At or soon before 10.40 a.m., Supt Sicard authorised the start of negotiations.

252. Reg conveyed this to the primary negotiator (known to the inquest as Peter) and the secondary negotiator (known as Gary). At that time, Peter and Gary were in the Negotiation Unit's four-wheel-drive vehicle, which was parked on Elizabeth Street. They were accompanied by two support negotiators, who were tasked with recording important details and any demands conveyed during conversations with those in the café.

253. At 10.42 a.m., Peter placed the first call from negotiators to the café, using the phone number supplied by Tori in his 000 call (that is, the number of Monis' mobile phone). That call was not answered.

254. Less than a minute later, the negotiators called the number again. This time, Louisa Hope answered the phone. She spoke to them for slightly more than a minute and reiterated Monis' demand to speak with Tony Abbott.

255. After Louisa ended the call, negotiators made several further calls to the café over a period of 20 minutes or so. All went unanswered.

256. Just before 11 a.m., Fiona Ma answered Monis' phone. She spoke to negotiators for about 40 seconds. Fiona too said Monis wanted to speak with Mr Abbott and asked the negotiators to contact the ABC.

257. She repeated this demand in similar terms in a further brief conversation three or four minutes later.

Response to demands

258. Further calls from negotiators over the ensuing 45 minutes or so went unanswered.

259. In the meantime, Graeme informed Asst Commissioner Fuller that Monis wanted to speak on the ABC. Asst Commissioner Fuller saw this demand as an opportunity to engage with Monis with a view to extracting some hostages from the café.

260. To that end, he approved contact between Monis and the ABC and directed that attempts be made to negotiate the release of some hostages beforehand. The negotiator's log for 11.47 a.m. records: *"ABC request can be done, he must stay on phone and release hostages so it can be facilitated."*

261. At 11.50 a.m., the negotiators spoke to Jarrod Morton-Hoffman for about four minutes. Their log of that call records:

Jarrold answered original number. Well looked after allowed toilet and water, 'it will stop his other brothers setting off bombs in George, Circular Quay. Do not approach Circular Quay, it will go off. Know exactly where bomb is in Circular Quay.' Reason: They will be listening to that and they listen to him because they follow him and he can get them to explode bombs. Requested release of hostages. Call terminated.

262. Despite the direction of Asst Commissioner Fuller, it appears that no attempt was made during this call to engage with Monis about his demand for time on ABC Radio. Certainly, no offer was made to facilitate contact with the station.
263. It is not clear precisely why that direction was not complied with. Graeme gave evidence that after receiving Asst Commissioner Fuller's instructions, he discussed them with Reg. Graeme apparently believed that allowing Monis to speak on the radio would be inconsistent with the requirement not to make concessions in response to terrorist demands (set out in Clause 92 of the NCTP (3rd ed.)). The validity of this concern is analysed in Part IV. As a result, Graeme and Reg did not follow the approach approved by Asst Commissioner Fuller.
264. Graeme stated that he did not deliberately undermine or disobey Asst Commissioner Fuller's direction. However, it seems that the effect of this conversation was to stifle attempts to engage with Monis in respect of this demand.

Reaching out from the café

265. From early in the siege, hostages made efforts to communicate with the outside world, both under orders from Monis and at their own initiative.

Calls to media

266. At 11.36 a.m., for example, Jarrod Morton-Hoffman telephoned SBS and spoke with Mark Cummins, the content manager. The call was recorded by SBS personnel and lasted some 11 minutes.
267. Jarrod conveyed Monis' wishes as follows:
- He wants to make a public announcement to his other brothers of the Islamic State not to blow up the bombs at George Street and Circular Quay, he wants to do that on national radio because he has no other means of contact, as they do not carry cellulers. They have radios with them.*
268. Mr Cummins then asked whether Monis wanted to make the announcement himself. Jarrod conferred

with Monis, then said Monis was content for Jarrod to make the announcement.

269. It seems that Jarrod called SBS again at 11.59 a.m., but the call was broken off and no statement was ever broadcast via SBS.

Messages from hostages

270. As was noted above, Monis had ordered all the hostages to place their phones and identification cards on a table. Some hostages either did not follow this instruction or were able to retrieve their phones while Monis was not looking.
271. As the siege went on, hostages began using trips to the toilet as an opportunity to covertly phone or text people outside.
272. Fiona Ma was tasked by Monis with escorting hostages to the toilet, so she had a number of opportunities to use her phone. At 11.44 a.m., she sent her sister Helen a series of text messages:
- Helen ...*
- I'm ok ...*
- Not out ...*
- But not dead ...*
- I love you guys.*
273. Fiona's sister subsequently showed these messages to police.
274. Shortly thereafter, Fiona began sending messages to friends via WhatsApp in which she said she was being allowed to escort people to the toilets and complained that Monis was using her as "cover".

The operation beyond the café

275. As steps were taken to establish a TOU presence at the café, contain the site and begin negotiations, police were also seeking to address Monis' claim that he was supported by "brothers" who had placed bombs at key locations around Sydney.
276. Superintendent Bernard Ryan, who had arrived at the POC at approximately 10.23 a.m., was tasked with coordinating the police response to this claim as well as to reports from members of the public about suspicious behaviour or objects.
277. Officers under Supt Ryan's command investigated some 15 such reports and carried out searches of the Seven Network building, Town Hall Station, Wynyard Station, Circular Quay, the Opera House and George Street. No bombs were located.
278. In the course of their searches, police received

reports of a man carrying a handgun. Shortly thereafter, they located him walking east along Martin Place carrying a replica handgun. After police subdued the man, he claimed to be in the city to “kill terrorists”. It quickly became apparent that he was suffering from a mental illness.

279. Ultimately, by 2.06 p.m., Supt Ryan was satisfied that all necessary searches in relation to Monis’ claimed bombs had been undertaken. No credible evidence was found that Monis or any accomplices posed a threat that extended beyond the café.

Designation as a terrorist incident

280. During the course of Tori Johnson’s call to 000, he repeated Monis’ assertion that the siege was an attack on Australia by Islamic State and made a number of other remarks to suggest that the siege may have been an act of terrorism. This concern seemed to be confirmed by reports that what was incorrectly identified as an “ISIS flag” had been placed in the window of the café.
281. Accordingly, the NSWPF began to activate its counterterrorism policies and procedures.

Activation of Pioneer and Eagle

282. At about 10.15 a.m., Eagle Commander⁸ enacted the NSWPF’s Counter Terrorism and Special Tactics Command’s (CT&STC) Threat Assessment and Risk Management protocols. As a consequence, the CT&STC threat assessment team met and discussed the likelihood that the siege was a terrorist incident. That likelihood was determined to be “extreme”.
283. At approximately 11.00 a.m., police held an executive teleconference during which Commissioner Andrew Scipione was advised that the incident was likely a terrorist attack.
284. Assistant Commissioner Murdoch then recommended that Task Force Pioneer (**Pioneer**) and Strike Force Eagle (**Eagle**) be activated. As explained in Chapter 4, Task Force Pioneer arrangements govern the NSWPF operational response to terrorist incidents, while Strike Force Eagle addresses the investigative response.
285. Commissioner Scipione approved the activation of both Pioneer and Eagle.
286. In light of the activation of Pioneer, it was deter-

⁸ The name of the officer who served as Strike Force Eagle commander during the siege was subject to a non-publication order. He will be referred to in this report as Eagle Commander.

mined that Assistant Commissioner Murdoch, (one of the cadre of counterterrorism-trained “Task Force Pioneer commanders”) would assume overall command of the incident from Assistant Commissioner Fuller. Afternoon Forward Commander (who was also part of that cadre) was appointed to act as Police Forward Commander in place of Supt Sicard.

Powers under the Terrorism (Police Powers) Act 2002

287. As noted in Chapter 4, the *Terrorism (Police Powers) Act 2002* gives the NSWPF certain powers to respond to terrorist incidents following the grant of authorisation under that legislation. Among other things, an authorisation under the Act may permit officers to conduct searches of property, persons or vehicles without a warrant and/or to seize and detain things that may be connected to the commission of a terrorist offence.
288. At about 10.25 a.m., the process of drafting such an authorisation began. It did not conclude until approximately 3 p.m., when Commissioner Scipione signed the authorisation.

Preliminary investigative steps

289. Even as tactical and general-duties police were securing the primary perimeter around the café and seeking to evacuate civilians from the surrounding area, an investigation into the siege had begun.

Strike Force Eagle

290. That investigation started, as noted above, with an evaluation of the threat level and a consideration of whether Eagle should be activated. In anticipation of that occurring, an officer was designated Senior Investigating Officer and a number of investigative teams were established. Once Commissioner Scipione formally approved the activation of Eagle shortly after 11 a.m., Eagle Commander was appointed its commander.
291. By the time Eagle was formally activated, a number of investigative efforts had begun. Central to those efforts were attempts to identify Monis and his motives. Investigators began those enquiries by taking steps to account for the location of all targets of Operation Appleby, a large-scale anti-terrorism investigation being conducted by state and federal authorities. By about 10.14 a.m., having determined that none of those targets was responsible for the siege, police started a number of other

investigative processes. These included a consideration of potential witnesses and a review of CCTV and media footage as it became available.

Joint Intelligence Group

292. After the formal activation of Eagle, a Joint Intelligence Group (**JIG**) was set up to conduct further analysis of information garnered by the investigative teams in Eagle.
293. Generally speaking, a JIG comprises members of the NSWPF as well as, where appropriate, officers from ASIO and the Australian Defence Force.
294. On the morning of the siege, the JIG fell under the command of Commander TIU, a NSWPF officer based at the POC. Its role at this early stage was somewhat limited given the paucity of information available. The first summary of intelligence (INT-SUM), for example, was not produced until about 1.30 p.m.

Other NSWPF detectives

295. As well as the formal counterterrorism intelligence structures established in response to the siege, a number of NSWPF officers undertook ad-hoc investigations. These played a crucial role in the identification of Monis.
296. At approximately 11.30 a.m., Det Sen Const Adam Thompson, who had assisted with the Strike Force Crocker investigation into the murder of Monis' ex-wife, was watching television coverage of the incident when he formed the view that the gunman was Monis.
297. This began a process that ultimately led to the identification of Monis. That process continued into the early part of the afternoon and will be considered in Part 2 of this chapter.

Handover of command

298. Following the executive teleconference in which the Commissioner authorised the activation of Task Force Pioneer, Asst Commissioner Murdoch travelled from his office to the POC. He arrived there at approximately 11.50 a.m. and promptly began a handover briefing with Asst Commissioner Fuller.
299. Afternoon Forward Commander was at Bankstown Police Station when, some time around 11 a.m., he was told he would be the Police Forward Commander. He gathered a small team of officers and travelled to the city, arriving at the PFCP (then the mobile command bus on Elizabeth Street) at about midday. A handover briefing was conducted; what was said is considered in Part 2 of this chapter.

The morning ends

300. By the end of the morning, police had closed the necessary streets and most of the surrounding buildings had been evacuated. TOU personnel were in position around the café, and snipers had sought out suitable locations. The POC had been established, and a temporary PFCP had been set up on Elizabeth Street. An investigation into Monis' identity and his motivations was under way. Attempts at negotiation had begun.
301. Inside the café, the dynamic had begun to crystallise. By midday, Monis had shown a pattern of behaviour that was to persist for most of the siege. He had put hostages in windows and doorways and moved them around to serve as human shields. He talked a lot and repeated himself often. He allowed hostages to go to the toilet or drink water, but he also spoke aggressively, made threats, or pointed his gun at hostages. He refused to speak with police or with anyone outside the café, instead using hostages as intermediaries.
302. It was clear that the siege was unlikely to be resolved quickly.

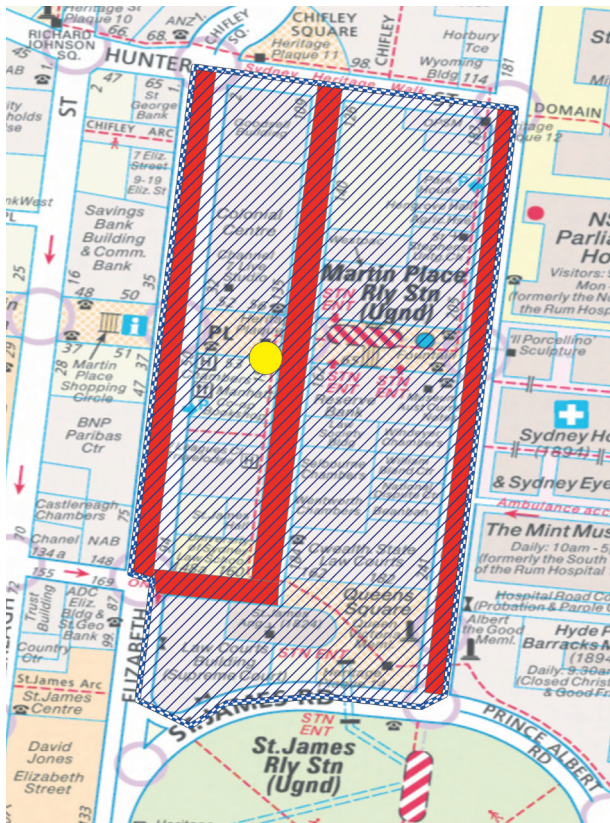


Fig. 7-8. The exclusion zone around the café (yellow dot)

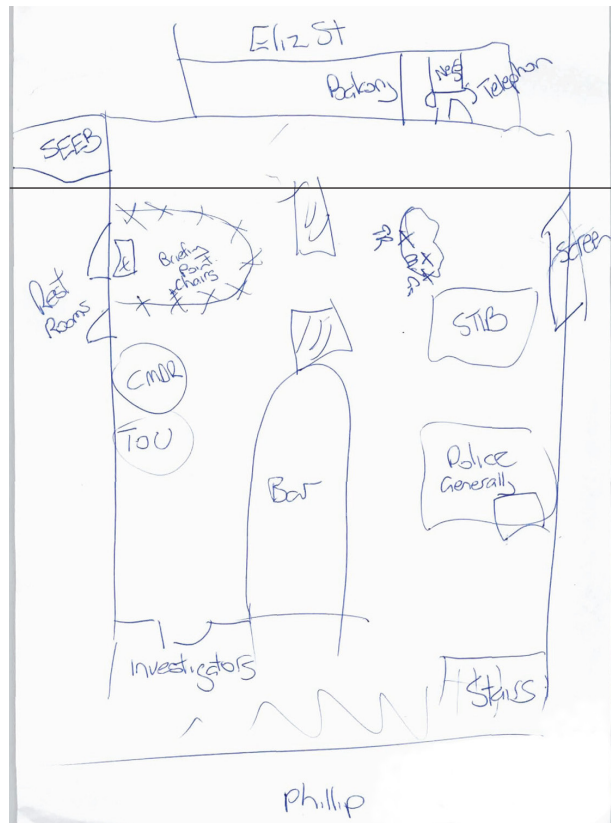


Fig. 7-9. Night Forward Commander's sketch of the PFCP

Part 2: Midday to 9 p.m.

Introduction

303. During the afternoon, a number of important events occurred, both inside the Lindt Café and at the Police Operations Centre and Police Forward Command Post. Within the café, Monis repeated his initial demands, again communicated through hostages, and added a demand for an Islamic State flag. Five of the hostages managed to leave the café in two separate escapes.

304. A Consultant Psychiatrist arrived at the PFCP and began working with the negotiators.⁹ Monis was identified as the hostage taker, which resulted in modifications to the negotiation strategy and moves towards a search of his home, which ultimately took place later in the evening. Finally, from 7.15 p.m., audio surveillance devices were deployed. One of them provided intermittent audio from inside the café for the remainder of the siege.

⁹ A non-publication order was made over the name of the psychiatrist involved in the siege response. He is referred to in this report as the Consultant Psychiatrist.

Transition from general policing to a Pioneer response

305. Assistant Commissioner Murdoch, the newly appointed commander at the POC, was assisted by an incident management team that included:

- The commander of the Anti-Terrorism and Security Group (investigations), known in this report as Eagle Commander;
- The commander of the Terrorism Intelligence Unit, known to the inquest as Commander TIU (intelligence);
- The commander of the SPG (tactical operations), referred to in this report as Commander SPG;
- Graeme, the commander of the Negotiation Unit (negotiations).

306. Asst Commissioner Murdoch was, as noted above, a counterterrorism-trained Task Force Pioneer commander. He exercised command and control under the NSWPF's coordinated federal-state counterterrorism framework.

The content of the POC handover

307. AC Fuller's handover briefing to AC Murdoch appears

to have taken about half an hour. AC Murdoch actually assumed command at about 12.10 p.m.

308. During the handover briefing, AC Murdoch was informed of Tori Johnson's initial 000 call and its content. AC Fuller told him that six to 12 hostages were thought to be inside the café. This differed from the estimate of 20 Tori conveyed during the call. It appears that the lower estimate may have come from a briefing AC Fuller had received from Supt Sicard at about 10.30 a.m.
309. AC Fuller also briefed AC Murdoch about Monis' demand to debate the Prime Minister on ABC Radio. AC Fuller said he had given approval for the negotiators to offer Monis air time on condition that he release some hostages. AC Fuller told the inquest that he expected Graeme to update AC Murdoch on developments in that regard. AC Murdoch was not updated and negotiators did not facilitate contact between Monis and the ABC or offer Monis air time in exchange for the release of hostages.
310. AC Murdoch was also informed that Town Hall and Wynyard stations, George Street and Circular Quay had been searched for potential bombs and declared clear; that an EA plan was in place; and that further briefings on it would occur during the day.
311. AC Murdoch asked whether police had any clues to the identity of the hostage taker. Although homicide detectives had identified Monis, this information was not passed to the POC or PFCP until after 2 p.m.
312. On taking command, AC Murdoch set himself a number of priorities. They included confirming hostage numbers and identities, establishing the hostage taker's identity, establishing direct contact with the hostage taker, and identifying and understanding his demands.

The handover at the PFCP

313. Afternoon Forward Commander reached the PFCP bus at around noon, along with members of his incident management team. He was briefed by the previous forward commander, Supt Sicard. Tactical Commander and Reg, the Negotiation Coordinator, were also present.
314. In the course of the briefing, Afternoon Forward Commander was told that one hostage taker was thought to be inside the café, possibly armed with a long arm and an improved explosive device (IED). He was not briefed about hostage numbers. He asked whether CCTV or audio from inside the café was available and was told it was not. There was reference to the 'trigger' for police entering the

café, recorded as "if hostages are shot".

315. Supt Sicard told Afternoon Forward Commander that an exclusion zone had been created, with an inner and outer perimeter (Figure 7-8).
316. It also appears that during the briefing, something was said about Monis' demand for time on the ABC and Asst Commissioner Fuller's approval of an air-time-for-hostages offer. An entry in the notes made at 12.07 p.m. by the scribe who accompanied Reg during the siege reads "*we can facilitate ABC—hostages first*". Reg told the inquest he had not recommended facilitating contact with the ABC and that any such decision would not be his call. It seems likely that Afternoon Forward Commander agreed to the conditional offer of air time, presumably because either Reg or Supt Sicard had told him about AC Fuller's approval.
317. However, as noted in Part 1: Morning, the negotiators did not pursue this strategy and Afternoon Forward Commander does not seem to have pressed for it.

Moving the PFCP to the NSW Leagues Club

318. Just before 12.30 p.m., the PFCP moved from the bus in Elizabeth Street into the NSW Leagues Club.
319. The officer known as Night Forward Commander provided a useful diagram of the layout and set up of the PFCP after its move to the Leagues Club (Figure 7-9). The PFCP was set up on the second floor, which had previously operated as a bar. A separate area at the eastern end was reserved for investigators from Eagle. In the open bar area, along the southern wall, were areas for the TOU officers and for the Police Forward Commander, and an area for briefing sessions. There was also a section occupied by officers from the State Electronic Evidence Branch (SEEB) in the south-western corner.
320. At the western end of the floor (overlooking Elizabeth Street) was a separate area containing three small offices and a hallway. One of those offices housed the negotiation cell, which had four members (Figure 7-10, next page). For most of the afternoon, the Consultant Psychiatrist also sat in the negotiation cell. Reg, the Negotiation Coordinator, sat in the office next door.
321. Also in the area near the negotiation cell was a separate office in which telephone conferences involving the PFCP and POC were held.
322. Along the northern part of the second floor, again



Fig. 7-10. The negotiation cell in the PFCP; its location is marked at the top of Night Forward Commander's sketch (Fig. 7-9)

in open space, was an area for general duties police and a table for officers from the State Technical Investigation Branch. Close by, along the northern wall, were a projection screen and ceiling-mounted projector, which were part of the Leagues Club's equipment

Equipment and Systems at the PFCP

323. The NSW Leagues Club was equipped with a standard PABX-type phone system. Police used handsets located around the second floor, including in the negotiation cell. Police officers also had their own mobile phones.
324. At about 4 p.m., STIB technical officers established a quadplex screen showing Channel 7 footage and feeds from STIB cameras and CCTV cameras in the 53 Martin Place foyer. There was no vision of Sydney Council CCTV camera feeds. Those in the PFCP had no ability to pause, rewind or replay video shown on the quadplex screen. However, the various feeds obtained by STIB were being recorded in a STIB monitoring truck parked nearby.
325. The STIB technical officers monitored the quadplex screen for technical reasons, but no police officer in the PFCP was specifically tasked with monitoring the screen for operational purposes.

326. Of those in the PFCP, Tactical Commander and Reg had iPads with iSurv access. The Police Forward Commanders did not have direct access to iSurv, but could indirectly access it through Tactical Commander and Reg.

327. Tactical Commander had access to the TOU radio system, but it was not otherwise available to those in the PFCP.

328. A whiteboard was set up in the hall outside the negotiation cell on which hostage names were recorded. The negotiators also had a digital dictaphone inside the cell. They used it to record some, but not all, communications with those in the café.

The Negotiation Cell

329. The initial negotiation team comprised a primary negotiator, Peter; a secondary negotiator, Gary; and Matthew 2 and Tim as joint fourth person/gofers. They moved from the Negotiation Unit's four-wheel drive vehicle into the negotiation cell at around 12.30 p.m. Reg initially functioned as both Negotiation Coordinator (linking the negotiators with the PFC) and Team Leader, but later passed the latter role to Tim.

330. Negotiators were also deployed outside the negoti-

ation cell, with negotiator Steven sent to radio station 2GB (as considered later in this chapter, when Monis' demands were not met, Monis directed hostages to call to 2GB and other media outlets). Negotiator Sasha was tasked to gather intelligence. Negotiators were also deployed to the Police Assistance Line at Tuggerah, which receives 000 calls.

331. Within the negotiation cell, the primary negotiator from time to time made and received calls using both the landline and the negotiators' mobile phone. The secondary negotiators recorded the times calls were made and received, whether they were successful (that is, answered), and a brief summary of any discussions that occurred.
332. Although the negotiators made their first call into the café at about 10.40 a.m. and made contact with hostages at various times from 10.42 a.m., there is no record of any call being recorded on the negotiation cell dictaphone before 1.34 p.m. or after 5.50 p.m. It appears that the earlier and later calls were either not recorded at all, recorded over, or not downloaded.
333. In addition to transcripts of the calls that were recorded on the negotiators' Dictaphone, there are transcripts of telephone intercepts made on the day. These were arranged, pursuant to warrants, on the mobile phone number Monis directed Tori Johnson to give out, the mobile numbers of various hostages, and phone numbers from the NSW Leagues Club, where the negotiators were located. The telephone intercept transcripts cover calls from 3.09 p.m. onwards.
334. The more significant of the communications between the negotiators and hostages are discussed below.

The Consultant Psychiatrist arrives at the PFCP

335. Consultant psychiatrists are called in from time to time to assist negotiators in their attempts to resolve high risk situations, usually suicide attempts and domestic sieges. As at the time of the siege, such psychiatrists worked on an informal, as-needed basis, with no written contract or specific guidelines as to the manner in which they were to perform their duties.
336. The Consultant Psychiatrist's involvement with NSW Police dates back to 1991, when the SPG was formed and a specialist Negotiation Unit was first set up. He was not formally trained in general police negotiations, but was introduced to them via

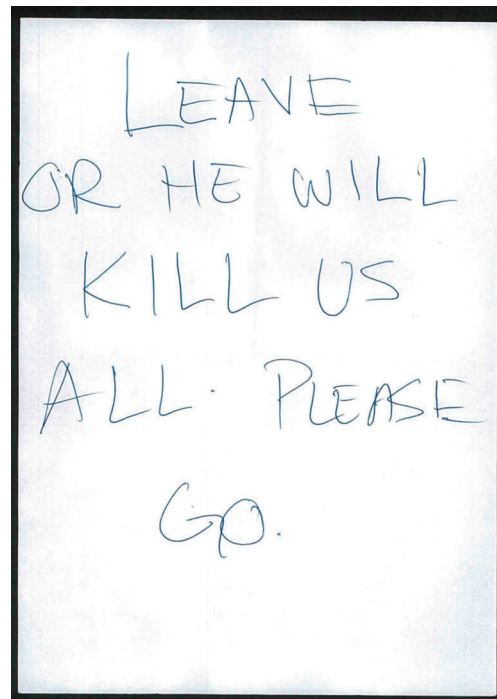


Fig.7-11. The sign Monis directed Fiona Ma to hold up.

another psychiatrist who had consulted to negotiators. He also observed Police negotiations. Between 1991 and 2007, the Consultant Psychiatrist attended courses funded by the Commonwealth Attorney-General's Department in counterterrorist negotiations. Since the Lindt Café siege was the first terrorist incident to which the Negotiation Unit had been deployed, it was also the first terrorist incident the Consultant Psychiatrist had been involved in. However, he had a clear understanding of the NSWPF's policy of resolving high risk situations by containment and negotiation.

337. At approximately 12.50 p.m., Ross, a negotiator assisting Graeme in the POC, telephoned the Consultant Psychiatrist and asked him to come to the PFCP and assist the negotiation team. Ross told the Consultant Psychiatrist of Monis' demands for a debate with the Prime Minister on ABC radio and for a public announcement that the siege was an attack on Australia by Islamic State. He also gave the Consultant Psychiatrist some details of Tori Johnson's initial 000 call, including Monis' claim that "brothers" were in control of bombs at other locations, which they would, or would not, detonate depending what Monis said during radio broadcasts. The Consultant Psychiatrist was already aware from online media that hostages were being held in the Lindt Café.
338. Shortly after 1.00 p.m., the Consultant Psychiatrist was picked up by a highway patrol officer and taken

to the PFCP, where he arrived about 15 minutes later. He was briefed by Reg and then taken to the negotiation cell, where he sat with the negotiation team for the remainder of the siege.

Monis' demands

339. At 12.25 p.m. and 12.28 p.m., Jarrod Morton-Hoffman called 2GB and 000 respectively. He passed on Monis' demand that police move back from the café, failing which he would shoot someone. Jarrod confirmed in his evidence that when he made the calls, he could see police sheltered behind a ballistic shield through Green Window 1. Jarrod also wrote a sign, at Monis' direction, which read "LEAVE OR HE WILL KILL US ALL. PLEASE GO." Fiona Ma held up the sign at the window so police could see it (Figure 7-11).

340. While Jarrod was making the 000 call, Monis raised his shotgun, pointed it at Louisa Hope's back and threatened to shoot her if police did not move away within two minutes. Jarrod told the 000 operator about this. The tone of his voice conveyed that the hostages were extremely fearful of what Monis might do.

341. Almost immediately, Alpha Team moved back, further south along Phillip Street, so they could not be seen through Green Window 1.

342. In another call to 000 at 12.56 p.m., Jarrod conveyed a demand from Monis that any cars parked near any window of the Lindt Café be removed. He specifically mentioned an Armaguard truck and a white Volkswagen van. Jarrod also told the operator that Monis had said he would not shoot anyone if police moved the cars quickly. At about 1.34 p.m., during a telephone discussion with negotiators, Jarrod again said the cars needed to be removed.

343. It was not until about 5.00 p.m. that the Armaguard truck was driven out of Phillip Street.

344. The evidence indicates that the decision for Alpha Team to move back from the café window was made by Alpha Team itself, specifically Officer B. Similarly, the decision to direct that the Armaguard truck be moved from Phillip Street was made at a TOU level by Tactical Commander. No direction from the Forward Commander or Police Commander was sought in either case. As a result, there was no consideration as to whether those demands could be incorporated into any negotiation strategy.

345. Monis took a significant interest in media cover-

age of the siege. He frequently directed hostages to contact TV and radio stations to try and influence that coverage. He was especially concerned that media outlets accurately report his "motivations" (that the siege was an attack on Australia by Islamic State) and correct what he regarded as misrepresentations of his motivations by politicians who had been interviewed on radio and TV. Monis also frequently had hostages access online media reports of the siege and stream radio coverage of it. After an audio surveillance device became operational at about 7.15 p.m., it picked up a number of radio broadcasts from ABC and 2GB and Monis discussing those broadcasts with the hostages.

346. At about 12.40 p.m., the radio announcer Ray Hadley said on 2GB that he had been told the flag being held up in the café window was not an IS flag but an "Islamic shahada flag". Monis heard that broadcast. About an hour later, negotiators telephoned the café and spoke to Jarrod. During that call, Jarrod conveyed Monis' demand that an IS flag be placed on the café doorstep, in return for which one hostage would be released. The negotiator, Peter, said he would convey the IS flag demand to his boss.

347. By approximately 1.50 p.m., negotiators had told both the PFCP and the POC about Monis' demand for an IS flag. Afternoon Forward Commander immediately expressed his concern that the flag might be used as a backdrop for executions, as had occurred in a number of IS videos. Neither he nor Asst Commissioner Murdoch approved the delivery of an IS flag to the café, though at their orders a flag was obtained and brought to the PFCP.

An EA plan is developed

348. Through the balance of the morning and into the early afternoon, Officer B, who had been appointed EA Commander, worked on developing the Immediate Emergency Action plan into a full-fledged EA plan. Floor plans provided by Sydney City Council gave him information on the external and internal layout of the café. The EA plan also reflected the arrival of additional TOU officers at the scene. The IEA was based on two teams, Alpha Team and Bravo Team, making a forced entry. As the plan evolved to an EA, it involved three and, finally, four TOU teams making a forced entry. As more TOU officers became available they were regrouped; in the final EA Plan, Bravo Team no longer existed and the four teams were designated Alpha, Charlie, Delta and Papa. Papa Team was in turn broken into

Papa One and Papa Two Teams.

349. The final EA plan required simultaneous entries by Alpha Team at the white doors (on the corner of Martin Place and Phillip Street) and by Charlie and Delta Teams at the red doors (in the 53 Martin Place foyer). Papa Two Team was to help Alpha Team by breaching Green Window 1 and deploying distraction devices (SF9s) into the café. Papa One Team was to assist Charlie and Delta teams, including, potentially, by breaching an alternative entry point.
350. The intention was to minimise Monis' opportunity to shoot at hostages or police or to detonate the IED he was believed to have.
351. The initial iteration of the EA plan was complete by 12.05 p.m. Tactical Commander reviewed the plan, spoke with Officer B, and satisfied himself that the plan was tactically sound. He then presented it for approval by Afternoon Forward Commander. It was uploaded to iSurv at 1.31 p.m. and updated three minutes later. The final updated version involving the four TOU teams was uploaded at 2.18 p.m.
352. Neither the IEA plan nor the interim or final versions of the EA plan specified a trigger for initiating the Emergency Action. Precisely what the trigger was is the subject of contention and is addressed in Chapter 15.

Establishing a family reception area

353. As news of the siege spread, the families of hostages learned of their predicament, either via text, email or social media posts or through television footage of hostages standing in the café windows.
354. As part of police officers' effort to identify hostages, they established lines of communication with the families of individual hostages. As hostages' identities were confirmed, family members began to travel into the city and congregate near the Lindt Café. Police initially created a space for them in the NSW Leagues Club, on the floor directly below the PFCP. However, it soon became apparent that this space was not suitable.
355. At about 1.25 p.m., police secured permission to use a room in the Supreme Court building, on the corner of St James Road and Elizabeth Street. The room had tea and coffee making facilities and toilets, but no televisions. From shortly after 3.00 p.m., all family members of hostages who came to the CBD were housed at the Supreme Court building.

Attempts to contact Monis

356. From the first call the negotiators made to the café, they sought to speak directly to the hostage taker (whose identity they did not initially know) to try and influence his behaviour and bring about a peaceful resolution of the siege. One of AC Murdoch's stated priorities as Police Commander was establishing direct contact with the hostage taker.
357. The primary negotiator, Peter, made many calls to those in the café through the afternoon and early evening. He was assisted by the secondary negotiator, Gary, and by the Consultant Psychiatrist.
358. On many occasions, Peter called Monis' mobile number. He also repeatedly called the mobile phones of hostages once they were identified, including Jarrod Morton-Hoffman, Fiona Ma, Harriette Denny, April Bae and Katrina Dawson. During the early evening, he called Marcia Mikhael's mobile phone several times.
359. Most calls went unanswered, but on occasion hostages—most often Jarrod and Marcia—did speak to negotiators. Monis supervised each call, listening in and often conveying instructions as to what the hostages should say. He did not respond in person to any of the calls.
360. At times, while speaking with hostages negotiators explicitly asked to speak to the hostage taker. Monis always refused these requests.
361. It is evident from the discussions between the negotiators and the hostages (many of which were recorded on the negotiators' dictaphone or via telephone intercepts) that Monis was becoming frustrated that his demands were not being met, particularly his demands for a flag and to speak to the Prime Minister. In a call to Jarrod at 1.34 p.m., Peter sought information about the bomb Monis claimed to have and asked that the bomb be placed outside the café. Jarrod said that until the flag was provided, Monis was not prepared to discuss the bomb. During a number of later calls, hostages told negotiators that they should not call the café unless they had a flag to provide.
362. Monis' frustration is also evident in the challenges to Peter's honesty made by Jarrod at 1.34 p.m. and 2.22 p.m. and Marcia at 4.04 p.m. Each of these challenges was made at Monis' direction.
363. During the 2.22 p.m. call and in a further call at 2.37 p.m., Jarrod conveyed two proposed deals from Monis to negotiators: Monis would release one

hostage in return for an IS flag, and two hostages if the media broadcast that the siege was an attack on Australia by Islamic State.

364. After Monis' identity had been ascertained, the Consultant Psychiatrist advised the negotiators to use Monis' name [REDACTED]. In a series of calls to Monis' mobile phone, the first of which was answered by Viswakanth Ankireddi at 4.52 p.m., Peter asked to speak to "Sheikh Haron". As soon as Peter mentioned that name, the call was terminated.
365. Over the next two hours, Peter made seven similar requests in calls to the café that were answered by hostages (mainly Marcia and Selina). It is evident from the content of the calls that the hostages did not know who Sheikh Haron was. On almost every occasion, Monis had the call terminated immediately after "Sheikh Haron" was mentioned.
366. By mid-evening, all attempts to speak directly to Monis had proven fruitless. At 7.53 p.m., Peter phoned Marcia Mikhael's mobile number and told her it was difficult for police to move forward without speaking to Monis. Marcia, who was clearly upset and frustrated, responded "*He doesn't want to, he doesn't want to speak to you. He just wants first a flag and then Tony Abbott.*"

Monis directs hostages to call media outlets

367. In parallel with these efforts by the negotiators, Monis was becoming increasingly frustrated as the hours passed and his demands were not met. He spoke to hostages about conveying the demands to the media. Initially, Jarrod Morton-Hoffman volunteered.
368. Between about 1.15 p.m. and 2.15 p.m., Jarrod contacted 2GB radio, the ABC and SBS. He variously communicated Monis' offer to release one hostage in exchange for an IS flag and two hostages in exchange for media reporting that the siege was an IS attack on Australia. Jarrod also conveyed Monis' continued demand for a public debate with the Prime Minister.
369. It appears that Monis relieved Jarrod of this task at about 2.30 p.m., partly because Jarrod had not succeeded in having anything broadcast and partly because Monis wanted someone more demonstrably emotional to speak to the media on his behalf.
370. From 2.30 to about 5.30 p.m., Monis had female

hostages Julie Taylor, Marcia Mikhael and Selina Win Pe contact 2GB, 2UE, the Nine Network, the ABC, and Network Ten. They conveyed essentially the same information as Jarrod had done. Jarrod continued to search on his phone for the details of other media outlets, including News Limited and its website news.com.au, Al Jazeera and the *International Business Times*.

371. In a 3.10 p.m. call to the ABC, Monis had Julie state that politicians were not telling the truth about his motivation. She then reaffirmed that he was prepared to release one hostage in exchange for an IS flag and two hostages in exchange for a media statement by "politicians" that the siege was an IS attack on Australia. During a call to 2UE at 5.05 p.m., Selina conveyed a further proposed deal whereby Monis would release five hostages if the Prime Minister contacted the café.
372. In compliance with police requests, none of the media outlets put the calls to air. At 2GB, where the negotiator Steven was present from approximately 3.10 p.m., station staff transferred subsequent calls to him because of concern that Monis was listening in to the calls and a fear that the staff might say something that could provoke him to violence.
373. At around 5.30 p.m., a member of the public called 2GB regarding a Facebook message posted by Marcia Mikhael. The caller spoke to Steven and read the message, as follows:

Dear friends and family, I'm at the Lindt cafe at Martin Place being held hostage by a member of IS! The man who is keeping us hostage has asked for small and simple requests and none have been met He is now threatening to kill us. We need help right now. The man wants to world to know that Australia is under attack by the Islamic State. The demands are: 1. Send an IS flag into the cafe and someone will be released; 2. To speak with Tony ABBOTT via live broadcast and 5 people will be released; 3. Media to tell the other 2 brothers not to explode the bomb. There are 2 more bombs in the city. Please share. He has shotgun and bomb.

374. Ben Fordham, a 2GB announcer, broadcast this message shortly after staring his broadcast at 6.15 p.m.

Activity within the café

375. Throughout the early afternoon, Monis continued to require most of the hostages to stand in the windows and doors, facing out and with their eyes closed. Unsurprisingly, the hostages appear from the media footage to be visibly distressed. A

number of them gave evidence that they were very concerned about what Monis might be capable of. Paolo Vassallo said he believed that Monis was going to shoot someone. Marcia Mikhael said she thought she was going to die. She described Monis' behaviour in the following terms:

He was crazy throughout the day and he was crazy at night. So one minute he was nice to us; the next minute he was horrible so he was very unpredictable and that's dangerous because you don't know what he was going to do the next second.

376. Monis exempted Louisa Hope from standing at the window because she was carrying her walking stick and told him she had multiple sclerosis. He likewise permitted Robin Hope and John O'Brien to sit down on account of their age. For most of the afternoon, Louisa and Robin Hope sat on the bench seat along the Martin Place side, at about Table 8 or 9. John O'Brien also sat on the bench seat, close to the main entrance.
377. April Bae was not captured on any of the media footage of hostages at the café windows or doors. She had been directed to stand in the foyer entrance doors and remained in roughly that area until the time of her escape.
378. As time passed, Monis permitted the hostages to move around the café for a number of reasons. He directed Fiona Ma to move hostages from positions in the various windows and doors, often as those standing up became tired. He directed various hostages to hold up the *shahada* flag in White Window 4. At times it was held by two or even three hostages. Ultimately, just before 8.00 p.m., the flag was taped onto the window and the hostages who were holding it were permitted to sit down.
379. Early in the siege, Monis directed Fiona, Jarrod and Joel Herat to distribute water to the hostages. Later he directed Fiona and Jarrod to prepare food. To do this they went into the kitchen, outside Monis' view. They later gave out the food to those hostages who wanted it.
380. Monis also directed Jarrod and Fiona to escort hostages to the toilets when they needed to go. They continued escorting duties until their respective escapes.
381. At various times while he was in the kitchen area, Jarrod wrote a description of Monis' gun and of his position in the café on business cards and a train ticket he took from his wallet. He slid these under the exit door in the south-eastern corner of the café, which led to the fire door on Phillip Street. He hoped police would find the cards and push them back under the door to communicate with him, but the cards were not noticed until after the siege concluded.
382. For most of the afternoon, Monis seems to have been seated in the north-western corner of the café, close to Tables 1 and 2. When hostages made internet searches for media contact details and phoned media outlets, they were positioned close to Monis in that corner. Monis could often be heard in the background telling them what to say.
383. In either the late morning or early afternoon, Elly Chen became unwell and started hyperventilating and vomiting. She was permitted to lie on the café floor in the north-western corner, close to the waiters' station, where Marcia and others attended to her. From this point, Elly gradually dropped out of Monis' sight and awareness.
384. At various points during the morning and afternoon, Monis asked hostages about personal matters, such as their religion, their families and their health. Despite those conversations and Monis' allowing them food and water, the hostages in general did not interpret his words or actions as conveying any care or compassion. Rather, they formed the view that Monis was acting in a self-serving and manipulative way.
385. At one point early the early afternoon, Robin Hope reacted angrily to her treatment by Monis. It is not clear precisely what she said, but Monis responded by calling her a "radical" or "racist" Aussie. Louisa quickly intervened, apologised and urged her mother to be quiet and do what she was told.
386. The mood within the café during the afternoon was extremely tense. The hostages were very concerned for their safety and feared what Monis might do.

Intelligence gathering Identifying Monis

387. Identifying the hostage taker was a critical task that would assist police in assessing his motives and likely actions and enable them to investigate possible accomplices. It would also provide the negotiators with information that might be used to de-escalate the incident.
388. The first task was to eliminate all targets of Operation Appleby, a major Commonwealth-state investigation into the suspected planning of a terrorist

attack in Australia. Police involved in the operation had been active that very morning. There was concern that the siege might have been a reaction by individuals targeted in the raids. That concern was dispelled by inquiries that were concluded by 10.14 a.m.

389. At about 11.30 a.m., Det Sen Const Thompson (who had worked on the Strike Force Crocker investigation into the murder of Monis' ex-wife) saw live television coverage of the siege and thought he recognised Monis. He phoned Det Sen Const Melanie Staples (who led Strike Force Crocker) and urged her to turn on the TV. She agreed that the hostage taker appeared to be Monis.
390. After her conversation with Det Thompson, Det Staples told Detective Superintendent Michael Willing, the commander of the Homicide Squad, that she believed the hostage taker was Monis. She began collating relevant information from the files of Strike Force Crocker, including police profiles of Monis and Amirah Droudis, a psychological profile by the forensic psychologist Kim Ora, and various photographs of Monis. She saved this information on the shared intelligence drive, to facilitate dissemination.
391. Det Staples told a colleague in the unsolved homicide unit, Matt (later the primary night negotiator), that she believed the hostage taker was Monis. Matt passed this information to an SPG intelligence officer who, along with Andrew 2, was given access to the Strike Force Crocker files on the shared drive.
392. Between 12.10 and 12.15 p.m., three police profiles for Monis were saved to the shared drive by Chief Inspector Fiona Walton, a colleague of Det Staples.
393. Meanwhile, Det Thompson had also told SPG intelligence officer Paul of his suspicions. At 1.05 p.m., Paul arrived at the POC and told an officer there that Det Thompson also thought the hostage taker was Monis. At Paul's request, within 30 minutes Det Thompson emailed him intelligence profiles for Monis.
394. Commander TIU told the inquest that this information about Monis should have been passed not only to the SPG intelligence officers but also to the Joint Intelligence Group liaison officers to pass back to the JIG. This does not appear to have happened. That limited the contribution that could be made by the JIG.
395. At 1.50 p.m., Commander TIU reported at a POC briefing: "*7 different POIs following up not confirmed*".
396. At the same time, Det Staples accessed Monis' "Sheikh Haron" website and saw the photos he had posted of dead children with visible bullet wounds.
397. INTSUM #1 (a current intelligence summary issued by the JIG), was disseminated at 2.00 p.m. It makes no reference to Monis, an indication that the JIG was not aware that Monis was suspected to be the hostage taker.
398. Also at 2.00 p.m., Det Thompson submitted a police intelligence report which included the comment "*there is a strong consensus from Detectives with personal knowledge that the ...person is [Monis]*". The report set out Monis' last known address in Wiley Park, and included details of his bail on the murder charges and sex charges, and his conviction for offensive letter writing.
399. Five minutes later, a detective in the Terrorism Investigations Squad, told Senior Investigating Officer (who was the commander of the Terrorism Investigations Squad) that two detectives from homicide and another source had suggested the hostage taker was "Sheikh Haron Monis" and that attempts were being made to "ping" Monis' phone—that is, send a signal to the phone in order to track its location. This information was also received by the Investigations Liaison Officer at the PFCP. It seems that very soon afterwards, Asst Commissioner Jenkins (who was to become the final police commander) called Eagle Commander, of the incident management team, and said information had been received that the hostage taker was possibly Monis. Eagle Commander immediately called Senior Investigating Officer to pass that information on.
400. According to the Senior Investigating Officer's log, by 2.13 p.m. five different sources, including detectives, had indicated the hostage taker was Monis. Senior Investigating Officer said in evidence: "*by that stage we were getting pretty certain it was him*".
401. At around 2.15 p.m., Michael Klooster, Monis' former barrister, who had seen Monis in the café that morning and was watching footage of the siege on TV, telephoned the National Security Hotline to report his suspicions that the hostage taker was Monis.
402. By 2.25 p.m., Asst Commissioner Murdoch was apprised that multiple reliable sources indicated the hostage taker was Monis.
403. At about 2.30 p.m., the Investigations Liaison Offi-

cer informed Afternoon Forward Commander and Reg that the hostage taker was likely to be Monis. Negotiator Sasha overheard this conversation and volunteered further information about Monis based on her earlier work for Strike Force Crocker. At 2.40 p.m., Sasha telephoned Det Staples to say the hostage taker was probably Monis. During that call, Det Staples explained that she had raised that suspicion nearly three hours earlier, and told Sasha about the information collated on the Strike Force Crocker shared drive.

404. A 2.52 p.m. entry on iSurv confirmed that information from “SCC Homicide” indicated that the POI may be Monis. At 2.57 p.m. a profile of Monis, complete with photograph, was uploaded to iSurv.
405. At 2.57 p.m., Afternoon Forward Commander spoke to “POI’s barrister and confirmed id”.
406. From about 3.03 p.m., police were intercepting Monis’ phones, and not long after, surveillance was deployed to his flat in Wiley Park. The police made observations from outside, but did not actually enter the premises and conduct a search until close to 11.30 p.m. The reasons for delaying the search are discussed in Chapter 12.
407. At a POC briefing at 3.30 p.m., Eagle Commander said it was confirmed the hostage taker was Monis.
408. In the period between 2.00 and 4.00 p.m., the JIG was also receiving information about Monis. INT-SUM #2, disseminated at 4.00 p.m., indicated that multiple sources had identified Monis as the hostage taker, and gave a succinct and accurate summary of Monis’ background.
409. By just after 4.00 p.m., a series of documents on Monis had been uploaded as flashcards to iSurv. They included a 2013 POI profile by NSW police, complete with photograph; a 14 December 2014 photograph of Monis attending Campsie Police Station to report on bail; and the psychological profile prepared in 2013 by Ms Ora. Similar documents on Amirah Droudis were also uploaded.
410. At 6.37 p.m., an updated police profile of Monis, completed by the JIG, was uploaded to iSurv.
411. This timeline suggests that by 11.30 a.m. (within two hours of the siege commencing) officers from within the NSWPF had formed a strong suspicion that the hostage taker was Monis and shortly after conveyed this to Senior Investigating Officer and SPG intelligence officers. Commanders at the POC and PFCP were informed of this view at 2.30 p.m. It is not easy to understand why it took so long for the information to be communicated.

Identifying the hostages

412. Identifying the hostages and the hostage taker was a high priority from the outset, but it proved more difficult than might be supposed.
413. Senior Investigating Officer had formal responsibility for gathering information about the number and identity of hostages, but the task was primarily undertaken by the negotiators as a result of their phone conversations with people inside the café. Information was maintained on two whiteboards, one in the PFCP and another at the Police Assistance Line call centre at Tuggerah.
414. The first hostage identified was Tori Johnson when he made the initial 000 call. He stated in that call that there were approximately 20 hostages inside the café, but that was not acknowledged by police until much later in the day. Louisa Hope was identified when she called 000 at 10.01 a.m.
415. Soon after he assumed the role of Police Commander, Asst Commissioner Fuller was told that there were six to seven hostages. By 10.24 a.m., that had changed to “*probably 12 not 6*”. An entry in AC Fuller’s log at 10.32 a.m. records “*possibly 6–13 hostages*”.
416. Alistair Keep, of Lindt Australia, provided a roster, contact details and photos of café employees. By 11.06 a.m., police officer Matthew 2 had a staff roster that listed Tori Johnson, Paolo Vassallo, Jarrod Morton-Hoffman, Joel Herat, Fiona Ma, Elly Chen, Harriette Denny, and April Bae as likely to be at work. It also listed another employee, Pedro Miguez (who confirmed he was not at work when negotiators contacted him at 11.27 a.m.). Mr Keep subsequently emailed to police photographs of Tori, Jarrod, Joel, Elly and Harriette.
417. At about 12.10 p.m., Marcia’s husband, George Mikhael, spoke with a police officer at the PFCP who told him she was a hostage.
418. By 1.25 p.m., Senior Investigating Officer had established that Viswakanth Ankireddi and Puspendu Ghosh were also probably being held.
419. Negotiator Sasha transferred all hostage information in the initial list to the whiteboard in the PFCP (located outside the negotiation cell), which she updated as more information became available.
420. At 2.20 p.m., negotiator Steven received information that three barristers from nearby chambers,

Katrina Dawson, Julie Taylor, and Stefan Balafoutis, could not be located and that they frequented the Lindt Café. The origin of that information seems to have been a call made to 000 at 11.57 a.m.

421. At about 2.25 p.m., during a telephone call with negotiators, Jarrod referred to an 82-year-old man, a woman in shock, and a pregnant woman all requiring attention. This information was conveyed to Sasha shortly thereafter.
422. At 3.16 p.m., Sasha received information from Investigations Liaison Officer¹⁰ in relation to three more possible hostages: Robin Hope, Louisa Hope and a “Juliet Bennie”. This information also seems to have been obtained by the Senior Investigating Officer’s team.
423. At 3.35 p.m., after Stefan Balafoutis escaped, he told police there were more than 14 but fewer than 20 hostages still in the cafe.
424. At 3.50 p.m., the Investigations Liaison Officer received information from an officer at Harbour-side Local Area Command about Selina Win Pe, who had been identified as a possible hostage. That information included her date of birth, that she was a Westpac employee, her mother’s name and a neighbour’s mobile number.
425. At 3.58 p.m., Steven told Sasha that the mother of a person named Brock Thompson had received a text message from her son which stated that he was inside the Lindt Café. Accordingly, Sasha updated the hostage whiteboard to include his name. In hindsight it is clear this information was wrong, but it nevertheless provides a useful demonstration of the sometimes unreliable nature of the information which police had to rely upon in identifying the number and names of the hostages inside the Café.
426. In a POC briefing at 7.30 p.m., Commander TIU reported “24 names of hostages some with photos”.
427. In this way, the list of hostages was developed and modified as information was received, considered, and either confirmed or discounted. Names were added, spellings corrected and other names removed. The list was never completely correct until after the siege had been resolved.
- close to White Window 2. Monis permitted him to have his eyes open. He thought there might be sufficient space between the northern wall and the welcome panel for him to squeeze through, get to the main doors, push the green button so as to open the doors, and escape into the street.
429. He began to subtly inch his way along the bench seat towards the welcome panel. Monis reprimanded him on a couple of occasions, telling him to keep still. At one point, Monis directed John to move towards the north-western corner of the café, near Table 1, and lie on the floor. John refused, saying he was too old to lie down on the hard floor. Monis did not pursue the matter.
430. Stefan Balafoutis had been told to stand in White Window 2 and then White Window 1 through most of the morning and early afternoon. The move to White Window 1 brought him into close proximity to John: Stefan was standing on the bench seat and John was sitting on to his right.
431. Earlier in the day, not long after the café was locked, Stefan had noticed the green button near the main entrance and suggested to Julie Taylor that they should press it and try to escape. At the time Julie, had discouraged Stefan from making such an attempt.
432. Stefan had become increasingly concerned about Monis and began to think again about trying to escape out the main doors. Stefan thought Monis was singling him out for adverse treatment. While Monis called other hostages by name, he spoke to Stefan in a hostile manner and called him names like “white shirt man”. Monis had reprimanded him for opening his eyes and said this counted as points against him.
433. After Stefan was moved to White Window 1, he glanced to his right and noticed that John was looking at the gap between the northern wall and the welcome panel and the area beyond it. Stefan attracted John’s attention and very quietly asked, “Can you get past?” After a short exchange about whether the green button would operate the front doors, John asked to be taken to the toilet. He took that opportunity to ask Fiona Ma, who escorted him, whether she knew if the green button would operate the front doors. Fiona, who had only recently started work at the café, said she was unsure.
434. At 3.35 p.m., without any further discussion, John crouched down low, moved to the end of the bench seat, squeezed through the gap between the north-

The first escape

428. John O’Brien had spent a large part of the morning and early afternoon sitting on the bench seat

10 This officer’s name was subject to a non-publication order.

ern wall and the welcome panel, hit the green button, and ran out the main doors as soon as they opened.

435. Once Stefan saw what John was doing, he ran along the bench seat, squeezed past the welcome panel and also ran out onto Phillip Street. Both John and Stefan ran south along Phillip Street, where they were grabbed by the TOU officers from Alpha Team and hustled into a loading dock in the building adjoining the café.
436. Paolo Vassallo had also been thinking about trying to escape. As a staff member, he was aware of the café layout and knew of the back door, in the south-eastern corner, leading to the fire door on Phillip Street. While Paolo had that door in mind as an escape route, he was unsure whether there might be boxes or other items blocking access.
437. Paolo went to the toilet on a couple of occasions during the morning and early afternoon. On each occasion, Fiona escorted him. The second time, Paolo had Fiona take him through the kitchen to the bathroom area, so that he could get a good look at any objects that might be blocking access to the rear door. He satisfied himself that it was possible to get to the door.
438. Once Paolo was sure an escape through the rear door would be possible, he spoke to Fiona near the men's toilet about whether she would join him in an escape. Fiona said she was not prepared to leave people behind.
439. At the time of John and Stefan's escape, Paolo was standing in front of one of the green windows on the Phillip Street side. He heard the doors open and caught a glimpse of John and Stefan running out. Paolo gave thought to running out the main doors as well, but was concerned that Monis would now be looking at them. Instead, he turned to his right, made his way into the kitchen area, and ran up the stairs, out the rear door and out the fire door onto Phillip Street. He was immediately received by Alpha Team members.¹¹
440. At the time of the escapes by John, Stefan and Paolo, Monis was in the north-western corner of the café directing hostages to contact media outlets. He heard the noise made by the main doors opening and must have seen some part of the escape. He responded by pointing his shotgun at Jarrod's head.

11 Footage of John, Stefan and Paolo escaping can be viewed [here](#) and is contained on the USB accompanying the hard copy of this report.

When he realised that Stefan was one of the escapees, Monis said he should have shot "white shirt" when he had the chance. He seemed to believe the police had helped with the escapes.

441. Jarrod and other hostages sought to pacify Monis, explaining that the police had not been involved and that the three men had simply run out. The other hostages pleaded with Monis not to shoot them.
442. Monis said he should shoot someone as an example. He told the remaining hostages that for every person who left, one would be killed.
443. Monis then rounded up the remaining hostages and had them gather around him in the north-western corner of the café, close to Table 1. Monis remained in that location for most of the remainder of the siege.

The second escape

444. In the aftermath of the first escape, April Bae settled on a plan of trying to make a surreptitious escape through the foyer doors into 53 Martin Place. She heard Monis threaten to kill someone if further escapes were attempted, and was very concerned that Monis was angry, unstable and might shoot someone no matter what the hostages did. She told Fiona Ma of her plan during one of the trips April made to the toilet. Fiona did not say anything to try and dissuade April.
445. Monis had the hostages stack tables and chairs in the café's north-western corner. Jarrod marked the stacked furniture as "barricades" on one of the business cards he slipped out under the exit door for the police. It is evident that Monis was seeking to use the hostages as human shields and to use the furniture as a barricade in the event of a police entry.
446. In the period shortly after the first escape, Elly Chen had crawled from her position on the floor in the north-western corner around past the waiters' station and lay on the floor under Table 40. At about the same time, April Bae ducked down and made her way under Table 40. In that position, Elly and April could not be seen by Monis. His vision was blocked by both the waiters' station and a large teddy-bear cut out just in front of it.
447. From under Table 40, April sent a text to her friends indicating that she was still alive. One of them replied, "*If you can escape, escape and escape with as many people as you can.*" That firmed up April's

decision to make an attempt.

448. April told Elly she was planning to try and open the foyer doors and escape. Elly tried to dissuade her but was unable to do so.
449. There were patio-bolt type locks at the top and bottom of the foyer doors, which Jarrod had secured, at Monis' direction, earlier that morning. On a number of occasions, April crawled out from under Table 40, stood up, and slowly eased down the top bolt. She was careful to try and minimise the noise she was making. After pulling down the upper bolt, she repeated the exercise with the lower bolt so the doors were able to be pushed open.
450. During April's efforts to unlock the foyer doors, Elly observed what she was doing and on one occasion, coughed to try and muffle any noise. Jarrod, who was sitting in front of the teddy-bear cutout, also observed what April was doing. On a couple of occasions, he tried to mouth words to April to indicate that she should not go ahead with the escape. Jarrod was afraid Monis would carry out his threat to kill someone if there was another escape. However, when April persisted, Jarrod tried to assist her by subtly moving the cutout so as to further block any view Monis might have of the doors.
451. At 4.58 p.m., April carefully and quietly approached the doors, pushed one open and moved into the foyer. Moments later, she was followed by Elly. April had asked Elly to be careful shutting the door to minimise noise. Elly is visible in the foyer CCTV coming through the door, then taking the time to ease the door quietly closed. The composure of both women is remarkable.¹² They stepped down the foyer stairs, through the glass sliding doors, and ran down Martin Place, where they were received by TOU officers.
452. They managed to make their escape without Monis or anyone else in the café (other than Jarrod) noticing. At the time, it appears that Selina was on the phone speaking to negotiators and then 2GB, and she was speaking fairly loudly. Monis seems to have been focusing on the calls and not paying attention to other activity in the café.
453. At around the time of the second escape, Monis assigned Jarrod the task of monitoring media reports of the siege. Soon after Elly and April escaped, media outlets began to broadcast the fact.

12 Footage of Elly and April's escape can be viewed [here](#) and is contained on the USB accompanying the hard copy of this report.

As Monis was asking Jarrod to update him on the content of the media coverage, that posed a significant dilemma for Jarrod, who knew Monis had not realised that April and Elly had escaped the café. Accordingly, for a time he continued telling Monis that the media were still reporting that three hostages had escaped from the Lindt Café.

454. At about 6.00 p.m., Monis asked for a phone charger and Jarrod became concerned that he would see the media reports himself. To stall Monis, when Jarrod and Joel Herat were sent to the staff locker area to look for chargers, they said they could not locate one. Monis persisted and eventually Jarrod and Joel gave him a charger. Soon afterwards, Monis directed that ABC radio be streamed and heard a report that five people had escaped from the café.
455. Monis reacted angrily. The hostages again feared they were at risk of being shot. Jarrod again sought to placate him. Relying on his conviction that Monis would have limited recollection of either Paolo or April, and that he had never made a head count, Jarrod tried to persuade Monis that the media were lying and that there had in fact been only one escape, earlier in the day, involving the old man (John), the man in the white shirt (Stefan) and the sick girl (Elly). Monis seemed to have no recollection of April. He accepted what Jarrod told him and did not pursue the issue of the second escape further. In light of Monis' threat to kill one hostage for every hostage who escaped, Jarrod's achievement in persuading him that there had been only the initial escape was a significant one.

Hostage debriefs

456. Debriefing any escaped hostages was a responsibility of Senior Investigating Officer. Investigations Liaison Officer set up a reception centre for the escapees. The arrangement was for hostages to be immediately triaged in order to quickly identify them, assess their wellbeing and take down a very brief version of events. Then counterterrorism officers and negotiators were to conduct a debrief of the hostages to obtain information of immediate relevance to tactical officers and negotiators. By reason of their role in Senior Investigating Officer's witness/victim management team, officers from the Sex Crimes Squad were assigned to take additional statements from escaped hostages.

Debrief of John, Stefan and Paolo

457. At approximately 3.45 p.m., after John, Stefan and Paolo escaped from the café, officers took their particulars and a brief version of events. The Consultant Psychiatrist was present for some of those “hot debriefs”.
458. Following this, negotiator Sasha and the officer referred to in this report as Officer WK spoke to Stefan. He could not positively identify Monis from a photograph, as he had his eyes closed for much of the time inside the café. But he described Monis’ demeanour and demands. He described his backpack and said he did not see wires or anything else protruding from it. He also observed that Monis did not appear to have an exit strategy. He estimated there were 14 to 20 hostages and provided details of the name and appearance of a number of the hostages. Sasha briefly suspended the interview and passed these details to Afternoon Forward Commander, the Investigations Liaison Officer, Reg, Tactical Commander, Deputy Tactical Commander and other officers. She returned to ask Stefan more questions which Tactical Commander had raised. She then escorted him to the second floor, where officers from the Sex Crimes Squad started taking a formal, recorded statement at about 4.40 p.m.
459. In his statement, which was finished by approximately 5.20 p.m., Stefan said Monis had repeatedly announced during the siege that he wanted it broadcast to the general public that the siege was an attack on Australia by Islamic State. Stefan told the detectives that Monis was adamant that the public should be told that politicians were lying about his motivations. Stefan suggested to the detectives that getting that message out was all Monis really wanted; Stefan could not discern any end-game demands. He expressed his concern that in light of the content of that message Monis would harm or kill hostages.
460. Officer WK spoke to Paolo in the company of Matthew 2. Paolo said Monis had a long gun. He did not know if Monis was working with someone else, but he had been on the phone to someone else (this appears to be a mistake). Paolo also said Monis had required all hostages to put their drivers’ licences on the table and had lined hostages and was taking photos with a mobile phone. Matthew 2’s notes of the debrief include “Brother [Monis] showing kindness”, “do something wrong and he will show other side” and “he will kill me while on phone with media”.
461. Officer WK briefed Afternoon Forward Commander, the Investigations Liaison Officer, Reg, Tactical Commander, Deputy Tactical Commander and other officers about what Paolo had said. Meanwhile, ambulance officers had indicated that Paolo required further medical attention. At about 4.00 p.m. he was transported to St Vincent’s Hospital in the company of two officers from the Sex Crimes Squad. They took his formal statement at hospital and later ensured his safe travel home.
462. In the statement (made between approximately 5.05 and 7.10 p.m.), Paolo indicated that while he was unsure whether Monis had a bomb, he did not believe Monis had any intention of surrendering. Coincidentally, at 7.05 p.m. Tori Johnson sent a text message to Paolo which read: “Tell the Police the lobby door is unlocked. He is sitting in the corner on his own.” Paolo immediately passed the text on to the detectives who were interviewing him.
463. At 7.40 p.m. Tori sent an identical text message to Alistair Keep, the retail director of Lindt, who was at the family reception area in the Supreme Court building. He showed the text to Sasha, who took a photograph of it. At 7.50 p.m., a screen shot of the message was posted to iSurv. The text message was also intercepted by STIB.
464. As to the debrief of John O’Brien, the notes of Matthew 2 indicate that he thought there were 16 or 17 hostages remaining, that the shotgun had a silver barrel and was approximately 1 metre long, and that Monis was frustrated and angry and losing patience. The notes also indicate that Monis had a big backpack and was trying to contact Tony Abbott. At the end of the debrief, at about 4.15 p.m., John was escorted upstairs to have his statement taken.
465. According to the log maintained for Afternoon Forward Commander, at 4.08 p.m. a negotiator (Sasha) relayed the following information to him:
- the target has two bombs*
No wires seen from backpack
Message from target this is an attack on Islamic state
Target getting Fiona (hostage) to do tasks on targets behalf
The target spoke earlier that he is unsure how to actually disarm the bomb
Only speak to hostages when he needs something done.
466. An iSurv log entry, uploaded at 4.16 p.m. by a negotiator known as Matthew 3, summarises the

debriefs of these three hostages as follows:

Information from debrief of 3 x escaped hostages: Only 1 POI. Unconfirmed if it is HARON but could be possible.

1 x firearm seen, described as a long shot gun. No other firearm seen. POI has a blue bag¹³ and black back pack which is described as full. POI keeps returning to the blue bag. Firearm was in the blue bag when he arrived.

POI does not communicate with outside or media, he gets 3 of the female hostages to do most of the communication. He started to get a male to do this, but it did not work out.

The POI tasks a Female POI, names as Fiona (possible staff of Lindt) of what to get the hostages to do. His only comments is this is an attack by Islamic on Australia. No other demands have been made.

He only speaks to hostages when he wants communication with media, does not speak to them otherwise.

1 x Hostage outline there is at least 14 hostages but less than 20. Although unknown if there are more in other locations. POI gets the hostages to close their eyes every now and again, and if they open their eyes he will tell them they have lost "credit".

Hostages has asked him why he doesn't let them go, and use the bombs, but he said it is too early. Also indicated early on, he does not know how to disarm bombs.

Hostages opinion that POI does not have an exit plan.

At the start of the incident, POI collected all the drivers licences, and has started taking photos of them on his phone.

467. Information from these hostage debriefs also appears to have been conveyed orally by the Investigations Liaison Officer to Senior Investigating Officer. The relevant part of Senior Investigating Officer's 4.08 p.m. log entry reads:

Update provided by [Investigations Liaison Officer]. One POI and no sighting of Droudis. POI has a shotgun. POI spoke of two devices no further information. Messages that this is an attack by ISIL on Australia. POI has not hurt anyone. Three males have escaped. Believed there are more than 13 hostages but less than 20. The POI made some comment about how to disarm devices. One hostage is currently in hospital and two are being

interviewed. POI has a backpack on with wires hanging out of it.

Debrief of Elly and April

468. After Elly and April escaped, they too were escorted to the Leagues Club by TOU officers, where they were received by Det Sgt Richard Long, seated at separate tables in the first-floor bar area, and attended to by NSW Ambulance officers. Officers took their particulars and a brief version of events. The Consultant Psychiatrist again observed the "hot debriefs".

469. Following this, Sasha and TOU 6 spoke to Elly. She could not positively identify Monis from a photograph, but she described what Monis was doing at the time they escaped, and said that April had opened the lock on the door and they had escaped when a female hostage was talking loudly on the phone. She drew a diagram showing their position in the café immediately before their escape. Sasha explained in evidence that her purpose in a number of questions was to explore whether Monis realised the two girls had escaped.

470. During the debrief, Elly became very anxious and was attended upon by Ambulance officers. Sasha used this time to go upstairs and relay Elly's information—including the fact that the Martin Place doors had been unlocked—to Afternoon Forward Commander, Reg, Tactical Commander, and others.

471. Once Elly was able to resume, Sasha continued the debrief by asking a number of questions that Tactical Commander had raised. Elly described Monis' demeanour inside the café, said she did not see a backpack or any wires, and described a vest Monis was wearing. Sasha went upstairs and relayed this further information.

472. Officer WK spoke to April, who stated that Monis wanted to talk to the Prime Minister or he would shoot someone, that when the others had run out in the first escape he had become very angry as he thought police were responsible, and that he had a gun pointed at one of the male hostages most of the time. She also said Monis asked for Tony Abbott to call him, that he wanted "some flag", and that when talking to police he put the phone on speaker so everyone could hear. She said he gave the hostages food and allowed them to go to the toilet.

473. April said she was not sure if Monis saw her and Elly escape, but she was aware that the automatic glass doors they went through made a loud noise. She said the hostages left inside included Tori John-

13 The "blue bag" referred to is no doubt the blue reusable shopping type bag from which Monis had produced the shotgun at about 9.47 a.m. (Figure 7-6).

- son, Jarrod Morton-Hoffman, Joel Herat and “the new girl” [Fiona] and at least four customers. She said Monis claimed to have two bombs, one with him and one at Circular Quay. She said he was wearing a vest and had a black backpack that was very full, but she could not see anything coming out of it.
474. Officer WK relayed this information to Afternoon Forward Commander, Reg, Tactical Commander and others in the PFCP. Det Long then escorted Elly upstairs to make a statement.
475. A 5.25 p.m. entry in the log maintained for Afternoon Forward Commander reads: “*debrief from 2 latest hostages—hostages states external door makes noise on close. When target is on phone, the phone is on loud speaker.*”
476. The iSurv log contains an entry uploaded at 5.32 p.m. which summarises the debriefs of Elly and April as follows:
- Information from two escaped hostages:
Elly CHEN and Jieun (April) BAE
Escaped through one of the side doors - using green access button. Not sure if he saw them escape, but thinks he would know because of the noise of the door.
A male mouthed at them not to leave, claiming the POI had the firearm to his back. But they left anyway.
When he speaks to police, he places the call over loud speaker so all hostages can hear what is happening.
Has mentioned wanting flag, and wanting to speak to Prime Minister.
Confirmed firearm as a brown coloured longarm.
Stated they believe there are 4 staff, and 4 other.*
477. Once again, information from these hostage debriefs appears to have been conveyed orally by Investigations Liaison Officer to Senior Investigating Officer, whose log entry at 5.34 p.m. relevantly reads: “*...The fact that someone escaped appear to have frustrated the POI. POI has not removed his backpack the entire time.*” Both pieces of information correlated with what April had said in the debrief.
479. To try and get around the media impasse, just before 5.30 p.m., one of the hostages suggested that Monis’ demands could be published on Facebook in written form and in videos of hostages stating the demands.
480. At 5.28 p.m., Marcia Mikhael put up a Facebook post stating that Monis wanted the world to know that Australia was under attack by Islamic State. She said his demands were:
- 1) Send an IS flag into the café and someone will be released
2) To speak with Tony Abbott via live broadcast and 5 people will be released
3) Media to tell the other 2 brothers not to explode the bomb. There are 2 more bombs in the city.*
481. At 5.32 p.m., Selina Win Pe sent a group text message to 17 of her family and friends in which she stated that Monis was prepared to release one hostage in return for an IS flag and two hostages if politicians told the media that the siege was an attack on Australia by Islamic State. Selina wrote that Tony Abbott had not called, as Monis had been asking since 9.45 that morning, and requested that her message be spread via Facebook and Twitter.
482. Between 5.58 and 7.30 p.m., Selina, Julie Taylor, Marcia Mikhael and Louisa Hope recorded a series of videos standing in front of the *shahada* flag. The content of the videos differed slightly, but all involved a hostage reciting Monis’ demands for an IS flag, a media statement to the effect that the siege was an attack on Australia by Islamic State, and a publicly broadcast discussion with Tony Abbott. The hostages pleaded for Monis’ demands to be met and expressed their fears that if they were not, their lives would be in jeopardy.
483. Soon after the videos were recorded, the hostages began contacting media outlets (the Nine Network, Network Ten and News Limited) and asking for them to be broadcast. The media outlets provided email addresses. Selina’s initial video was too large to email, so she reshot a shorter one. Ultimately, the videos were sent to the Nine Network and Network Ten. Consistent with police requests, they were not broadcast.
484. Selina continued to send group texts, to 25 people at 6.37 p.m. and to 36 people at 7.58 p.m. In the former, she indicated that a video she had made would soon be shown on Channel Nine and in the latter, she reiterated Monis’ demands and indicated that if they were not met, Monis would kill the hos-

Social media posts and videos

478. By late afternoon, Monis’ attempts to broadcast his demands and motivations through calls by hostages to 000, negotiators and media outlets had been unsuccessful. He became increasingly frustrated, saying that politicians were telling lies and the media were perpetuating those lies.

tages. She pleaded for help again. At 7.51 p.m., Marcia Mikhael posted to Facebook that police were not cooperating and that a flag had not been sent. She pleaded for the flag, stating: “*We don’t want to die.*”

485. Roughly half an hour after the last video was filmed, at 7.57 p.m., Jarrod and Joel took the *shahada* flag back to White Window 4 and taped it in place. Hostages no longer stood up in that window, or any other window, from that point onwards.
486. At 7.32 p.m., after none of the media outlets had broadcast the hostage videos, Joel Herat uploaded four of them (of Selina Win Pe, Julie Taylor, Marcia Mikhael and Louisa Hope) to YouTube. He labelled the files “*SYDNEY HOSTAGES SPEAKING PART 1 TO 4*” and gave each file the hashtag #Sydney#Lindt. Through the night, the hostages used their phones to access the YouTube videos, and a number of the hostages also sent group text messages to family and friends enclosing links.
487. By approximately 11.30 p.m., a decision had been made in the POC to try and take down the four YouTube videos. They were taken down by 1.15 a.m.

Surveillance devices

488. Two surveillance devices (**SDs**) were deployed during the siege. Both were provided by the Australian Federal Police (**AFP**), and are referred to in this report as SD1 and SD2.
489. SD1 was a covert device. It provided audio recordings of conversations and noises that gave an indication of what was occurring within the café. By contrast, the SD2 recordings provided little useful information.
490. Transcripts of each SD recording were prepared after the siege and included in evidence.
491. It appears that deployment of a third surveillance device, presumably belonging to the NSW Police STIB, was also attempted. It was deployed at 2.50 p.m. under the fire door in the foyer area in 53 Martin Place. No audio was obtained from it.
492. On the whole, only SD1 was deployed successfully during the siege.
493. The SD1 recordings in evidence commenced at 7.14 p.m. They ceased at 2.33 a.m. on 16 December, by which time the Emergency Action was completed. The recordings occurred in blocks, and for purely technical reasons, SD1 did not record continuously.
494. SD1 did not offer live monitoring: police could not

listen to what was being said in the café as it was being said. Rather, as audio blocks (of about 60 seconds each) were recorded, they were transmitted as individual files to a listening post. Only then could the recordings be heard by a monitor. However, listeners could replay specific audio files, and at least one NSWPF monitor took advantage of this capacity on at least one occasion.

495. The lag between completion of a given audio file and its availability for listening was usually about 2–3 minutes. In some cases the lag was longer. In one case, the audio file was not available to monitors until 29 min. 44 sec. after it was recorded.
496. Generally, the audio quality of the SD1 product is relatively poor. While some conversation can be made out immediately, and individual voices distinguished, much of it requires repeated playback and concentrated listening. Some content remains unintelligible even after repeated listening.
497. By contrast, while SD2 did offer the ability to listen “live”, it offered virtually no practical assistance owing to its extremely poor audio quality.
498. Neither SD1 nor SD2 audio was listened to at the POC or the PFCP. SD1 was monitored at a different location from SD2.
499. Senior Investigating Officer and his team were not responsible for feeding information from the SDs to the PFCP. That task was performed by negotiators, primarily Steven and later Mick, with some assistance from AFP officers. In practical terms, they listened to SD1 and when they heard something they regarded as relevant, they texted or phoned negotiators at the PFCP to pass it on.

The DA plan is developed

500. During the mid afternoon, Delta Alpha was tasked with developing a DA plan. He engaged in reconnaissance whereby he investigated several potential entry points to the café.
501. The process of drawing up the DA plan was fairly lengthy, with a number of meetings between Delta Alpha and Deputy Tactical Commander. An initial version of the plan was presented to Tactical Commander who made some recommendations which in turn led to a revised version of the plan.
502. It seems that Tactical Commander was briefed on the revised DA plan at between approximately [REDACTED] and [REDACTED] and indicated that he was satisfied with it. An iSurv entry at [REDACTED] confirms that

the DA plan was available for consideration with a view to approval by the Forward Commander and then the Police Commander (per the procedure outlined in Chapter 5).

Events in the negotiation cell

503. As noted above, the negotiators made literally hundreds of calls to Monis' mobile phone and the hostages' mobile phones during the morning and afternoon. Only a small number of the calls were answered, all at Monis' direction and under his supervision. At no point did Monis speak to negotiators.
504. The negotiators, through Reg, were told that Monis was confirmed as the hostage taker at approximately 3.00 p.m. Just over an hour later, they had available to them via iSurv a Person of Interest profile, photographs, and Kim Ora's psychological profile. Some time later, they also received a fact sheet regarding the murder charges against Monis.
505. Once Monis' identity was confirmed, the negotiators made a number of calls to the café. As noted above, when they asked to speak to "Sheikh Haron" on advice from the Consultant Psychiatrist, Monis did not confirm his identity and had the calls cut off when the name was mentioned.
506. Despite the lack of success in engaging directly with Monis and the fact that Monis had directly challenged Peter's honesty on three occasions, there was no discussion in the negotiation cell or with Reg or Graeme about possibly using a different primary negotiator.
507. At 5.36 p.m., the Consultant Psychiatrist had a fairly lengthy discussion with Peter, Gary and others in the negotiation cell about the progress of the negotiation. That discussion was captured on the negotiators' dictaphone. The Consultant Psychiatrist discussed the pros and cons of providing the flag and referred to the risk that Monis might murder a hostage in front of it. The Consultant Psychiatrist suggested that Monis wanted the flag to establish that he was an IS operative.
508. The Consultant Psychiatrist and the negotiators discussed the sexual assault and accessory-to-murder charges against Monis. They also discussed the psychological profile of Monis prepared by Ms Ora and her view that he might have a narcissistic personality disorder.
509. The Consultant Psychiatrist posed the question whether Monis might kill someone if he became particularly frustrated. He advised the negotiators that "*a wounded narcissist is a dangerous specimen because they, they take the defeat very personally and whoever it is whose defeated him becomes his ultimate enemy*". The Consultant Psychiatrist indicated his suspicion that Monis' involvement in the murder of his ex-wife could be related to her rejecting him or somehow wounding him. He said the question was whether Monis "*had the ticker*" for killing someone.
510. Monis' frustration at his demands not being met or publicised became evident in discussions between him and hostages. At 8.30 p.m., SD1 picked up Monis and the hostages listening to a press conference held by the NSW Police Commissioner, Andrew Scipione, and the NSW Premier, Michael Baird. As the radio broadcast trails off, Monis can be heard directing the hostages to "*put your phones, everything here on the table*" and not to answer the phone if negotiators called. The negotiators made frequent attempts to call Monis' mobile phone, various hostages' mobile phones and, on occasions, the café landline, but after 8.30 p.m. no further calls were answered until much later in the evening.
511. However, two calls were made by Marcia to the negotiators in this period. One relaying the demand that the Martin Place lights be extinguished is described below. The other was made at 8.42 p.m., when Marcia said the following before hanging up:
- ...do not come close to the window. He can see you, do not come close to the window. He's going to shoot us. Please stay away from the windows. There are police officers somewhere near the windows. Stay away from the windows.*
512. It seems that the reflection of the TOU officers who throughout the day had been on standby in Phillip Street in the loading bay of the building adjoining the café became visible in the polished surfaces of the Reserve Bank building as darkness fell and the lights inside the café were turned off.
513. It seems this was relayed to the TOU members and they retreated into the loading dock. That was the last contact with the hostages until 12.53 a.m.
514. The negotiators' log indicates that the negotiators were concerned by their inability to speak directly to Monis. An entry made at 6.59 p.m. indicates that Reg was discussing with the negotiators the option of using a long range acoustic device (**LRAD**). As the name suggests, the LRAD allows for messages and warning tones to be communicated over long dis-



Fig. 7-12. A view of Monis in White Window 4

tances, at higher volume than normal loudspeakers.

515. After the possible use of an LRAD was raised by negotiators, the issue was passed to Tactical Commander and then the Police Forward Commander, for further consideration and a decision.

A sniper opportunity?

516. The snipers positioned in the Seven Network building, the Westpac building and the Reserve Bank building watched the Lindt Café continuously. For a period of approximately 10 minutes, commencing at 7.38 p.m., snipers in the Westpac building (Sierra Three 1 and Sierra Three 3) saw a man they believed to be Monis sitting immediately inside White Window 4. Part of the back and/or side of his head was visible beneath the black *shahada* flag (Figure 7-12).
517. During the inquest, questions arose as to whether the snipers had missed an opportunity to take a shot at Monis. This is addressed in Chapter 14. Soon after seeing Monis, Sierra Three 1 telephoned Deputy Tango Charlie, the Deputy Tactical Commander

of the TOU, to tell him of the potential for a shot. The two discussed whether it was possible to positively identify Monis. Deputy Tango Charlie in turn discussed the possibility of sniper action with Tactical Commander. Ultimately, it was decided not to attempt shooting Monis. Sierra Three 1 took photos of Monis that were uploaded to iSurv at 7.55 p.m. In the photos, hostages can be seen in Monis' immediate vicinity.

518. Sierra Three 1 and Sierra Three 3 told the inquest they did not take a shot for a number of reasons. First, they both considered that they did not have legal justification to take a shot. As far as they knew, Monis had not physically harmed a hostage, and they could not see anything to suggest that a hostage was at imminent risk of harm.
519. Second, Sierra Three 1 and Sierra Three 3 could not clearly see what was behind Monis. They were concerned that if they took a shot and the bullet either passed through Monis or missed him, a hostage would be hit. Third, while Sierra Three 3 was “*quietly confident*” the man in the window was Monis, he was not “*one hundred per cent certain that it was him*”. The evidence indicates that neither Sierra Three 3 nor Sierra Three 1 was aware of the texts Tori Johnson had sent to Paolo Vassallo at 7.05 p.m. and Alistair Keep at 7.40 p.m. in which he described Monis' location in the café.

520. Shortly after Monis was seen sitting in the window, the lights inside the café were turned off. As night fell, it became progressively more difficult for snipers to see into the café. No further opportunities to shoot Monis presented themselves.

Martin Place lights demand

521. SD1 picked up a conversation between Jarrod, Marcia and Monis at 8.13 p.m., in which Monis directed Marcia to phone the negotiators and ask for the flashing Christmas lights near the café windows to be turned off.
522. At 8.38 p.m., Marcia telephoned the negotiators and spoke to Peter. She said Monis needed the Martin Place streetlights turned off, then explained that she meant the flashing blue Christmas lights on Martin Place. Peter said he would pass that to his “*bosses*”. Marcia reiterated Monis' demand for a flag in return for releasing a hostage and said Monis would speak to Peter only after he had spoken to Tony Abbott.
523. The demand to turn off the Martin Place lights was the first new demand Monis had made for some

time. It was a non-substantive, or non-political, demand akin to the earlier demands for the police to move back and for vehicles to be moved. The demand was repeated later in the night, in much more fraught terms. The response to the lights demand at both the PFPC and POC is explored in some detail below.

524. Reg was informed of the Martin Place lights demand very soon after it was made. He relayed it to the POC so the Police Commander could make a decision. It seems likely that this communication was made via Graeme, the Negotiation Unit commander. It appears that Reg did not inform Afternoon Forward Commander or the subsequent Night Forward Commander of Monis' demand for the lights to be turned off.
525. Reg or one of the other negotiators did, however, convey the demand to one of Night Forward Commander's incident management team members, Det Sgt Tanya Byrne-Hickman, and asked her to make enquiries about the logistics of turning off the lights around the café. After speaking to the City of Sydney Council, Det Byrne-Hickman was put in contact with Mr Nick Speranza, a field supervisor for Ausgrid, at just after 9.00 p.m.
526. Mr Speranza confirmed that Ausgrid could turn off the Martin Place lights in two different ways. The first would be to turn them off remotely from an Ausgrid building. That would involve shutting down lights not only on Martin Place but also in the surrounding area. The second method was to turn the lights off via an Ausgrid substation, which would shut down the lights on Martin Place only.
527. Det Byrne-Hickman asked Mr Speranza to assemble an Ausgrid team pending a decision about turning the lights off. He did so, and the team was assembled at the Ausgrid depot not long after 10.30 p.m. At 10.46 p.m., although no decision on the lights had been made at command level, Det Byrne-Hickman contacted Mr Speranza to say the Ausgrid team would not be deployed at that stage. The team members went home.

Events in the PFPCP

528. Throughout most of the afternoon and evening, roughly every hour to two hours, teleconference briefings were held between the PFPCP and the POC. The negotiators and the Consultant Psychiatrist also participated in many of these briefings. Where a significant matter was discussed or a significant decision was made during a briefing, it will gener-

ally be referred to below in the context of significant events in the POC.

529. Afternoon Forward Commander relied upon Reg and Tactical Commander to keep him up to date on important developments. At about 4.47 p.m., Reg discussed with Afternoon Forward Commander the fact that Monis [REDACTED]. The Forward Commander approved the plan, suggested by the Consultant Psychiatrist, to use Monis' name. Shortly afterwards, Reg informed Afternoon Forward Commander that [REDACTED] calls were terminated when "Sheikh Haron" was mentioned.
530. At about 6.13 p.m., a negotiator told Afternoon Forward Commander that hostage debriefs indicated Monis was very agitated, had his finger on the trigger of his shotgun, and had threatened to kill a hostage or hostages if his demands were not met.
531. At about 6.16 p.m., Tactical Commander told Afternoon Forward Commander (apparently on the basis of hostage debriefs) that the hostages inside the café were using the toilet facility upstairs from the main café floor. Afternoon Forward Commander asked Tactical Commander if it would be possible for TOU officers to covertly access that area. Tactical Commander indicated that access was not available.
532. At approximately 7.13 p.m., the negotiators informed Afternoon Forward Commander that one of the hostages had conveyed a further request for an IS flag on Monis' behalf. The Forward Commander repeated what he had said earlier: that Monis should not be permitted an IS flag.
533. Throughout his shift, Afternoon Forward Commander was conscious that the TOU were holding the Emergency Action plan, which could be initiated at short notice. He said his understanding was that the plan could be initiated by primary and secondary triggers. The primary trigger was the death of or serious injury to a hostage. If either one occurred, there would be no discussion or negotiation and the EA would simply be initiated. A secondary trigger would consist of an unexpectedly occurring event creating an immediate or imminent risk of death or serious harm. Initiating the plan in response to the secondary trigger required debate, discussion and careful interpretation of events.
534. After he learned of the first and second escapes, Afternoon Forward Commander did not give specific consideration to initiating the EA. His thinking at the time was that despite signs that Monis had

become increasingly agitated after the escapes, there was insufficient evidence of imminent loss of life or serious injury to justify initiating the EA, particularly given that Monis was believed to have an IED. Afternoon Forward Commander's thinking throughout his shift was that the EA should be initiated only as a last resort.

535. At 8.20 p.m., Tactical Commander presented Afternoon Forward Commander, with the DA plan drawn up by Delta Alpha, the DA commander.
536. During the 8.20pm briefing, Tactical Commander informed Afternoon Forward Commander of the detail of the DA plan, and indicated that he favoured resolving the siege via DA, rather than being forced to an EA. He went through the proposed entry methodology, as well as the resources that would be involved in the DA. Afternoon Forward Commander agreed that the DA plan was viable and should be sent to AC Murdoch, the Police Commander, for his consideration. The decision-making process regarding a DA is outlined in Chapter 5 and considered in detail in Chapter 15. As noted in those chapters, the DA plan was not available for use until approved by the Police Commander, and even then it could not be implemented until authorised by him.
537. At 8.40 p.m., a teleconference was held involving Afternoon Forward Commander and Tactical Commander (both in the PFCP), and Asst Commissioner Murdoch and his team (in the POC). Tactical Commander sought approval of the DA plan and went through its details again at some length. He explained the advantages of the TOU forcing entry at a time and in circumstances of their choosing.
538. Afternoon Forward Commander argued against committing the DA during the 8.40 p.m. teleconference with Assistant Commissioner Murdoch. His view throughout his shift as Forward Commander was that the negotiators should persist in seeking to get Monis on the line and then, if they could, negotiate him out of the café peacefully.
539. Consistent with the views expressed by Afternoon Forward Commander, Asst Commissioner Murdoch did not approve the plan. He believed that "contain and negotiate" was still a viable strategy for bringing the siege to a peaceful resolution.

ADF consideration of the DA and attendance at the PFCP

540. As noted above, Major S (an officer within the ADF's Special Operations Command) was at the

POC from about 11 a.m.

541. Shortly after 6.30 p.m., Major S became aware that TAG East had constructed a mock-up of the café and that it was available for use by NSW or interstate tactical operatives to practice entry and/or familiarise themselves with the café's layout.
542. Delta Alpha had been tasked with formulating a Direct Action (DA) plan in accordance with the principles set out in Chapter 5. A DA is a deliberate, planned PTG action to resolve a high risk situation at a time and in circumstances chosen by police. After the DA plan had been considered by Tactical Commander (though not approved by the police commanders), Commander SPG asked Major S if the ADF could review the plan. Major S securely transmitted the DA plan to the TAG East Operations Officer. As is noted below, TAG officers ultimately concluded that the plan was "*tactically feasible*".
543. At about 7.50 p.m., Sergeant C (a platoon sergeant) and Corporal S (a sniper team commander) from TAG East went to the POC to meet with Major S.
544. At approximately 8.45 p.m., those officers were driven to the PFPC so that they could liaise with police and make observations at the scene. After being briefed by Tactical Commander, they watched the CCTV footage being shown in the PFCP.
545. Tactical Commander later took Sergeant C and Corporal S on a tour of the PFCP and the area surrounding the café, including the police cordons and emergency service locations. During the evening, Corporal S was asked if he wished to visit the TOU sniper positions. He declined this offer because he considered he had enough information about the positions. He was also concerned that it would be difficult to access the sniper positions and that if he did so he would be seen by members of the media. The two ADF officers were subsequently shown a copy of the DA at about midnight. This is addressed in the next part of this chapter.

Significant events in the POC

546. At 2.53 p.m., Asst Commissioner Murdoch briefed Deputy Commissioner Catherine Burn on the status of the police operation. He informed her that Monis had been identified as the person of interest. He also told her of Monis' demands for an Islamic State flag in return for the release of a hostage, and the offer to release a further two hostages if it was broadcast on ABC radio that the siege was an attack on Australia by Islamic State. Finally, he told

- Deputy Commissioner Burn that the Grand Mufti of Australia, Dr Ibrahim Abu Mohammed (on behalf of the Sunni community) had contacted police and offered to help in dealing with Monis.
547. At approximately 3.35 p.m., a teleconference was held between Assistant Commissioner Murdoch and the SPG team (particularly Commander SPG) at the POC, and the Consultant Psychiatrist at the PFCP. The Consultant Psychiatrist provided specific advice about Monis, including that he was grandstanding, that his behaviour was not consistent with Islamic State methodology, and that he was carrying out the siege as an individual or personal action.
548. While Commander SPG understood the Consultant Psychiatrist to be saying that Monis wanted to establish himself as the first Islamic State operative on Australian soil and thus gain media attention, Assistant Commissioner Murdoch interpreted the psychiatrist's advice very differently. He understood the Consultant Psychiatrist to be advising that Monis was "bluffing" in his various threats and was unlikely to shoot or hurt anyone. AC Murdoch said this assisted him in reaching the conclusion that Monis did not present a great enough risk to justify pursuing an interventionist strategy such as a DA.
549. During the same teleconference, the Consultant Psychiatrist suggested that police needed to play "hard ball" with any further negotiations.
550. At approximately 5.25 p.m., Commander SPG briefed Assistant Commissioner Murdoch on tactical resourcing issues. Given the protracted nature of the siege, he also raised the possibility of bringing in PTG operatives from interstate. AC Murdoch approved seeking assistance from the Queensland Police and the Australian Federal Police (ACT Policing). By this point, Tactical Advisor had already made informal enquiries of both those police forces and been advised that PTG officers could be made available on formal request.
551. Formal requests were made and approved, but the PTG teams from Queensland and the ACT did not arrive in Sydney until approximately 10.00 to 10.30 p.m. The original New South Wales TOU teams remained in place at the Lindt Café until the end of Asst Commissioner Murdoch's period as Police Commander (and indeed, until the resolution of the siege).
552. At about 5.35 p.m., Asst Commissioner Murdoch was briefed by Eagle Commander, of the incident management team, and Commander TIU on the progress of investigations of Monis. By that time, Police Commissioner Scipione had signed the necessary authorisations under Sections 5 and 6 of the *Terrorism (Police Powers) Act 2002*. Asst Commissioner Murdoch asked for the Wiley Park flat Monis shared with Amirah Droudis to be searched, but this was not done during his period as Police Commander for reasons that are further explored below.
553. At approximately 6.30 p.m., a further telephone conference was held involving Afternoon Forward Commander, Reg and the Consultant Psychiatrist, at the PFCP, and Asst Commissioner Murdoch at the POC. In light of Monis' persistent refusal to speak directly to negotiators, concerns about silence within the café, and hostages' frustration at a perceived lack of action, the conference discussed sending a non-confrontational text to hostages' mobile phone numbers, perhaps requesting them to ask Monis why he wanted the IS flag. The idea of sending a text message to the café, with a view to Monis seeing it, was explored further shortly afterwards.
554. A further briefing teleconference was held at approximately 7.30 p.m. between Asst Commissioner Murdoch, Commander SPG, Afternoon Forward Commander, members of the negotiation team, and the Consultant Psychiatrist. The Consultant Psychiatrist noted that despite all Monis' efforts, he had achieved none of his declared aims. AC Murdoch was reassured by that observation, which reinforced his belief that even though none of Monis' substantive demands had been met, he had not taken any action against the hostages. AC Murdoch took that as an indication that Monis was unlikely to follow through on his threats (for example, of killing hostages if any more escapes were attempted).
555. During the same teleconference, AC Murdoch was evidently told that Monis had resorted to having hostages make posts on social media to try and publicise his demands and motivations. Afternoon Forward Commander stated his view that the IS flag should not be provided. AC Murdoch agreed, and concluded that it was appropriate to continue with the strategy of "contain and negotiate".
556. The idea of sending text messages to the hostages was also discussed further, though it seems the consensus at that point was simply to send the negotiators' contact numbers and ask the recipients to call.
557. At approximately 7.50 p.m., AC Murdoch in the POC

held a further teleconference with Afternoon Forward Commander, Investigations Liaison Officer, Reg and the Consultant Psychiatrist at the PFCP. In light of the decision not to provide Monis with an IS flag and the concerns a number of hostages had expressed about why that could not be done, it was initially agreed that a text message would be sent to hostages' phones stating that none of Monis' demands would be met and explaining the significance of supplying an IS flag. The plan to send the text and the risk that doing so might provoke a "significant/violent" response from Monis were recorded on iSurv at 8.01 p.m.

558. It appears that soon afterwards, Tactical Commander spoke to Tactical Adviser and expressed his concerns about the risk that such a message would be too confrontational and might provoke Monis to violence. With the approval of AC Murdoch, the negotiators did send texts just after 10.00 p.m., but these simply provided the negotiators' phone number and said that if anyone needed to call Peter, they should dial that number.
559. As noted above, at the 8.40 p.m. teleconference between the PFCP and Assistant Commissioner Murdoch and his team in the POC, Tactical Commander presented the DA plan that Delta Alpha had prepared and argued for its approval, but AC Murdoch did not approve the plan.
560. At approximately 9.00 p.m., AC Murdoch took part in his final briefing teleconference involving the POC and PFCP. Participants included Commander SPG, Tactical Advisor and Graeme, at the POC, and Reg and Tactical Advisor at the PFCP. It also appears that Night Forward Commander was present at the PFCP and listened in on the briefing teleconference as an observer.
561. The teleconference participants were informed, most likely by Reg, of Monis' demand for the Christmas lights in Martin Place to be turned off. Assistant Commissioner Murdoch did not make a decision on this at the time, though it seems likely that he was told, again by Reg, that enquiries were being undertaken as to the logistics of turning off the lights.
562. Also during the teleconference, Afternoon Forward Commander argued for the use of the LRAD. He noted the risk that this might agitate Monis, but a consensus was reached that this was unlikely, as Monis' agitation level had not increased all day. Consequently, it was decided to use the LRAD. At 9.30 p.m., Reg informed negotiators Sasha and Matthew 2 that they would be deployed with the LRAD to Alpha Team in Martin Place. This was duly done, but the LRAD was never used.
563. Participants in the teleconference debated whether any forced entry to the café should be via an EA or DA. AC Murdoch confirmed his earlier decision that no DA would be launched as matters stood.
564. Finally, Graeme indicated that the threat level was constant and that the negotiation strategy should be continued. Reg said the negotiators' priority continued to be to get Monis on the phone.

Part 3: 9 p.m. to 2 a.m.

Introduction

565. Assistant Commissioner Jenkins and Night Forward Commander took over from AC Murdoch and Afternoon Forward Commander respectively at around 10 p.m. This was the final change in command during the siege.

566. The hostages' attention was focused on placating Monis by assisting him to broadcast his messages to the world at large via social media, including uploading the videos they had made earlier to YouTube and Facebook.

567. During this period, there was almost no communication between the negotiators and hostages until just after midnight, when Monis renewed his demand to have the lights in Martin Place switched off. Those communications coincided with a changeover of the negotiators, with a new "night negotiators" team taking over just before 1 a.m.

568. With very limited information emanating from the café, the impression formed by command just prior to 2 a.m. was that the situation in the café was settling. In fact, Monis was becoming increasingly agitated; he was disenchanted with the police response to his demands and began reacting nervously to noises in and around the café.

Handover at the PFCP and the POC

569. Asst Commissioner Jenkins and Night Forward Commander had been told they would commence in their appointed roles as Police Commander and Forward Commander at 10 p.m. Both were from the specially trained cadre of Task Force Pioneer officers described in Chapter 6.

570. Night Forward Commander and his team arrived at the PFCP just before 9 p.m.

571. Moments later, Police Commissioner Andrew Scipione arrived. Afternoon Forward Commander, in company with Night Forward Commander, provided the Commissioner with an update on the situation. Afternoon Forward Commander then gave his successor a handover briefing, in which he discussed:

- the Emergency Action and Deliberate Action plans;

- Monis' backpack, which he had not taken off all day;
- Monis' demands to date;
- hostage escapes and debriefs, and
- the difficulties police had encountered in engaging Monis directly.

572. Night Forward Commander confirmed that an EA was in place and summarised its content.

573. Night Forward Commander told investigators that when Afternoon Forward Commander spoke about the EA plan, he named the trigger as "*death or serious injury to a hostage*". Night Forward Commander's notes of the briefing also record the trigger as "*death/serious injury*".

574. Night Forward Commander told the inquest that the imminent or immediate risk of death or serious injury is always implied or understood to be part of the trigger for an EA, and that this did not need to be recorded. Accordingly, his understanding during the siege was that the triggers were death or serious injury to a hostage or the imminence thereof.

575. Based on what he was told during the briefing, Night Forward Commander understood the DA plan was not in place—that it had been reviewed by the Police Commander, Asst Commissioner Murdoch, but not approved because "*we weren't at DA stage*", that is, "contain and negotiate" was still being pursued.

576. Regarding Monis' demands, discussion in the handover briefing focused on Monis' continued insistence that he be provided with an IS flag and allowed to speak to the Prime Minister. Night Forward Commander was told the consensus was that those demands should not be met. Police considered that there were policy reasons for not allowing contact with the Prime Minister, and they were concerned about the risk for an execution to be carried out in front of the flag.

577. The briefing was interrupted from time to time as further information was received. This included a report from Reg that police had established limited capability to monitor sound inside the café and that Monis had been heard saying that if police advanced he would be forced to shoot.

578. The briefing did not include mention of Monis' demand for the lights in Martin Place to be switched off.

579. At about 9.00 p.m., as mentioned above, Night

Forward Commander sat in on the final teleconference between Asst Commissioner Murdoch and his team at the POC and Afternoon Forward Commander and others at the PFCP.

580. At about 9.30 p.m., AC Murdoch began his handover briefing to the incoming Police Commander, AC Jenkins. Numerous members of the respective incident management teams were present during the briefing.
581. AC Jenkins was told that Monis had been identified as the hostage taker, and that Amirah Droudis' home was being watched. If she left home, she would be stopped under the special powers conferred under the *Terrorism (Police Powers) Act 2002*. Ms Droudis was not seen leaving and was not detained during the siege.
582. AC Jenkins was briefed about the five hostages who had escaped and their observations about Monis' firearm and backpack. He was also advised that Queensland PTG officers were on their way to Martin Place and would ultimately be blended into the NSW PTG teams.
583. AC Murdoch told AC Jenkins that in his assessment, while the hostages were no doubt anxious and afraid, Monis was unlikely to harm them, and the strategy of seeking to contact Monis directly and negotiate with him remained valid. AC Murdoch said he believed a peaceful outcome would still be negotiated and that the risks inherent in the DA plan were too great for it to be approved.

EA briefings at the POC and PFCP

584. Immediately after he officially assumed command at 10 p.m., AC Jenkins received a briefing from Tactical Advisor about the EA plan. He was told the trigger was death or serious injury to a hostage and confirmed his approval of the plan and trigger. AC Jenkins told the inquest that he understood death or serious injury to a hostage was the primary or "*non-debatable*" trigger, but that imminence of death or serious injury to a hostage could also be an EA trigger and that this was well understood from police training.
585. Tactical Advisor also raised with concerns about Monis' backpack with AC Jenkins. Police thought that the backpack could contain 2 to 4 kg of explosives, which, if triggered, would likely kill all those inside the café, including police attempting a rescue. Indeed, on some estimates it would likely compromise the structural integrity of the building.
586. A log entry on the briefing with Tactical Advisor records that AC Jenkins was told the hostages were "*moving around freely, jovial, casual, (going upstairs freely)*". This conclusion was based on information relayed to the command post from visual observations and the surveillance device. It gave AC Jenkins some reassurance about the level of risk inside the café. The situation as he perceived it, was "*stable-ish*"; the level of risk certainly was not low but nor was it as high as it had been earlier.
587. Graeme was also present at the briefing. He confirmed that negotiators had been unable to speak directly to Monis. AC Jenkins discussed with Tactical Advisor and Graeme the current negotiating strategy of denying Monis the IS flag and permitting release of Monis' identity to the media, in both cases with the aim of [REDACTED]. It was decided that the "identity" approach would not be considered further until it was ascertained whether the "flag" strategy had succeeded.

Further consideration of the DA

588. At about 10.15 p.m., Night Forward Commander had a briefing meeting about the EA with the EA Tactical Commander and his team. He understood AC Jenkins was keen for him to be familiar with both the EA and the proposed DA so the two commanders could ensure they were "*on the same page*". He also understood that AC Jenkins was satisfied the "*contain and negotiate*" strategy could still achieve a peaceful outcome. Night Forward Commander formed a similar view, based primarily on advice from the Consultant Psychiatrist (at the 9.15 p.m. teleconference with AC Murdoch) that while the negotiation strategy was frustrating because Monis was not talking directly with negotiators, it was still the appropriate course of action.
589. At approximately 10.45 p.m., Major S, the ADF liaison officer at the POC, received confirmation that the ADF Tactical Assault group had assessed the DA plan by reference to the mock-up of the café mentioned above. The review of the plan led them to conclude that the plan was "tactically feasible". Major S relayed this information to Commander SPG, whose notes at that time record "*DA run-through by TAG—Plan Valid*".
590. At 10.50 p.m, Deputy Commissioner Catherine Burn telephoned AC Jenkins; they spoke for about three minutes. He outlined the current negotiation plan

and said if it was found not to be effective, police would allow the media to release Monis' identity.

591. At 10.57 p.m., Commissioner Scipione telephoned AC Jenkins and they spoke for several minutes. AC Jenkins understood that, like Deputy Commissioner Burn shortly before, the Commissioner wanted to check whether AC Jenkins, having just come on shift as Commander, had what he needed and felt supported in his role.
592. A note in the POC log, made by an officer who could hear only the Assistant Commissioner, noted "*the DA plan is to occur as a last resort*". Both AC Jenkins and the Commissioner gave evidence about this conversation and about who they believed had made this comment. That evidence is considered in Chapter 15.
593. At 11.00 p.m., AC Jenkins spoke to Night Forward Commander. Among other things, they confirmed that the EA was in place, that Night Forward Commander had been briefed on it, and that the trigger for an EA was either death or serious injury to a hostage. Finally it was noted the DA plan was "*being worked up*"; Night Forward Commander was to advise when it had been completed. Because the DA plan had been formulated for AC Murdoch's consideration before Night Forward Commander assumed command, AC Jenkins wanted to ensure that Night Forward Commander understood and appreciated it before he himself, as the new Police Commander, considered it.
594. At 11.17 p.m., Commander SPG and Tactical Advisor began briefing AC Jenkins about the details of the DA plan and considerations regarding timing. AC Jenkins said he was not considering the DA plan at that time. He said in evidence that he noted, but did not approve, the DA plan because it had yet to be presented for consideration to the Forward Commander. He considered that the plan was as good as it could get. Tactical Advisor told the inquest that AC Jenkins indicated that he was not considering the DA and that he intended to continue with the current strategy of "contain and negotiate".
595. At about 12.15 a.m., an incomplete DA plan was shown to the two ADF officers at the PFCP (Corporal S and Sergeant C). Sergeant C stated that the ADF officers discussed the elements of the plan with a TOU officer for about 10 to 15 minutes. Neither of the ADF officers sought to provide advice on the content of the plan. In that respect, Sergeant C stated:

I was very careful during this conversation to ensure that the TOU planner did not think we

were trying to take over his plan or be critical of it. My role is simply to gain situational awareness so that the ADF is in a position to respond quickly in the event of a call out; it is not to advise the police on how to conduct their planning.

596. At approximately the same time, Tactical Advisor again approached Assistant Commissioner Jenkins about the DA. In evidence, Tactical Advisor said he sought to ensure that AC Jenkins understood he was "*just asking for approval of the substantive plan, so that we can get things going*". In response, AC Jenkins told Tactical Advisor that he was fully aware what was being asked. However, no such approval was given.
597. As it transpired, Night Forward Commander received a briefing on the DA from Tactical Commander shortly before 1 a.m. Beyond discussing the detail of the plan, both agreed that if the TOU had to go into the café, they would prefer that this be on a DA rather than an EA.
598. At 1.07 a.m., Night Forward Commander telephoned AC Jenkins about the DA briefing he just received. They discussed how long the TOU would require to stand up (i.e. receive a briefing and take up their positions) if the DA was approved, and how much more time might be required to include the incoming tactical officers from Queensland and the AFP in the action. Night Forward Commander indicated he was content with both the EA and DA plans, observing that both had risks but were reasonably sound, and referring in particular to the suspected explosives in Monis' backpack.
599. At that point, AC Jenkins (who as Police Commander would make the final decision on whether to implement the DA plan) considered there was a DA plan that both he and the Forward Commander understood. He told the inquest he was not unhappy with it, but it was not going to be implemented at that stage. He explained that this was because he thought it was appropriate to continue the "contain and negotiate" strategy, and there were enormous risks involved in making a forced entry to the café with a hostage taker wearing what was likely to be an IED. He did not think police had reached the stage where a DA plan should be implemented.

Attempts to communicate with hostages

600. After the final handover of command at 10 p.m., there was very little communication between nego-

tiators and those inside the café. The café was in darkness—police could see very little of what was occurring inside, and as noted above, the surveillance devices deployed were delivering audio recordings of poor quality.

601. At 9.30 p.m., the negotiators' log records that "LD indicates very calm ... Tango [target] is interested in talking". This note seems to have been based on information conveyed to the negotiators and the Consultant Psychiatrist by a police officer at the SD1 listening post. He had started his shift just before 9 p.m. At first he listened to recordings captured in the period 8 p.m. to 9 p.m. to familiarise himself with the operation of the listening post. He then provided regular reports to the negotiators of what could be gleaned from the SD1 audio. His reports, via telephone and text message, comprised descriptions of the overall mood inside the café as well as particular statements made by Monis and hostages. The officer's initial impression was that Monis appeared to be speaking in a calm and normal voice to the hostages. That accords with the note "LD indicates very calm" in the negotiators' log. But the basis for the note "Tango is interested in talking" is unclear.
602. As noted in the previous part of this chapter, at about 10 p.m., negotiators sent text messages to the mobile phones of various hostages giving the negotiators' phone number. This was an attempt to reassure the hostages without provoking Monis.
603. As also noted above, by 11.30 p.m., active steps were taken to deploy the long-range acoustic device. Two officers from the negotiation team took the device to the position on Phillip Street occupied by Alpha Team, but it was never used.
604. Shortly thereafter, there was a changeover in the negotiation teams, to which further reference is made below.

Events inside the café

605. Inside the café, during the evening Monis continued to permit some of the café staff to distribute food and drinks, and continued allowing hostages to visit the bathroom.
606. Just before 9 p.m., the surveillance device captured Monis telling the hostages that he was maintaining an account of each of them. If they did the right thing, they would get merit points. But he added that they could get debit points, too:
- Okay, just everybody listen, when you see*

something suspicious and think see someone is moving through the window or anything, if you don't tell me, you are guilty. You are guilty. And I know if you lie, you say I'm sorry I didn't see that, no, it is clear who is honest who is not. All these things will be considered as a, your account.

607. Monis had the hostages focus on contacting media outlets and repeating their efforts to publicise the videos they had filmed earlier in the evening. The surveillance device captured Monis' ongoing preoccupation with tracking Facebook likes and comments on the YouTube videos. Joel Herat recalls that at one point during the evening he said, "What's the Facebook response? I've lost faith in the media. Is anyone getting any messages?" When Monis realised that videos the hostages posted had been taken down, he became even more frustrated and upset.
608. Monis continued to live stream radio broadcasts, particularly from 2GB. At approximately 9.05 p.m., he discussed a 2GB broadcast with Selina Win Pe and Marcia Mikhael and said it was good that the police had not attempted to enter the café:
- That news shows that police ... have decided not to do anything wrong, and to finish everything peacefully, because they are emphasising at this point that they are confident they can finish it peacefully.*
609. At 9.31 p.m., the surveillance device captured a conversation between Monis and Jarrod about the lights in Martin Place not having been turned off yet. Jarrod asked if they should call the police again, Monis responded:
- No, because you are wasting your time. Once you have said it, they are not doing that, they don't want to do that. How many times I said about IS flag. It does not make difference one time or ten.*
610. The surveillance device also captured Monis repeatedly expressing his desire to speak to Tony Abbott. A number of his comments to the hostages indicated his increasing frustration at not being taken seriously. It is plain that Monis regarded the police refusal to comply with his demands for the IS flag, for contact with Tony Abbott, and for the lights to be extinguished as an indication that the police did not respect him.
611. Monis' behaviour was erratic. He reacted anxiously to sounds inside the café—caused by the ice machine and refrigeration motors—and to movements outside the windows. He discussed the source of the sounds with Jarrod, and on occasion had Jarrod and/or Fiona Ma check on the sounds for

him. He seemed concerned that police were trying to break into the café.

612. From about 10.30 p.m., Monis began directing the hostages to move tables and chairs to form a barricade around the north-western corner of the café, where he had been sitting for most of the evening. They were also instructed to place the chairs on top of the tables all around the area where the hostages were seated.
613. Joel Herat also recalled that at one point late in the evening, Monis grabbed Julie Taylor by the back of her dress and pointed his gun at her back. He walked her towards the fire doors to check for any signs of police entry.
614. Just after this, Joel asked Monis if he could go to the bathroom. Monis told Fiona to escort him. On the way, Joel asked Fiona to take him to the locker room so he could get his phone and wallet. While they were there, Fiona asked, “*Are you okay, what do you want to do?*” Joel responded, “*I don’t know what to do, but we have to escape. Try to get the word out.*” Joel described Monis’ mood around this time:
- Every noise was setting him off. He was paranoid. It got worse after dark, the gunman would jump at every noise and every shadow.*

Calls to family members

615. Close to 11 p.m., Monis suggested that the hostages call their loved ones. A number of them did so. The surveillance device recorded Monis’ words. According to their log, the negotiators interpreted this as a “*finality thing*”, though it was also recorded that Monis’ demeanour remained calm. The log entry suggests that the negotiators suspected Monis was encouraging the hostages to contact their families in the hope that the family members would contact the media about his cause.
616. At approximately 11.13 p.m., the surveillance device recorded Monis saying “*... hopefully by morning, everyone home ... After Tony Abbott calls, everyone happy, go home.*”
617. Reg conveyed these developments to Graeme, who regarded them as a positive indication; Reg and Graeme both thought that the hostages were phoning their loved ones to let them know that they would be seeing them the next day.
618. Reg gave evidence that the reports of Monis’ comments lessened his concern that the siege might not end peacefully.

619. This information was conveyed to AC Jenkins at 11.57 p.m., along with the fact that the surveillance device had captured sounds consistent with furniture being moved inside the café.

POC/PFCP teleconference at 11.30 p.m.

620. At approximately 11.30 p.m., Night Forward Commander at the PFCP and AC Jenkins at the POC held a teleconference in which it was confirmed that AC Jenkins had been briefed on the DA but Night Forward Commander was yet to be briefed, and that the trigger for the EA was either the death or serious injury of a hostage.
621. AC Jenkins told the inquest that on the basis of advice from Commander SPG, he was satisfied that the current strategy of “contain and negotiate” was appropriate and that a DA should not be pursued at that time.
622. During the teleconference, the commanders were also told about the hostages’ ongoing attempts to post videos on YouTube and about Monis encouraging hostages to contact loved ones.
623. Shortly after attending this teleconference, Inspector Joel Murchie went from the PFCP to the Supreme Court building and met with family members of the hostages. He sought to reassure them that police were doing all they could to ensure the safety of the hostages, and indicated that the officers serving as families’ points of contact would be changing (this occurred around midnight). After this meeting, Insp Murchie reported to the POC that there was some angst among the waiting family members but the mood was generally good. He requested that food and drink be taken to the families.

Home of Monis and Amirah Droudis searched

624. At 11.30 p.m., police executed a search warrant at the Wiley Park flat where Monis and Amirah Droudis lived. As noted above, the necessary authorisations for this had been granted under the *Terrorism (Police Powers) Act 2002 (NSW)* by 3 p.m. There were a number of imperatives for conducting this search expeditiously, including the need to assess Monis’ claim about explosives. However, police hesitated to execute the search while Ms Droudis was at the flat for fear that she might tell Monis or other unknown accomplices that the search was underway, prompting a violent reaction. Whether

this was a sufficient basis for delay is considered in Chapter 12 below.

625. The search concluded at 3.55 a.m. It did not locate anything that would have allowed police to confirm or exclude the presence of a bomb in the café. The commanders in the POC were kept updated as the search proceeded.

Preparation for changeover of tactical officers

626. Just before midnight, Commander SPG at the Police Operations Centre swore in the newly arrived Queensland PTG officers, who along with the AFP tactical officers were to be blended into the TOU teams around the café.
627. These officers then made their way to the Police Forward Command Post, arriving at 1.45 a.m. Soon afterwards, they commenced a briefing that was interrupted by the third hostage escape and subsequent events (described in more detail in Part 4 of this chapter). They were not deployed, and at about 3.30 a.m. were notified that they were no longer required.

Negotiators' handover

628. A new team of negotiators arrived at the PFCP shortly before midnight. From about 11.50 p.m. to 12.50 a.m., they received a handover briefing from the outgoing team. The briefing, which involved all members of both teams plus the Consultant Psychiatrist, took place in an office next door to the negotiation cell.
629. During this period, hostages made four calls to the phone in the negotiation cell. Marcia Mikhael called the negotiators' number at 12.30 a.m., 12.31 a.m. and 12.32 a.m. Selina Win Pe then made a call at 12.47 a.m. None of those calls was answered.
630. The handover briefing included an outline of the general circumstances of the siege, some details of Monis' criminal history, details of contacts with hostages up to that point, and Monis' demands. The briefing did not touch upon Monis' demand for the lights in Martin Place to be switched off.
631. At 12.45 a.m., Darren B formally took over as team leader, with Matt and Darren K as primary and secondary negotiators, respectively.
632. Darren B then instructed another member of the night negotiators' team to go to the surveillance device listening post and relay what was being

picked up from within the café via telephone or text message. The officer started sending these reports at about 1 a.m. His initial observations were that the situation appeared to be calm and that Monis and the hostages were engaged in normal conversation.

633. Matt took the primary negotiator's seat at approximately 12.50 a.m. Almost immediately, he spoke to Selina Win Pe, as described below.

Lights demand

634. At approximately 12.35 a.m., Selina had dialled 000, seemingly in frustration after Marcia's three calls to the negotiators' phone (between 12.30 a.m. and 12.32 a.m.) had gone unanswered. Selina relayed Monis' demand that the lights in Martin Place be turned off and said this must be done as soon as possible or Monis was going to hurt the hostages.
635. The surveillance device audio makes clear that Monis continued to talk to the hostages about having the lights turned off and expressed doubt that this would ever occur. To pacify him, Jarrod came up with explanations for the delay, observing that turning the lights off would not be easy as they would be connected to the "mainframe".
636. After calling the negotiators' phone at 12.47 a.m. and getting no response, Selina again dialled 000 at 12.48 a.m. She reiterated Monis' demand that the lights be turned off, indicating that he was becoming very angry and was going to hurt the hostages. She also noted that Monis was becoming edgy about noises around the café. It is plain from the recording that Selina was becoming increasingly distressed.
637. Information about this call was passed on to the negotiators, and Matt called Selina five minutes later, at 12.53 a.m. She confirmed that it was a blue light outside the café that Monis required to be turned off. Matt said he would pass the request to his superiors.
638. At 1.12 a.m., Selina called Matt again. She pleaded for the lights to be turned off, saying that she would be shot in 15 minutes if that did not occur. Matt stated that steps were being taken to turn off the lights, but they were council lights and it might take a little time. After Selina again said she would be shot in 15 minutes, the call was abruptly terminated.
639. Almost immediately after this, Monis was captured on the surveillance device querying the 15-minute

deadline and suggesting this placed an onus on him to do something after the expiry of that period. He stated: *"I wish you not tell 15 minutes to them."* Selina responded that the hostages were all trying to help him.

640. The 15-minute threat was conveyed immediately by Darren B to Night Forward Commander, who instructed the negotiators not to make any calls into the café until he had spoken to the POC. Assistant Commissioner Jenkins was quickly apprised of the threat. Both commanders asked their staff officers to make enquiries about the logistics of turning out the lights. They were seemingly unaware of the steps that had been taken by police and Ausgrid staff earlier in the evening (including that an Ausgrid team had been assembled, only to be sent home at 10.46 p.m.).
641. AC Jenkins received advice from Graeme that he, his team, and the Consultant Psychiatrist considered the 15-minute threat was not credible and was out of character for Monis.
642. Their assessment proved correct. The 15 minutes passed, and Monis did not follow through on the threat. The lights in Martin Place remained on and were the subject of continued discussion by command.
643. At around 1.40 a.m., Sergeant Luke Tsykalas, who was assisting Night Forward Commander, contacted Nick Speranza, the Ausgrid field supervisor, to ask about turning the lights off. Mr Speranza explained once again that the lights could be turned off in two different ways, either localised lights at the substation, or all lights in Martin Place (and some surrounding streets) from head office. Sgt Tsykalas said the police would call back if they wanted one of the options pursued. Mr Speranza received no further communication, and the lights remained on until the siege came to an end.

Rising frustrations in the café

644. In the hour leading up to 2 a.m., Monis and the hostages were all more or less huddled in the north-western corner of the café, in the alcove between the Martin Place windows and the foyer entrance. Monis was on the long bench seat, sitting between Selina and Julie Taylor. Marcia Mikhael and Katrina Dawson were in the back corner, near the waiters' station. Puspendu Ghosh and Viswa Ankireddi were seated near the foyer doors. Jarrod Morton-Hoffman and Fiona Ma were in the same vicinity, but a bit closer to the Phillip Street end.

Joel Herat was near Jarrod and Fiona, at a table with Harriette Denny. Robin Hope, Louisa Hope and Tori Johnson were seated on the long bench seat but further along, slightly closer to the Phillip Street end.

645. The surveillance device captured Monis at 1.19 a.m. expressing concern about particular noises and directing hostages to investigate them. Channel 7 camera footage of the café at 1.20 a.m. shows Fiona and Jarrod moving from the north-western part of the café through to the kitchen area at the southern end. Presumably they were investigating the noises that Monis complained of.
646. At 1.22 a.m., Selina again telephoned Matt, who indicated it would take longer than Monis would like for the lights to be switched off, that police had to work out who was responsible for the lights, and that he could not promise anything. Selina then asked about the flag. When Matt asking why Monis wanted it, Selina stated: *"He just wants one flag, he wants one flag out of respect for him. He just wants one flag."*
647. Just after 1.30 a.m., Monis proposed that the hostages call the ABC to state that he wanted to release one person, who would then need to speak to the media and contact human rights organisations to explain that the Australian Government had failed to meet Monis' demands for a flag and a discussion on radio with the Prime Minister. Further, Monis wanted the released hostage to verify that he had treated the hostages well and had not told lies.
648. Monis discussed who should be released. He suggested that as Fiona and Jarrod had assisted him during the day, they deserved to go. Jarrod suggested that either Louisa or Robin Hope could be released. Katrina suggested that Julie should be released as she was a lawyer and able to talk to people. Julie was also pregnant.
649. At approximately 1.41 a.m., Marcia telephoned 2GB and spoke to a radio producer, saying she had a message from Monis. Marcia conveyed his offer to release one hostage if her call to the station was broadcast live, so that the public would know the hostage had been released as opposed to having escaped.
650. Marcia was put on hold for a period, then the radio producer gave her the police negotiators' number. Marcia then said:
- The police is doing nothing. They have lied to the media saying that they neg ... they have been negotiating with, with um the Brother for the whole day. They have not negotiated, they have*

not done nothing. They have left us here to die. That's what the police is doing and they're not telling anyone that. They have left us here to die and you won't even take a message.

651. The surveillance device captured Marcia speaking to Monis about the call at about 1.43 a.m. He said that if the media were not allowed to take any messages, there was no point releasing anyone. Jarrod suggested that the message be posted on Facebook, whereupon the hostages discussed the utility of posting videos again.

652. Immediately after the call with Marcia, the 2GB producer telephoned a police negotiator, who in turn informed Graeme of what had transpired.

653. Graeme posted information to iSurv and informed Darren B, who told Night Forward Commander and Matt. However, what the two officers conveyed was that a call had been placed to a media agency stating that a hostage was to be released shortly. The fact that Monis' offer was conditional upon a broadcast to the effect that he was deliberately releasing a hostage does not appear to have been passed along. Similarly, Monis' subsequent exchange with Marcia about the futility of a hostage release was not conveyed.

654. Meanwhile, at 1.43 a.m. Tori Johnson sent a text message to his partner, Thomas Zinn, stating that Monis was

increasingly agitated, walks around when he hears a noise outside with a hostage in front of him. Wants to release one person out of good faith.

He immediately sent a further message: "Tell police." Mr Zinn immediately told police at the Supreme Court building about Tori's messages. Detective Sergeant Sheldon Klotz immediately called one of the negotiators and relayed the content of the messages. It was recorded in the negotiators' log, but neither Matt nor Darren B recalled seeing the messages. AC Jenkins and Night Forward Commander were not made aware of them.

655. At 1.44 a.m., the Channel 7 camera picked up Jarrod, Fiona and Tori walking from the north-western corner of the café to the eastern end and out of sight. Again, that movement was consistent with Monis being agitated about noises within and outside the café and the hostages being made to investigate.

656. Monis continued to talk to the hostages about how

to get the media to broadcast his demands. The hostages again tried to post their videos to YouTube. Monis expressed his anger that the YouTube videos seemed to have been blocked or deleted.

657. Not for the first time, Jarrod tried to calm Monis. He suggested that before the videos were taken down, members of the public would have mirrored them, and that these copies could be disseminated and re-uploaded. He tried to reassure Monis that people would have the videos and offered to check this.

Consultant Psychiatrist's advice

658. While these events inside the café suggested increasing activity and agitation on Monis' part, at about 1.35 a.m., the Consultant Psychiatrist advised Commander SPG that there was no apparent change in Monis' demeanour and no overt signs of violence towards the hostages. In the Consultant Psychiatrist's assessment, the café was calm.

659. At around 1.50 a.m., the Consultant Psychiatrist advised Night Forward Commander that he thought the café was settling, and that it was "*probably better he [Monis] has a rest*". He also said Monis would probably go to jail for a long time and might be trying to build credibility with prisoners he would encounter in jail. Night Forward Commander queried whether the prospect of a lengthy prison sentence might in fact be "*tip [Monis] over, [he'll be] going in a long time [so] might as well pop a few [people]*". The Consultant Psychiatrist appeared to disagree with this, saying there was no indication of violence from Monis.

660. The Consultant Psychiatrist told the inquest that he expected the operation would continue until daylight. His experience was that in a deadlocked but stable situation, it was not uncommon for negotiation to include periods of rest during the night.

661. At 1.59 a.m., AC Jenkins had a discussion with Night Forward Commander, Tactical Advisor and Graeme. Graeme conveyed the information the negotiators had received about Monis possibly wanting to release a hostage. There was also general discussion about the use of Monis' lights demand as a bargaining tool. AC Jenkins approved a negotiation strategy whereby the lights would be turned out if Monis released all female hostages.

662. Events inside the café overtook this decision.

Part 4: The end of the siege

Monis on the move

663. By 2.00 a.m. the siege had been in progress for more than 16 hours. Exhaustion was making its mark inside the café. Marcia noticed that Monis was tired and yawning. Jarrod described him as increasingly anxious, distrustful and paranoid. Fiona also noted a deterioration in his mood; he was, in her view, becoming more and more agitated as the night wore on.

664. In the minutes before 2.00 a.m., the surveillance device picked up a conversation between Monis, Julie Taylor and Jarrod. Monis was frustrated that his message was not getting out and Julie was organising a new YouTube account in an attempt to republish the videos the hostages had made previously. Jarrod sought to placate Monis by reminding him that at around 6 p.m. a 2GB announcer had read out a Facebook post Marcia had uploaded that mentioned that Monis claimed to be acting on behalf of IS—a key demand of his.

665. At this time, Monis' increasing agitation and anxiety manifested in a fairly abrupt change in his behaviour. It is not clear what triggered this, though both Joel Herat and Julie Taylor gave evidence that Monis had heard a loud noise towards the rear (or southern end) of the café.

666. At 1.57 a.m., Monis peremptorily ordered Jarrod to come to him, then arranged Jarrod, Fiona and Selina around him. The listening device recorded the following exchange:

MONIS: We go together.

WIN PE: Sure.

MONIS: Go front ... Go to back.

...

MONIS: No. No. No. Fiona.

FIONA: Yeah.

MONIS: Jarrod. You can just go front, around me. Around me (indecipherable) around me (indecipherable).

667. Monis then moved with the group towards the kitchen via the route that was closest to the western side of the café. He lingered there briefly, looking into the kitchen area before directing the group to move back into the main area of the café. As they did so, Monis told Jarrod to remain at the doors leading to the foyer. Jarrod told the inquest that he thought Monis wanted him to cover those doors.

668. In accordance with this instruction, Jarrod stood close to the doors. Monis then moved across the café towards the Phillip Street side with Fiona in front of him and Selina immediately behind him, holding onto his backpack. He seems to have been adopting the "human shield" approach he had used when moving around the café earlier in the day.

669. As this was happening, Marcia can be heard on the surveillance audio whispering: *"Shoot him. They have to shoot him."*

670. Marcia was not the only hostage who was worried about Monis' change in behaviour. Jarrod later described his concern about these events as *"extreme"*. In particular, he was worried that if Monis opened the fire door he would see the business cards Jarrod had earlier written on and pushed under the door in an attempt to communicate with police.

671. Monis' movements were watched by all the remaining hostages, though, as Marcia noted, it was dark and they could not see detail of what was going on. It was the first time since the start of the siege that Monis had left the main area of the café.

672. When Monis reached the south-eastern corner of the café near the fire door, he directed Fiona to move some cardboard boxes positioned in that area. He wanted them stacked against the fire door. The boxes were empty and would have presented little obstacle to a determined entry by police. On the other hand, moving them would likely have made some noise, thereby impeding any attempt by hostages to escape via that door.

673. Monis' movements were noted almost immediately by the sniper in the Seven Network building. Video captured from that building shows Monis moving towards the back of the café with Fiona, Selina and Jarrod before returning towards the centre of the café and moving across it towards the fire exit. A few moments later, it shows Monis directing Fiona, who starts picking up and moving cardboard boxes.

The third escape

The 2.00 a.m. PFCP briefing

674. Meanwhile, in the Police Forward Command Post, Night Forward Commander had been preparing for a 2 a.m. briefing with some of the senior officers in his team. He had noted three agenda items under the heading *"Points 4 2.00 a.m. brief"* in his notebook. Those items related to:

- advice received from the Consultant Psychiatrist regarding negotiations
- the changeover from NSW TOU operatives to Queensland Police officers, and
- the outcome of enquiries as to the logistics of turning off the Martin Place lights.

675. Night Forward Commander said there were:

two key factors I was going to talk about at that 2 a.m. meeting ... the issue of the lights ... [and] some concerning information about the backpack and Monis holding a device in his hand.

Night Forward Commander had identified a quieter area of the Forward Command post to have the meeting. It was attended by Tactical Commander, Deputy Tactical Commander, a STIB officer and others.

676. Night Forward Commander had adopted a view of the situation in the café which he said was based on information from the Consultant Psychiatrist. He considered that it was quiet inside the cafe; the lights were out, and hostages were “going to bed” and “putting their heads down”.
677. About the time the meeting was to start, Night Forward Commander was speaking on the phone with AC Jenkins in the POC, as referred to earlier in this chapter. Night Forward Commander’s scribe made notes of the conversation. Night Forward Commander wanted to know what progress had been made in the POC in regard to turning off the Martin Place lights.
678. As the two commanders were speaking, Night Forward Commander and others at the PFCP heard someone calling out that an escape was taking place.
679. Night Forward Commander, Tactical Commander, and other members of the Forward Command team moved towards the other end of the PFCP, where a TV screen was affixed to the wall. A crowd was forming in front of it. The escape took only seconds so some, including Night Forward Commander, did not see it. They nevertheless kept watching the screen, presumably in case something else occurred.
680. When Monis left the position he had occupied for most of the day (in the north-western corner café) and moved across the café with Selina and Fiona, many of the hostages became uneasy and fearful.
681. Joel, who later said he was by that time exhausted and edgy, had already formed the view that the siege would not end well. He thought police were not taking any action to get the hostages out.
682. Jarrod said he decided to “leave the café with as many hostages as we would be able to get out”. He said he thought the attempts at “placating Monis were finished” as “this was the first time he had left the room throughout the day”. Jarrod knew the foyer doors were open.
683. As Jarrod stood near the foyer entrance, he scanned the room and exchanged looks with Joel and Harriette, who were located closest to him.
684. Joel, who had been watching Monis’ movements and heard the stacking of the boxes, said “at that present point in time, I think everyone in the café was looking at each other. We looked at Jarrod to see what well, like, what we should do”.
685. Joel saw Jarrod standing at the doors. He looked at Jarrod, then at Fiona. He saw Tori, Louisa and Robin sitting on the long seat against the wall and made brief eye contact with them.
686. Joel was conscious that Puspendu, Viswa, Marcia and, he thought, Katrina, were sitting behind him, with Katrina closest to him. Julie had also been watching what was happening. She made eye contact with Katrina and Marcia. She feared Monis would shoot someone. She was terrified and had the impression that Katrina felt the same way.
687. Puspendu had also been carefully watching what was happening. He nudged Viswa and made eye contact with Viswa, Katrina and Marcia. He later said he thought Katrina was alert and aware of the eye contact. He did not recall if she turned her head towards Jarrod. He said that given Marcia’s position, he did not think she would have been able to see Jarrod.
688. After this brief period of non-verbal communication, Jarrod whispered to the other hostages that he was leaving. He recalls saying “I’m going” and then “I’m going. We have to go.” Some but not all of the hostages in the corner of the café heard him.
689. Jarrod turned, opened the foyer doors and ran out into the foyer. In the process he somehow knocked a glass, which made a crashing sound. Puspendu, Joel, Harriette, Viswa and Julie immediately followed him in a dash for the door.
690. At 2.03 a.m., Jarrod ran across the foyer and down the steps to the glass doors. They were closed. CCTV

The escape

footage from the foyer shows him trying to pull the doors apart before moving to the side, pressing the green button and running through the doors as they opened electronically. Puspendu, Joel, Harriette, Viswa, and Julie followed him out the doors. Puspendu ran across Martin Place and down Phillip Street in a northerly direction, while the other hostages rushed down Martin Place towards police waiting on Elizabeth Street.¹⁴

691. Louisa Hope, who had also been watching what was happening, instinctively started for the door but stopped after realising her mother would not be able to follow. Fearful of Monis' likely reaction to the escape, she lowered herself to the floor. As she looked up, she saw that several of the hostages had left. She assumed the police had been involved in their departure.
692. Robin Hope, who was still sitting on the bench next to Tori, recalls a conversation with him in which she urged him to leave but he declined to do so.
693. The escape was over within seconds. Monis, who appears to have heard the glass break and perhaps the hostages' movements, moved quickly from the fire escape back into the café proper, then fired a single shot in the direction of the fleeing hostages.
694. The impact of the shot was recorded on the foyer CCTV. It struck the glass panel above the Martin Place foyer doors just before Julie Taylor—the last of the hostages to escape—ran through the doors. Had the shot been lower, she and perhaps others just in front of her would likely have been hit. Julie was showered in shattered glass and stumbled briefly, but she kept running. Her leap as she went down the stairs and out onto Martin Place speaks volumes about her fear.
695. During the tumult of the escape, Katrina and Marcia went to the floor in the alcove in the north-western corner of the café. Each lay with her feet towards the western end of the café and her head towards the eastern, or Phillip Street, end. Katrina was on the side of the alcove closest to the foyer doors, while Marcia was on the side closer to the Martin Place wall. Both were partly hidden by furniture.
696. At the other end of the café, Fiona Ma reacted to Monis' actions by rushing towards the office and hiding behind the door. She remained there for a brief period before moving to crouch near the

curved chocolatier station. Selina moved inside the chocolatier station. Neither was able to see the movements of Monis or of other hostages.

Assessing the escape

697. The escape was seen in both the PFCP and the POC, which both had access to the CCTV feed from the Martin Place foyer. Police commanders were immediately called upon to conduct an assessment of what had happened and determine what action, if any, needed to be taken in response.
698. Night Forward Commander had not reached the screen in time to see the escape himself or to see the effects of Monis' shot, but he commenced seeking reports from TOU personnel.
699. There was initially some doubt as to whether five or six hostages had escaped. This doubt might have arisen because Puspendu ran in a different direction to the other hostages. Night Forward Commander gave evidence that he was not aware of any injuries as a result of Monis' shot. He was aware that the hostages were being brought into the PFCP to be debriefed. Within a minute or two, he could hear the hostages' expressions of distress as they arrived in the Leagues Club.
700. Night Forward Commander told the inquest that he asked the POC to play back the CCTV tape of the escape. He could not do so in the PFCP and he assumed that it could be done in the POC. He did not receive a response to his request.
701. At this point, Night Forward Commander considered that the task facing him was to determine whether the EA trigger had been reached and, in turn, whether police should immediately enter the café by way of an Emergency Action. With that in mind, he wanted the tape replayed so he could see the shot and/or its effects. He said he had a number of questions, in particular whether Monis had aimed at the hostages or above their heads.
702. As he waited, Night Forward Commander telephoned AC Jenkins, who confirmed, in Night Forward Commander's words, that "*he was seeing what we were seeing and that he had no additional information*". Night Forward Commander had been told by TOU officers that there was a single gunshot and that the shot was high. He reported this to AC Jenkins and added that the EA trigger had not been reached, saying words to the effect of: "*we're not at EA, it's not emergency action, no EA, it's not the EA*".
703. As the minutes passed, Night Forward Commander

14 Video footage showing the group's escape from the café can be viewed [here](#) and [here](#) and is contained on the USB accompanying the hard copy of this report.

continued to assess the situation. In oral evidence, he said:

... were we at imminent or immediate [risk to life] at this point of time? I'm now aware of an activity. I'm now aware of things happening but it's post event. So we are moving away from imminent emergency, is the threat de-escalating or is the threat escalating.

704. Tactical Commander had been standing with Night Forward Commander as they watched the screen. Immediately after the escape, Tactical Commander began receiving situation reports from various officers over the TOU radio channel. At 2.10 a.m. he enquired on the TOU radio system about the status of the escaped hostages: “Are any of them requiring medical attention?” He said he did this to exclude the possibility that the EA trigger of death or serious injury had been reached.

Intelligence from the escaped hostages

705. One of the officers who received the hostages running towards Elizabeth Street was a member of the Rescue and Bomb Disposal Unit known as RBDU 3. According to him, Joel Herat said words to the effect of “he has just shot someone, he is fucking right behind me” as he was running down Martin Place.
706. Officer WK had a brief conversation with Julie Taylor, who stated that “the gunman fired one shot above her head smashing a window”. The officer immediately reported this information to a group of commanders in the Leagues Club PFCP.
707. The iSurv log includes an entry, made at 2.10 a.m., that appears to reflect information obtained from the escaped hostages:
- from Hostages at hostage reception indicated POI fired shot at them as they left ... from [Night Forward Commander] confirmed five hostages at reception now confirmed 6 at PFC no injuries shot fired as they were leaving and shot shattered glass above them, being debriefed now.*

Monis regroupes after the escape

708. Ballistics testing indicates that Monis was approximately 10 metres away from the foyer doors when he fired his shot. He does not appear to have chased the hostages or made any attempt to leave the café.
709. He did not return to Selina or Fiona. Indeed, he appears to have either forgotten them or assumed they too had somehow left. Instead, he walked back towards the north-western corner of the café.

Marcia and Katrina were out of his sight on the floor under furniture in that area. Initially, Monis’ attention appears to have been drawn to Louisa Hope, who was lying on the floor closer to the middle of the café. He rapidly moved over to her and grabbed her by the clothing on her back, hauling her up onto her feet. The following exchange was recorded on the surveillance device:

MONIS: What happened to you?

LOUISA: My leg.

MONIS: Okay, stand here.

(Sound of furniture being moved around.)

LOUISA: Brother.

MONIS: Stand here.

LOUISA: Yes I'm trying. I'm trying to get up, I'm trying to get up. My leg. Yes, yes Brother.

MONIS: Stand here. Don't move.

710. Louisa said that once Monis had pulled her up he started to position her but changed his mind. She describes him as confused. He made her stand facing towards Phillip Street. Louisa remembers Monis directing Robin to come over from where she was seated, next to Tori, and stand near Louisa.

Tori on his knees

711. Monis then called Tori over and said words to the effect of “you kneel down and put your hands on your head”. Tori did so, facing towards Phillip Street with Monis and the other hostages behind him.
712. Snipers on the first floor of the Westpac building diagonally across Phillip Street from the café observed Tori on his knees shortly after the escape. Sierra Three 1 stated that he “saw Tori Johnson take up a kneeling position in close proximity to window 2 off the white side”. Tori had “both hands interlocked on top of his head”. Sierra Three 1 thought these moves were “peculiar”.
713. He later said that when he saw what was happening in the café, he considered it significant and very likely made a radio call regarding his observations. Another sniper at the same location, Sierra Three 3, recalls another member of the team making a call about a hostage on his knees. There is also radio-channel metadata to suggest that Sierra Three 1 at least attempted to make a radio call at about 2.06 a.m.
714. It appears, however, that if such a call was in fact made, it was not received; neither Tactical Commander nor Night Forward Commander heard a broadcast that a hostage was on his knees. The

evidence about communications between police during the siege, including this radio call and other communications towards the end of the siege, is analysed in Part IV.

715. Meanwhile, Monis was scanning back and forth with his gun in what Louisa describes as rapid movements “*as if—waiting for the Police to come at the front of the café*”.
716. Although the audio coverage from the surveillance device was scattered, it did record some of Monis’ words. At about 2.06 a.m. he said: “*The Manager, put your hand on your head. Hands on your [undecipherable],*” and then, “*You will not move, alright? Don’t move.*” In the ensuing minutes, there are sounds of furniture being moved around, likely by Monis.

The second shot and the last escape

717. It is difficult to piece together exactly what happened in the café over the following two or three minutes. At about 2.10 a.m., Monis was recorded by the surveillance device saying: “*Don’t move, if you don’t move you are safe, alright?*”
718. At 2.11 a.m., Monis fired a second shot high into the western wall above the chocolatier’s station. It appears that he was not aiming at anyone or anything in particular when he did so. It is not clear why he fired this shot.
719. Strangely, Louisa has no recollection of this shot, although Monis was standing very close to her at the time. Selina, who was lying on the floor just under the section of the wall struck by Monis’ shot, also has no recollection of it.
720. In the statement she gave a few days after the siege, Fiona Ma said she was crouching next to the chocolatier’s station when she heard a second gunshot and what sounded like glass breaking. In evidence, she confirmed her belief that there was “*another*” gunshot. The shot was followed by the sound of a gun reloading. Earlier in the day, Jarrod had told Fiona (inaccurately) that as Monis’ gun was a shotgun, he could fire only two shots before reloading. Fiona therefore decided to try escaping.
721. She ran for the main front door, hit the green button and exited. She turned right and ran south along Phillip Street towards Alpha Team officers. After reaching the officers, she was ushered into the loading bay where they had been waiting. Officer B attempted to ask her some questions about Monis’ weapon, but she was too distressed to give

a coherent response.¹⁵

722. It appears that Monis did not immediately react to Fiona’s escape. It is possible that he was so distracted that he did not notice it. By that stage, most of the hostages had escaped and he had put Tori on his knees; his attention may well have been consumed by thoughts of whether and how to shoot Tori.
723. Those outside the café who did hear the shot included the TOU officers in Alpha Team waiting on Phillip St near the loading bay of the adjacent building. Officer A says he heard it and that another officer asked “*was that a door slamming?*” Officer A was in no doubt that it was a gunshot.
724. Sierra Three 1 said that from his position in the Westpac building, he heard the second shot and also saw the simultaneous muzzle flash. He stated that as this occurred, he saw Tori “*flinch*” and fall forward; seconds later, Tori resumed his kneeling position. Sierra Three 1 believes that he reported seeing the muzzle flash on the radio but he does not recall hearing any acknowledgement. The metadata from the radio channel does not include anything to support his recollection in this respect.
725. In any event, it appears that the fact of the second shot was not communicated to Night Forward Commander or anybody else in the PFCP (again, police communications during the final stages of the siege are further analysed in Part IV).

Execution of Tori Johnson

726. At the time of his death, Tori was one of six hostages remaining in the café. Of the four who survived the siege, only Louisa Hope was able to give an account of Tori’s death.
727. She described Monis’ behaviour as follows:
- He went through this ritual—not ritual. This thing where he started to like, breathe heavier. He was breathing heavier. Kind of—I think the best thing I can say is that he was psyching himself up. He was breathing heavier, he was shuffling the gun on his shoulder and on his—up close to his face, and he was rearranging himself and breathing heavier and kind of making big kind of gestures, as if—preparing himself, and he did that, and then he stopped doing that, and then he scanned again, and he did the whole scanning*

15 Video footage of Fiona’s escape can be viewed [here](#) and is contained on the USB accompanying the hard copy of this report.

thing, shuffling a little bit, scanning, and time was going on, and Tori was there and Monis was continuing to scan and then he went through the process again of puffing and huffing and just shaking his shoulders, almost like—one could almost say like an athlete in preparation for an event is how I think is best to describe it, and that went on for a few seconds, minutes and then he shot Tori.

728. Tori's death was also witnessed by two snipers in the Westpac building. Sierra Three 1 described the moment as follows:

This time I saw Tori Johnson jolt forward and fall out of my sight. His upper body jolted forward, his interlocked hands fell down and out of the side of his body as he fell forward. This time he fell differently from the earlier gunshot where he flinched. I was satisfied from the movement of his body that Tori Johnson had been shot at this time and I made a radio broadcast. I said "White window 2, hostage down, hostage down".

729. Sierra Three 3 saw Tori kneeling with his hands on his head. In his statement, he said he "*saw the flash of a muzzle to the back of [his] head ... it was as if someone kicked him and he went straight down*". He gave a similar account in evidence to the inquest.
730. The surveillance device also captured audio of the moments surrounding Tori's death. At 2.12 a.m., Monis was recorded saying "*... you be right, everyone ... you'll be fine*". About a minute later, the sound of a gunshot was recorded, followed by a single pump of a shotgun and the ejection of a cartridge. Monis then said words to the effect of "*... doesn't move. Everything will be fine.*"

Emergency action

731. Sierra Three 1's radio call "*hostage down*" was heard by Night Forward Commander. The trigger of serious injury or death had been reached, and he immediately ordered an Emergency Action.
732. At the time, both Tactical Commander and Deputy Tactical Commander were with Night Forward Commander. Tactical Commander attempted to call the order for the EA over the radio, but for some reason the transmission did not go through. Accordingly, Deputy Tactical Commander made a broadcast of his own, calling the code word for initiation of the EA.
733. The various TOU teams that had been standing to in preparation for a possible EA immediately began

moving towards the café.

734. At the time of Sierra Three 1's call about Tori's death, AC Jenkins and Night Forward Commander were in telephone contact. When they spoke, AC Jenkins said, "*Go, go, go.*" Night Forward Commander then watched the emergency action on the screens in the PFCP.
735. In the hours after the event, he recorded the "logic" for activating the EA Plan in his notebook:
- *Trigger point met*
 - *H killed or seriously injured*
 - *EA only option*
736. The EA plan called for simultaneous entries by TOU officers through both public entrances to the café: the main entrance on the Phillip Street–Martin Place corner and the foyer entrance.
737. Alpha Team, which comprised six officers, and two officers from Papa Team (known as Papa 2) were waiting in the loading dock beside the fire doors on Phillip Street. Alpha Team was to enter the café through the main entrance while Papa 2 attempted to breach Green Window 1 to deploy distraction devices and, if necessary, covering fire. Charlie and Delta Team officers (nine in all) were on the other side of the café, near the Martin Place foyer. Charlie Team was in the stairwell to the west of the lifts. Delta Team was positioned in the reception area on the opposite side of the foyer from the café.
738. The remaining officers of Papa Team, collectively known as Papa 1, were waiting in Martin Place. They were to make entry via the foyer doors and follow Charlie and Delta Teams into the café. They were not, however, able to open the foyer doors from the outside and, accordingly, did not participate in the entry.
739. Ultimately, officers entered from both sides of the café.

Phillip Street entry

740. Having heard the first and second shots, officers on Phillip Street were in a heightened state of readiness. They had been standing to in preparation for entry since the first shot was heard, at 2.03 a.m., and expected an EA to be ordered at any moment.
741. There had been some difficulties with the radios of certain members of Alpha Team. Accordingly, not all members of the team had their own functioning radios at the time of the EA. To compensate for this, the officers employed a process of "buddy commu-

- nication”, and all heard the orders they were given.
742. The two Papa 2 officers were unable to breach Green Window 1. They made three holes with their shotgun rounds before one of the officers attempted to breach the window with the butt of his gun. The glass, however, was reinforced, and these attempts were unsuccessful.
743. Within seconds of the EA’s initiation, Alpha Team ran along the Phillip Street side of the café and reached the glass doors. Using a breaching shotgun, they successfully shattered the left-hand door. The right-hand door was also breached. Precisely how that occurred is still unclear; one of the officers, Alpha 2, was carrying a heavy ballistic shield, and the door may have fallen as he forced his shield into it.
744. As the Alpha Team officers were breaching the doors, Monis fired two shots at them. Both of these shots were plainly aimed at the entry officers. Both missed and were later found to have struck the wall above the doors.
745. Officer B (the team leader) was the first to enter the café. He was followed immediately by Officer A and Alpha 2 (after the right-hand door was breached). Unsurprisingly, their recollection of their precise movements once inside the café was poor, but the moment of their entry was captured on CCTV footage.¹⁶
746. Upon entering the café, Officer B immediately moved to his left and out of view of the CCTV camera. When he gave a walkthrough interview a few days after the siege, he was unable to provide a clear account of what he did during the EA. When giving evidence, he stated that he had a clearer recollection of what occurred.
747. He said that on entry he focused on Monis but could also see Louisa Hope standing to the south of Monis. Neither Officer A nor Officer B had difficulty identifying Monis—both had seen him before midday as they looked through the café window. Officer B noticed the red laser spot of Officer A’s aiming device on Monis’ left lower chest area. Officer B fired a number of shots at Monis (five, as ballistics testing later revealed).
748. As he was entering the café, Officer B noticed that Monis was firing his shotgun. He felt something strike his face and fell, thinking he had been hit by Monis’ shot. On his account, Officer B had fired all his shots before he was hit in the face. By the time he got up from this fall, Monis had been incapacitated.
749. Officer A said that on entry he moved slightly to the left (though not as far as Officer B) before walking into the café towards Monis. He used the laser sighting device fitted to his weapon to aim at Monis. He began shooting rapidly at Monis’ head and chest almost as soon as he entered the café. He later recalled the sequence of events as follows:
- Once through the door I had my light source and laser on Monis. I remember him standing, facing in my direction slightly on an angle with his shotgun in front, probably a bit lower pointing in our direction. ... I remember I started to engage Monis—sorry, fire at Monis, ensuring my laser pointer was on his chest. I continued to ... engage as I walked forward. I never took my eyes off him ... I do remember moving my laser pointer to his head area, where I engaged a number of times. I can’t be sure of the number—further times. I continued to fire at him until he went to ground and that’s when I stopped firing.*
750. Officer A fired 17 shots at Monis. He said he was not counting his shots. Each shot requires a separate trigger pull, though evidence from ballistics testing suggests that all 17 shots could have been fired in less than four seconds.
751. Officer A gave evidence that Monis’ body did not move backwards as bullets hit him. Instead, after being struck in the head, Monis “started to go to ground”. As to the speed with which Monis fell, Officer A said: “It wasn’t that fast, no. I was still of the belief he may be going to a knee to re-engage us again.”
752. In total, Officers A and B fired 22 shots at Monis. Of the other officers, none was in as good a position as Officer A or B and none fired his weapon.
753. As Officers A and B entered the café, other TOU officers behind them threw a number of SF9 distraction devices (known as “flashbangs”), into the café. These are designed to distract an offender with flashes and loud bangs so as to aid entry by police. A total of 11 flashbangs were used in the operation. Another SF9, which had been armed but not deployed, was thrown on Phillip Street after the EA had concluded.
754. The café during the EA was extremely noisy. In addition to the gunshots, a total of 99 loud bangs

¹⁶ CCTV footage of Alpha Team’s entry to the café can be viewed [here](#) and is contained on the USB accompanying the hard copy of this report.

were emitted by the 10 flashbangs deployed during the EA.

Foyer entry

755. Like Alpha Team, the Charlie and Delta teams, who were in the stairwell and reception areas off the Martin Place foyer respectively, had been receiving reports of events in the café via radio. They had also heard shots from within the café. Charlie Team had the added benefit of being able to view footage from the foyer CCTV camera on an iPad. Charlie Team officers interpreted the shots as an escalation of risk within the café. The leader of Charlie Team—known as Delta Alpha—gave evidence that following the first of the shots he told his team, “*Get ready boys I think we might go soon.*”

756. The EA Plan called for Charlie and Delta Teams to leave their holding positions and cross the foyer before entering the café through the foyer doors as Alpha Team tried to enter via the main entrance doors.

757. CCTV footage from the Martin Place foyer recorded the entry of Charlie and Delta Teams.¹⁷ It shows the stairwell door opening. Almost immediately, one of the Charlie Team officers threw an SF9 from the stairwell. It seems that the SF9 was intended to fly across the foyer, break through the glass of the foyer doors and land in the café. Instead, the flashbang bounced off the glass and detonated in the foyer.

758. Delta Alpha was the first officer into the foyer. He was wearing night-vision goggles but had difficulties with them and needed to remove them. Consequently, he stood to the south of the foyer doors and began adjusting his goggles. To free his hands for this task, he had to let go of his rifle, which hung from a strap on his shoulder.

759. Meanwhile, two other Charlie officers emerged from the stairwell and moved across the foyer to the other side of the glass doors. As they were doing so, officers of Delta Team began to emerge from the reception area. The first of the Charlie Team officers opened the doors to the café and two officers (one each from Charlie Team and Delta Team) attempted to throw an SF9 through the open entrance. One of these SF9s did not make it through the opening but instead bounced away from it and also exploded in the foyer, more or less

at the feet of Delta Alpha. As this SF9 was going off, Delta Alpha stepped away from the doors, while the Charlie Team officer holding the doors open let go and they closed. Both of these actions appear to have been caused by the SF9. Notably, Delta Alpha and several other members of the teams were not wearing hearing protection.

760. On the plan as it was understood, the team leader (Delta Alpha), was to enter the café first. The process of adjusting his goggles and stepping away from the SF9 took Delta Alpha approximately 10 seconds. The CCTV footage suggests he spent a further three seconds avoiding the second errant SF9. During that time, none of the other Delta or Charlie Team officers sought to enter the café.

761. After this delay, the doors were reopened and Delta Alpha approached, checked for threats by “quartering”, and (after momentarily jumping backwards to avoid what he perceived as a possible shot at him) entered the café, followed by other officers. As he was going through the doors of the café, a further officer emerged from the stairwell and another emerged from the reception area. Both these officers entered the foyer and followed the others into the café. As events transpired, Delta Alpha entered the café more than 10 seconds after Alpha Team officers.

762. In evidence, Delta Alpha gave an account of his entry. He said he looked to his left and then moved forward, whereupon he saw Monis on his feet facing the Alpha Team officers. He did not specifically recall seeing Monis’ gun, but he thought he presented a threat. He said he saw a woman in black in front of Monis with her hands up. That woman could only have been Louisa Hope. He called to her three times, “*Get down!*” but she did not respond. He went down on one knee to shoot around her from a lower, more stable position. By the time he took aim, Monis was down, so Delta Alpha did not need to fire a shot. He knew Monis was dead from the obvious injuries to his head and radioed “*Cease fire!*”

763. The accounts given by members of the various entry teams are further analysed in Chapter 15.¹⁸

Evacuating the remaining hostages

764. After Monis had been shot and was clearly dead, the rescue and evacuation exercise began in earnest.

17 Footage showing the entry of Charlie and Delta teams can be viewed [here](#) at normal speed and [here](#) in slow motion and is contained on the USB accompanying the hard copy of this report.

18 Synchronised footage showing the Emergency Action from different angles can be viewed [here](#) and is contained on the USB accompanying the hard copy of this report.

The backpack was still strapped to Monis, but his body needed to be moved aside to enable rescuers to get to the injured hostages.

765. At the outset of this process, TOU officers assisted by carrying or escorting Louisa, Robin, Selina and Marcia from the café to paramedics waiting on Phillip and Elizabeth Streets. Louisa, Robin and Marcia had all been struck by bullet fragments or other shrapnel. Louisa recalls TOU officers running in, saying *“You’re safe, You’re safe, you’re safe.”* She realised that she had survived, then became aware of a pain in her foot just before she was grabbed by officers and carried out to the street. Marcia had a similarly fragmented memory of her rescue. She recalls that after the shooting stopped there were a lot of voices in the café. She then remembers the furniture under which she was hiding being moved and recalls being carried out the front door of the café by two officers in black.
766. After receiving first aid from paramedics, the injured hostages were transported by ambulance to the Prince of Wales, Royal Prince Alfred and Royal North Shore hospitals.
767. Tori’s body was removed from the cafe by two TOU officers. Ambulance personnel immediately started administering first aid, but quickly realised he could not be saved. After the site was evacuated, Tori’s body was placed in an ambulance, where it remained for some time before being transported to the Royal Prince Alfred Hospital. A doctor there briefly examined his body and formally declared Tori dead.
768. In the immediate wake of the EA, Katrina Dawson remained hidden under furniture in the alcove in the north-western corner of the café. About two minutes after the EA concluded, TOU officers found her unconscious. She was bleeding heavily but alive. The officers called for ambulance officers to enter the café and assist. Two paramedics did so and, after conducting an initial examination, they removed Katrina from the café. Paramedics tried in vain to resuscitate her, and she was transported to the Royal Prince Alfred Hospital, where a number

of doctors and nurses also attempted to save her. They were not able to do so.

769. In the meantime, Officer B, who had been struck in the face with shrapnel-like fragments and had lacerations to his hand (likely caused when he fell), was transported to Royal North Shore Hospital. His facial injury proved minor. His hand injury required a number of sutures.

Bomb clearance

770. After the evacuation of all hostages, paramedics, entry officers and other personnel, it became necessary to ensure that there was no explosive device in the café.
771. Monis’ backpack was the only item known to present a risk, but the whole premises needed to be checked. Bomb clearance officers entered the café and used a robotic device to assess it before ultimately declaring it safe.
772. As part of that clearance process, Monis’ backpack was opened and emptied. It was found to contain a stereo speaker with some wires emerging in the usual way from the back. The backpack also contained a mobile phone charger and some sunglasses as well as a small silver torch. In addition there was a knife with a metal handle, which Monis had not removed from the bag during the siege. There was no IED in the backpack or anywhere else in the café.

Family liaison

773. Given that 13 hostages were still in the café at 2 a.m. and that six were still there at the time of the Emergency Action, there were many family members acutely interested in the welfare of individual hostages when the siege was resolved.
774. Ultimately, there were a number of difficulties in the process of identifying hostages and communicating with the families, particularly those of Katrina and Tori. Neither family was informed of the death of their loved one until around 5 a.m. Those difficulties are considered in Chapter 16.

8 The hostages' experience

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Introduction

1. Set out below are excerpts from the evidence of the hostages. The hostages gave evidence about what happened, what they saw and heard. Their evidence was an invaluable aid in constructing a precise and accurate picture of the siege. The selection set out below is not intended to reflect further determinations on the forensic issues that the inquest had to consider. Rather it is designed to present a glimpse into the hostages' personal experiences—what they thought and felt—during the siege, as expressed in their own voices.

The start of the siege

Elly Chen

2. A number of the staff served Monis after he arrived in the Lindt Café at about 8.35 a.m. Elly Chen was the first. Eventually, he asked to change tables. Elly said:

Monis asked to move tables and I helped him move his food to [Table 40].

I [went] back to the kitchen, and when I returned I saw [him] sitting at the table with my manager, Tori. I saw Tori looked upset and was on the phone.

3. After the café doors had been locked at Monis' direction, people tried to get in. Elly said:

I saw a lady at the glass doors and she couldn't get in. I saw her banging on the doors. I asked [Tori] why she couldn't get in and he said, "We're closed." I realised then that both doors were closed and no one could leave.

[Tori said, "Get everyone to stay seated."]

... [then] I saw [Monis] holding a gun. I didn't see where the gun came from. When I saw the gun, I freaked out and turned away. I didn't want to look at the gun.

Harriette Denny

4. The barista Harriette Denny had also noticed Monis while he was having tea. She said:

I walked past the man at Table 40. He smiled at me and I smiled back. ... He said to me, "Excuse me, I need to go to the toilet, can you watch my bag." He had a strong accent. ... I felt I uneasy with this request to watch his bag, I thought it was weird ...

5. Later, after Tori had been asked to go to Monis' table, Harriette was watching Tori. She said:

I saw Tori the manager sit down at this table facing the dining room and the man sat in the same booth but faced [towards where I was, at the coffee bar] ... I could see the side of Tori's face and I could see the front view of the man's face. I saw the man had a big smile on his face.

Jarrold walked in [through the coffee bar en route to the kitchen] with a strange look on his face. He said, "I don't want to alarm you, but Tori has said to me, stay calm and we are in lockdown."

I moved along the coffee bar so I could see Tori's face and I saw that his face was red, bright red. His face gets red when he is stressed.

Robin Hope

6. Robin Hope, who was visiting the café with her daughter Louisa Hope, had noticed Monis when he first entered the café. She said:

He appeared to be very bothered and I watched him walk around the café [as if] he didn't know where to sit. The man ordered a tray of tea and I could still see that he was bothered ... I noticed that he kept raising his right hand, calling staff back to him. I think he called the staff back about three times.

7. Robin was watching Monis when he first declared himself to those in the café. Robin said:

The man stood up and took a gun out of the big blue bag and walked about three steps into the café and said, "If you all behave, I won't hurt you."

8. Robin appeared to be describing Monis' behaviour soon after he began to take control when she said:

He rounded us all up like sheep, "You, you, you." That's how he treated us for the beginning of the morning.

Jarrold Morton-Hoffman

9. After Monis called Tori over to his table and told him to sit down, Jarrold recalled:

Tori ... waved me to come over and I saw [Monis] staring at me. I walked over and saw that Tori was ... blinking a lot, which he does when he is stressed. He spoke to me in a very hushed voice and Tori said to me, "I need you to get my keys from the office and lock the doors. We're closed. Everything is OK. Tell all the staff to be calm."

10. Jarrold formed his own view of the situation:

I was pretty sure we were in a lot of danger when someone comes up to you and tells you you're not

in danger and to lock the doors of the store at 9 o'clock in the morning.

11. Shortly afterwards, Jarrod went to the office via the kitchen area. He recalled saying to Paolo Vassallo:

"Something is wrong. I think we're in danger. I think that the Reserve Bank is being robbed across the street," and then I went to lock the front door.

Paolo Vassallo

12. Paolo described his exchange with Jarrod in similar terms. He said:

Jarrod [came into the kitchen and] asked me which is Tori's bag in the office and ... he went to the bag and said "I've got to get the keys, I've got to lock the café," and I thought ... Fuck, why are they locking the café?

13. Paolo recalled Jarrod pointing out an Armaguard van parked in Phillip Street outside the Reserve Bank and saying he thought a robbery might be under way. Paolo said:

I knew something was up, but I thought it was outside, not inside.

14. Paolo then left the kitchen area and looked into the café. He said:

I started to realise when I saw my boss's face, Tori Johnson, that we were the ones in the shit, not the people outside.

Jarrod Morton-Hoffman

15. Monis presumably noticed Jarrod because when Monis and Tori were sitting at Table 40, Jarrod was the person Tori called over. After speaking with Paolo in the kitchen, Jarrod returned to the café floor with the keys and the "Closed" sign he had written. At that point, he recalled:

The man ... had now changed into his ISIS gear, being the vest and bandanna [and] ... said to me, "What are you doing?" I said, "I am putting [up] the sign." He said, "No you're not. Sit the fuck down." At this time I noticed that he had a shotgun in his right hand pointed towards the ground. I also saw the dynamic in the café had changed and everyone was sitting along the back wall, except for Tori, who was sitting by himself in the middle row [of tables].

16. Jarrod described his reaction to the new situation:
- When I saw the shotgun I put my hands up and started to walk straight to where [Monis] told me*

to sit. I put my hands up because I thought I was going to get shot. I sat down with everyone else in the back row and [Monis] was standing over us, pacing back and forth. He started giving us a speech. He was saying that we would all be safe if we listened to him. He said this was an Islamic State attack on Australia. He said he had two bombs. He said his brothers also had bombs too.

Viswakanth Ankireddi

17. Viswa, who had come to the café with his friends Marcia Mikhael and Puspendu Ghosh, described the moment when Monis first started to take control:

... [Monis] stood up and spoke in a moderate voice and said, "There is a bomb inside, your manager [is] calling 000." He said this loud enough for everyone in the café to hear. I was still trying to digest that this was really happening. Because [he] had mentioned that there was a bomb, I was also thinking maybe he was a policeman and he was trying to reassure us. Once everybody moved [at Monis' direction] to this side of the room, [Monis] said, "Australia is under attack." This is the time I realised we were in a hostage situation. I felt terrified. I looked at my friends PG [Puspendu Ghosh] and Marcia and they were terrified. Everyone was shocked and terrified.

Louisa Hope

18. Louisa Hope, who was breakfasting with her mother Robin, also noticed something was odd. She said:

Initially ... I thought it could have been a prank ... a candid camera prank, but [Monis] proceeded to pull out the gun and then it was very real.

Selina Win Pe

19. Before Monis produced his shotgun, Selina was pressed for time. She recalled:

I needed to go, so I asked for the bill ... I gave [Elly] my card and she came back and said, "There you go, but you can't leave," and handed me the receipt. I said, "Why not? What do you mean? Are you all right?" She said, "Yeah." I said, "I have to go to a meeting ..." She said, "I'm sorry, but the doors are locked."

20. Selina recalled that a woman she later learned was Katrina Dawson was standing nearby and heard the conversation. Katrina volunteered:

"The manager is over there," and pointed to Tori.

Selina looked over at Tori and Monis:

[Monis] looked as if he was in deep conversation

with Tori. There's a white piece of paper I recall on the table and Tori's head was down. He was extremely red and very uncomfortable and before I had interrupted whatever they were talking about [Monis] said, "Up. Up," and he started moving us into the café ... I recall hearing, "Move to the back. Move. Move. Move" ... and he certainly was voicing something about communications, Syria, ISIS ... I honestly thought it was "IBIS," so I had no connection. I didn't know what he was talking about.

Marcia Mikhael

21. Marcia described her first impression of Monis:

He said something about Australia being under attack by the Islamic State ... first I thought it was a prank ... but then a few seconds later I knew it wasn't a prank. There was something extremely wrong. After a few seconds it was obvious that he wasn't a nice person. He was directing people to stand near the windows, stand near the doors, stand in the middle of the café. I think he was doing that to make sure that every window or every glass door there was someone standing there so people could see us from outside and also to protect him.

Joel Herat

22. Joel's recollection of the start of the siege was Monis calling out:

"There's a bomb in the building. Everyone needs to do as I say. Australia is under attack. This is an ISIS attack on Australia." I heard and saw what he was doing I thought it was a terrorist attack. I was freaked out and very scared. ... I was in a state of shock. He said, "If you move, it's not my fault if I shoot you and you are dead" ... people were getting upset and crying.

Stefan Balafoutis

23. Stefan summed up his reaction to Monis:

The more I thought about it, the more I thought the reference to an attack by Islamic State was ... the worst possible position for a hostage to be in.

John O'Brien

24. John O'Brien had similar thoughts:

I saw that [Monis] had a big gun by his side and he told the manager to go to the door and close it. It dawned on me that this wasn't a good situation and I wanted to get out, but I realised it was too late.

Harriette Denny

25. Harriette heard Monis say:

"You are going to be held captive until I get on to ABC National. If my demands are met, I will let you go." ... I started crying. I was very upset. He then said [to everyone], "Close your eyes." I freaked out and closed my eyes. I thought he was going to shoot us against the windows.

Puspendu Ghosh

26. Puspendu recalled a conversation between Tori and the gunman about the fire door:

The gunman said, "Can it be opened from outside?" Tori said, "No, it's a fire exit door. No one can come in from outside if it's closed." The gunman said, "If you're lying to me, I'll shoot you." Tori said, "I'm not lying to you."

Fear and despair

Marcia Mikhael

27. Shortly after producing his gun, Monis arranged the hostages around the café, making them stand, facing outwards, at the windows and in front of the glass doors. Marcia was placed in front of the glass Martin Place doors. She said:

I was frozen in fear ... I couldn't stop crying. I saw a police officer¹ come up and stand right against the wall so I was the only person who could see him. He was gesturing for me to breathe, telling me to calm down so I could cope, I guess.

28. As time went on, the strain started to make itself apparent in physical reactions among the hostages. Elly, who would show such bravery during her escape with April, taking care to ensure that the door closed silently behind them, said:

I had an anxiety attack. I started vomiting. I fell to the ground. A nice lady, Julie, was calming me down. This was about three to four hours into the siege. I was pretty cool until then, and that's when I fell apart.

Jarrold Morton-Hoffman

29. Jarrold, who played a remarkable role during the siege—interacting with Monis, dissuading him from violence, and assisting the hostages—said:

I threw up in the bathroom.

¹ Senior Constable Paul Withers, see Chapter 7.

Selina Win Pe

30. Selina, on whom Monis focused closely, said:

At one point [Monis] started yelling at me because, unbeknown to me, I had the flag upside down and back to front, as my eyes were closed.

Julie Taylor

31. Julie Taylor, unknown to Monis at the time, was pregnant. She was an acute observer of Monis and of the events in the café. She said:

As time went by, I got more and more frightened and desperate, but I was terrified from the first moment, so I'm not sure that it really got worse. As time went by, it became obvious that there was unlikely to be a peaceful solution, so in that sense I became more frightened. I also just became more exhausted.

Viswakanth Ankireddi

32. As the hours passed, Viswa assessed the risks and the prospects of a bad outcome:

I was mentally preparing for the fact that I could be killed at any time. My thoughts were about my wife and daughter, and I was very sad.

Joel Herat

33. By 11 p.m. Joel, had come to a grim conclusion:

I thought if nothing was done, we'd probably all be dead in the morning. [That was] based on his behaviour, his mood, the way he was speaking ... He had been making promises all day that he had not kept [about releasing hostages]. I just didn't believe what he was saying ... Nothing was happening to try and get us out. Yes, we had negotiators call, but from what we could see nothing was really happening ... it seemed as though it was just dragging on.

Harriette Denny

34. Harriette Denny, who—like Julie Taylor—was pregnant, was observing Monis and his increasingly agitated reaction to sounds and events:

I was crying a lot and I blew my nose quite a lot, and Monis would be like, "What's that?" and people would reassure him that it was me [and not the police trying to break in], because I was in a really bad state. I assumed the only logical way [for it to end] was for the police to come in ... because the negotiating wasn't working. He would always say, "When the police come in, some of you

will be saved, but most of you will die from the crossfire."

Fighting back?

35. At no time during the 17 hours of the siege did Monis release his grip on the sawn-off shotgun. He was a large man, taller and heavier than any of the hostages, and he had said there was a bomb in his backpack. Nevertheless, the hostages considered various ways to disarm and disable him.

Jarrold Morton-Hoffman

36. Jarrold Morton-Hoffman formulated a number of plans. When he and Harriette were making tea for the hostages, he recalled suggesting that:

... we should try and put sleeping pills in his tea. But neither of us had sleeping pills. And I think another idea was to throw hot water at him. I think they were more just hopes than ideas ...

37. Jarrold also thought up more complex plans. He said:

[Monis] wanted a smoke. I tried to convince him not to smoke in the café, as it would set the smoke alarm off and cause the sprinklers to go off. We thought we could possibly persuade him to go into the freezer to smoke and we could close the door on him, because it's an insulated door with metal on both sides.

Joel Herat

38. Joel recalled that before Jarrold went to lock the café doors:

[he] gave me a Stanley knife and said, "Dude, have this just in case."

39. Joel was thinking along the same lines as Jarrold. He said:

I also had a pair of scissors. I put them in my apron pockets ... [A]s your sense of hope diminishes, I thought maybe we had to do something about it ourselves to try and get us out of this situation. I was thinking I could probably stab [Monis] ... but there was such a high risk involved. That was why I couldn't bring myself to do it.

40. Much later in the evening, something happened that could have had serious consequences for Joel. Despite this, he remained calm:

I put my apron down near Monis. He picked it up ... and felt the shape of the scissors. He said, "Have you had these on you the whole time?" I said,

"Yes, I was cutting ribbons before this happened. I wouldn't do something stupid." He threw the scissors in a bin. He did not find the Stanley knife.

Fiona Ma

41. Fiona had been actively and calmly involved with providing food. As she moved between the kitchen and the café floor, she found herself with Jarrod, who was exploring another plan:

... there was a round of food that Jarrod and I prepared and brought out. When we got into the kitchen, Jarrod took a sharp knife ... I saw him try and put the knife into his back pocket, but that didn't seem to work. He then tried to put the knife down into his sock. He said, "That won't work." He gave up trying to hide the knife and put it on top of the microwave oven.

Managing Monis

42. The hostages were an articulate and perceptive group of people. Monis was erratic and sometimes reacted emotionally. The hostages were obliged to interact with him and at times had to do what they could to calm him down.

Jarrod Morton-Hoffman

43. Jarrod described the hostages' efforts to down-play sounds and incidents Monis perceived as threatening:

There was a lot of making stuff up, a lot of lying to him. So [when there was a noise] Joel was always, "It's the ice machine," ... I told lies about [things like why the lights couldn't be turned off], and everyone else pitched in a little bit as well.

Julie Taylor

44. Julie described her attempts to placate Monis:

He asked me every now and then to say what I could see [out the window]. I said, "Nothing, pigeons," that sort of thing. He said, "Has Channel 7 been evacuated? I told them to evacuate Channel 7." I told him I couldn't see anyone in Channel 7, which wasn't true because I could see someone setting up a camera. He asked, "Can you see any police?" I said, "No." This was not true, because I could see one police officer. The police had been there a long time.

Louisa Hope

45. Louisa Hope described a group dynamic plainly

designed to settle Monis and to manoeuvre him into calmer beliefs:

We were all sort of focused around keeping him calm. ... I think it was Katrina who started to say, "When we get out of here I'm going to tell everybody exactly what Tony Abbott's like," and then people started to say things like, "Who voted for him anyway? We didn't vote for him," and "We don't like him either" and started to align with [Monis] and his opinions and his demands. That group thing ... was really important and it worked. Jarrod led that, really—the pacifying of Monis—but all of us were collectively trying to pacify him ... it took some doing.

46. Monis was concerned about surveillance within the café. Louisa Hope described an interaction by the group with Monis. She said:

[Monis] also said of course the police know what's going on in this room, they would have microphones everywhere. And everyone's going, "No, no way, that's not possible"—you know, trying to negate what he said and agreeing with him at the same time.

Marcia Mikhael

47. Marcia described Monis' response to what he saw as hostages' assertiveness with the police and media:

Every time we got angry [with negotiators or media people on the phone], especially me, Monis was very happy. And if keeping Monis happy was going to keep us safe, then that's what I did. ... If he wanted us to yell, we would yell; if he wanted us to make silly phone calls, we would; if he wanted us to make silly videos, he would, because I figured as long as he's calm he's not going to hurt us ... because he was so unpredictable.

The first escape

48. For most of the siege, Monis had remained at the back of the café, distant from the Phillip Street doors, where some hostages had been placed. That created some opportunities.

John O'Brien

49. John O'Brien had been considering the possibility of escaping through the sliding glass doors, and raised it in whispers with Stefan Balafoutis, who was also near the doors. John recalled:

During the morning and lunch time, I was slowly moving up [the bench seat towards the doors] ... I kept edging my way toward the doorway, hoping

that I could get out. [Monis] pointed his gun at me at one point and yelled at me, "I thought I told you not to move." ... About 3.30 p.m. I spoke to Stefan ... I said, "This is it. I'm going to try and get out."

50. John described how he crawled through an opening between the wall and the welcome panel near the main entrance to the café. He said:

It was one of the worst five seconds of my life, pushing the green button² ... I was terrified the green button wasn't going to open the doors. ... I thought, Well, if he sees us getting out, then he will probably shoot the two of us in the back.

Stefan Balafoutis

51. Whispering with John about the means of escape, Stefan had made up his mind to join him. He said:

I saw John O'Brien shuffling along the bench seat towards the partition, and ... lean forward and turn to his right as he was looking to see where Monis was ... I whispered to him, "Can you get past?" It was quite a narrow gap ...

52. When John got through the gap and pushed the button, Stefan saw the sliding doors open and immediately followed. But:

It took me longer than I thought to get through the gap. I was concerned that I would be shot in the back.

Paolo Vassallo

53. Paolo was standing some distance from John and Stefan, but as a staff member, he knew about the two separate fire doors from the kitchen onto Phillip Street. He had not noticed John and Stefan preparing to escape, but as soon as they fled, he reacted:

I heard a bit of commotion ... I turned and saw [John and Stefan] run through the front doors [to Phillip Street] ... I wanted to run through that door, but I thought, Well, they've gone through that door now. Monis' focus has got to be surely on that door ... I went through the back [fire exit] door instead. I realised I had to leave now or I wouldn't have another chance. My initial thought was when I leave the café, I would put something down against the door to hold it [open], but what you think and what you do in reality is two different things.

² The green button was the electric door override button on the wall next to the sliding doors.

Fiona Ma

54. When contemplating a possible escape, Paolo shared his plan with Fiona. He said:

[While in the bathroom, I] gave Fiona a hug and a kiss telling her that we could get out by going back through the kitchen and out the fire escape. I told her I was not going to leave her there to die. As much as I tried to convince Fiona that we would be safe and out of there she couldn't get past the fact that if we escaped [Monis] would kill another of the hostages. As much as I tried she refused to give in.

Harriette Denny

55. When John, Stefan and Paolo escaped, Monis feared that the police had entered the café or were just about to. Harriette recalled his immediate reaction:

[Monis] pulled me back really hard along with others to form a shield, and he was just saying, "Is that the Police coming in? Are they coming in?"

Viswakanth Ankireddi

56. Viswa had observed the escape and described the other hostages' reaction to Monis' alarm:

Jarrold and Tori said, "No police, no police, three people just ran out." [Monis] said, "From now on we have a deal. I will shoot someone for every person who escapes."

Julie Taylor

57. Julie Taylor described Monis' subsequent behaviour:

After [Monis] calmed down, he directed Fiona and Jarrold and others to stack tables and chairs ... he rarely moved from the corner behind all those tables and chairs. When he did move, he would usually take someone with him ... I guess as a human shield.

The second escape

58. The second escape, by Elly and April, was so careful and quiet that Monis did not become aware of it. In fact, Jarrold was the only remaining hostage who knew about the second escape, and even he did not see it occur.

Elly Chen

59. Elly had crawled under Table 40, close to April. April began surreptitiously to unlock the doors into the foyer that opened onto Martin Place, easing open the bolts at the top and bottom. Elly said:

After I got sick, I was lying on the floor. April was next to me [under a table] near the door, and she said, "We should leave. ... It's my Mum's birthday, I've got to go."

60. After April had got up and down a few times, shifting the bolts a little bit each time, she and Elly prepared to flee. Elly recalled:

I heard a lady talking loudly on her phone, and that's when April and I took our chance. April went through the door and I followed her and closed the door. I was really worried that there would be noise ... he was throwing out threats that I will kill one person for every person who leaves. So if he noticed a person had left, then I thought he would do what he said.

April Bae

61. April had been working at opening the door for some time, but she still had reservations about leaving:

I felt terrified and was still scared for my life even well after I left the café. I felt guilty and selfish for leaving the others behind and I believed [Monis] was going to shoot them because I had left.

Jarrold Morton-Hoffman

62. Jarrod had been watching April and Elly as he moved back and forth through the café on toilet visits or to the kitchen. He said:

I could see the girls, April pulling the latch down on the door ... I mouthed to them, "Stop," ... but I knew they were going, they're next to an open door now, there's no way they're not going to go. So I pushed out the big [Lindt] bear cut-out to add a bit more cover. Next time I looked over, they were gone.

63. Shortly after the unobserved escape, Monis asked Jarrod to visit media websites and read out news reports about the siege. One report after another said five people had escaped from the café. To keep this news from Monis, Jarrod changed the number to "three". Eventually, Monis demanded that one of the hostages stream a radio news broadcast on their phone and heard the truth. As Jarrod recalled:

He's kind of shocked. He goes really angrily, "What?" and then everyone kind of kicks into overdrive ... someone convinced him into believing that the sick girl, Elly, had escaped with John O'Brien and Stefan [in the first escape] ... I don't think he remembered Paolo very well, and he never remembered April at all. ... Someone said, "It's just the media lying to make the police look good." He bought that, so that was really lucky.

The third escape

Jarrold Morton-Hoffman

64. Just before 2.03 a.m., Monis gathered Selina, Fiona and Jarrod together so he could search around the café. Jarrod recalled that:

[Monis was] getting increasingly agitated ... and we heard some more [noises] and he said, "Jarrod, Selina, Fiona, get up." We all get up and he walks us like a human shield. He says, "Jarrod, wait here" [leaving Jarrod near the Martin Place foyer doors].

65. Monis then moved away with Selina and Fiona towards the fire exit door, just out of sight of the café floor. Jarrod was concerned by the change in Monis. He could see TOU officers outside. He said:

I thought this was our only chance to run. I was pretty sure we could get at least eight [people] out. ... So I just ran out the foyer door and as I ran Joel gets up, Harriette, Julie ... we all just ran. And someone or myself kicks over a glass on our way out ... you hear him scream, "What's that?" I tried to put my fingers into the glass doors, the automatic doors, because they're not opening. I tried to pry them open. I pressed the emergency button. Hear a crack, bang, glass explodes, everyone ducks really fast and we just run out.

Puspendu Ghosh

66. Puspendu was observing Monis' movements and Jarrod. He nudged his friend Viswakanth and saw Viswa look back at him. He said:

I then made eye contact with Katrina and Marcia. I pointed to my eyes, then pointed to Jarrod ... I moved in my seat to a position so I could run. ... Joel and Harriette could see Jarrod also. Jarrod then spun on his heel and turned, he pushed open the glass doors and bolted out. ... I got up, stayed low and ran out. As I got to the steps that was when I heard the first bang, which I thought was a bomb. I now realise it was the first shot that was fired [by Monis].

Harriette Denny

67. Harriette was alert and saw Jarrod gesturing. She saw Puspendu looking at her. She said:

I'm looking at him and I'm looking at Jarrod and I'm going, no words, just, like, What are we going to do ... and I lifted my body off the chair about to make a go for it ...

68. Harriette said that when she remembered Monis had taken Fiona and Selina with him to the back of the café:

I got worried for their safety, so I sat back down, but then Jarrod pushed the door open. I just ran instinctively. I just ran out that door and I didn't know who ran with me until we got out. ... I heard bang, bang, bang, bang, ... I asked one of the police officers "Is everyone out?" and he said to me, "Yes," and I was really happy.

Julie Taylor

69. Julie described the urgency and anxiety of the escape:

I saw a group of people run towards the door ... and I also lunged for the door, and as I got there I slipped because I was wearing stockings and it was a marble floor, and I heard a gunshot ... and there was glass that fell down around my head and onto the ground and I scrambled up and ran out the door and down the stairs into Martin Place.

Marcia Mikhael

70. Marcia and Katrina did not leave. Marcia said:

Everything happened so quickly. There were only a few of us left in there, so if he saw us [I thought] he would kill us. So I hid under a table, trying to keep safe ... I had Katrina to my side, and so Katrina and I kept looking at each other. I guess we were comforting each other.

The fourth escape

Fiona Ma

71. After the first shot, Fiona contemplated escaping. She said:

he fired his gun ... [and then] I think there was another gunshot, and then I heard ... it sounded like it was him reloading the gun ... and then I remember[ed] Jarrod telling me earlier that he thought it was a shotgun, and he told me you can only fire two shots and then you have to reload, so I just thought if he's reloading now I can just run out now.

72. At the time, Fiona was separated from the remaining hostages. During the inquest, while she was answering questions from Counsel Assisting, the following exchange took place:

Q. Did you have any idea how many people had left the café?

A. No idea.

Q. Did you have any idea that it might have been one person or more than one person?

A. I thought it would have been more people than not.

Q. What made you think that?

A. Because [Monis] was away from the café [main floor], and I thought if this was a chance for anyone to escape, this would be it. ...

Q. Did you have in mind at all then that there was some chance that you and perhaps Selina, if she was still there, was the only person left?

A. Yes.

Q. That thought did cross you, did it?

A. Yes.

Q. You didn't want that to be the case, I take it?

A. No. Sorry.

The murder of Tori Johnson

Selina Win Pe

73. Selina described Monis' reaction when he realised that most of the hostages had escaped:

... I heard a big bang noise. Another bang ... like a smash. Glass shattering. He immediately went, "What was that?" I went to the floor, lying on the [floor] behind the counter. I heard him yell to someone, "Down, down, get on your knees." I could only hear, and not see. There was a period of silence and then, Boom.

Louisa Hope

74. Louisa Hope was the only person to directly witness the death of Tori Johnson and recall it. She was lying on the ground when Monis came back into the café proper. He dragged her up to a standing position and then gave orders to Tori:

[Monis] called Tori, "You, come over here ... kneel down and put your hands on your head" ... indicating ... with his head and with the gun where he wanted Tori to kneel ... he was holding the gun and he was moving from ... left to right, with Mum and me on either side of him ... scanning the front of the café as if waiting for the police to come ... he shot the gun ... and Tori fell forward with his hands still at his head ... I can say that I did not hear any word from Tori ... he was ... distressed, but ... as time went on—it was quite a time—he stopped crying, he stopped being distressed, he had composed himself.

Part III: Expert evidence

9 Expert evidence and reviews

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Introduction

1. The investigation into the events of the siege began less than two hours after Tactical Operations Unit officers forced entry to the Lindt Café. It was immediately clear that the investigation would be complex and prolonged. The nature of the incident, the agencies involved, the limited amount of real-time objective evidence, the contamination of the scene, and Monis' history combined to create a very challenging, and politically sensitive, factual and theoretical matrix to unpack.
2. The siege appeared to have been a terrorist incident in the heart of Sydney and had resulted in the deaths of three people. It had prompted a major police response, involving two NSWPF command centres, a negotiation unit and a significant number of TOU operatives; the Australian Federal Police, ASIO and the armed forces were involved to varying degrees; and specialised tactics, strategies, and equipment were deployed.
3. Although the police response to the incident began soon after it commenced, there was no video footage of events inside the café, and the audio drawn from surveillance devices gave, at best, an incomplete picture. The hostages were traumatised by the siege and, understandably, at times they had an imperfect recollection of events. Many officers who had entered the café were similarly unable to provide a precise account of exactly who did what, and when. In view of the extremely challenging, stressful and dynamic nature of the events, that is not surprising.
4. The scene itself was multilayered: a number of people had been in and moving about a large enclosed space all day, two teams of tactical officers had stormed the building and discharged different types of munitions, and paramedics had entered and extracted the wounded.
5. Monis himself complicated matters further. By the time of the Emergency Action, police were aware of his identity, and a picture of his repeated encounters with the criminal justice system and the government generally was starting to form. That picture gave rise to questions about his background, his numerous past offences, his mental health, his contact with security agencies, and his activities in the days and weeks leading up to the siege.
6. In an attempt to adequately address all of the issues thrown up by these factors, it was necessary to enlist a variety of experts. I have already referred

in Chapter 2 to the considered contribution made by the Bail Panel comprising four lawyers with deep experience concerning the law relating to bail in NSW. This chapter provides an overview of the investigations conducted by the remaining experts, and the conclusions they reached.

Critical incident investigation

7. During the course of the siege, the Commander of the NSWPF Homicide Squad, Detective Superintendent Michael Willing, alerted the on-call team within that squad to the potential need to investigate any critical incidents arising from the siege. That team was led by Detective Chief Inspector Angelo Memmolo.
8. The NSWPF *Critical Incident Guidelines* define a "critical incident" to include an incident in which a person is killed or seriously injured as a result of the discharge of a firearm by police.
9. At approximately 2.45 a.m. on 16 December 2014, Det Chief Insp Memmolo and his team were notified that the siege had been resolved and would be declared a critical incident. At about the same time, in accordance with the guidelines, I was also advised of the outcome of the siege and the steps being taken to investigate the deaths that had ensued.
10. Det Chief Insp Memmolo and his team went to the Police Operations Centre at about 3.40 a.m. At that time, Assistant Commissioner Mark Jenkins was still in charge of the recovery phase of the operation. Over the next few hours, Det Chief Insp Memmolo's team arranged for all officers involved in the operation to take drug and alcohol tests and liaised with crime scene investigators and a forensic pathologist, Dr Rianie Van Vuuren.
11. At approximately 5.38 a.m., Det Chief Insp Memmolo went to NSW Leagues Club, where the Police Forward Command Post had been located and where the NSW and Queensland tactical operatives had congregated. He directed the officers not to speak with anyone regarding the siege and asked for a declaration from each officer that they had not had any such discussions prior to his arrival.¹

1 Such directions are typically made in an attempt to preserve the integrity of evidence until written statements or recorded interviews have been provided. By directing officers not to communicate, critical incident investigators aim to eliminate the suggestion that officers have colluded while reducing the risk that key information will be lost as a "shared narrative" forms (whether intentionally or unconsciously).

12. Each of the officers involved in the EA was then asked whether they had fired their weapon during the operation. Officer A said he had. Det Chief Insp Memmolo learned that Officer B, who had been taken to hospital, had also discharged his firearm during the entry. Accordingly, he arranged for Officer B's equipment and weapon to be taken for examination, along with those of Officer A.
13. In the subsequent days, Det Chief Insp Memmolo and members of his team attended the post-mortem examinations of Tori Johnson, Katrina Dawson and Monis, liaised with Katrina and Tori's families, and had initial consultations with forensic and ballistics experts.
14. Det Chief Insp Memmolo's team initially comprised seven officers from the Homicide Squad but expanded to 36. The critical incident investigation team was also able to call upon the expertise of a number of scientific and technical officers.
15. In the days, weeks and months following the siege, statements were obtained and video-recorded walk-through interviews were conducted with members of the police entry teams. Jarrod Morton-Hoffman and Louisa Hope also completed walk-through interviews.
16. In that initial phase, Det Chief Insp Memmolo's team began a review of over 1000 hours of CCTV footage (from various buildings and the public transport network) and more than 200 hours of media footage with a view to determining what would be of greatest assistance to the inquest.
17. After the preliminary stages of the investigation and, indeed, after this inquest was opened on 29 January 2015, Det Chief Insp Memmolo and his team continued to undertake an extensive array of investigative tasks, including tasks at the request of members of the legal team assisting me.
18. DCI Memmolo enlisted an array of technical experts from a range of forensic disciplines to analyse the crime scene, comprising those with expertise in:
 - blood spattering;
 - sound and acoustic analysis;
 - DNA and fingerprints;
 - crime scene examinations;
 - ballistic examinations and laser testing;
 - forensic imaging, including 3D laser reconstruction technology; and
 - botanical examination (in relation to the wood from the café chairs).
19. Video footage from a variety of sources (eg CCTV, media film, and Police video) was also used to complement that analysis.
20. The ballistic testing was extensive, and also unprecedented in its scope for New South Wales. Testing on the rounds used by both the snipers and the TOU occurred over many days. It required the acquisition by the NSW Police of specialised equipment not previously available in New South Wales (and represented perhaps the first such acquisition in this country by a law enforcement agency). That equipment included a Doppler radar (to measure the speed of an ammunition round throughout its trajectory), and two high speed cameras. To complete those experiments, identical replica chairs from the Café, and identical sheets of glass from the windows in the Lindt Café and Westpac, were also purchased.
21. The ballistics testing drew upon the results of the 3D laser reconstruction, in order to establish the distance and angles required to replicate the precise conditions that arose inside the Café. That 3D laser reconstruction work also represented a significant technical development in the investigation of coronial incidents.
22. While each of the forensic disciplines has been used previously in both the coronial and criminal jurisdictions, the extent to which they have been used in this inquest—including in combination—is unprecedented.

Commonwealth–State review

23. On 17 December 2014, the Prime Minister and the NSW Premier commissioned a review of the siege (**Joint Review**) to be jointly conducted by the Secretary of the Commonwealth Department of the Prime Minister and the Secretary of the NSW Department of Premier and Cabinet. The Joint Review was asked to make recommendations regarding Commonwealth and NSW agencies and the cooperation between them in respect of numerous matters.
24. Of particular relevance to the inquest were the terms of reference that required the Joint Review to look into:
 - information held by Commonwealth and NSW agencies about Monis, including how any information relevant to public safety was shared between, and used by, the agencies;
 - Monis' interactions with the NSW

- justice system;
- Monis' access to firearms;
 - whether national security powers, including Control Orders, could have been used in relation to activities by Monis that were of security concern; and
 - any lessons learned by the NSW and Australian Federal Police about the handling of the siege.
25. As the terms of reference also required the Joint Review to take into account the coronial investigation, senior officers from the review team met with me and the Solicitor Assisting the inquest to discuss how unnecessary duplication could best be avoided. It was agreed that the Joint Review would not attempt to identify the lessons that could be learned about the handling of the siege by the NSWPF and the AFP because that task was central to the purpose of the inquest and because the paper-based processes the Joint Review was to use were unlikely to enable an accurate assessment of NSWPF and AFP actions. It was recognised that the evidence necessary to underpin such conclusions would only be available after the key participants in the police response had given evidence and independent experts had considered the police response.
26. I gratefully acknowledge the cooperation and assistance the Joint Review team provided to the inquest. The collection of the relevant material from various government agencies greatly aided the work of the inquest.
27. The Joint Review was completed over a six-week period, drawing on records of the Commonwealth, NSW and other states and territories. An array of information was uncovered in that time. The Review was done by way of examination of agency records; the Review Team did not take oral evidence or carry out external investigations. The Joint Review was an admirable exercise and a considerable achievement given the short time it had available to do its work. Various of its recommendations relevant to the inquest are summarised below.
- The Joint Review's conclusions**
28. The Joint Review noted that the Immigration Department had determined that if Monis presented in the same circumstances in 2015 as he had in 1998, it is likely that he would still have been granted entry to Australia and citizenship. In those circumstances, the Joint Review concluded that
- “there is scope to improve existing Australian visa and citizenship processes”.* Specifically, it found that Australia could improve its ability to verify the initial supporting information provided by visa applicants and that it should better assess the possible risks posed by individuals at the pre-visa, post-visa and pre-citizenship stages.
29. The Joint Review concluded that right up until the siege, ASIO and law enforcement agencies *“never found any information to indicate Monis had the intent or desire to commit a terrorist act”.*
30. The Joint Review made one recommendation in relation to national security legislative powers: noting the enhancement of control order provisions in late 2014, it suggested that the Australia–New Zealand Counter Terrorism Committee (ANZCTC) should monitor the operation of control orders, as well as preventative detention orders, to ensure they meet evolving operational needs.
31. The Review provided an overview of information from INTERPOL suggesting that Monis was wanted in Iran in connection with possible fraud offences. It concluded that there was no legal basis on which Monis could have been arrested in relation to those offences by Australian law enforcement agencies.
32. The Review looked at the circumstances under which Monis was granted bail in connection with charges preferred against him in 2013 and 2014, noted that those issues were to be considered by this inquest, and observed that the Joint Review did not wish to prejudice those investigations. However, it did conclude that bail authorities could consider links to terrorist organisations or violent extremism when making bail decisions. The Review made a number of recommendations in relation to bail processes. These are referred to in Chapter 2 of this report.
33. The Review recommended that the Commonwealth, states and territories simplify the regulation of the legal firearms market through an update of the technical elements of the National Firearms Agreement and that state and territory police forces should conduct an urgent audit of their firearms data holdings before the national Firearms Interface is operational where this has not already occurred.
34. The Review conducted an assessment of the sharing of information about Monis between Commonwealth and NSW agencies and noted that a range of agencies held information pertaining to him. Searches undertaken by those agencies identified

hundreds of thousands of pages of documents. The Review did not identify any that would have allowed the agencies to foresee and/or prevent the siege.

35. The Joint Review observed that it is necessary to develop ways of better identifying persons at risk of radicalisation and to address the factors that make them susceptible to extremist ideology. Engagement with such individuals generally occurs in an ad-hoc way; the Review noted that there are no formal risk-assessment and referral arrangements to identify and actively manage individuals who are likely to radicalise.
36. The Review noted that the need for the management of individuals at risk of radicalisation had been identified, with measures announced in August 2014 to develop a broader intervention program led by the Commonwealth Attorney-General's Department. It said the AFP-led National Disruption Group was likely to play a critical role in managing referrals to the intervention.
37. While these developments seemed to provide an additional "security net", the Joint Review noted that such intervention programs would not have been likely to identify Monis for referral.
38. The Joint Review recommended that the Attorney-General's Department work with states and territories through the ANZCTC to expedite the implementation of a Countering Violent Extremism referral program.
39. The Review also recommended that media representatives be offered access to government-led training exercises to further improve cooperation in the event of future terrorism incidents and that the National Security Public Information Guidelines be updated to ensure that relevant agencies throughout Australia have clear guidance on accessing information and communicating with the public during such an incident.

Autopsy evidence

40. Between 16 and 19 December, Dr Rianie Van Vuuren, an experienced forensic pathologist employed by the NSW Department of Forensic Medicine, conducted post-mortem examinations on the bodies of Tori Johnson, Katrina Dawson and Monis and prepared detailed reports of her findings.
41. The examination of Katrina Dawson showed multiple gunshot wounds to her upper back, shoulder and neck. Those wounds were largely "atypical",

suggesting they were caused by bullet fragments rather than an intact bullet or whole bullets.

42. Most notably, there was a group of "atypical entrance" gunshot wounds on the back of Katrina's right shoulder and on her upper back. The bullet fragments that caused these wounds also caused catastrophic injuries to organs and blood vessels in her chest. Dr Van Vuuren located a penetrating wound track showing that a bullet fragment or fragments had perforated Katrina's right lung, right pulmonary artery and the right atrium of her heart. Accordingly, the cause of her death was determined to be gunshot wounds to her chest.
43. In addition to the main cluster of wounds, the autopsy examination suggested that Katrina was struck by a number of other bullet fragments on the front of her right shoulder and on her neck. The examination also found a small fragment in her left shoulder. The results of the autopsy did not allow a conclusion to be reached as to whether these wounds were caused by fragments of more than one bullet.
44. The cause of Tori Johnson's death was a shotgun wound to the back of his head. The wound was located slightly to the right of the back of his head and measured 35 mm × 22 mm. A number of shotgun pellets were found lodged in Tori's brain, which showed "massive disruption".
45. In addition to the shotgun wound, Tori had a number of abrasions on his head and face and two minor incisions on his right cheek. Some of these injuries were said to be reminiscent of "dicing injuries" caused by glass fragments.
46. Dr Van Vuuren also found a bruise measuring 30 mm × 25 mm on Tori's left knee and a similarly sized bruise on his right knee.
47. The autopsy examination of Monis showed 16 gunshot wounds caused by the entry of bullets or fragments of bullets. A number of exit wounds were also noted. Dr Van Vuuren reported that seven of the wounds were most likely caused by complete bullets, while two could have been caused by either intact bullets or bullet fragments. The remaining seven wounds appeared to have been caused by bullet fragments.
48. Monis had at least two gunshot wounds to his head. Dr Van Vuuren indicated that the tracks of those wounds were difficult to follow; in any event, Monis had extensive skull fractures and lacerations to his brain.

49. Dr Van Vuuren reported that Monis also had gunshot wounds to the back of his upper left shoulder, left lower back, left chest, left axilla (armpit) and his left arm as well as a wound to his right foot.
50. Monis' internal injuries were severe. His heart was extensively lacerated, his lungs had significant damage and his gastrointestinal organs had been struck by a significant number of bullet fragments. Even in the absence of his catastrophic head wounds, these injuries would have killed him.

Emergency medicine

51. Paramedics were on standby in Elizabeth Street from about 11 a.m. on 15 December, ready to render assistance.
52. They entered the café at approximately 2.18 a.m.—minutes after the EA—and carried Katrina out of the café approximately 30 seconds later. They assessed her and immediately began CPR using chest compressions before conducting a procedure to decompress any tension pneumothorax—air in the chest cavity that has escaped from the lungs as a result of trauma.
53. Very shortly thereafter, TOU officers directed ambulance personnel to evacuate the scene because there was continuing concern that an IED might still explode. Katrina was put on a stretcher and wheeled down Phillip Street, where she was placed into an ambulance and conveyed at speed and under lights and sirens to the Royal Prince Alfred Hospital (**RPAH**) in Camperdown. Paramedics continued administering treatment to Katrina throughout the journey to hospital. The ambulance left Phillip Street at approximately 2.25 a.m. and arrived at the RPAH at approximately 2.35 a.m.
54. The RPAH is equipped to provide major trauma services and was standing at the ready to receive wounded patients from the siege. Katrina was treated by a number of doctors, including a cardiothoracic surgeon, a general surgeon and an emergency consultant. Personnel there continued CPR, administered a blood transfusion and conducted an emergency surgical intervention.
55. Despite these efforts, Katrina never regained consciousness and was declared dead at 3.12 a.m.
56. Professor Anthony Brown provided an expert report regarding the emergency medical treatment Katrina received. Professor Brown is a senior staff specialist in Emergency Medicine at the Royal Brisbane and Women's Hospital. He also serves as

Professor of Emergency Medicine at the University of Queensland and in 2010 and was appointed co-Chair of the Academic Emergency Medicine Special Interest Group within the Australasian College for Emergency Medicine. Professor Brown has co-authored a leading text on emergency medicine and was the editor in chief of *Emergency Medicine Australasia* between 2003 and 2014.

57. Professor Brown concluded that ambulance personnel had provided “*virtually copybook*” care to Katrina from the time they attended on her in the café and throughout her transfer to the RPAH. He praised the high quality of care provided by the ambulance officers, noting that he had not identified a single error of commission or omission on the part of the paramedics.
58. Professor Brown also concluded that the care provided by doctors and nurses from the RPAH was “*to the very highest standard*”. In reaching that conclusion, he observed that the trauma team at the RPAH was ready and waiting for Katrina when her ambulance arrived at the hospital; she was appropriately examined by an emergency department registrar and attended upon by an anaesthetics registrar.
59. Katrina's heart stopped as she arrived at the hospital. CPR was recommenced while adrenaline and seven units of blood were given without delay. A trauma surgeon conducted a thoracotomy to investigate Katrina's injuries and took steps in an effort to stem her internal bleeding.
60. After approximately 40 minutes of cardiac massage and measures to stop Katrina's bleeding proved unsuccessful, a number of specialists determined that further efforts would be futile and she was declared dead.
61. Professor Brown did not identify any deficiencies in the care afforded to Katrina Dawson at the RPAH and concluded that nothing could have been done to save her.

Possibility of transfer to Sydney Hospital

62. During the course of the inquest, the question arose as to whether Katrina's death might have been averted if she had been taken to Sydney Hospital, a few hundred metres from the Lindt Café, rather than to the RPAH at Camperdown, approximately 5 km away.
63. She was conveyed to the RPAH in accordance with a determination made on the day the siege com-

menced by the State Health Services Functional Area Coordinator, which prescribed that in the event that there were ten or fewer casualties from a single incident, the RPAH, Prince of Wales Hospital, St Vincent's Hospital and Royal North Shore Hospital would be placed on standby to receive patients. The decision as to which of those hospitals to take Katrina to was made by ambulance officers according to a triage methodology set out in the Ambulance Service of New South Wales State Major Incident/Disaster Plan.

64. The RPAH provides Level 6 emergency medicine services (the highest level) and is a designated major trauma centre. Sydney Hospital is a Level 3 emergency medicine facility. Its role in an emergency incident is ordinarily understood to include triaging minor injuries. Location aside, personnel at the RPAH were clearly better able to treat Katrina than those at Sydney Hospital.
65. No steps were taken to try and move equipment and expertise to Sydney Hospital during the day. Doing so would have been difficult, if not completely impracticable, and – as a matter of general principle – it is best if patients are taken to trauma hospitals outside the potential impact zone of an incident.
66. The NSW Ambulance protocol regarding pre-hospital management provides that all patients with major traumas should be transported to a trauma service located within 60 minutes from the scene.
67. In those circumstances, Katrina's transfer to the RPAH rather than Sydney Hospital was in accordance with the terms of the relevant protocols.
68. Professor Brown stressed that a patient should always be taken to the nearest trauma hospital equipped to provide "*definitive care*". He observed that it is never appropriate to take a patient with a "*time critical, major trauma*" to the geographically closest hospital if that hospital is not a recognised and accredited trauma centre. Such a hospital will likely not have the requisite trained staff (including emergency, surgical, radiological and anaesthetic specialists and critical care or nursing staff). Nor would it be expected to have a well-stocked blood transfusion service and the technical or operative equipment necessary to provide effective trauma care. For these reasons, NSW Health and other comparable health services have determined that the "gold standard" of trauma management should involve the transfer of patients such as Katrina Dawson to the nearest *appropriate trauma hospital* (i.e. the RPAH) and not simply the nearest hospital.
69. In any event, Professor Brown concluded that Katrina's injuries were such that even if the emergency intervention she ultimately received had been performed earlier, it would not have been possible to save her life because her condition could never have been stabilised sufficiently for her cardiothoracic wounds to be repaired.
70. The opinions of Professor Brown were not contested by any of the interested parties. I accept them unreservedly. From the time Katrina was shot, her chances of survival were nil. It may be of some small comfort that she would have lost consciousness within seconds of being wounded.

Psychiatric review

71. Dr Jonathan Phillips, an eminent forensic psychiatrist, was asked to examine material describing Monis' antecedents, his mental health history, and the events of 15–16 December 2014. He was asked to provide opinions about Monis' psychopathology, his conduct between 1 October and 14 December 2014, and his motivations and intentions in conducting the siege.
72. The details of his analysis of Monis' mental health history and his conduct during the siege are set out in Chapter 1. In summary, Dr Phillips concluded there was no convincing evidence that Monis suffered from any diagnosable psychiatric disorder, which would include chronic schizophrenia and a delusional disorder. In his professional opinion, Monis' psychopathology was in the nature of a severe longstanding complex personality disorder, with paranoid features and more predominant antisocial and narcissistic features.

3D reconstruction

73. The inquest benefited greatly from a digital three-dimensional reconstruction of the Lindt Café and its surrounds prepared by Crime Scene Officer Domenic Raneri, of the NSWPF's Forensic Services Group.
74. As part of that process, a tripod-mounted device completed a number of 360-degree scans of the café to create a virtual rendering of locations, objects and structures in the scene.
75. These were supplemented by a number of 3D scans of particular exhibits taken from the café (including bullet-damaged chairs and ballistic trajectory rods) and images taken using the Interactive Scene Recording and Presentation System (ISRAPS).

76. After these processes had been completed, the data from the scans were downloaded to a computer so an interactive model of the scene could be created using specialised software. That model was designed to include the café, the Martin Place surrounds, and the TOU sniper positions in the Seven Network, Reserve Bank, and Westpac buildings.
77. In creating that model, Crime Scene Officer Raneri was asked to determine the field of view from each of the sniper positions.
78. Crime Scene Officer Raneri was also asked to undertake examinations in relation to the likely positions of Tori Johnson, Katrina Dawson and Louisa Hope at various points in the sequence of events and of the likely trajectories bullets fired.
79. After completing the 3D reconstruction of the café and surrounds, CSO Raneri prepared a series of “fly-throughs” in the form of several videos which could be replayed, played slowly, or stopped as needed.
80. Those videos depict the café as it was on 16 December 2014; the three police sniper positions and the field of view into the café available from each; the locations of cartridges found inside the café; and CSO Raneri’s conclusions as to the likely positions of Monis, Officer A and Officer B at the time/s they fired their weapons.
81. In the course of preparing the 3D reconstructions and conducting his other examinations, in particular by reference to the likely sequence of events during the EA, CSO Raneri reached a number of conclusions. It is convenient to provide a summary of the most noteworthy of these. The various positions referred to in this section can be followed from the diagram of the café found at Chapter 7.
82. It is likely that after shooting Tori, Monis remained standing in the area between White Window 1 and White Window 2 and adjacent to Louisa.
83. The position of Louisa Hope at the time of the forced entry was of some importance in determining Monis’ likely position; while Monis could not be seen in footage for most of the EA, the available evidence suggests he was somewhere close to her left side when the EA began.
84. The Sydney City Council CCTV footage from the time of the EA clearly depicts Louisa standing in front of a large Lindt teddy-bear cut-out. That cut-out was positioned against a wall between the foyer doors and the north-western corner of the café. The footage does not immediately allow a viewer to see how far away from the cut-out Louisa was standing.
85. Crime Scene Officer Raneri was able to discern a range of possible positions for Louisa by reference to her height and the angle of observation from the CCTV camera and by examining her shadow when Alpha Team officers shone their torches in her direction during the EA.
86. The possible range of Louisa’s positions was further narrowed by the fact that she could not be seen on Channel 7 camera footage shot through Green Window 4. Hence, CSO Raneri concluded that Louisa was most likely standing somewhere between approximately 42 cm out from the western wall (and almost directly in front of the cut-out) and 105 cm out from the western wall. That range helped investigators deduce Monis’ likely position at the time of his shooting of Tori Johnson and the time of the entry.
87. Given the mode of Katrina’s death, the question of Officer A and Officer B’s positions immediately after the forced entry into the café assumed some importance. Both were initially visible in CCTV footage from cameras near the Reserve Bank. Officer B disappeared from CCTV view almost immediately, while the poor quality of the footage meant that Officer A’s actions were difficult to precisely discern. Neither had clear recollections of their positions. Some evidence emerged from the position on the floor of the empty cartridges ejected from their weapons and from film showing muzzle flashes and laser beams.
88. CSO Raneri conducted a detailed analysis of what was visible from the available CCTV footage, combined with the locations of empty cartridges, with a view to determining the approximate positions of Officer A and Officer B (and other members of

Positions of key actors in the Emergency Action

82. CSO Raneri concluded that Tori Johnson was likely kneeling in line with White Window 2 at the time he was shot. He reached this conclusion this by reference to his field-of-view analysis (using, particularly, the sniper positions at Channel 7 and Westpac) and the ballistics evidence which suggested that the muzzle of Monis’ shotgun was approximately 75 cm from Tori’s head at the time Monis fired. A view of Tori by the sniper in the Seven Network building would, according to CSO Raneri’s reconstruction, have been obstructed by the Lindt decal at the base of White Window 2.
89. CSO Raneri conducted a detailed analysis of what was visible from the available CCTV footage, combined with the locations of empty cartridges, with a view to determining the approximate positions of Officer A and Officer B (and other members of

- Alpha team) during the course of the Emergency Action.
90. As part of that process, he prepared 3D avatars representing the Alpha Team officers using information regarding their heights and placed each of the avatars inside the 3D model and, in turn, a fly-through video depicting their entry.
 91. He assessed the positions of the Alpha Team officers before the breach of the main entrance to the café, when Monis discharged his firearm, and when Officers A and B fired their M4 carbine rifles.
 92. The footage did not allow CSO Raneri to reach firm conclusions about the precise position of Officer A when he fired each of his shots because the City of Sydney CCTV camera, which was positioned behind him, did not allow clear observation of his rifle. This difficulty was compounded by the fact that flashes from distraction devices and the presence of other light sources prevented CSO Raneri clearly discerning particular muzzle flashes. Accordingly, the locations he selected were based on the locations of the fired cartridge cases, combined with the results of tests by Senior Sergeant Edward Schey of the direction in which cartridges fired from Officer A and Officer B's rifles typically ejected. However, it was accepted by all that there was significant disturbance of the crime scene during the evacuation.
 93. He concluded it was likely that Officer A fired his weapon from around the immediate entrance to the café (with cartridge cases ejected to the north-east and out of the café) and also from within the café (with cartridges cases ejected towards the northern wall of the café and bouncing back inwards).
 94. The nature of the available footage meant that it was not possible to identify Officer B's position at the time of firing with a similar level of confidence.
 95. Crime Scene Officer Raneri concluded that upon entering the café, Officer B immediately moved south/south-west, taking him out of the field of view of both the City of Sydney CCTV camera and the Free News camera looking south down Phillip Street. That left a broad range of possible firing positions for Officer B within the café. The ejection testing conducted in relation to Officer B's carbine did not allow this range to be significantly narrowed; three cartridges ejected from that weapon were located behind the "pick and mix" station within the café, while two were located some metres further into the café, south-west of the Lindt welcome panel.
 96. A further fly-through video prepared by CSO Raneri depicts his conclusions in relation to the likely position of Monis at the time of the EA.
 97. These conclusions were based primarily on what was observable on the footage taken from the Seven Network building, which shows Monis moving behind the flag in Green Window 4 before his gun is seen pointing in the direction of the main entrance to the café.
 98. Using the gun position as a foundation, CSO Raneri mapped a range of four possible locations for Monis within the café at the time his gun was last visible. Each of those locations was between the flag on White Window 4 and the waiters' station and the cardboard teddy-bear cut-out in the north-western corner of the café. He concluded that two of those positions were less likely because there was furniture in those areas. Those were the spots closest to the bench seats on the western side of the café, and closest to the waiters' station in the other direction. That left two possible positions, both of which were essentially in the centre of the space between White Window 4 and the waiters' station.
 99. Notably, both these locations were very close to where Crime Scene Officer Raneri concluded that Katrina had been at the time of the EA.
 100. Forensic examination of the scene located a significant area of blood in the north-western corner of the café. That blood was connected to Katrina Dawson by DNA testing. Officer Raneri assessed whether there was sufficient space between the blood stains and the western wall of the café for Katrina Dawson to have been lying face down on the floor. To do this, he used the information about the position of Katrina's blood in the north-western corner of the café and the location of the injuries on her body.
 101. Having determined that there was sufficient room for Katrina to have been in the area, CSO Raneri inserted into his 3D reconstruction an avatar Katrina in a face-down position on the floor in the north-western corner of the café.
 102. In addition to assessing Katrina's location, CSO Raneri attempted to ascertain the likely position of the chair that received the most bullet damage during the EA (chair number XF000654559). As part of that process, he examined 3D scan data regarding shots fired during testing at the ANZAC Firing Range (see below for further details of this testing) and inserted it into the 3D reconstruction.

103. Drawing this information together led Officer Raneri to conclude that the chair was likely between 76.5 cm and 143.9 cm from Katrina at the time of her fatal wounding, with the most likely position being between 94.9 cm and 120 cm away.

Sequence of events during the Emergency Action

104. A key component of Crime Scene Officer Raneri's investigation was an assessment of the likely sequence of events during the course of the EA. That was aided by an audio analysis conducted by Tim Kuschel, an acoustic consultant.
105. Mr Kuschel was provided with a series of audio-visual files obtained from media outlets and asked to try to determine, if possible, the sequence in which various "flashbangs" (SF9s) and gunshots occurred during the EA.
106. Mr Kuschel was not able to precisely identify the order of the majority of the gunshots fired during the siege (particularly the .223-calibre bullets fired by Officers A and B). He was able, however, to identify the sound of the first SF9. This was given the time stamp 0.00 for the purposes of his investigation.
107. Thereafter, Mr Kuschel identified the following sounds:
- five different gunshots with a similar acoustic signature at 1.25 sec, 2.7 sec, 4.8 sec, 7.7 sec and 7.9 sec;
 - three SF9s at 9.2 sec;
 - gunshots at 12.9 sec and 14.0 sec (these gunshots had a different acoustic signature from the first five shots); and
 - a further 11 SF9 "bangs" between 21.3 sec and 34.0 sec from the start of the sequence.
108. Assuming that this analysis correctly identifies the sounds, it suggests that SF9s (each of which takes three seconds to discharge all nine of its bangs) may still have been going off 20 seconds after the last identified gunshot. If that is correct, SF9s were still being thrown at least several and as many as 17 seconds after Officers A and B had fired the last of their shots at Monis.
109. While CSO Raneri made use of this audio analysis, the primary basis for the sequence he prepared was an examination of the available film footage.
110. At the outset of that process, CSO Raneri collated footage of the EA drawn from four different sources:
- two TV news cameras and two CCTV cameras.
111. Having made some preliminary adjustments to the footage to improve its quality, CSO Raneri synchronised the timing of the four clips and combined them into one video, showing them in four quadrants of a screen at the same time. He then used this synchronised footage as the basis for a timeline of events during the EA.
112. During the inquest, at the request of Counsel Assisting, CSO Raneri prepared a further "four quadrant" video that synchronised footage of the foyer entry with footage showing events on the Phillip Street side of the café and developed an amended timeline.² Some of his key observations include:
- Monis fired two shots as officers were in the process of breaching the café doors;
 - Officer B entered the café approximately two-tenths of a second (0.2 sec) after Monis fired his second shot;
 - the Lindt welcome panel was struck by two projectiles approximately 3 seconds after Officer A entered the café;
 - about three-tenths of a second (0.3 sec) after the second projectile struck the welcome panel, a gunshot was detected in Mr Kuschel's audio analysis, with a further gunshot detected approximately a second later;
 - the first SF9 flashbang detonated in the 53 Martin Place foyer about 8 seconds before Officer B entered the café;
 - a period of approximately 20 seconds elapsed between the first flashbang detonating in the foyer and Delta Alpha's entry into the café through the foyer doors; and
 - a flashbang was thrown into the café approximately 22 seconds after Officer B first entered the café.
113. In view of the difficulty of establishing precisely when particular shots were fired by Officer A and Officer B, Crime Scene Officer Raneri, in conjunction with NSWPF Scientific Officer Lucas van der Walt, undertook a series of further investigations in relation to muzzle flash associated with the firing of an M4 carbine and a shotgun.
114. That analysis began with the recording, using a both a regular and a high-speed camera, of the

2 It ought to be noted that in addition to the analysis of CCTV and other footage conducted by Crime Scene Officer Raneri, the Inquest was assisted by various versions of footage prepared by the solicitor for the Dawson family.

flashes associated with shots fired from those weapons in a dark room. In conducting that examination, the officers determined that the duration of muzzle flash was consistently .0006 of a second (0.6 milliseconds).

115. Using that footage as a foundation, Officer Raneri conducted a further examination of the footage to see whether he could more accurately pinpoint shots fired by the TOU officers, with particular focus on Officer B's weapon. Given that the footage was captured at a rate of 15 frames per second, CSO Raneri determined that any flash visible in more than one frame of the video was unlikely to be muzzle flash from an M4. While this information was helpful in determining that some of the flashes were unlikely to be from a gun, CSO Raneri was ultimately not able to determine the timing of any additional M4 shots as a result of his muzzle flash analysis.

Ballistics

116. The investigation included a detailed examination of a number of ballistics issues, which commenced on 16 December 2014, when Scientific Officer Lucas van der Walt examined the crime scene. It also involved ballistic testing, which was carried out at the ANZAC Rifle Range and the State Police Centre.

Shots fired by Officers A & B

117. During the course of the crime-scene examination, 22 empty cartridge cases with a calibre of .223 were located. Subsequent analysis revealed that 17 of those cartridges had been fired by Officer A's M4 carbine, while five had been fired by Officer B's weapon.

Shots fired by Monis

118. Five spent 12-gauge shotgun cases were located in the café. All five of these casings originated from the same gun (meaning they could only have been fired from Monis' weapon).
119. There were four areas of shotgun-related damage that appeared to have been caused by shotgun pellets fired from within the café. That damage suggested that shotgun pellets struck the glass above the doors leading to the 53 Martin Place foyer, an area high on the southern wall of the café, and two areas slightly above and to the left of the main entrance on Phillip Street.
120. An examination of this damage suggested that in each case the shotgun pellets had travelled in an

upward direction.

121. Crime Scene Officer Walter Murphy conducted a detailed examination of Monis' shotgun and made the following pertinent observations:
- the shortening of the barrel and butt of the gun leads to a reduction in its total mass and, in turn, an increase in its recoil;
 - the removal of most of the butt means that the recoil cannot be directed effectively into the operator's shoulder. Instead, the gun needs to be hand held. The wrist is more susceptible to recoil effects than the shoulder. In combination with the shortened barrel and the lack of a front sight, this is likely to have reduced Monis' ability to aim the shotgun; and
 - the shortened barrel is likely to have led to an increase in the spread of pellets fired from the gun.
122. The testing was conducted by firing Monis' shotgun at targets from a range of distances up to 12 metres and comparing the spread of shotgun pellets to the area of damage. The tests were conducted using 12-gauge cartridges and shot sizes (No. 3, BB and SG) that matched those determined to have been used by Monis.
123. As a result of this testing, Detective (Technical) Sergeant Timothy Snow concluded that Monis was about 10 metres away from the foyer entrance of the café when he fired his first shot in the direction of escaping hostages. His second shot, which damaged the display sign and shelving on the southern wall of the café, was fired from a distance of approximately eight metres. Monis' third shot killed Tori Johnson. The areas of damage above the main entrance to the café caused by Monis' fourth and fifth shots were also fired from a distance of approximately 10 metres.

Source of bullets that struck Katrina Dawson

124. Scientific Officer Matthew Bolton examined a number of bullet fragments taken from Katrina Dawson's body during the post-mortem examination. Those fragments were lead-based. In the case of a fragment found close to Katrina's heart, a small portion of copper jacket remained attached to the lead core. The composition of that fragment was consistent with the .223 bullets fired by Officers A and B but not with the shotgun pellets fired both by police (in breaching the doors) and by Monis during the Emergency Action.

125. This analysis was supplemented by the examination conducted by Scientific Officer Elton Potgieter, who compared bullet jacket fragments taken from Katrina with bullets fired from the M4 carbines carried by Officer A and Officer B. He determined that the damage to the jacket fragments did not permit a conclusion as to which of the officer's guns the bullet or bullets had been fired from.
126. As detailed earlier, the autopsy examination of Katrina's body indicated she was struck by a number of bullet fragments. None of her injuries was caused by a stable, intact bullet.
127. Scientific Officer van der Walt gave evidence that the combined weight of the fragments that struck Ms Dawson was roughly equivalent to the weight of a single bullet. In turn, he concluded that it was "very likely" that she was struck by the fragments of only one bullet, though the possibility that she was hit by some fragments of a second bullet could not be excluded.
128. The ballistics experts also sought to identify which object or objects the bullet or bullets struck before fragmenting and hitting Katrina.
129. They concluded that the bullet/s had struck one or more of the chairs that, at Monis' insistence, had been positioned so as to create a barrier behind which he could shelter.
130. Scientific Officer van der Walt's examination revealed that four different chairs had been hit by bullets during the course of the Emergency Action. Two of those chairs were found to have blood stains on them. DNA testing showed that this blood belonged to Monis. One of the chairs, identified by reference to the exhibit label XF000654599, showed extensive blood spatter, suggesting that Monis was very close to it at the time he was shot by police.
131. According to Scientific Officer van der Walt's analysis, that chair was struck by ten intact bullets. Nine of those bullets hit the chair's back support, while one struck the rear left leg of the chair. All ten of the bullets travelled downwards after exiting the chair, from the back of the chair towards its front. Their trajectories suggested that the bullets originated from a concentrated source (i.e. they likely came from the same shooter).
132. Testing using a chair identical to those found in the café showed that when a bullet struck the soft back-support area, it tended to travel through the chair and continue in a largely intact form. On the other hand, bullets fired into the leg of the chair tended to fragment significantly. Accordingly, a detailed examination of that fragmentation was conducted using plasterboard sheets and a high-speed camera.
133. Three-dimensional modelling based on that examination indicated that bullets fired into the chair leg tended to fragment in a pattern similar to that of Katrina's wounds. Scientific Officer van der Walt therefore concluded that Katrina's fatal wounds were likely caused by the bullet that had struck the rear left leg of exhibit chair XF000654599.
134. Consistent with this conclusion, a wood fragment was discovered on the jacket Katrina was wearing when she was killed. A botanist determined that the fragment matched the wood used in the café chairs.

Viability of sniper options

135. The evidence suggested that the glass in the Seven Network building was bullet resistant. That being the case, the only potential opportunity for snipers to take a shot during the siege would have been when the snipers in the Westpac building observed Monis sitting in White Window 4 at approximately 7.40 p.m. on 15 December.
136. Accordingly, the police ballistics experts conducted a series of tests to assess the viability of such a shot.
137. First, they tested the capacity of a breaching round to penetrate glass similar to that in the Westpac building. The first test shot penetrated the glass, creating a defect approximately 25 mm in diameter and an area of "crazing" (i.e. cracking) in the glass measuring approximately 200 mm in diameter. A further test shot was fired with similar results.
138. After the test shots were fired, a TOU operative attempted to smash the glass using a breaching tool. The TOU operative was able to significantly increase the size of the defect, although this took a period of some 15–20 seconds and created further crazing in the glass surrounding it.
139. The tests of breaching methods were accompanied by a test in which a .308 calibre bullet was fired at glass similar to that in the Lindt Café windows at the same range as the snipers in the Westpac building. The glass was positioned so as to replicate the angle at which it would likely have been struck. The shot penetrated the glass and struck a target placed behind it without significant deviation.

140. Finally, the ballistics experts tested the ability of a .308 RUAG Swiss P armour-piercing round (one of the rounds possessed by the snipers in the Westpac building) to penetrate glass similar to that in both the Westpac building and the Lindt Café. In this test, the armour-piercing round penetrated the Westpac glass but immediately fragmented. None of the fragments even made contact with the Lindt Café glass, which was positioned 49.5 metres down the firing range.

Terrorism experts

141. The events of the siege raised a number of questions surrounding whether the siege was a terrorist incident. In an effort to address those questions, a panel of four experts was called to give evidence:

- Professor Bruce Hoffman, the Director of the Centre for Security Studies at the Edmund A. Walsh School of Foreign Service, Georgetown University;
- Professor Greg Barton, the Chair of Global Islamic Politics at Deakin University's Alfred Deakin Institute for Citizenship and Globalisation;
- Dr Clarke Jones, the Co-Director of the Australian Intervention Support Hub at the Australian National University; and
- Associate Professor Rodger Shanahan, a Research Fellow at the Lowy Institute for International Policy, in Sydney.

142. The question of whether Monis was a terrorist was closely connected to questions concerning whether and how Monis had come to be radicalised. In order to address these questions, the inquest called Dr Kate Barrelle, a clinical psychologist specialising in the processes surrounding radicalisation and the disengagement of radicalised persons from violent extremism.

143. The experts' evidence is considered in Chapter 10.

The U.K. policing experts

144. From the outset, it was apparent that the inquest would need independent expert evidence in relation to the policing of terrorist sieges. As there had previously been no such incident in this country, international experts were sought.

145. Among the countries whose police organisations had dealt with terrorism and sieges, the United Kingdom was the most culturally aligned with

Australia. Accordingly, with the assistance of the then Chief Coroner of England and Wales, Judge Peter Thornton QC, a team of appropriately qualified and experienced experts was assembled:

- Deputy Chief Constable Simon Chesterman, the U.K. National Police Chiefs' Council lead on armed policing;
- Chief Superintendent Steve Whitton, previously the Head of Firearms and Specialist Operations and Command Training for Sussex Police and the lead for delivery of National Firearms Strategic Command Training;
- Temporary Chief Superintendent Kerrin Smith, a tactical firearms commander with regional, national and international hostage negotiation responsibilities;
- Chief Inspector Trevor Clark, responsible for the Metropolitan Police Service Counter Terrorist Specialist Firearms Officers capability and specialist Tactical Firearms Command Cadre; and
- Inspector Nigel Kefford, National Armed Policing, High Threat and CT Interoperability team and National Siege Project manager.

146. Temp Chief Supt Smith, Chief Supt Whitton, Chief Insp Clark and Insp Kefford came to Sydney for a week in January 2016. While they were in Sydney, they visited the Lindt Café and surrounds.

147. Having visited the site, and reviewed all of the relevant evidence available to the inquest, the U.K. experts provided their views on a range of issues relevant to the tactical aspects of the management of the siege. Those views were first provided in a report dated 14 March 2016. Some supplementary questions were addressed in a second report dated 8 July 2016.

148. Following receipt of the U.K. experts' first report, representatives of the Dawson and Johnson families jointly briefed another negotiation expert, Dr Andrew Brown, who also provided a report. Prior to his retirement, Dr Brown was Deputy Head of Leadership Development Delivery for Police Scotland. He had served as a negotiator in a range of international and domestic hostage negotiations from 2001 onwards.

149. In addition to these reports, Deputy Chief Constable Chesterman and Inspector Kefford gave oral evidence to the inquest concerning the general policing and tactical issues arising during the siege while Temp Chief Supt Smith and Dr Brown gave concurrent evidence concerning police negotiations.

150. A brief summary of the key conclusions of the U.K. experts and Dr Brown is set out below under the broad headings of negotiation issues, tactical issues and command issues. Further details of their opinions and the extent to which these are accepted as the basis for findings of fact are provided in Part IV of this report.

Negotiation issues

Monitoring progress

151. The U.K. experts concluded that the *“initial approach to establish containment of the stronghold and dialogue with Monis was entirely appropriate”*.
152. However, they also observed that it is necessary for the “contain and negotiate” strategy to be subject to continuous review. As part of that process, police negotiators and commanders should consider whether there has been any meaningful progress in negotiations.
153. The experts considered that in the response to the Lindt Café siege, this had not been done adequately.
154. Short of surrender by the hostage taker or the release of hostages, progress in a siege negotiation is not easy to calibrate. In many cases, the successful negotiation of a siege will proceed via a number of incremental steps that occur slowly over time.
155. Both Dr Brown and Temp Chief Supt Smith stated unequivocally that negotiations did not progress during the Lindt Café siege.
156. Consequently, both experts considered that negotiators ought to have implemented alternative strategies directed at securing Monis’ engagement with them. They also suggested that the Negotiation Coordinator should have robustly evaluated the progress that was being achieved through the negotiation strategies employed. That evaluation should, in their view, have led negotiators to advise the Police Forward Commander that other means of resolving the siege might need to be considered.

Impact of the National Counter Terrorism Plan

157. The process of negotiating with a potential terrorist actor is subject to the terms of Clause 92 of the National Counter Terrorism Plan 2012, which commits to resolving acts of terrorism via negotiation but prohibits the making of *“concessions in response to terrorist demands”*.
158. The U.K. experts confirmed that the U.K. position in relation to demands made by terrorist actors is similar to that expressed in Clause 92. However, both Temp Chief Supt Smith and Dr Brown pointed out that the U.K. government policy in this respect is not intended to prevent engagement with a hostage taker around a demand, even if acceding to that demand would violate the policy.
159. That distinction does not seem to have been fully appreciated by the negotiators involved in responding to the Lindt Café siege. Even those demands that would clearly contravene government policy could properly be the subject of discussions with a view to encouraging engagement or, potentially, providing a “reality check” to the hostage taker. Dr Brown observed in evidence that *“every demand is an opportunity to open dialogue with a hostage taker”*.
160. In the opinion of the U.K. experts, numerous opportunities to engage with the hostage taker were not adequately explored by the negotiators.

Long Range Acoustic Device

161. A further means of achieving direct communication with Monis potentially open to police was a Long Range Acoustic Device (**LRAD**), which police could have used to “shout” messages so they could be heard by those in the café. As noted in Chapter 7, police commanders started considering whether the LRAD would be appropriate for use from at least 7.08 p.m.
162. By sometime between approximately 9.30 and 10 p.m., negotiators had prepared the LRAD for use. However, it was never deployed. Dr Brown observed in his report that the LRAD ought to have been used.

Messaging through media and social media

163. During the course of the siege, a number of press conferences were held involving executive officers of the NSWPF and/or the Premier of NSW. The negotiation experts gave evidence that messages delivered during those press conferences could have been deliberately crafted in an effort to influence Monis’ behaviour. They expressed a view that such a strategy ought to have been considered.
164. Further to such approaches, it might have been sensible for police to attempt to develop messages to Monis, for example, via his children or his solicitor, which could then have been communicated to him or others in the stronghold via social media. Such messages could have been used to encourage him to engage with police in some other way.

Religious beliefs

165. Dr Brown suggested that negotiators could have sought to pay respect to Monis' religion or engage his belief that he was an Islamic scholar by, for example, trying to give him an opportunity to pray or to explain his religious beliefs to them.

Use of third parties

166. Dr Brown and Temp Chief Supt Smith considered that the use of a third party to attempt to communicate directly with Monis should have been more actively assessed. Potential third-party intermediaries who volunteered to attempt to do this included two of Monis' lawyers and the Grand Mufti of Australia.

Information and record keeping

167. The negotiation experts drew attention to a number of key deficiencies in the records kept by negotiators during the siege. Those deficiencies may have contributed to some of the other failings in the negotiation process.

Personnel issues and resourcing

168. A number of senior negotiators involved in the siege worked very long hours. Temp Chief Supt Smith expressed concern about this. She also expressed strong reservations about the fact that the Negotiation Commander, Graeme, was called upon to provide advice to other negotiators in relation to unconnected incidents while the siege was unfolding.

Tactical issues

Sniper options

169. In their first report, the U.K. experts outlined the appropriate process for determining whether a police sniper should attempt to shoot a hostage taker. They noted that the factors relevant to that decision included the number and location of hostage takers; the number and location of hostages; the threat posed by the hostage taker at the time of the shot being taken; the likelihood that an incapacitating shot would be achieved; and the law regarding the use of lethal force.

170. The experts observed that decisions around whether to attempt a pre-emptive shot at a hostage taker will rarely be straightforward, but they are even more complicated where a siege occurs in an urban environment. Such environments can greatly impinge upon snipers' ability to take action against

a hostage taker. In particular, it can be difficult for snipers to shoot accurately through glass.

171. The experts also noted that the type of ammunition chosen for use by snipers also affects the extent to which bullets are likely to deflect and/or fragment upon impact with glass. Specialist ammunition may reduce these effects, but no bullet available to law enforcement agencies is capable of penetrating all types of glass without deflection or fragmentation.

172. The evidence of the U.K. experts makes clear that it will almost never be possible for a police sniper to take a shot in an urban environment without significant risk. Accordingly, a shot will almost invariably need to be accompanied by an immediate tactical response to address the anticipated reaction of the hostage taker (assuming he or she is not successfully incapacitated). That tactical response may take the form of a further shot by the sniper, an entry by TOU officers, or both.

Viability of sniper positions

173. Having reviewed each of the locations in which snipers were positioned around the Lindt Café, the U.K. experts observed in their report that those locations would not have allowed snipers to take a shot at Monis unless they first took action to breach the glass (e.g. with a breaching round or a tool of some kind). Such action would have risked alerting Monis to their presence.

174. This was confirmed by Deputy Chief Const Simon Chesterman when giving evidence. In his view, given that all of the snipers were behind glass that had not been breached, there was no reasonable opportunity for any of them to take a shot at Monis.

175. The U.K. experts expressed the view that the snipers did not fully explore the viability of the positions they chose and did not adequately reassess those positions as the evening wore on.

Sniper coordinator

176. The command structure put in place to respond to the siege did not follow the usual template by including a sniper coordinator. The appointment of such a coordinator might, according to the U.K. experts, have addressed some of the shortcomings they identified in the management of the sniper teams.

Approval and authorisation of Deliberate Action

177. The U.K. experts observed that "the DA provides

the best chance of success and combines elements of surprise, distraction, disorientation and some mitigation in respect of the potential PBIED [person-borne improvised explosive device] detonation”.

178. As noted in Chapter 7, a DA plan was never approved by police commanders during the siege. Neither Deputy Chief Const Chesterman nor Insp Kefford could see any rational basis for this. The risk of civilian casualties, including from a potential PBIED, was not a valid reason for deciding not to approve the DA plan.
179. In broad terms, Deputy Chief Const Chesterman and Insp Kefford maintained that the DA plan, as prepared, was “workable”, was as good as it was going to get, and should have been approved.
180. Deputy Chief Const Chesterman pointed out that it was much more difficult to determine whether, if a DA plan had been approved, it ought to have been authorised and initiated.
181. However, he stated that, typically speaking, the increased planning and rehearsal associated with a DA, as well as the timing-related advantages of a Deliberate Action mean that a DA will be a lower-risk proposition than an EA.
182. Additionally, Deputy Chief Const Chesterman observed that a DA would be the “preferred option” for mitigating the threat posed by Monis’ asserted IED; such an approach could potentially, for example, give officers a better opportunity to surprise Monis in a way that prevented him from detonating any IED.
183. However, Deputy Chief Const Chesterman sought to emphasise that while the DA was a lower-risk option, it was not a low-risk option. Ultimately, the U.K. experts did not reach the firm conclusion that a DA should have been authorised and initiated.
184. Nevertheless, their evidence does suggest that the possibility of authorising and initiating a Deliberate Action should have received much greater consideration than it did. The fact that the DA plan was never even approved prevented that process from occurring.

Covert entry

185. As the investigation progressed, questions emerged about whether police should have considered attempting to covertly enter the café, either as part of a Deliberate Action or in order to facilitate hostage escapes. The U.K. experts stated emphatically that making such an entry for the purpose of

facilitating hostage escapes would not have been practical. However, in their view, it might have been possible for police to covertly enter the café in order to confront—and potentially incapacitate—Monis as part of a DA plan.

Emergency Action triggers and timing

186. A key question for the inquest was what trigger/s should have prompted an Emergency Action and whether they were met. The opinions of the U.K. experts were sought on these issues.
187. In preparing their original report, the U.K. experts assessed the EA trigger by reference to the form in which it was most commonly expressed in the documentary evidence, that is, “death or serious injury to a hostage”. As thus expressed, the trigger was in their view “overly restrictive” in that it “prevented police commanders from considering the threat to the lives of the hostages after the first shot was fired”.
188. Various NSWPF commanders gave evidence to the inquest that the EA trigger was not limited to actual death or serious injury but extended to situations where serious injury or death appeared to be imminent. On the basis of that expanded description of the EA trigger, Deputy Chief Const Chesterman and Insp Kefford were asked whether an Emergency Action should have been initiated prior to the murder of Tori Johnson at 2.13 a.m.
189. Deputy Chief Const Chesterman observed that the firing of the first shot would not necessarily have led to an EA, but he said an EA should absolutely have been considered at that point; that it would have been justifiable; and that in his view it should have been initiated.
190. Further, Deputy Chief Const Chesterman was unequivocal that if the fact of Tori Johnson kneeling had been drawn to his attention, he would have called an EA.
191. Deputy Chief Const Chesterman also indicated that the firing of the second shot and the escape of Fiona Ma should have elicited the initiation of the EA.

Execution of EA

192. During the course of their examination, Deputy Chief Const Chesterman and Insp Kefford were shown a number of pieces of video footage of the emergency action, replayed at full speed and in slow motion. As part of that process, they were asked a number of questions about the actions of police during the Emergency Action.

Number of shots fired

193. In relation to the number of shots fired, Deputy Chief Const Chesterman observed that it is possible to fire 17 shots very quickly and that it was “*unsurprising*” that Officer A continued firing until “*the threat had been neutralised*”.

194. In the view of Deputy Chief Const Chesterman, an officer is (in situations such as the EA) justified in continuing to fire until the target is incapacitated. He did not criticise Officer A for firing 17 shots at Monis.

Use of distraction devices

195. The U.K. experts stated that too many distraction devices were used.

Synchronisation of entry teams

196. Insp Kefford stated that steps could have been taken to better facilitate the simultaneous entry of officers from different teams. He observed that he “*would have expected the Charlie and Delta team to have entered quicker than they did*” and stated that he “*would be disappointed with a 12-second delay on an entry team*”.

Choice of weapon, ammunition and other equipment

197. The U.K. experts agreed with Inspector Richard Steinborn, the commander of the NSWPF Armoury, that the weapons used during the siege were appropriate for the situation.

198. The U.K. experts stated that the .223 (5.56 mm) calibre bullets used by the NSWPF were also appropriate. However, they questioned whether a different *type* of bullet might have been preferable. They concluded that a tactical bonded bullet might have been more suitable for use by the NSWPF Tactical Operations Unit than the soft-point ammunition they employed during the siege, chiefly because tactical bonded rounds carry a reduced risk of fragmentation. In this respect, the U.K. experts echoed the view expressed by James Buford Boone, an American ammunition expert, that tactical bonded ammunition is more suitable for use by law enforcement units such as the TOU.

Command issues

Involvement of executive officers

199. The key division in command relevant to the

inquest was that between the executive officers of the NSWPF and the commanders and officers at the POC and in the PFCP.

200. Deputy Chief Const Chesterman observed that it would be very surprising if executive officers such as the Commissioner of Police were not taking a “*very active*” interest in events, but such officers should not seek to give directions relating to operational matters.

201. He also expressed the view that at time it appeared the senior officers in the POC were to a degree making tactical rather than purely strategic decisions, contrary to the command and control model under which the operation was being managed.

202. The U.K. experts also expressed concern that the PFCP may have been over burdened with responsibilities for matters other than those directly connected with the resolution of the siege.

Access to electronic logs and surveillance device product

203. The information management issues identified as problematic by the U.K. experts included electronic log access and access to surveillance device product.

204. The problems associated with the surveillance device monitoring process were compounded by the fact that the responsibility for listening to and interpreting the only usable product from the surveillance devices was performed by a single NSWPF officer.

Management of the media

205. Deputy Chief Const Chesterman and Insp Kefford observed that the issue of the relationship between police and the media has come to the fore in the wake of such events as the 2008 terrorist attacks in Mumbai and the 2015 attack on the Bataclan concert hall in Paris. Investigations following both attacks indicated that media reporting may have allowed terrorist actors to learn of police positions during the course of their operations.

206. As to how to approach media relations in this respect, DCC Chesterman noted that police in the U.K. had not sought to mandate conduct by media agencies. Rather, they have attempted to arrive at cooperative arrangements whereby the media might, in some circumstances, delay the transmission of reports or images of certain events.

Part IV: Analysis, conclusions and recommendations

10 A terrorist incident?

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Introduction

1. Soon after taking control of the café, Monis declared that his actions were an attack on Australia by Islamic State. The siege was treated as a terrorist incident by those responding to it, and described that way by domestic and international media.
2. Yet whether the siege was in fact a terrorist incident is a topic on which views differ. Some may even regard labelling the siege one way or the other as an otiose exercise, given that Monis was clearly malevolent and dangerous.
3. However, it is instructive to consider whether the siege constituted a terrorist incident, and whether Monis was a terrorist, because this affects an assessment of the response to the siege and also informs an analysis of Monis' motives and purpose in initiating the siege.
4. The definition of terrorism may vary depending on context, but, as noted in Chapter 4, it is generally recognised that terrorism essentially means violence or the threat of violence in pursuit of political change; the motivation may be ideological, religious, or otherwise.
5. The key distinction between terrorism and other acts involving violence or the threat thereof is the purpose of the protagonist. A terrorist attack is specifically designed to have far-reaching psychological effects beyond the immediate victim/s or object of the attack. It is meant to intimidate a wider "target audience" than the immediate victims—an entire country, a government, or public opinion in general. Through the publicity generated by their violence, terrorists seek to obtain the leverage, influence and power they otherwise lack to effect political change on either a local or an international scale.¹
6. The first part of the definition of terrorism—violence or the threat of violence—is unquestionably satisfied in the case of the siege. Monis terrorised the hostages and threatened their lives with a shotgun and with claims that he had an IED. He executed Tori Johnson. He also caused terror and extreme distress to the families of the hostages, and his actions created widespread fear among residents of Sydney and beyond.
7. Determining whether the siege was a terrorist incident therefore turns on whether Monis undertook it in pursuit of political change or a political objective.
8. In answering that question, it should be observed that the justice system is regularly called upon to reach conclusions about a person's purpose, particular in respect of criminal offences where intent must be proved. This can rarely be established by direct evidence. Instead, inferences must be drawn from actions, statements and circumstances. The present case is no exception. Even though Monis himself declared that he was staging an attack by Islamic State on Australia, his words must be scrutinised along with the other relevant evidence in determining whether he was pursuing political change.
9. Because Monis made specific references to IS, it is informative (though by no means determinative) to consider the modus operandi of IS before turning to review the aspects of Monis' conduct that are relevant in assessing whether he had a political purpose.

Islamic State style terrorism

10. The objectives of Islamic State are referred to in Chapter 4.
11. There is no evidence that Monis attempted or had any direct or indirect contact with IS. In this sense, it is not possible to describe him as an Islamic State operative as that term is conventionally understood.
12. However, one feature of Islamic State is its flexible and fluid organisational structure. It recruits widely—among groups ranging from longstanding Muslims to recent converts—and communicates with its international audience by adept use of the internet and social media, including its online magazine, *Dabiq*.
13. On 22 September 2014, the then main spokesperson for IS, Abu Muhammad al-Adnani, called upon Islamic State supporters to carry out independent, self-directed acts of violence against the

Was the siege a terrorist incident?

6. The first part of the definition of terrorism—violence or the threat of violence—is unquestionably satisfied in the case of the siege. Monis terrorised the hostages and threatened their lives with a shotgun and with claims that he had an IED. He

¹ Hoffman, B (2006) *Inside Terrorism*, Columbia University Press, pp.40–41.

enemies of Islamic State in their own countries.²

14. The October 2014 issue of *Dabiq* quoted this call to arms, along with an exhortation which included the following:

every Muslim should get out of his house, find a crusader [a Christian or other non-Muslim], and kill him. It is important that the killing becomes attributed to patrons of the Islamic State who have obeyed its leadership. This can easily be done with anonymity. Otherwise crusader media make such attacks appear to be random killings.

15. An expert called in the inquest, Professor Bruce Hoffman of Georgetown University, is regarded internationally as an expert in terrorism and counterterrorism. He observed that Islamic State resorts to tactics and methods that are extreme even by terrorist standards, such as their campaign of webcasting videos of brutal killings by beheading and other means.
16. Furthermore, Professor Hoffman noted that some people have answered al-Adnani's call in their own countries and on their own initiative, whereas others have been explicitly guided by Islamic State operatives (either in person or over the internet). Islamic State clearly seeks to motivate and inspire individuals to commit acts of terrorism either directly on IS's behalf or in concert with and support of IS's ideology and broader political goals.
17. Associate Professor Rodger Shanahan, an expert in Middle Eastern security issues and Islamic terrorism of the Australian National University and Research Fellow of the Lowy Institute, also gave evidence. He observed that it is hard to define the "brand" of terrorism practised by Islamic State, other than to say that it is undertaken in furtherance of an extreme form of radical Salafi³ Islam and that it is brutal and intolerant.

18. Various of the experts who gave evidence at the

2 "You must strike the soldiers, patrons, and troops of the [unbelievers]. Strike their police, security and intelligence members, as well as their treacherous agents. Destroy their beds. Embitter their lives for them and busy them with themselves. If you can kill a disbelieving American or European—especially the spiteful and filthy French—or an Australian or a Canadian, or any other disbeliever from the disbelievers waging war, including the citizens of the countries that entered into a coalition against the Islamic State, then rely upon Allah, and kill him in any manner or way however it may be. Do not ask for anyone's advice and do not seek anyone's verdict. Kill the disbeliever whether he is civilian or military, for they have the same ruling. Both of them are disbelievers."

3 Salafism is a movement within Sunni Islam which advocated a return to the traditions of the "devout ancestors" (the *salaf*).

inquest provided examples of IS-inspired terrorist attacks in recent years, including:

- an attack at the offices of *Charlie Hebdo* magazine in Paris, France, on 7 January 2015;
- an attack at a kosher supermarket in Paris on 9 January 2015;
- the hit-and-run killing of a Canadian soldier near Montreal on 20 October 2014;
- an attack at a police station in Melbourne on 23 September 2014;
- an attack at the Jewish Museum in Brussels on 24 May 2014; and
- the murder of a British soldier in London on 22 May 2013.

Since those experts gave evidence, there have of course been other tragic events in France and other countries.

Monis' conduct suggestive of terrorism before the siege

19. Against that background, it is convenient to turn to Monis' conduct—particularly his political activities—in the months before the siege. This gains significance on reflection and is suggestive of Monis having a political purpose during the siege.
20. On 27 June 2014, Monis attended a conference held by Hizb ut-Tahrir, and on 18 September he attended a protest organised by Hizb ut-Tahrir at Lakemba, New South Wales, in opposition to Operation Appleby, the police counterterrorism operation referred to in Chapter 7.
21. Various of the terrorism experts who gave evidence noted that Hizb ut-Tahrir is an Islamic extremist group which, for over 50 years, has campaigned internationally for a "Caliphate" to replace regimes in "Islamic lands" across the Middle East, North Africa and Central Asia that the group considers are insufficiently Islamic, un-Islamic, corrupt or otherwise illegitimate.
22. Hizb ut-Tahrir is not a proscribed terrorist organisation in Australia and is not associated with IS. Indeed, Hizb ut-Tahrir denies the legitimacy of Islamic State, regarding its "Caliphate" as not having been established in the correct Islamic way. Conversely, Islamic State considers Hizb ut-Tahrir an impediment to its own objectives and strongly opposes it.
23. Nevertheless, the radical doctrines of Hizb ut-Tahrir have been adopted by *jihadi* groups such as Islamic

State. Professor Hoffman observed that many former members of Hizb ut-Tahrir have gone on to join violent groups, and in this way Hizb ut-Tahrir may serve as a gateway or first step in radicalisation towards violence.

24. Although Monis' association with Hizb ut-Tahrir itself is not suggestive of terrorism, his attendance at the conference and then the protest is suggestive of a shift in his political views towards an alignment with more radical doctrines.
25. On 7 October 2014, Monis wrote to the Federal Attorney-General asking whether it was legal to contact "Caliph Ibrahim". This was a reference to the founder and leader of IS, Abu Bakr al-Baghdadi (real name Ibrahim Awad Ibrahim al-Badri).
26. In doing so, Monis exhibited a familiar behavioural pattern of writing controversial letters to holders of high office. Again, this letter in itself is not necessarily suggestive of terrorist intentions, but it does suggest a shift in Monis' thinking and perhaps an increasing identification with radical interpretations of Islam.
27. On 17 November 2014, Monis posted on his website a statement in Arabic which can be translated as:

I pledge my allegiance to God, his messenger and the Caliph of the Muslims. Peace be upon the Commander of the faithful and the Caliphate of the Muslims, the Imam/preacher of our time.
28. A pledge of allegiance (*bay'ah*) is a traditional tribal way of swearing fealty to a leader. Islamic State spokesmen have called on all Muslims to give *bay'ah* to "Caliph Ibrahim", although there is no prescribed way of doing so. Monis' statement appears to have been a pledge of allegiance to the Islamic State "Caliphate".
29. Shortly thereafter, Monis announced on his website: "*I used to be a Rafidi, but not anymore. Now I am a Muslim, Alhamdu Lillah.*" Rafidi means rejectionist; it is a term normally used by Salafi groups to describe Shi'a Muslims. This announcement by Monis appears to be an indication of his conversion from Shi'a to Sunni Islam, bringing him into alignment with Islamic State.
30. Associate Professor Mohamad Abdalla, the head of Islamic Studies at Griffith University, gave evidence that there is no particular ritual involved in converting from a Shi'a to a Sunni position. He considered that it was not possible to determine Monis' motives for converting, since Islamic State

has committed atrocities against both Shia and Sunni Muslims.

31. However, the timing of this announcement—soon after Monis' letter to the Attorney-General and his pledge of allegiance to the IS "Caliphate", and not long before he would stage the siege in the name of Islamic State—points strongly toward Monis having a particular motive in his claimed Sunni conversion: namely, so as to align his faith with that of IS.
32. Finally, the day before the siege, on 14 December 2014, Monis posted on his website a photograph of the blood-stained bodies of dead children accompanied by a message, quoted in Chapter 1, that referred to Muslims fighting the oppression and terrorism of the United States and its allies, including the U.K. and Australia.

Monis' conduct suggestive of terrorism during the siege

33. The following aspects of Monis' behaviour during the siege suggest his violence was designed to achieve political outcomes.
34. Monis' message, expressed multiple times and in various ways throughout the siege, was summed up by him as follows:

The brothers of the Islamic State have told me that this is an official attack by the Islamic State on Australia. The politicians are not telling the intentions. I want to go on national radio and say that this is an official attack by Islamic State on Australia. I want to go on live radio and have a live debate with Tony Abbott and I want an Islamic State flag.
35. He also said to hostages: "*If you say you support Islamic State and work for its cause then you're a part of Islamic State.*"
36. Monis ordered the hostages to display the black *shahada* flag in the window of the café, and he wore a vest, headband and wristband bearing the text of the *shahada*.
37. The *shahada*, typically written in Arabic, is the basic Islamic statement of faith. It translates as "*There is no god but Allah, and Muhammad is the messenger of Allah.*"⁴
38. This statement of faith is shared by all Muslims whatever their particular traditions or beliefs.

4 Another translation to similar effect is "There is no god but Allah and Muhammad is his prophet," or "... is the prophet of Allah."

Many Muslim households have a plaque or banner bearing the *shahada*. The Kingdom of Saudi Arabia incorporates the *shahada* in its flag, as does the Sunni fundamentalist group Hamas.

39. Professor Greg Barton of Deakin University, who has expertise in Islamic extremism and terrorism, also gave evidence at the inquest. He observed that having or displaying a *shahada* banner or flag is not itself evidence of extremist belief. Nevertheless, in recent decades, *jihadi* groups such as al-Qaeda and Islamic State have taken to flying a black banner with the *shahada* in white as a symbol of their identity. The format of Islamic State's *shahada* flag is distinctive, in that the second part of the text, "Muhammad is the messenger of Allah,"⁵ is printed in black letters against a white circle. The IS flag's black colour also has significance: Muhammad's war banner was black, and Islamic religious texts also suggest that Islamic fighters will carry a black flag to the final, apocalyptic clash between Islam and Christianity.
40. After the media reported during the early hours of the siege that Monis' *shahada* flag was not an Islamic State flag, Monis repeatedly demanded that he be provided with one. Associate Professor Shanahan cited Monis' failure to bring the "correct" Islamic State flag as an example of how the siege differed from prior IS-inspired terrorist attacks.
41. By contrast, Professor Hoffman described Monis' demand for an Islamic State flag as one of several demands which were clearly political in nature and intention.
42. Professor Barton concluded that it was likely Monis believed the *shahada* banner would indicate a connection to IS/Jihadi groups, and that he probably intended to imply a connection with IS. However, since he did not have an Islamic State flag, he had to make do with the generic *shahada* banner.
43. Although displaying the *shahada* does not itself indicate extremist beliefs, the evidence strongly suggests that Monis' purpose was to convey a political message, namely that the siege was inspired by Islamic State.
44. Apart from the IS flag, the other two demands Monis made repeatedly were that politicians speak the truth about his motivation and acknowledge that the siege was an attack by IS on Australia; and that Prime Minister Tony Abbott take part in a live debate with him on national radio.
45. These demands share a political tone and during the course of 15 December, Monis told the hostages he was staging the siege because "Tony Abbott declared war on ISIS" and "Tony Abbott doesn't know the motivation for ISIS, there is a motivation but Tony Abbott doesn't know the motivation." He also said words to the effect "Australia is a beautiful country, beautiful people but Australia should never have gone to war"; and:
- This is war. How many people died in 9/11? Three thousand? Five thousand? How many have died in Iraq? A hundred thousand? A million? It's going to take us a long time to reach there.*
46. During the siege Monis sought to maintain anonymity. At no time did he announce his name or identity, and he responded negatively when negotiators began using his name during phone calls, telling hostages to hang up. This desire for anonymity was in marked contrast to the publicity-seeking behaviour he had engaged in on numerous occasions in the past when protesting about political matters.
47. This behaviour also accorded with IS's exhortation in the October 2014 issue of *Dabiq* to act with anonymity. It represents a further aspect of Monis' conduct that was in alignment with the tactics urged by Islamic State.
48. Other aspects of Monis' conduct during the siege which suggest a political objective were:
- his choice of venue for the siege, in the heart of the Sydney CBD in proximity to the NSW Parliament, Sydney Hospital, the NSW Supreme Court, the Reserve Bank, a major Cenotaph and War Memorial, and the Channel 7 building;
 - his energetic pursuit of widespread media attention during the siege, including his demands directed to expanding media coverage of the event as an Islamic State attack, and his use of social media in conjunction with hostage videos to maximise his impact and promulgate his demands.
49. Islamic State "claimed" Monis' siege in its December 2014 issue of *Dabiq*. Although this claim is of questionable significance because it occurred after the siege, Professor Hoffman noted that Islamic State does not arbitrarily claim the acts of anyone asserting *jihadi* objectives, but reserves its avowed affiliation for those who have some degree of connection to IS.

5 The words in the circle can also be read as "Allah[s] Messenger, Muhammad".

50. By contrast, Associate Professor Shanahan gave the post-event claim by Islamic State minimal weight. He observed that IS claims attacks made in its name around the world as part of a strategy of portraying itself as an organisation with global reach and the ability to influence the broader Muslim community.

Monis' personal motivations and the "last straw" theory

51. Dr Clarke Jones, from the Australian National University, who has expertise in extremism, radicalisation, and terrorism, provided a report to the inquest in which he concluded that the siege was not a terrorist incident but a criminal hostage situation, perpetrated by a desperate man trying to be heard. He described Monis as a violent man with significant mental health issues who was seeking attention and recognition.

52. Associate Professor Shanahan expressed a similar view, concluding that Monis' personal grudges were the real motivating factor behind the siege and his violence. He did not consider that Monis' actions were consistent with an intention to advance a political, religious or ideological cause, but rather constituted the actions of a person with mental health issues acting out a deadly fantasy in support of personal grudges against the Australian government and media.

53. In support of this conclusion, Associate Professor Shanahan pointed to aspects of the siege which he regarded as inconsistent with Monis having a political motivation, including:

- the café did not have political or religious significance, but its location was opposite Channel 7, a place of personal significance to Monis;
- a hostage siege is rare in attacks involving Islamic radicals, and the siege was drawn out over 17 hours;
- Monis' aim did not appear to be to kill people;
- the demands made by Monis appeared to reflect his own personal desires rather than to transmit any broader religious, political or ideological message or pressure the government to take action;
- the siege reflected Monis' history of attention-seeking behaviour;
- Monis had been diagnosed variously with high-functioning chronic schizophrenia and depression; and

- there is no indication that Monis was in contact with a representative of IS.

54. Further, Associate Professor Shanahan pointed to the growing intensity of Monis' legal situation in the latter part of 2014, specifically the murder charges and the sexual and indecent assault charges, which would likely result in long jail sentences had he been convicted. Also, on 12 December 2014, the High Court had rejected Monis' application to transfer his appeal against his conviction and sentence for the postal offences to that court.

55. For completeness in considering this "last straw" theory, one must add Monis' failures in the Family Court to gain custody of his children. In October 2014, full custody was granted to the children's maternal grandparents. Shortly thereafter, Monis filed an appeal that was yet to be heard.

56. Although there can be no doubt that Monis had particular life stressors in the weeks and months leading up to the siege, this does not account for the politicised choices he made in staging the siege. Nor does it account for the fact that Monis did not mention his personal concerns at any time during the siege. His demands were not personal. The surveillance device does not capture Monis referring to any personal problems or pressures. And no evidence given by the hostages mentions Monis voicing a personal grievance.

57. Dr Kate Barrelle, of the Global Terrorism Research Centre at Monash University, a consultant clinical and forensic psychologist with expertise in radicalisation, provided the inquest with a report. She considered that the "last straw" theory has reasonable merit and cited the escalation of events in Monis' life, particular his criminal charges. However, she suggested that Islamic State's rhetoric may have resonated with Monis because of his personal problems and his poor mental health. Furthermore, she said that the *"tidal wave of issues coming towards him"* might have prompted him to take action in an effort to be heard while he still could (i.e. before he was imprisoned).

58. Professor Barton arrived at a similar conclusion. He observed that Monis appeared to be motivated by a deeply narcissistic desire for attention. In his view, although Monis was driven primarily by his own inner demons, he also appears to have persuaded himself that he could find some kind of redemption in responding to the call from Islamic State. Professor Barton acknowledged that in isolation this would be an insufficient basis for concluding that the siege constituted a terrorist attack. However,

given Monis' long-held political views and activism, combined with his increasingly radical religious views, he found it reasonable to recognise the siege as a terrorist attack by a lone actor.

59. Professor Hoffman also expressed the view that the siege was a terrorist incident. In doing so, he noted that the violent and threatening nature of the siege was beyond doubt. He considered that Monis evidenced a clear political motivation by claiming to represent Islamic State and asserting the siege was a terrorist attack. Professor Hoffman also regarded the location of the café as politically significant, and identified indicators that the siege was premeditated and planned (e.g. Monis' possession of a weapon and the black *shahada* flag). Furthermore, Professor Hoffman placed weight on the fact that Monis offered to exchange hostages for demands that were clearly political in nature and intent.
60. In Professor Hoffman's view, the fact that Monis wanted to engage directly with Australia's Prime Minister made it clear that his objectives were intrinsically political in character and substance. He observed that Monis arguably conceived and orchestrated the siege with a view to obtaining media attention and generating publicity for himself and his cause (that is, his asserted affinity with IS) and used the event to issue demands in the expectation that his violent act would compel authorities to negotiate with him and accede to those demands.
61. Professor Hoffman made the important point that while Monis might not have been acting at the direct orders of Islamic State or following implicit instructions from that organisation, he appears to have been motivated and perhaps even inspired by Islamic State through al-Adnani's widely disseminated statement of September 2014. The siege, and Monis' assertion of an affiliation to Islamic State, arguably aligned with al-Adnani's call to violence.
62. Care must be taken in accounting for Monis' mental health when assessing whether he was a terrorist.
63. As stated by Professor Hoffman, except in limited circumstances, mental health is not a factor that can be usefully employed to exclude someone as a terrorist.
64. The siege was no less a terrorist incident by reason of the fact that, as diagnosed by Dr Phillips, Monis had a severe mixed form of personality disorder with paranoid elements and particularly antisocial and narcissistic elements (see Chapter 1).
65. Monis' personality disorder was evident in his long history of attention-seeking behaviour, self-aggrandisement, and radical political beliefs expressed through his protests, letter writing, and his posts on various social media platforms.
66. However, as Dr Barrelle observed, Monis' radicalisation and his personality disorder cannot be disentangled. To separate the two creates a false dichotomy. Professor Barton echoed this view.
67. Dr Michele Pathé, a forensic psychiatrist, provided evidence on the topic of fixated persons—individuals with intense fixations, in the form of obsessive preoccupations with a person or cause, pursued to an extreme or irrational degree. Dr Pathé noted that there is growing recognition of the nexus between lone-actor terrorism and fixated loners, and that the two types are not mutually exclusive. In her view, Monis was a fixated person.
68. Monis' personality disorder provides an explanation for aspects of his conduct during the siege (such as his superficial expressions of concern for the hostages) that might otherwise be perceived as inconsistent with the behaviour of a terrorist.
69. One particular aspect of the siege said to be at variance with the "typical" style of an Islamic State attack described above is that Monis did not initially commit a murder or murders. The siege continued for 17 hours before he murdered Tori Johnson.
70. As noted above, Associate Professor Shanahan regarded this fact, among others, as indicating that the siege was not a terrorist incident.
71. However, Professor Hoffman offered a contrary perspective. He noted that Monis was a lone gunman and that while the siege was premeditated, once it had begun it was difficult for Monis to control. In his view, only if Monis had freed the hostages and they had no longer feared for their lives might the siege have been defined differently.
72. Professor Barton made the point that the siege might be a strange outlier, "out of keeping" with other lone-actor terrorist attacks, but still be an act of terrorism. He suggested that Monis might fall into a category of his own, which is in keeping with Dr Barrelle's view that Monis' radicalisation was atypical (see below).
73. Professor Hoffman observed that at a certain point it is necessary to look at the event itself (the siege), including the way Monis presented it, rather than comparing it to other events that might fit the

Monis' mental health and "terrorism"

62. Care must be taken in accounting for Monis' mental health when assessing whether he was a terrorist.
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73. Professor Hoffman observed that at a certain point it is necessary to look at the event itself (the siege), including the way Monis presented it, rather than comparing it to other events that might fit the

definition of terrorism.

74. While it is impossible to know with certainty what caused Monis to stage the siege, and while his motivations may have been complex, the fact that he may have been driven in part by personal reasons does not mean he was not a terrorist.

Was Monis radicalised?

75. Allied to the above are the questions of whether Monis was radicalised and, if so, what path his radicalisation took.
76. The term radicalisation refers to the process whereby an individual turns to extremism. That is, the individual becomes increasingly committed to using violent methods in pursuit of their extreme political, religious or ideological goals.
77. Professor Hoffman referred to the work of the radicalisation expert Professor Peter Neumann of the Department of War Studies at King's College, London, who has identified a set of drivers that seem common in the majority of radicalisation trajectories:
- perception of grievance; for example, conflicted identities, injustice, oppression, or social exclusion, which can make people receptive to extremist ideas;
 - adoption of extremist narrative or ideology that speaks to the grievance and provides a compelling rationale for what needs to be done; and
 - social and group dynamics—radicalisation often happens in a dense, small network of friends, and extremist ideas are more likely to resonate if articulated by a credible or charismatic leader.⁶
78. Professor Hoffman considered that Monis' actions and behaviours conformed to at least the first and second of those drivers. In his assessment, Monis became radicalised over a period dating back to at least July 2007, when Monis wrote his letter of complaint to Channel 7's *Sunrise* program and subsequently began sending letters to high office holders.
79. According to Dr Barrelle, radicalisation is a complex phenomenon, and there are innumerable reasons why people become involved in violent extremism. Sometimes it is not clear even with hindsight what led to a person's radicalisation, and even that indi-

vidual may not fully understand their own radicalisation process.

80. Dr Barrelle has developed models identifying indicators in a person's life that typically change as a person radicalises. She observed that often a person's radicalisation develops incrementally over a long period but once the person decides to commit an act of violent extremism, the last part of the radicalisation process can occur quite quickly.
81. Monis' history from 2007 onwards appears consonant with the drivers outlined by Professor Neumann. Reference to the indicators developed by Dr Barrelle reveals that prior to the siege, Monis displayed some indicators of radicalisation over a long period, but few of the indicators that are usually evident before an act of violent extremism.
82. Monis' radicalisation was, it seems, atypical, in that radicalisation is most commonly a social process and it is rare for a person to become radicalised entirely alone. Yet by all accounts Monis did so—he was a lone-actor terrorist.
83. In my view, while the atypical path of Monis' radicalisation may have rendered his violent extremism more difficult to predict, it is clear that by the time of the siege Monis had become radicalised.
84. The violent atrocities committed by Monis during the siege cannot be explained by any mental illness he may have had. Indeed, as indicated by Dr Phillips, it is far more likely he had a personality disorder with antisocial, narcissistic and some paranoid features. His judgement was unimpaired, and he was capable of making choices and acting with deliberation. That condition may have predisposed him to launch an incident like the siege, but it does not explain it and certainly could never excuse it.
85. Whether Monis was motivated to act by public calls from the leaders of Islamic State for followers to undertake such atrocities is impossible to know. His pledge of allegiance to the IS "Caliph" four weeks before the siege suggests this might have been the case. However, equally, he may have been on a personal crusade: frustrated by being dismissed when he adopted relatively benign means of protesting. He may have decided to use IS to make himself seem more dangerous; did he cloak himself in IS rhetoric so he would not be mocked or ignored but feared?
86. Unlike other IS terrorists, Monis did not immediately kill those he had taken hostage, but that is equally consistent with his belief that his best chance of achieving his political ends was by

⁶ Neumann P, *Briefing Note—Radicalisation, CVE and Counter-radicalisation: Core issues and questions* (London, International Centre for the Study of Radicalisation, King's College, 8 August 2015).

prolonging the siege. As described in Chapter 6, the contact details of some Muslim prisoners found in his pocket may indicate that he expected to survive the siege and be sent to prison.

87. Monis may have felt that his life was spiralling downwards with the numerous and mounting criminal charges, which made a long jail sentence likely, and with his loss of custody in the Family Court and his loss in the High Court. But these factors were separate from his increasing religious extremism, which seems to have been a more significant motivator of his actions.

Conclusion: The siege was a terrorist incident

88. Even with the benefit of expert evidence, it remains unclear whether Monis was motivated by IS to prosecute its bloodthirsty agenda or whether he used that organisation's fearsome reputation to bolster his impact. Either way, he adopted extreme violence with a view to influencing government action and/or public opinion concerning Australia's involvement in armed conflict in the Middle East. That clearly brings his crimes within the accepted definition of terrorism.

11 Command and control

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Introduction

1. Command and control refers to the system of management structures and arrangements used by a police organisation when responding to significant incidents or events, either planned or spontaneous. It encompasses:
 - the policies, procedures and protocols that determine which command structures will be employed;
 - the lines of authority that will apply;
 - the rules for how special arrangements are to be activated and how transfer of command from regular police commanders to the special command structures should occur
 - how interaction with other agencies should be coordinated, and so on.
2. This chapter examines how the NSWPF's command and control system operated in the response to the Lindt Café siege. It does not focus on the merits of the operational decisions made, but on whether the arrangements in place were followed and whether they proved fit for purpose. Recommendations are made to address perceived shortcomings.

The initial response

3. No significant questions arose as to the appropriateness of the NSWPF response from the time of Tori Johnson's first 000 call until the handover to the specialist Pioneer cadre at about midday. It has been widely accepted that the initial response by police was speedy, efficient and appropriate, and I endorse that view.
4. Police were outside the café within minutes of Tori's 000 call. The first officers to respond made observations of the café, and Senior Constable Paul Withers communicated with Marcia Mikhael through the café's doors. The observations made by these police were appropriately passed on. Traffic and trains were stopped or diverted. Perimeters were set and evacuations efficiently undertaken. The Police Operations Centre (**POC**) was set up under Assistant Commissioner Fuller. Superintendent Allan Sicard established a Police Forward Command Post (**PFCP**). Information flowed appropriately between police officers and commanders. Soon a transition would occur from the general-duties police to high-risk incident counterterrorism trained officers.
5. "Contain and negotiate" was adopted as the prevailing operational strategy. In view of the fact that

Monis had issued demands, this approach accorded with the relevant policies and procedures and was an appropriate initial response to the siege. As the Commonwealth pointed out in its submissions, although highly traumatic and dangerous, the incident was distinguishable from, say, an incident in which terrorists "*commence their overt action by killing people and continue doing so*".

Conclusion: Transition to high-risk situation response

6. The transition from a first response by general-duties police to the arrangements for the management of a high-risk situation proceeded as planned, and no deficiencies in those arrangements were apparent. The Tactical Operations Unit was called out, the Police Operations Centre was "stood up" and a Police Forward Command Post was established.

Handover to Task Force Pioneer

7. Once the nature of the hostage taker's demands became known, the Task Force Pioneer and Strike Force Eagle protocols (described in Chapter 4) were triggered and steps were taken to transfer command to officers drawn from the Pioneer cadre.
8. It was generally accepted that this transfer was timely.
9. Chapters 13 and 15 address substantive issues regarding counterterrorism policies and procedures as implemented by Pioneer commanders in the context of negotiations and the resolution of the siege. For present purposes, it is sufficient to note that the Pioneer and Eagle protocols were properly applied. In particular, the Pioneer protocol allowed a cadre of officers trained in counterterrorism measures to assume command of an apparent terrorist event in which the lives of numerous people were threatened. Since Monis presented himself as a terrorist and behaved as a terrorist, it was prudent for the police to treat the incident as an instance of terrorism.
10. The Pioneer cadre and the system for providing it with intelligence through the Strike Force Eagle arrangements were appropriate as a specialist management arrangement. If there were difficulties during the period of Pioneer management (for

example, in relation to negotiations, the approval of a DA, or any reluctance to use force), these did not derive from the existence of the Pioneer system or protocols, from the Eagle arrangements, or from the underlying national structures with which Pioneer and Eagle were aligned.

11. The NSWPF's command structure and the associated investigative processes for responding to a terrorist incident are set out in the Task Force Pioneer and Strike Force Eagle protocols. These were appropriately activated in this case.

Conclusion: Transition to counterterrorism arrangements

12. The transition from the system for dealing with a routine high-risk situation to that for a terrorist incident proceeded smoothly and in accordance with relevant policies. No deficiencies in the arrangements were apparent apart from the lacuna in the *TOU Management Operational Guidelines* that is referred to below.

Procedures and protocols

13. The work of police generally is guided and governed by standard operating procedures, protocols, operational guidelines and other written arrangements. Those documents operate at both a broad policy level and a specific operational level. They should stand together and provide comprehensible guidance to officers. All of the relevant documents examined have been written in a way that attempts to achieve both clarity and flexibility. It is also important for policies to be consistent and adapted to the relevant sphere: policies and protocols designed for some situations may not mesh with other fields of police work.
14. During the inquest, the evidence made clear that counterterrorism policing can entail different considerations from the policing of domestic high-risk situations. Responding to a terrorist incident, for example, may call for a different speed and nature of response, a different management policy and different methods of negotiation.
15. The Management Operational Guidelines (**MOGs**) used by the TOU apply to both domestic high-risk incidents and to counterterrorism responses. Task Force Pioneer protocols, however, apply only to counterterrorism responses.
16. Counsel Assisting submitted that the MOGs make

no explicit reference to the Pioneer protocols or arrangements or indeed to the command management structure and roles established under the Pioneer protocols. The submissions cited examples of a lack of consistency between the two documents.

17. Tactical Advisor conceded that there was a lack of cross-referencing; indeed, he considered that some of the inconsistencies between the MOGs and protocols amounted to contradictions.
18. Having referred to this evidence, Counsel Assisting submitted that the TOU MOGs appear to have been drafted without a significant focus on terrorist events, perhaps because they were drafted before such events came to occupy such a prominent space in the policing sphere. Accordingly, Counsel Assisting submitted that the TOU MOGs do not mesh well with the Pioneer protocols, stating "*they overlap, rather than intersect*".
19. The Dawson and Johnson families substantially adopted these submissions.
20. The NSWPF submitted that the TOU MOGs could better reflect the Pioneer protocols. It noted that the reason for the inconsistencies was that the MOGs had been developed for high-risk domestic incidents rather than terrorist incidents. These submissions confirmed that the guidelines and protocols were under review and that the command structure that applied under Pioneer would be set out in revised TOU MOGs. Tactical Advisor confirmed this in oral evidence. He informed the inquest that the MOGs were being reviewed with the aim of making it clearer that in terrorist events, where inconsistency exists between the Pioneer protocols and the MOGs, the Pioneer protocols should prevail.
21. It is obviously important for police to be able to operate in accordance with consistent systems reflected in documents that take account of one another.
22. As noted by the Johnson family, the contemplated changes to the TOU MOGs had not been finalised at the time of the inquest. No details of those changes have been provided to me.

Conclusion: Consistency between high-risk situation response protocols

23. Deployment of the TOU to high-risk situations is performed in accordance with protocols

set out in that unit's *Management Operational Guidelines*. The NSWPF's command and control arrangements for responding to a terrorist incident are set out in the Task Force Pioneer and Strike Force Eagle protocols. In parts, the *Management Operational Guidelines* do not acknowledge the special arrangements created for responding to terrorist incidents.

Recommendation 5: Review of TOU MOGs

24. *I recommend that the NSWPF review the Management Operational Guidelines to resolve any inconsistency between them and relevant counterterrorism protocols.*

Logging and recording systems

25. Questions were raised during the inquest about the logging and reporting by police of events during the siege. The majority of these questions are considered in Chapter 12. This section will address only the interactions of command and control with those logging and recording systems.
26. Throughout the Lindt Café siege, commanders at both the POC and PFCP made use of manual note takers known as scribes. The scribes' notes provided a very limited record of conversations and events. This was especially apparent in relation to telephone calls, where the scribe could generally hear only one side of the conversation. Police commanders later said their logs were inaccurate or incomplete for this reason. In addition to the notes taken by scribes (and the other methods of information logging discussed in Chapter 12), some commanders maintained personal notebooks.
27. Afternoon Forward Commander, the first of the Pioneer-trained Forward Commanders, considered that he should have had access to iSurv, the principal electronic logging system. Night Forward Commander had a laptop computer with him at the PFCP. For some reason the laptop did not work, but in any event, it would not have given him access to iSurv.
28. The process of recording decisions, providing reasons for them and communicating them was the subject of submissions from all parties. The submissions covered decisions made in the POC and the PFCP, the adequacy of the logging systems, and whether iSurv should have been available to the Police Forward Commander.
29. Tied up in all those submissions was the subject of handovers, including agendas for handovers, their contents, and the recording of them.
30. There were differences of view on all of these subjects, which were considered in evidence by various senior officers during the inquest. Police Commander Assistant Commissioner Mark Murdoch, for example, suggested that full electronic recording of events in the POC (perhaps by dictaphone) was one option.
31. Counsel Assisting suggested that in general terms the mechanisms for logging and communicating decisions were adequate, although they could benefit from modification and improvement to enable messaging, recording of reasons for command decisions, allocation of information to specialist areas, and related data management functions detailed further below. None of those functions were available at the time of the siege.
32. The Johnson family considered that the recording of decisions in the POC was haphazard and inadequate and agreed with AC Murdoch that electronic recording should occur. The submissions of Katrina Dawson's family adopted the position of Counsel Assisting. For its part, the NSWPF generally acknowledged that there was room for improvement with respect to log keeping and the synthesis of information.
33. As to handover reports in the POC, there appeared to be no agenda system to ensure that specific topics were addressed in the handover. The most obvious consequence of this was the failure of the afternoon shift officers to inform the night shift officers of Monis' demand that the lights in Martin Place be switched off. As a result, when commanders were confronted with the lights issue in the early hours of 16 December, they were unaware of the earlier demands or the work that had been done in response to them. The issues surrounding this demand are considered in detail in Chapter 13.
34. While the Johnson family's description of the recording of POC decisions as "*haphazard*" does not appear completely justified, there do appear to have been three significant deficiencies:
- there was no adequate system for recording matters to be addressed in handovers;
 - there was little recording of reasons for decisions (which were almost entirely absent

- from logs and other records, including personal notes); and
- the Forward Commanders did not have access to any of the logging systems including iSurv and the information available in the POC and to the State Protection Group (SPG) officers.
35. The Dawson family submitted that when any strategic or operational decision is made by a Police Commander, the following should be recorded and logged:
- the advice received by the Commander;
 - the decision; and
 - the reasons for the decision.
36. The submission pointed out that such an approach would be consistent with the *“firearms command log used in the U.K.”* as described by the U.K. policing experts. Although the final form of such a system is a management matter best determined by the police, the submission has merit, and I commend it to the NSWPF.
37. Much the same considerations apply to the recording of decisions and the reasons for decisions in the PFCP. The lack of a system for recording Forward Command decisions had an even more acute impact in that it impeded the Police Commander from staying abreast of what was occurring at the PFCP. While the Police Forward Commander's scribe logged his actions in a notebook, his decisions were not recorded in a way that benefited those at the POC. This could potentially have been remedied if the Forward Commander had access to some flexible electronic system that included this function.
38. The relatively brief response of the police to the various submissions concerning the recording and logging systems used during the siege acknowledges room for improvement in each of those areas. The NSWPF submission indicated that these systems are the subject of a review which is benchmarked against international best practice to ensure that future systems are aligned. The NSWPF provided no concrete detail about the extent of the review.
39. Recording systems that can meet the demands of police command and control of a complex event like the Lindt Café siege would be useful not only for understanding what occurred after the event but for clear communications during it. This is particularly true given that the duration of the siege necessitated handovers between different teams of officers.
40. In addition, police needed a system for recording “to-do” lists, noting completion of tasks, and communicating these clearly and as widely as needed.
41. The submissions of the NSWPF did not disclose the nature or extent of the review of logging and recording systems being undertaken. I consider that, to the extent practicable, whatever systems are adopted they should:
- better facilitate communications and messaging between command and other officers;
 - have enhanced data-management capabilities such that information from outside sources can be attached, distributed to those who need it and be easily found and reviewed by both specialist officers and those in command; and
 - adequately allow for command decisions and their reasons to be recorded.

Conclusion: Deficiencies in command decision logging and dissemination

42. There are deficiencies in the NSWPF systems for recording decisions made by police commanders responding to high-risk situations and the reasons for those decisions, and for disseminating some command decisions. These deficiencies hindered aspects of the siege response.

Recommendation 6: Review of logging systems

43. *The development (recommended in Chapter 12) of an integrated intelligence system that allows police officers secure access to all information platforms should also provide for the recording of all command decisions, the reasons for them, and the dissemination of those decisions.*

Command arrangements during the siege

44. While generally acknowledging that command and control arrangements were understood by attending officers, Counsel Assisting submitted that there were three areas where the actions of police officers differed from the model prescribed in the Pioneer and Eagle protocols:
- Reg did not appear to observe his obligation to

- report to the Forward Commander and was instead reporting to the Negotiations Commander (Graeme) in the POC. For example, Reg informed Graeme of the Martin Place lights demand and sought a direction from the Police Commander without informing the Forward Commander. That had the effect of “sidelining” the Forward Commander in some respects.
- TOU tactical officers in the Forward Command Post certainly worked closely with the Forward Commander, but they also regularly communicated with their SPG superiors who were advisors in the POC. These parallel communications between SPG officers created a risk of the Forward Commander being “sidelined” to some extent, as on occasions they resulted in the Police Commander gaining a perspective on events that had not been shared with the Forward Commander.
 - Officers of higher rank were more willing to give direction than was envisaged by the Pioneer protocol. Examples of this “leakage” between command levels of authority and of decision-making obligations are:
 - Police Commissioner Andrew Scipione’s 11.59 p.m. email concerning taking down the hostage video from YouTube (described below)
 - the call by Assistant Commissioner Mark Jenkins ordering an EA at 2.14 a.m. (which while within his power was outside his area of effective knowledge); and
 - the absence of a Negotiation Coordinator once negotiator Reg finished his shift at 12.50 a.m.
45. The Dawson and Johnson families agreed with Counsel Assisting’s position on command arrangements.
 46. The NSWPF generally rejected these criticisms, submitting that the arrangements were as set out in the NSW Police Incident Command and Control System (**ICCS**) and were appropriate, and that Reg had been unfairly criticised.
 47. Regrettably, I did not have the benefit of submissions from the NSWPF on the specific issues raised by Counsel Assisting because their submissions were largely limited to the general denial of any wrongdoing or shortcoming in the actions of Reg or in communications between the POC and the PFCP.
 48. The role of senior SPG advisors in the POC—particularly Commander SPG and the TOU Commander, Tactical Advisor—was to advise the Police Commander on strategy in high-risk incidents. Commander SPG was also responsible for the strategic resourcing of SPG units in the field.
 49. The senior SPG officers located in the PFCP, principally Tactical Commander and the Negotiation Coordinator, fell under the command of the Police Forward Commander, although in none of the relevant policies or procedures is this transfer of authority to the Police Forward Commander from their usual line commanders articulated. It is also of relevance that the Police Forward Commander is never an SPG officer (this is separately addressed below). Further, no police protocol or policy explicitly states how lines of communication should operate where a separate POC and PFCP are established. However, it seems to be widely understood by commanders and senior SPG officers that the senior SPG officers in the PFCP should provide advice and pass on information not only to their superiors in the POC but to the Forward Commander as well.
 50. It is not clear why this did not always occur. Neither Forward Commander was aware of the problem. Even the Negotiation Commander, Graeme, was unaware that Reg considered himself to be reporting to Graeme and receiving directions from him. It was clear, however, that the tactical officers in the POC and the PFCP were in regular contact with one another. Whether the Forward Commander was receiving all of the information from them that he needed could not be determined, as there are no records of those communications.
 51. Communications between the SPG officers in the POC and those in the Forward Command Post may have usefully informed the Police Commander in the POC. However, it seems this practice may have resulted in the Police Forward Commander not being kept fully informed. It may be that shortcomings in the information and advice provided to successive Forward Commanders by SPG officers in the PFCP were partly rectified by the regular teleconferences involving both the POC and PFCP, in which those officers took part.
 52. Counsel Assisting queried whether the separation between the POC and the PFCP was optimal for ensuring clear and effective decision making. The two entities were several kilometres apart. The POC was responsible for making strategic decisions and supporting the PFCP. The PFCP was responsible for making tactical decisions and briefing the POC.
 53. The U.K. policing experts said that separating a POC-like structure from a Forward Command Post structure was not essential: the two functions could be merged and were at times in the U.K.

54. Problems arising from dual lines of communication between the POC and the PFCP might not have existed had the POC and PFCP been a fused entity. That does not necessarily suggest that there ought to be a particular command arrangement. Rather, it highlights that if the POC is to be separate from the PFCP, lines of communication and reporting needed to be more clearly defined and strictly adhered to. In particular, the Forward Commander needed to be kept fully informed of any matter likely to bear on events affecting the stronghold.

Conclusion: Adherence to command arrangements during the siege

55. The command arrangements set out in the Pioneer and Eagle protocols were generally understood and adhered to during the siege response. There were, however, some anomalies. There were some lapses in communication that may be attributable to the fact that State Protection Group officers continued to report up their usual lines of command and failed to also report to the Police Forward Commander information vital to his functions. Neither the Eagle protocols nor the *Tactical Operations Unit Management Operational Guidelines* nor the negotiators' equivalent provide guidance to State Protection Group officers on how they should interact with the Police Forward Commander, who is required to be selected from outside the State Protection Group.

Recommendation 7: Documenting changes to line command

56. *I recommend that the NSWPF remedy the lack of detailed guidance on how State Protection Group officers should interact and communicate with the Police Forward Commander, and that such guidance be included in policy documents and reinforced with training.*

Police Forward Commanders and the SPG

57. In a non-terrorist high-risk incident, an officer from the relevant Local Area Command is required to be appointed as the Police Forward Commander. In a terrorist incident in which the Pioneer and Eagle protocols are activated, a member of the Pioneer

cadre is appointed as the Police Forward Commander. However, a member of the SPG may in no instance become the Police Forward Commander.

58. The policy underpinning this arrangement lies in the need for the Police Forward Commander to make decisions between competing roles: continued negotiation on the one hand, and active intervention with possible use of force on the other. At some point, while “contain and negotiate” is the principal operating strategy, the role of negotiators may be terminated by a decision to use force via the TOU in a Deliberate Action or, less relevantly, an Emergency Action.

59. Counsel Assisting suggested that the policy prohibition on an SPG officer serving as Police Forward Commander was based on a need to avoid the risk of bias: a Police Forward Commander who was a serving member of the SPG might be inclined to either over- or underestimate the likely effectiveness of the unit to which he or she belonged.

60. Neither Afternoon Forward Commander nor Night Forward Commander had previously served as a TOU officer. The senior TOU officers, on the other hand—including Tactical Commander, Deputy Tactical Commander and Tactical Advisor—had each had histories of long service in the TOU and concomitant experience in high-risk situations including sieges, which required formulation and implementation of EA and DA plans.

61. Counsel Assisting argued that a Forward Commander with no SPG experience was in a poor position compared with a TOU officer to assess the quality or viability of a Deliberate Action. They queried whether the Forward Commanders' lack of expertise in assessing a DA, an essential step in the approval process, might have contributed to the failure of the Police Commanders to approve a DA plan.

62. In general terms, the Johnson family agreed with the submissions of Counsel Assisting. The Dawson family considered that the requirement that the Police Forward Commander not be a serving SPG officer was appropriate. However, they did not agree that the failure to approve a DA was attributable to any lack of tactical experience on the part of the Forward Commander.

63. The NSWPF defended the requirement that the Forward Commander not be a currently serving SPG officer such as a negotiator or tactical operator, stating that in the experience of the NSWPF, such separation had a positive impact. The NSWPF said the separation requirement was designed to

enhance objectivity in crucial decision making and to facilitate bringing an independent mind to bear on what might be competing views between negotiation and tactical options. The NSWPF submission quoted the evidence of Tactical Advisor (referred to by Counsel Assisting) that one of the purposes of the requirement is “to remove perceived bias towards the TOU”.

64. I find it difficult to accept that the failure to approve the DA arose from the Forward Commanders’ lack of tactical experience. As noted in Chapter 15, that failure falls principally at the feet of the Police Commanders, who were reluctant to accept the risks associated with a DA. Further, I am persuaded by the NSWPF’s submissions regarding the benefits of using a neutral or independent officer as a Forward Commander; it does seem that there are advantages in having neutral officers make decisions in situations where the views of negotiators and tactical officers may differ.

Conclusion: Non-SPG Police Forward Commander

65. The disadvantages of prohibiting current members of the TOU from assuming the role of Police Forward Commander during a high-risk situation are outweighed by the advantages of minimising the likelihood that the Police Forward Commander will have a personal allegiance to, or preference for, either negotiation or tactical intervention.

Involvement of executive officers

66. The Pioneer and Eagle protocols allocate decision making in counterterrorism incidents to specific operational officers within the command and control regime. There is a clear dividing line between senior executive officers of the NSWPF and operational officers responsible for decisions about the management of terrorist incidents.
67. It was widely recognised at both levels of command that interference by executive officers in operational matters is inappropriate and would occur only in exceptional circumstances. In her oral evidence, Deputy Commissioner Catherine Burn was emphatic:

There is no way that I might be thinking I could provide a suggestion [...] I don’t have the

knowledge or the information that the Police Commander would have. So the problem is, and this is why you have to really, really stick to these protocols, or this delineation of role[s] [...] because I might think I have a great idea but it might be just completely irrelevant or not up to date with what the details of the Commander might have. It’s dangerous. It’s even dangerous to start to think that you can have these conversations.

68. The duties of the executive officers in incidents such as the Lindt Café siege appeared to cover the following matters:
- issuing authorisations under terrorism legislation;
 - receiving briefings of developments in siege operations and events;
 - briefing the state government on developments in operations and events;
 - briefing government officers and representatives of other agencies in the State Crisis Centre;
 - ensuring that operational officers have access to all resources they require and providing them with “moral support”; and
 - providing information to the public by way of media releases and public interviews.
69. The way these executive duties were performed was not within the scope of the inquest. However, there was some evidence in respect of the three senior executive officers that suggested they *might* have become involved in operational aspects of the management of the siege. Any operational matter was likely to bear on coronial issues, and for that reason Commissioner Scipione, Deputy Commissioner Burn and Acting Deputy Commissioner Jeffrey Loy were called to give evidence to the inquest. Deputy Commissioner Nick Kaldas had much earlier provided a statement on matters relating to the NSW Police approach to terrorism. He was off duty during the course of the siege and therefore had no possible operational involvement.

Acting Deputy Commissioner Jeffrey Loy

70. Acting Deputy Commissioner Loy and Asst Commissioner Jenkins had been in touch by telephone during the night of 15 December 2014. DC Loy needed information for State Crisis Centre briefings. They had a telephone conversation at 12.01 a.m. and another at 12.25 a.m.
71. During those conversations, AC Jenkins discussed

with ADC Loy the fact that a Deliberate Action plan had been prepared but that it was not about to be used. The conversation was in the context of an anticipated change of shift, in which TOU officers would be replaced by counterparts from interstate.

72. Another call occurred at 2.10 a.m. That call began seven minutes after the 2.03 a.m. escape of hostages, during which the first shot was fired in the café. It was also about three minutes before Tori Johnson's death and the subsequent forced entry by TOU officers.
73. AC Jenkins initially seemed uncertain who had placed the call, but he later recalled that he had done so. He said he rang ADC Loy to inform him about the shot fired by Monis.
74. At first blush, the fact of that 2.10 a.m. call appears surprising. In the wake of the critical events of 2.03 a.m., one would have expected the Police Commander to be focused on the situation at hand. It must be remembered, however, that the escape and the shot were critical events: one of AC Jenkins' roles as Police Commander was, appropriately, to keep the police executive and the State Crisis Centre informed of key events so they could, among other things, provide relevant information to the government and the public as required. In any case, the evidence suggests that the possibility of calling an EA, which must have been the dominant question of the moment, was not discussed during the call. Nothing seems to have transpired from the conversation. There was no suggestion of inappropriate operational involvement by ADC Loy.

Deputy Commissioner Catherine Burn

75. Deputy Commissioner Burn gave oral evidence on two matters. The first concerned text messages sent and received during the siege. DC Burn had deleted these messages in the months after the siege, as part of what she described as a routine cleaning-up process. Her evidence was that with one exception, none of the deleted texts was of a significant or operational nature.
76. The exception was a text received from Commissioner Scipione at 10.37 p.m. It concerned a resources issue he had heard about during his visit to the PFCP at about 9 p.m. DC Burn copied that text and sent it to herself as an email for later resourcing action. She was therefore able to produce a record of the message's content to the inquest despite the deletion of the messages on her phone.
77. There is no evidence to suggest that DC Burn deliberately deleted text messages to avoid disclosing them to the inquest. It would plainly be preferable for all relevant records to have been retained, but I accept DC Burn's evidence that the deleted texts contained nothing of significance.
78. The second matter on which Deputy Commissioner Burn was called to give evidence related to a conversation she had with Assistant Commissioner Jenkins at about 10.50 p.m. AC Jenkins' log contained the following entry in relation to that call:

Discussion had relating to negotiators strategy. If the flag strategy is not working then look to allowing media to release the identity of MONIS.
79. In view of this note, a question arose as to whether DC Burn had, in the course of that conversation, provided advice or directions that fell outside the regular scope of her role as an executive officer.
80. The question of negotiation strategy during operations such as the siege was one with which DC Burn was familiar, since the counterterrorism capability of the NSWPF fell within her area of executive responsibility.
81. Her evidence was that the note in AC Jenkins's log reflected what he had told her in the call. She stated that the call was brief and that she did not give AC Jenkins any directions, whether in relation to negotiation strategy or any other matter.
82. I accept DC Burn's evidence regarding that conversation. Her discussion with AC Jenkins was routine and of a type that would be expected in the course of a commander reporting on events to an executive officer.
83. In summary, I find that nothing DC Burn did during the siege was of an operational nature. There is no suggestion that she interfered inappropriately in operational matters, and it was plain that she had, and worked with, a clear understanding of the distinction between the role of an executive officer and that of an operational officer.
84. On a general level, DC Burn's evidence was of assistance in identifying the reasons behind the separation of the roles of executive and operational officers, the need for executive officers not to interfere in operations, and the possible limitations on those restrictions.
85. The Johnson family submitted that an executive officer has an affirmative duty to ensure that an event is being appropriately managed at an operational level and an obligation to intervene if it appears that is not occurring.

86. I accept that where an executive officer is notified of a deficiency or obvious operational error, it would be appropriate for that officer to make further inquiries and, in some cases, intervene directly. He or she would have the authority to do so. However, if executive officers were expected to follow operational actions sufficiently closely to determine whether those actions were appropriate, this would place them in a supervising operational role. That would unnecessarily add another layer to the counterterrorism incident command structure and might compromise executive officers' capacity to perform their executive functions.
87. As events transpired, nothing came to the attention of DC Burn that called for her to intervene as an executive officer in operational matters.
88. One final matter concerning Deputy Commissioner Burn ought to be addressed. It was submitted by the Johnson family that DC Burn should not have gone home when the Commissioner of Police directed her to do so. As I understand the family's submission, it was that the Lindt Café siege was a matter of such significance, and DC Burn's position was so relevant, that she should have remained for the duration of the siege.
89. I reject that submission. DC Burn would have been at home for only a few hours before her next public obligation concerning the siege. Her evidence was that even after going home she continued following events. However, my principal reason for rejecting the submission is that at any time during the siege, some other major event might have arisen which demanded senior executive officers' attention. It was not necessary or appropriate for all senior police officers to assume that the siege at the Lindt Café was the only matter likely to require their attention that night. Some evidence during the hearings referred to the deleterious impact of fatigue on an effective police response.
90. There is no basis for criticising DC Burn for complying with a direction from the Commissioner to rest for a few hours. The direction was prudent and her compliance was reasonable.
91. Commissioner Scipione was called to give evidence on two matters:
- As discussed in Chapter 15, a scribe's note at 10.57 p.m. in AC Jenkins' log read "*DA plan to occur as last resort—COP.*" For the reasons detailed in that chapter, I conclude that this note did not evidence inappropriate intervention in an operational matter by the Commissioner.
 - Commissioner Scipione was also called to give evidence about an email he sent during the siege concerning one of the videos Monis directed hostages to make and upload to YouTube. A reading of the email suggested that it might have constituted an operational direction to operational officers.
92. The email was sent at 11.59 p.m. to Acting Deputy Commissioner Loy, Asst Commissioner Jenkins and a police public relations officer, Const Douglas Ritchie. The relevant part read:
- Gents This has just been sent to me. Let's move to have it pulled down from youtube asap. I will leave it with you. AS*
- Attached to the email was a link to a YouTube video.
93. AC Jenkins replied to the email at 12.06 a.m.: "*on to it*".
94. In evidence, Commissioner Scipione said his email was not a direction but a suggestion for operational officers to consider.
95. There was good evidence that the video would have been pulled down in any event as a result of independent decisions by operational officers. The question that arose concerned whether Commissioner Scipione's action amounted to an involvement by an executive officer in operational matters.
96. Commissioner Scipione agreed that his email concerned an operational matter and said he had made the suggestion because of the impact of the video on another operation. He accepted that he had not made any enquiries of the operational officers, in particular the negotiators, about the impact of having the hostage video taken down. In his view, that was a matter for operational officers to take into account when considering his suggestion.
97. Whatever his intention may have been, Commissioner Scipione's email used the language of a direction. It was susceptible to be read as a direction and seems to have been treated as such. Commissioner

Commissioner Andrew Scipione

91. Commissioner Scipione had an array of executive tasks to undertake during the siege. It was he who issued authorisations under s. 5 and s. 6 of the *Terrorism (Police Powers) Act 2002*. He visited the Forward Command Post on the evening of the siege with the Minister of Police. He liaised with the Premier and other members of the government. He

Scipione may have been right when he said that an informed operational officer who was aware of a reason not to pull down the video could have brought that reason to the attention of the Police Commander. That officer could in turn have contacted Commissioner Scipione (in the event that the Police Commander thought the email was a direction). That does not change the nature of the email.

99. Commissioner Scipione's email concerned an operational matter. I accept that he intended it to be a suggestion rather than a direction. However, it was likely to be interpreted as something more. In any event, it was unwise for him to make even a suggestion about an operational matter without first discussing it with relevant officers and informing himself of the consequences of the proposal. In sending the email, Commissioner Scipione was exposing himself to the very danger Deputy Commissioner Burn described. Had he contacted the relevant operational officers first, he would likely have learned that the decision to have the video pulled from YouTube had already been made, and that a suggestion by him was unnecessary.
100. That being so, it is plain that no harm was done by Commissioner Scipione's email. However, it does illustrate the types of risks that can arise from executive involvement in operational matters.

Conclusions: Executive officer involvement in operational matters

101. **Acting Deputy Commissioner Loy:** There was no suggestion of inappropriate operational involvement by ADC Loy.
102. **Deputy Commissioner Burn:** There is no evidence to suggest that DC Burn deliberately deleted text messages to avoid disclosing them to the inquest. It would have been preferable for all relevant records to have been retained, but I accept DC Burn's evidence that the deleted texts contained nothing of significance. Her discussion with AC Jenkins, which was noted in his log, was routine and of a type to be expected in the course of a commander's reporting on events to an executive officer. I find that nothing DC Burn did during the siege was of an operational nature. There is no suggestion that she interfered inappropriately in operational matters or that she failed to intervene when she should have taken action. It was plain that she had, and worked

with, a clear understanding of the distinction between the role of an executive officer and that of an operational officer.

103. There is no basis for criticising DC Burn for complying with a direction from the Commissioner to rest for a few hours. The direction was prudent, and her compliance with it was reasonable.
104. **Former Commissioner Scipione:** At 11.59 p.m., the then Commissioner sent an email to ADC Loy and AC Jenkins concerning a YouTube post made by one of the hostages. This email concerned an operational matter. I accept that the Commissioner intended it to be a suggestion rather than a direction. However, it was likely to be interpreted as something more. In any event, it was unwise for him to make a suggestion about an operational matter without first discussing it with relevant officers and informing himself of the consequences of the proposal. It is plain that no harm was done by the former Commissioner's email. However, it does illustrate the types of risks that can arise from executive involvement in operational matters.

Police Commanders

105. It was uncontroversial that Police Commanders in the POC had not exceeded their roles and intruded into operational decisions that should have been left to officers in the Forward Command.
106. The Johnson family's submissions recognised that Forward Command decisions consisted principally of tactical decisions such as whether to implement an EA. Their submissions acknowledged that negotiation strategy and its approval, together with the implementation of a DA, were generally matters for Police Commanders in the POC.
107. Counsel Assisting and the Dawson family did not consider that Police Commanders exceeded their roles by inappropriately intruding into matters that were the responsibility of Forward Command.

Duties of the Police Forward Commander

108. Counsel Assisting submitted that it was inappropriate and distracting for the Police Forward Commander in the PFCP to be obliged to address

- matters not directly related to the resolution of the event at hand.
109. Counsel Assisting identified the following as matters of a type which should not be part of a Forward Commander's duties:
 - traffic redirection;
 - public transport movements;
 - family liaison;
 - issues with buildings surrounding the stronghold; and
 - setting outer perimeters.
 110. The U.K. policing experts (Deputy Chief Constable Simon Chesterman and Inspector Nigel Kefford) were asked about the imposition of such duties on a Police Forward Commander. Deputy Chief Const Chesterman replied:

No. It's not appropriate. It would just be too much to cope with in a high risk and potentially fast moving operation like this, so you would allocate people to lead those aspects ...
 111. Insp Kefford described the U.K. practice of having an Outer Scene Commander and a Forward Commander dealing with "anything facing inwards".
 112. The implications of this in the context of family liaison are addressed in detail in Chapter 16.
 113. Both the Dawson and Johnson families adopted the submission of Counsel Assisting that the Police Forward Commander should be relieved of duties that do not directly relate to resolution of a critical incident. The NSWPF rejected that approach on the basis that there was not a substantial body of evidence that the Police Forward Commanders were hindered or distracted during the Lindt Café siege.
 114. The NSWPF submitted that the functions undertaken by the Forward Commander related to management of the siege. It argued that Counsel Assisting had formed the view that matters not related to the tactical resolution of the siege were management issues that should be undertaken by somebody else. The NSWPF asserted that this view was not consistent with its Incident Command and Control System and failed to acknowledge that the Forward Commander needs situational awareness—that his or her decision-making needs to be informed by what is occurring not only within the stronghold but also within and adjacent to the operational perimeter. The NSWPF submission claimed support from the U.K. experts and referred to a passage in their oral evidence about establishing a "battle rhythm".
 115. I do not accept the NSWPF submission. The position of the U.K. review team was reasoned, reasonable and in accordance with common sense, especially in relation to larger events. The inability of the afternoon and night Forward Commanders, to detect that they were not being fully informed by the Negotiations Coordinator (see Chapter 15) is sufficient evidence that Police Forward Commanders should be spared from devoting time and attention to making decisions that have no bearing on the resolution of a critical incident. Both commanders spoke of the demands and pressures of the role of Police Forward Commander. Both described a Forward Command post with distractingly large numbers of people present. The night Forward Commander spoke of hearing the distress of the escaped hostages as they arrived at the PFCP for debriefing.
 116. A Forward Commander who is unable to physically see the scene is obliged to rely on reports, and confronts substantial problems with negotiation. The Forward Commander should not be burdened with issues of peripheral logistics, shift arrangements, family liaison, train and traffic movements or the resetting of the outer perimeter. There is, in my view, too great a risk in larger events that in trying to manage all of those disparate matters, the Forward Commander will become distracted from the central task of seeking to resolve the high-risk situation.
 117. Ultimately, it is for police management to determine which duties should be allocated to Forward Commanders and which duties they should be relieved of. However, it was as surprising as it was disappointing to receive a submission in which the NSWPF sought to rely on existing management procedures (ICCS) in respect of a role so central to the resolution of a terrorist incident. In my view, a Forward Commander managing a major incident and particularly one large enough to require POC support, should be relieved of administrative and other burdens which do not directly relate to incident resolution.

Conclusion: Duties of the Police Forward Commander

118. There is a danger in major high-risk situations that if the Police Forward Commander is also responsible for external and tangentially related matters, he or she may be distracted from the primary goal of resolving the incident.

Recommendation 8: Police Forward Commander's scope of responsibility

119. *I recommend that the NSWPF review the division of tasks among the various officers responsible for responding to major high-risk situations to enable Police Forward Commanders to focus exclusively on their primary goals and that officers engaged in matters not directly related to the resolution of the incident be required to report to an officer other than the Police Forward Commander.*

Management of 000 calls

120. An incidental issue that arose early in the inquest was the management of 000 calls during the siege. The 000 operators continued having to receive and handle calls from the stronghold well after police high-risk-situation management protocols were in place. The 000 call system is designed, and its operators are trained, to receive calls from the public and allocate them to specialist emergency services. It is not designed for participation in complex siege negotiations. Neither police nor the 000 system can control who a hostage taker or hostages will call, and the 000 system must remain available for access by the general public no matter what event is under way.
121. However when calls to 000 are received from hostage takers or hostages inside a stronghold, 000 operators should not be required to manage those calls. Such calls need to be handled beyond that system and presumably within the confines of the police incident management system.
122. It was a 000 call that provided the first alert to the problem in the Lindt Café. At 9.41 a.m., at the direction of Monis, Tori Johnson made the call and read Monis' message. That call was appropriately taken by a 000 operator.
123. However, at least four further calls were made to 000 from within the café. Some were critically important. At the direction of Monis, Jarrod Morton-Hoffman made two calls, at 12.28 p.m. and 12.56 p.m., both of which were handled by 000 operators. Selina Win Pe called 000 at 12.35 a.m. and 12.48 a.m. because the negotiators did not answer her calls at those times.
124. The NSWPF recognised that calls from people in the café should not be handled by 000 personnel but rather by police negotiators. It was no doubt for that reason that negotiators were sent to the 000 call centre at Tuggerah, north of Sydney.
125. While it was plainly preferable for calls from the stronghold to be handled by trained police negotiators, it was also preferable for the calls to be taken by negotiators in the Forward Command Post rather than by negotiators at Tuggerah. If critical issues were to arise during a call from a hostage or even the hostage taker, it would have been of benefit for negotiators on duty in the PFCP negotiation cell to personally hear or take those calls and report these to the Forward Commander for decisions to be made and action to be taken.
126. Counsel Assisting noted the inevitable differences between the way that 000 operators managed crucial calls and the way those calls would have been dealt with by negotiators. Even if the training of 000 operators had prepared them for such exchanges (which it did not), the operators were not aware of what negotiators knew.
127. This was particularly evident in the case of Jarrod Morton-Hoffman's call at 12.56 p.m. The operator did not know what information was needed to progress contact, engagement or negotiations. This was not the kind of call in which she needed to establish the location of an event or contact an emergency service. Jarrod's call, in which he asked for motor vehicles to be moved from the vicinity of the café, ought to have been taken by a trained police negotiator. In one exchange between Jarrod and a 000 operator, the operator referred to the stress she was understandably experiencing during the call. None of the operators was at fault. They responded according to their training. However, the operators should have had the capability to transfer the call from Jarrod immediately to the negotiation cell.
128. Counsel Assisting submitted that since there was evidently no system in place for 000 operators to transfer 000 calls to the negotiation cell, a recommendation to implement such a system might be appropriate. Both families agreed with this submission and with the suggested recommendation.
129. The Dawson family submitted that in addition to managing 000 calls in the recommended manner (by transfer to police), in cases where emergency hotlines are established there should exist a means by which a person with valuable information can be quickly connected to an appropriate person. There was no adequate system in place

for transferring calls to the emergency hotline set up during the siege, and the Dawson family had personally experienced the consequences of this. They addressed this subject in submissions concerning police liaison with hostages' families (see Chapter 16).

130. The NSWPF asserted that there was a system for transferring 000 calls. That seems to have been a reference to technical capacity rather than to a practice that supports and encourages the transfer of calls. It does not appear that any such calls were transferred from the stronghold to 000 to the negotiation cell. Rather, negotiators were sent to the call centre. Moreover, those negotiators dealt with only some of the calls answered by 000 operators.
131. The NSWPF asserted that there were risks involved in transferring calls, including the possibility that a call could be lost and, presumably, the possibility that the caller would not wait for the transfer to be made.
132. The NSWPF submitted that it was not appropriate for negotiators at the Police Forward Command Post to receive all 000 calls about the siege, as they were focused on negotiations. That is undoubtedly true. The issue, however, relates to the calls to 000 made from the stronghold.
133. The NSWPF submitted that calls from hostages were redirected to the police negotiators in the Police Forward Command Post but identified no such call, unless the Police submissions refer to an occasion when a police negotiator at Tuggerah, speaking on the 000 line, provided the phone number of a police negotiator at the PFCP to enable hostages to call the negotiators' cell. Jarrod's calls at 12.28 p.m. and 12.56 p.m. were not transferred. While the NSWPF submissions make reference to Selina Win Pe's calls at 12.35 a.m. and 12.48 a.m.

(she did call the negotiators' cell soon after that) they do not mention those two 000 calls from Jarrod. Notably, both of Jarrod's calls were made at a time when there were no negotiators at Tuggerah. It seems that the 000 operators took the calls themselves in the absence of a system for transferring such calls to the PFCP.

134. The NSWPF submissions do not accept that a recommendation is required concerning this subject, but if there is a capacity to transfer calls from a 000 centre to a Police Forward Command Post and, more particularly, a negotiation cell, and if there is a system by which 000 operators can be advised when and how to make such transfers, then a residual question is why that did not occur, because it should have occurred.

Conclusion: Transfer of 000 calls

135. Calls from hostages to 000 continued to be handled by 000 operators throughout the siege. Those operators could not have situational awareness of what was occurring and had no mechanism for quickly and reliably transferring the calls to police officers who had that knowledge. Various steps were taken to try and expedite the transfer to informed officers, but these were not always effective.

Recommendation 9: Transfer of 000 calls

136. *I recommend that the NSWPF establish procedures and the technical capability to ensure that phone calls from hostages in sieges or the victims of other ongoing high-risk situations are expeditiously transferred to officers involved in responding to the incident.*

12 Investigation and intelligence

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Introduction

1. Timely and reliable information and intelligence were vital to the police response during the siege.
2. As noted in Chapter 7, key initial questions were the identity of the hostage taker, his motives or purposes, his associates, and his access to firearms/explosives.
3. Police also needed to know the layout of the café, the number of hostages, and their identities. There was a continuing need to obtain as much information as possible about events within the café as they occurred.
4. Arrangements within the NSWPF for collecting and analysing such information appear to have been adequate, but their implementation during the siege was problematic, mainly because communication was at times haphazard and misdirected, and access to logs was restricted. These shortcomings were particularly apparent in the conveying of information to the Joint Intelligence Group (**JIG**), and in the communication of information obtained via surveillance devices.
5. This chapter critiques the analysis and dissemination of information and intelligence during the siege and recommends improvements in areas where it appears to have been suboptimal.

Investigative and intelligence gathering arrangements

6. As was noted in Chapter 7, in accordance with the protocols of Strike Force Eagle (which governs the investigative response to terrorist incidents), information gathering during the siege was undertaken by Senior Investigating Officer (**SIO**) and his investigative teams, and intelligence analysis was undertaken by the JIG.
7. A significant additional, *ad hoc* contribution to information gathering regarding Monis' identity and his background was undertaken by officers from the Homicide Squad, as Monis had been the subject of their Strike Force Crocker investigation.
8. Finally, to complete the picture, it is relevant to appreciate that there were also:
 - State Protection Group (**SPG**) "intel" officers, who supported the TOU directly by gathering and conveying information relevant to the tactical officers; and
 - a liaison officer from the negotiators' cell,

who had primary responsibility for receiving and disseminating information relevant to the negotiators.

SIO, the Indigo log and Eagle-i

9. Senior Investigating Officer assumed that role shortly after 11 a.m. He understood that his responsibility was to manage all of the investigation required for the entire incident. His first priority was to assist in resolving it, but he was also focused on gathering evidence for use in the event that police initiated a prosecution as a result of the incident. As he explained, *"It's not a complicated thing. We want to find out as much as we can about it and help resolve it in any way we can and place someone before ... [.] a court, or indeed the Coroner's court, in the end."* If Monis had survived the siege, Senior Investigating Officer would have been the officer in charge of investigating the multitude of criminal offences he had committed.
10. Reporting to SIO were six designated investigation teams covering areas such as investigation management, crime scene, and witness/victim management. The officer most relevantly involved during the siege was probably the Investigations Liaison Officer, who was deployed to the Police Forward Command Post (**PFCP**). He set up a reception centre for receiving and debriefing escaped hostages. He also passed on relevant information to the Police Forward Commander from time to time, for example when a number of sources had identified Monis as the hostage taker.
11. Senior Investigating Officer explained that as information was gathered, he would report it through the Police Operations Centre (**POC**). There were also direct lines of communication between his inspectors and other police to ensure timely delivery of information. For example, SIO said that once telephone intercepts were installed on phones in the cafe, a negotiator was assigned to monitor the intercepts and feed information directly to the PFCP.
12. Information obtained by SIO and his team was disseminated as described in Chapter 7 and below. Some of that information was also collated onto Indigo, a generic log system for major operations that was used at the POC.
13. Senior Investigating Officer explained that Indigo was for *"logging an incident"* and that once the incident was over he would have transferred relevant information to Eagle-i (a document management system used in the management of investigations).

14. However, the very limited content on Indigo, and the significant number of entries that were not contemporaneous (but rather were a “back-capture” of events/information from hours earlier) indicates that this log system served little to no useful purpose on the night. That is particularly so in relation to information gathering or dissemination.

JIG and the Noggin system

15. The JIG conducted analysis of information garnered by SIO and his investigative team to produce intelligence product. In this instance, the JIG comprised officers from the NSWPF, the AFP, and ASIO.
16. The overall commander of the JIG—referred to in this report as Commander TIU (Terrorism Intelligence Unit)—was based at the POC. The JIG coordinator, who had the rank of Senior Sergeant, was based at the JIG location. He was responsible for ensuring the efficient operation of the JIG by coordinating the activities of its functional teams, namely:
- *JIG cells*, comprising officers who collect and analyse information on a specific area of relevance and produce “INTREPS” and “cell reports” at regular intervals. INTREPs disseminate single pieces of important information and intelligence for the JIG and other tactical or operational units. The INTREP contributes to the cell report, which in turn contributes to the INTSUM (referred to below); and
 - a *Joint Analysis Group (JAG)*, which provided intelligence advice on specific queries from command, maintained an overview of the intelligence generated by the cells, and produced INTSUMs. These are disseminated at regular intervals and contain current information from cells, the JAG’s assessment, and other key considerations.
17. The JIG’s contribution to overall intelligence analysis is driven by the quality and timeliness of the information it receives.
18. Commander TIU acknowledged that by virtue of the situation in the Lindt Café (i.e., a siege that had already commenced), the JIG was wholly reactive. This may be contrasted with a proactive JIG analysis such as would occur where the threat was a prospective one.
19. Because of the nature of the incident and the way the JIG was structured and operated, its contribution to management of the siege was necessarily

confined, though nonetheless critical. For example, the JIG assisted with intelligence analysis once the hostage taker was identified, and helped compile information about the identity of hostages.

20. There was limited evidence before the inquest about the Noggin system, which seems to be a specialised database used only by JIG officers. Given the multi-agency nature of the JIG, it seems appropriate that it should have its own stand-alone system for intelligence compilation and analysis.

JIG liaison officers

21. Communication to and from the JIG was primarily done through a JIG liaison officer “on the ground” at the POC and one at the PFCP (an officer known as Richard). As liaison officers, they were intended to be a conduit for passing information to the JIG, and disseminating intelligence coming out of the JIG.
22. It seems that Richard was unable to make much of a contribution in this regard, since he did not have access to iSurv and was unfamiliar with it in any case. (iSurv is an electronic log system available to both the TOU and the negotiation teams via smart phone or tablet.) Further, he did not have a computer, printer or email until around 6 p.m. At least initially, Richard was mainly relaying information to the JIG from the PFCP rather than the other way around. Even when he was receiving INTSUMs, there were considerable delays: by the time the INTSUMs reached Richard, SPG intel officers had already received and circulated them via iSurv.
23. The NSWPF submissions describe the limitations under which Richard was working as “*satisfactory but not ideal*” and indicate that since the siege, a complete review of the TIU has been undertaken. Further exercise training has been provided to enhance the skills of JIG officers, and a new system is in place to manage liaison officers. These improvements were necessary.

SPG intel officers

24. Another group contributing to intelligence arrangements comprised dedicated SPG intel officers. They were coordinated by an officer known in the inquest as “Andrew 2”, who was based at the POC.
25. The SPG intel officers at the POC were a Senior Constable from the Terrorism Intelligence Unit and an officer known to the inquest as Paul. The SPG intel officers at the PFCP were known to the inquest as Matthew 3 and Emma.

26. The primary role of SPG intel officers was to feed relevant information to the TOU by uploading it to iSurv.
27. SPG intel officers also had a role in relaying information obtained by the TOU (in particular the snipers) to the JIG. The SPG intel officers worked closely with the JIG liaison officers at their respective locations.

Negotiations liaison officer

28. Finally, the police negotiator known in the inquest as Sasha was tasked with passing relevant information to and, to some extent, from negotiators. As noted in Chapter 7, she was particularly involved in maintaining the “hostage whiteboard”, on which information about hostage identity was entered and updated. She took a central role in debriefing escaped hostages.
29. When the night negotiation team took over, the officer known in the inquest as “Rob” took over from Sasha in this liaison role, although as noted below his tasks primarily involved receipt of information from the surveillance devices.

The iSurv log

30. It was Matthew 3, the SPG intel officer at the POC, who created the iSurv log for the siege at 10.27 a.m. on 15 December.
31. As would be apparent from the repeated references to iSurv in these findings, iSurv was by far the most frequently accessed and contemporaneous log system used by police during the siege. It permitted TOU and negotiation officers—as well as SPG intel officers—to disseminate key observations made during the course of the siege in more or less real time. It also allowed TOU and negotiation unit commanders to record and communicate key decisions, although it was not often utilised for this purpose during the siege.
32. The potential advantages of iSurv were obvious—it allowed instantaneous and contemporaneous collation and dissemination of information to a number of recipients.
33. However, in its current form iSurv is an indiscriminating log used to record and disseminate entries of a range of types and on all manner of subjects, including command decisions and intelligence/information. Refinement of iSurv is warranted—for instance, to allow information to be filtered, and to enable entries to be categorised so that analysis

and decisions are clearly distinguishable from primary observations.

34. Furthermore, the utility of iSurv for information and intelligence sharing, was significantly curtailed because access to the iSurv log was limited to the TOU, SPG intel officers, and the negotiators. It was not accessible by SIO and his team. It was also not accessible by Commander TIU nor any member of the JIG. Commanders at the POC and PFCP were able to access it only via TOU and negotiation unit officers at those respective locations.
35. To aid effective collection and dissemination of information and intelligence, during incidents such as this, it would appear sensible for all relevantly involved officers to have access to a common electronic log such as iSurv.
36. The information/intelligence arrangements and investigation structures described above appeared coherent and geared to meet both the short and longer term requirements of police during the siege and beyond.
37. The standing up of the JIG and the activation of Strike Force Eagle immediately after the activation of Task Force Pioneer’s counterterrorism protocols demonstrated that the NSWPF was able to rapidly implement the investigative and intelligence functions that were designed to underpin the safe resolution of the siege.
38. There were on occasion problems with communicating and disseminating information/intelligence to officers who needed it. These included:
 - delays in the receipt by commanders and the JIG of information suggesting the hostage taker was Monis;
 - delays in the JIG’s receipt and processing of up-to-date information about the identity of hostages;
 - delays or failure in the receipt by commanders of certain information obtained from hostage debriefs and from hostages inside the stronghold; and
 - insufficient resources committed to monitoring surveillance and video feeds, with associated delays in dissemination of their content.
39. Furthermore, the multitude of logs and data systems (iSurv, Indigo, Eagle-i and Noggin), none of which are used by or accessible to all relevant officers, was not conducive to effective information sharing, intelligence analysis or the making of fully

informed operational decisions.

40. The NSWPF submitted that the investigative process was highly fluid, and that although it was fallible, it was also self-correcting as additional information became available and was further evaluated. The NSWPF accepted that some discrete pieces of information were missed or misdirected and that the system suffered from technical problems, but it characterised these as “exceptions” which were few and minor. The NSWPF submitted that it has learnt from these and that it remains committed to making improvements to its intelligence and investigative processes. The giving of that commitment is warranted.

Conclusion: Intelligence and investigation systems

41. The use of multiple information-sharing systems and databases by various NSWPF groups responding to the siege was not ideal. It resulted in information not always being available in a timely manner or disseminated in a format that would make it most useful. Such deficiencies have the potential to degrade operational effectiveness.

Recommendation 10: Integrated intelligence platform

42. *I recommend that the NSWPF investigate the development of an integrated intelligence system that allows selected officers secure access to all information platforms and to record and share operational decisions.*

Identifying Monis and gathering information on him

43. Identifying the hostage taker was a key priority for police. Monis made that task more challenging by actively seeking to maintain anonymity.
44. It was the officer in charge of Strike Force Crocker, Detective Senior Constable Melanie Staples, who propelled the identification of Monis. Not long before midday, she and a colleague recognised him in live television coverage of the siege; this was reported up the chain of command and to particular intel officers.
45. In due course, this information flowed to SIO and

other officers in the POC.

46. INTSUM #1 was disseminated at 2 p.m. It made no reference to Monis. The evidence indicates that by this point the JIG was aware that the list of likely hostage takers included Monis and six to seven other individuals, with no one person a more likely suspect than the other.
47. At 2.15 p.m. Michael Klooster, a barrister who had acted for Monis and seen him in the café that morning, reported to the National Security Hotline his suspicion that the hostage taker was Monis.
48. Just before 2.30 p.m., both Assistant Commissioner Mark Murdoch at the POC and Afternoon Forward Commander at the PFCP were told that various reliable sources indicated the hostage taker was Monis.
49. However, the negotiators became aware of this only when Sasha heard the information being conveyed to Afternoon Forward Commander.
50. Meanwhile, from midday onwards, Det Senior Const Staples and her colleagues from Strike Force Crocker gathered and made available on iSurv documents about Monis obtained in the course of their investigation into his ex-wife’s murder. As noted in Chapter 7, these included police and intelligence profiles of Monis and photographs of him, as well as a psychological profile prepared by Kim Ora.
51. A flashcard was uploaded to iSurv at 2.26 p.m. containing a police profile of Monis. A further iSurv entry at 2.52 p.m. referred to the strong suggestion that the hostage taker was Monis, and at 2.54 p.m. a police profile of Monis and a photo of him were uploaded to iSurv.
52. From about 3 p.m. police were intercepting Monis’ phones, and not long after, police placed his address in Wiley Park under surveillance.
53. At a POC briefing at 3.30 p.m., Eagle Commander stated that it had been confirmed the hostage taker was Monis.
54. INTSUM #2, which was disseminated at 4 p.m., indicated that multiple sources had identified Monis as the hostage taker, and set out a succinct and accurate analysis of Monis’ background.
55. By 6.35 p.m., an officer at the JIG had updated the police profile of Monis and uploaded it to iSurv.
56. Surveying this timeline, it is apparent that by 11.30 a.m. (within two hours of the siege commencing), officers within the NSWPF had formed a strong suspicion that the hostage taker was Monis. This

was ultimately conveyed to commanders at the POC and PFCP at approximately 2.30 p.m.

57. I accept the submission of Counsel Assisting that it does not appear that Monis could have been positively identified earlier than 2.30. It is clear that diligent steps were taken to discover his identity and that it was confirmed within five hours of the siege commencing.
58. However, given that the strong suspicion that the hostage taker was Monis first came from detectives with extensive experience of him, and that there was no other likely suspect, it should not have taken three hours for that information to be conveyed to the POC and the PFCP.
59. This interval meant that commanders were delayed by up to three hours in starting to understand whom they were dealing with. Information about Monis (such as his criminal history and the pending charges against him, as well as documents like the Ora psychological profile) was central to ongoing risk assessments and was also of utmost relevance to the negotiators.
60. Conversely, the NSWPF submitted that the suggestion that Monis' identification ought to have occurred as early as midday fails to appreciate that police needed suspicions to be corroborated by independent sources. Furthermore, the NSWPF said that it would have been dangerous for police at the PFCP or the POC to speculate about the identity of the hostage taker before that identity was firmly established.
61. The NSWPF also submitted that any delay in the identification of Monis did not impact upon the management of the siege. It noted that while attempts were being made to confirm his identity, negotiators were continuing to try to establish communication with him. The point is also made that the first three hostages escaped at 3.30 p.m., about half an hour after negotiators were made aware that Monis was the hostage taker. That escape and its aftermath (including debriefing) naturally interrupted negotiators' efforts to absorb the profiles of Monis uploaded to iSurv.
62. In the circumstances and given the reliability of the homicide detectives who first identified Monis at 11.30 a.m., I am not persuaded that it would have been dangerous for commanders or other police at the PFCP or the POC to have been told earlier (for instance, from midday onwards) of the growing suspicion that Monis was the hostage taker and the basis for that belief. Plainly, it would have to

have been conveyed as a suspicion, but doing so would not have required police to engage in speculation. Police would naturally have had to tread carefully until the suspicion was confirmed. However, some information about the possible hostage taker would have been more useful than no information at all, both for command to factor into their risk assessments and for negotiators to factor into their attempts to engage with the hostage taker.

Monis' police profile

63. A related issue is the time it took for an up-to-date police profile of Monis to be made available to commanders and others at the POC and PFCP.
64. The JIG was tasked with updating an existing profile of Monis (which had been compiled in 2013 by the Homicide Squad). As a result, an updated profile was uploaded to iSurv at 6.37 p.m.
65. The final iteration of the Monis Person of Interest (POI) profile included a photograph of Monis, his various aliases, and a prominent warning on the first page:

... also known as Sheik Haron—May have links to Terrorist groups and Rebels OMCG. POI will post interactions with government agencies.

 It also contained a "Current Intelligence Assessment 15/12/2014" which commenced: "As documented below Monis is well known for involvement in terrorist activity and extremist behaviour," then set out details from the Sheikh Haron website including a screenshot of the graphic image of dead children Monis had posted and the accompanying text, details of Monis' attendance at a Hizb ut-Tahrir protest on 18 September 2014 at Lakemba, and a reference to the Sheikh Haron Facebook page. There was also a one-page intelligence analysis of Monis, which noted his religious activities, his propensity for violence and his influence over others.
66. The profile recorded that: "Current advice from ASIO is that the POI is known to them as a person who regularly writes letters to their agency. They advise that the POI is not currently under investigation ..."
67. The profile also included a summary of the facts giving rise to the murder charges (compiled by Strike Force Crocker), information about the sexual assault charges (compiled by Strike Force Yorkfield), and an intelligence assessment which includes reference to protests and Monis' association with the Rebels outlaw motorcycle gang.
68. The Dawson family submitted that the profile gave an erroneous impression of the sexual assault

allegations. While it stated that Monis “took advantage of women” who were his clients, the details contained in the Police Facts described Monis using emotional intimidation (threats of malign curses), physically intimidating and manipulating his victims, and causing pain to some during the assaults.

69. I am not persuaded that the updated profile contained an erroneous characterisation of the sexual assault allegations. Certainly, a more nuanced description would have been more accurate, but the purpose of the document was to condense and synthesise a much larger body of information, a task in which reasonable minds may differ on what to include. Furthermore, given that this updated profile was being put together in a high-pressure and time-sensitive context, in my view no criticism of those who compiled it is warranted.
70. Counsel Assisting and representatives of the Dawson and Johnson families submitted that police took too long to generate the profile, given that the homicide officer conveyed his suspicions to Det Sen Const Staples that Monis was the hostage taker from 11.30 a.m., and that this was not confirmed to command until 2.30 p.m.
71. The NSWPF acknowledge that the updated police profile could have been produced sooner and indicate that training in this regard will continue to focus on timeliness, given that the aim of the JIG is prompt dissemination of intelligence to enable efficient and effective decision making by command.
72. This concession is noted. Training to improve the process is warranted.

Searching Monis’ premises

73. Once Monis’ identity as the hostage taker had been established, police took steps to search his known address, a unit in Denman Avenue, Wiley Park.
74. SIO acknowledged that a search of Monis’ residence was a priority because there was a high possibility that it would reveal evidence that might assist those involved in managing the siege.
75. Perhaps the single greatest motive for conducting the search was to seek evidence that might help police assess Monis’ claim that he was carrying an IED. From a risk perspective, it was very important to determine the veracity of that bomb threat. There were also other reasons to search Monis’ premises: to see, for instance, if he had left a suicide note, or if there was material that negotiators could use to inform the strategies they employed in an attempt to induce Monis to talk to them.
76. By 3 p.m., the necessary authorisations for the search had been granted under the *Terrorism Police Powers Act 2002* (NSW). However, police hesitated to commence the search, and it did not begin until 11.22 p.m. on 15 December.
77. By 5.25 p.m., the Wiley Park address was under surveillance. There was a woman inside the premises who police suspected was Amirah Droudis. Additional officers were deployed to the address to support surveillance, and they were under direction to stop, search and detain Ms Droudis if she left the premises.
78. At 8.30 p.m., just before handing over to his successor for the night shift, SIO recorded his reasons for not having proceeded with the search. He also explained these reasons in oral evidence. They were:
 - concerns about retribution, because Monis might be in contact with Ms Droudis, he was becoming agitated, and he would know police were aware of his identity;
 - concern that Ms Droudis (who was known to be on bail for murder and was the current partner of a man who was holding hostages in a siege) herself might create a siege situation at the unit, overstressing the resources of the TOU and negotiators at the café;
 - darkness; and
 - the fact that police were not certain that the woman in the unit was Ms Droudis.
79. At 9.40 p.m., Ms Droudis was followed in her car from the Wiley Park premises to a location in Punchbowl, where her vehicle was stopped and she was searched.
80. By 10.31 p.m., Ms Droudis had declined to be present for the search of the Wiley Park premises and declined to provide keys, so police contemplated a forced entry. Eventually, however, Ms Droudis did provide access to the unit and by 11.30 p.m. the search was under way. It continued until approximately 3.55 a.m. on 16 December.
81. At 11.30 p.m., Assistant Commissioner Mark Jenkins at the POC received a briefing to the effect that no items of interest had been located; an update to similar effect was provided at 1.30 a.m. However, it seems this information was not conveyed to the PFCP until 2 a.m. For instance, Tactical Commander and Deputy Tactical Commander both gave evidence that they did not receive any information on the results of the search of Monis’ premises before 2.03 a.m.

82. Counsel Assisting and the Dawson and Johnson families submitted that the delay in searching Monis' premises was not justified and criticised the reasons given for the delay.
83. In particular, Monis had already been made aware that police negotiators knew his identity, through at least six phone calls with hostages commencing at 4.30 p.m. SIO acknowledged this, but said a concern remained that Monis might become agitated if he knew his residence was being searched. As to this, the Dawson family submitted that it was well within police power to ensure that Ms Droudis and anyone else at the premises would not communicate with Monis once the search began.
84. As to the search being conducted during hours of darkness, this was a "generic" concern. Police are trained for this and regularly conduct searches after nightfall.
85. Finally, as to any residual uncertainty about the identity of the woman in the unit, SIO admitted in evidence that police were certain it was Ms Droudis by well before 11.30 p.m.
86. The Dawson family made the additional submission that information about the results of the search should not have been "withheld" from the tactical commanders, arguing that as early as 11.30 p.m., they should have been told that the search had commenced and nothing of interest had initially been found. They submitted that the results of the search of Monis' residence were not adequately communicated to appropriate officers and that this particular criticism of Night Forward Commander should give rise to an adverse finding.
87. The NWPf submitted that nothing of interest was found during the search of Monis' premises, and that this meant the presence of a bomb inside the café could neither be confirmed nor excluded. The NSWPF contended that there was no need, as suggested by the Dawson family, to convey to the tactical commanders that "*no items of interest*" had been found in the search.
88. However, given the updates provided to the POC from 11.30 p.m. onwards that no items of relevance had been located during the search, I am not persuaded that any criticism can be levelled against Night Forward Commander. In light of the volume of information being conveyed and absorbed at the POC and the PFCP, it was not a priority to convey to tactical commanders information that did nothing to advance their assessment of the bomb risk.

Conclusion: Timing of search

89. The strong imperative to search Monis' residence outweighed the reasons police gave for hesitating to do so. The fact—apparent only in hindsight—that the search failed to turn up anything of significance does not justify the failure to conduct it in a timely fashion.

Other investigations of Monis

90. Aside from making a search of Monis' apartment, police also placed intercepts on Monis' phones, although, as it turned out, he never used them.
91. The search revealed no computer devices, and mobile phones used by Monis were not seized from the apartment until shortly before the siege ended. The contents of these mobile phones were downloaded and analysed after the siege but contained material of minimal relevance.
92. As to Monis' internet usage more generally, police accessed the Sheikh Haron website and Facebook page; the content of each was duly analysed and a summary included in the JIG officer's up-to-date police profile of Monis disseminated at 6.37 p.m.
93. By 3.38 p.m., Senior Investigating Officer and his team were following up on Monis' known associates. In particular, Ms Droudis was identified; police considered that she was of "enormous interest". As noted above, she was placed under surveillance and then stopped and searched when she left the Wiley Park apartment.

NSH complaints about Monis in December 2014

94. As noted in Chapter 3, a total of 18 complaints were made to the National Security Hotline (NSH) in the period 9–12 December 2014. All were prompted by the content of the Sheikh Haron Facebook page.
95. All 18 NSH complaints were referred to ASIO and the AFP for assessment. Seven of these complaints were referred to NSW Police, where they were examined by the TIU. However, during the siege neither SIO nor the JIG reviewed these NSH reports which had so recently complained about the hostage taker.
96. Commander TIU gave evidence that examination of the Facebook page on 10 and 11 December did not indicate a raised threat level or imminent plans for

politically motivated action or violence by Monis.

97. That may be accepted. Further, the relevance of the NSH complaints did not crystallise until after the siege began on 15 December. Nevertheless, the information that the NSH complaints had been made was relevant to the risk assessment that had to be performed during the siege. It should have been taken into consideration by SIO and/or the JIG. It is inexplicable that this information came to light only after the siege.
98. The NSWPF has provided no explanation as to why relevant commanders were not informed that these complaints about Monis had been received and examined a few days before the siege. Indeed, the NSWPF acknowledged that the complaints should have been reviewed during the siege and that the fact they were not was a deficiency in the intelligence system. Evidence proffered by the police described changes made to address this. Relevantly, I am informed that a more rigid quality assurance process has been implemented for the review of NSH reports.
99. Counsel Assisting submitted that the consequence of the NSH complaints not being considered during the siege was substantially lessened by the fact that from around 1.50 p.m. on 15 December, police were aware of the Sheikh Haron website. The website contained many posts that also appeared on the Sheikh Haron Facebook page, including the same image of dead children with accompanying text. Further, relevant extracts from the Sheikh Haron website were included in the Person of Interest profile of Monis uploaded to iSurv at 6.37 p.m. The profile included a note to the effect that the JIG officer had assessed the Sheikh Haron Facebook page but found nothing on it that would “*progress this profile*”.
100. The Dawson family agreed with Counsel Assisting’s position. The Johnson family submitted that, to the contrary, many posts on Monis’ Facebook page differed significantly from their counterparts on his website. They contended that had police been alive to the earlier Facebook posts, they would have known that within five days before the siege, Monis had gone out of his way to post pro-Islamic State material on more than one site and on more than one occasion, presumably to reach a bigger audience. They submitted that the material was highly relevant to understanding his dangerous mindset, particularly when viewed in conjunction with his oath of allegiance to IS’s self-styled Caliph, and recent IS executions of hostages in retaliation for Coalition air strikes. By December 15, Monis had twice posted images expressing outrage at the air strikes.
101. The Johnson family suggested that all this material should have been considered and that if it had been, police would have been less dismissive of Monis’ terrorist motivations and his sympathy for IS ideology, and better placed to assess the risk he posed.
102. The NSWPF submitted that the information contained in the NSH complaints would have been of some limited value in understanding the context of the siege. However, it argued that this was superseded by the actual events unfolding in the café.

Conclusion: Failure to review NSH complaints

103. During the siege, police intelligence analysts should have reviewed complaints about Monis previously made to the National Security Hotline. However, I am not persuaded that their failure to do so had an impact on the management of the siege because the content of the complaints (which related to Monis’ Facebook page) overlapped considerably with information that was made available to police early in the siege. Accordingly, it is unlikely that a review of the complaints would have made any meaningful difference to the assessment of the risk Monis posed.

Did police fail to access or disseminate relevant information about Monis?

104. Counsel Assisting submitted that the NSH complaints were the only identifiable category of information about Monis which investigation/intelligence officers failed to access during the siege. The Johnson family adopted this submission.
105. The Dawson family added that the police officers should have interrogated information in relation to all court proceedings in which Monis was a party. In particular, Monis had lodged an appeal against the Family Court’s decision to deny him custody of his children, and that matter was listed on 17 December 2014. The Dawson family submitted that police appear to have taken the view that Monis had exhausted his avenues in the Family Court or at least been “defeated” by the process. However, they argued that information about his upcoming

appeal might have aided police, particularly negotiators, in assessing his actions and motivations during the siege.

106. I am not persuaded by this submission. The police understanding during the siege of Monis' experience in the Family Court was not significantly inaccurate. Monis had suffered repeated setbacks in that court. While it may have been of some limited assistance for police to know about the appeal insofar as Monis' pursuit of it could be regarded as an indication of hope, it could equally be interpreted as a dogged refusal to accept reality. Furthermore, it would have been immediately apparent to police (and probably also to Monis) that staging the siege effectively eliminated any possibility of success in that appeal.

Identifying the hostages

107. It is always ideal to identify both the numbers and identities of people being held in a stronghold as soon as possible. However, I accept that this is not necessarily the most critical task for police when they are focused on securing the release of hostages. Against that background, I make the following findings as to the police efforts to determine the number and identity of the hostages.
108. The chronology of the steps taken by the NSWPF to determine the number and identity of the hostages is set out in Chapter 7. SIO had formal responsibility for gathering such information but, as a matter of practical reality the task was primarily undertaken by the negotiators. They did so based upon communications with hostages as well as hostages' friends/relatives by calls to the Police Assistance Line at Tuggerah, which receives 000 calls. Information about the hostages was maintained by the negotiators on a whiteboard in the PFCP and a whiteboard at Tuggerah. In due course, this information was also conveyed to the JIG, which included it in INTSUMs.
109. The first pieces of relevant information came at 9.41 a.m., when Tori Johnson called 000, identified himself, and said there were 20 hostages in the café.
110. Notwithstanding the information from Tori, during the morning, commanders were given estimates as low as seven to eight hostages. By midday, however, they were operating on the correct basis that the number of hostages was 14 to 20.
111. By 4 p.m., police at the POC had accurately identified all 18 hostages, plus several other individuals who were not in fact in the café.
112. However, inexplicably, INTSUM 3, which was issued by the JIG at 6 p.m., omitted the names of seven hostages that negotiators had listed on their whiteboard since at least 3.30 p.m. (if not many hours earlier). These oversights were remedied in INTSUM 4, issued at 8 p.m.
113. Counsel Assisting did not suggest that identification of hostages ought to have occurred sooner than 4 p.m., given the circumstances and based on the sources of information available. However, Counsel Assisting did contend that the JIG's attempt at compiling a hostage list (with photographs and other particulars) exposed significant deficiencies in the quality of information being received by the JIG. The Johnson family made a submission to similar effect.
114. In response, the NSWPF acknowledged that the PFCP had more information about hostages than the JIG, especially in the early part of the day. But the police made the point that even when information passes to the JIG, it is assessed, evaluated, and synthesised with other relevant information, a process that inevitably delays its inclusion in an INTSUM.
115. That may be accepted up to a point, but I do not consider it provides a complete answer. It remains the case that this incident exposed shortcomings in the workings of the JIG, including timely receipt and synthesising of information, as demonstrated by the JIG's delayed and deficient hostages list.
116. Both the Johnson and Dawson families also criticised the police for errors in estimates of the number of hostages, for the inclusion in the hostages list of individuals who were not present in the café, and for duplication arising from confusion about the spelling of some hostages' names.
117. The Dawson family pointed in particular to a problem in the way information received by 000 was recorded, consolidated, disseminated and interrogated. They cited as examples:
- the fact that information in Tori's 9.41 a.m. call was not conveyed to AC Fuller at the POC;
 - the listing of Katrina Dawson's clerk, Ms Flynn, as a potential hostage after she called to say she believed Katrina might be a hostage; and
 - the fact that even after Lindt employee Katherine Chee called to say she was not inside the café but could identify various hostages from television footage, her name remained on the list of suspected hostages.

118. The Johnson family submitted that the process of identifying the hostages was rendered less effective than it should have been by shortcomings in organisational coherence. In particular, they argued that insufficient significance was attached to reliable sources of information available from the earliest stages of the siege, namely Tori's estimate in his first 000 call that there were 20 hostages. They submitted that police failed to allocate responsibility for qualitatively assessing the reliability and importance of sources of information, particularly during the morning and early afternoon.
119. The NSWPF observed that although it is now clear that Tori provided an accurate estimate of the number of hostages in the café, his call was scripted and made at gunpoint. The veracity of the information he conveyed could not be assumed, whereas the first responders could visually estimate and independently verify some hostage numbers.
120. The NSWPF acknowledged with regret the errors in relation to Ms Flynn and Ms Chee.
121. As noted in Chapter 11, the NSWPF had placed negotiators at the Police Assistance Line at Tuggerah. A review by the NSWPF has identified the need for placement of a liaison officer in the Police Assistance Line centre so information from 000 calls can be fed from there directly to the JIG. This is warranted. To be clear, the introduction of such an arrangement does not obviate the need to review the mechanisms for transferring appropriate calls (i.e. those of a hostage taker or hostages), directly to negotiators (see Recommendation 9, Chapter 11).

Conclusion: Identifying the hostages

122. Having regard to the high-pressure context and the volume of information being received and disseminated by police, initial errors in estimating numbers and in establishing the identity of the hostages are explicable. I do not consider that these errors had any detrimental effect on the police response to the siege. They were not of a magnitude that might have affected the risk assessment of the incident. Police had identified all the hostages by 4 p.m.

Hostage debriefing

123. It was a priority for police to debrief escaped hostages, who could provide important insights into events within the café and the risks that Monis posed. Information about Monis' actions and statements; his gun and the suspected IED; the interior of the café including vulnerabilities and access points; and the number, identity and condition of the hostages could assist police to plan their response. The importance of this information was heightened because police did not have a video feed from the café and the audio surveillance device only commenced to operate from early evening.
124. Debriefing escaped hostages was a responsibility of Senior Investigating Officer. It was undertaken in accordance with the arrangements set out in Strike Force Eagle, namely:
- hostages were immediately triaged by officers from the Firearms and Organised Crime Squad (as part of SIO's Canvass Management Team), who took their particulars and a brief version of events;
 - officers from the Terrorism Investigation Squad and the negotiators then conducted a debrief of the hostages to obtain information of immediate relevance to command (i.e. tactical and negotiations)—this was primarily done by Officer WK and Sasha; and
 - thereafter, officers from the Sex Crimes Squad (in their role in SIO's Witness/Victim Management Team) took formal statements from escaped hostages, a process which began with some hostages on the night of the siege, and was generally concluded in the days after.
125. Two issues arise for consideration: whether the hostages were debriefed effectively and appropriately, and whether information derived from that process was disseminated in an accurate and timely manner.
126. The debriefing of the first five hostages to escape—John O'Brien, Stefan Balafoutis, Paolo Vassallo, April Bae and Elly Chen—is described in Chapter 7.
127. I accept the submissions of Counsel Assisting that these five hostages were debriefed in a timely, efficient and effective way. I also accept that the information sought and obtained was relevant and focused, in particular regarding Monis' mood and behaviour, his firearm, his claim about an IED, and the hostages' observations of his backpack (all being matters pertinent to the ongoing assessment of risk). Further, the debriefings were handled appropriately given the traumatised state of the hostages.
128. The information garnered from these debriefs

Debriefing of hostages in the afternoon

- appears to have been promptly, concisely and accurately conveyed to the relevant commanders. In particular, Sasha's practice of pausing the debrief to convey information to command at the PFCP, then returning with further specific questions (which came primarily from Tactical Commander) was an apt way of ensuring the debrief met the requirements of those who needed the information most.
129. The Johnson family observed that the information provided to command about these debriefs did not convey the escaped hostages' fear and distress, which were indicators of the dire situation in the stronghold. I am not persuaded that police at any time underestimated or misinterpreted the understandably emotional state of the escaped hostages, nor that they regarded the situation in the café as anything other than dire. At all times, it was treated as a high-risk situation.
 130. The Johnson family suggested that it would have been sensible for those tasked with debriefing the hostages to have produced a simple document or form with critical subject headings in relation to relevant information; ideally the list would have been developed during the siege to ensure that the debrief process was properly documented and to assist in relaying all relevant information to command.
 131. In response, the NSWPF submitted that this was not necessary; the process in place was adequate and enabled the effective elicitation and dissemination of information.
 132. Given my conclusions above about the effectiveness of the debriefing, I accept this submission by the NSWPF. However, the Johnson family suggestion appears worthy of further consideration by the police, particularly since it is apparent from some of the questioning of hostages during debriefs that the officers had limited knowledge of aspects of the operation.
 133. In relation to the debrief of April Bae and Elly Chen, the Johnson family submitted that information recorded as having been passed on to command did not adequately reflect their description of Monis' anger after the initial escapes, nor that Monis had a gun pointed at one of the male hostages most of the time. Further, the information that was passed on did not make explicit that the Red (foyer entrance) doors had been unlocked and remained so after the escape. It seems that Afternoon Forward Commander and Assistant Commissioner Jenkins were not aware of this.
 134. However, it is apparent that police were aware of Monis' anger after the escapes. For instance, in a briefing delivered by Reg at the POC at 5.30 p.m., he referred to the escapes making Monis irate. It was also not necessary to specifically disseminate information about Monis pointing the gun or about the foyer doors being unlocked, since both Tactical Commander and Deputy Tactical Commander were aware of this and most officers knew Monis had a gun and was pointing it at hostages.
 135. The Dawson family submitted that police should have disseminated information that emerged from the more formal interviews conducted with escaped hostages for the purpose of making statements. They suggest that the investigators' notes of these interviews should have been uploaded to iSurv. In support of this submission, they noted that Stefan Balafoutis and Paolo Vassallo relayed Monis' statements about IS and his motivation for staging the siege. During her interview, April Bae explained that what she believed was an antenna in Monis' hand had been observed via a reflection in the café window because she did not want to turn around and look directly. The Dawson family submitted that this significantly affected the weight that should have been given to her description of a device with an antenna, and that it should have been passed on to command.
 136. While I accept that all relevant information derived from escaped hostages should have been disseminated, including information obtained after the hot debriefs, I am satisfied that the information provided to command from the hot debriefs was sufficient. While more formal interviews yielded additional details such as those noted by the Dawson family, nothing in these interviews was *inconsistent* with what had previously been obtained and conveyed. The additional details were unlikely to alter the police understanding or assessment of the stronghold and the risks the siege presented.

Debriefing of hostages who escaped after 2 a.m.

137. The debriefing of the hostages who escaped just after 2 a.m.—Jarrod Morton-Hoffman, Joel Herat, Harriette Denny, Julie Taylor, Viswakanth Ankireddi, Puspendu Ghosh and Fiona Ma—is described in Chapter 7.
138. Counsel Assisting submitted that these necessarily limited debriefings were appropriate, particularly having regard to the circumstances and time available. The information sought and obtained appears

to have been relevant and focused, in particular regarding Monis' firearm and the shot he fired as the hostages escaped.

139. Information from these debriefs was conveyed to command at or shortly before 2.10 a.m., when Officer WK communicated the critical information she had received from Julie Taylor about the gunshot. This is reflected in Mark's log and in the iSurv entries, which also make clear that the information was received at the POC as well.
140. Counsel Assisting submitted that given the importance of the gunshot to Night Forward Commander's deliberations about initiating the EA, he should have tasked one of the members of his incident management team to urgently seek information about that from the officers conducting the debriefs.
141. The Johnson and Dawson families note that during the debriefing of Fiona Ma she described hearing Monis reloading his shotgun (after the second shot), information which could and should have been conveyed to command.
142. More generally, the Dawson family observed that the time immediately after the mass escape was critical, given that Monis had fired a shot and apparently lost control of the stronghold. They submitted that the failure of police to garner and convey vital information to command before 2.13 a.m.—such as the position of hostages inside the café, the condition of remaining hostages, barricades, or any mechanism associated with an IED—represented a failure of the system.
143. In response, the NSWPF observed that there is an inevitable delay between debriefing hostages and conveying the resulting information to command. The welfare of hostages takes precedence, and the eliciting of intelligence that may be vital from a tactical perspective takes time.

Conclusions: Debriefing escaped hostages

144. The debriefing of the hostages who escaped during the afternoon was adequate and the information was appropriately disseminated.
145. The short time between the escapes just after 2.00 a.m. and the initiation of the EA necessarily limited the debriefing of those hostages. It meant that almost nothing from those debriefs

was, or indeed could have been, conveyed to the police commanders.

146. However, given the importance of information concerning the shot fired by Monis at 2.03 a.m. to deliberations about initiating the EA, a member of the incident management team should have been tasked to contact those conducting the debriefs to urgently seek information about that shot, including whether it was believed to have been fired at the hostages.
147. The welfare of the escaped hostages was appropriately considered after each escape.
148. In a large-scale operation such as the response to this siege, it is inevitable that some officers brought in to perform tasks such as debriefing escaped hostages will not have the same level of situational awareness as the tactical officers and negotiators, who are deeply involved in attempting to resolve the incident. As a result, they may not appreciate the significance of—and will therefore not seek—some of the information the hostages may be able to provide.

Recommendation 11: Pro forma debriefing sheets

149. *I recommend that the NSWPF consider developing a pro forma debriefing sheet containing standard questions relevant to all or most high risk situations, which can be supplemented by the negotiation coordinator and the tactical commander to maximise the likelihood of all available relevant information being obtained during hostage debriefings. Such measures would also aid contemporaneous documentation of information derived from debriefs and assist in relaying all relevant information to command.*

Gathering and disseminating information from the café

Information conveyed by hostages

150. The hostages' telephone contacts with negotiators occurred under Monis' scrutiny and largely involved conveying his demands. As a result of Monis' insistence that his demands be published,

- hostages also listed them in Facebook posts and text messages to family and friends.
151. However, from time to time hostages were also able to transmit information to others outside the café covertly, using their mobile phones. Generally this occurred when a hostage was allowed to go to the bathroom. The information conveyed on these occasions fell into two broad categories.
 152. The first category comprised personal messages in which the hostages confirmed they were hostages and that they were still alive, and often expressed fear. While some of these messages were brought to the attention of police, this does not appear to have occurred on all occasions, presumably owing to the personal nature of the communications.
 153. The second category comprised information relevant to police—for instance, that there was one gunman, where he was located and how he was behaving. Almost all messages in this category were brought to the attention of police and then disseminated via iSurv.
 154. For instance, as described in Chapter 7, from shortly before midday Fiona Ma sent a series of messages to friends in which she confirmed she was a hostage and that she was escorting people to the toilet.
 155. Fiona was also sending text messages to her sister Helen, who was at the PFCP with a detective. At 2 p.m., Fiona sent messages indicating there was one gunman in the café and supposedly others around the city. She then sent a further message indicating that Monis was sitting in a corner of the café with two hostages.
 156. Fiona then sent a series of frantic messages asking that no one (including the police) be told this information, for fear that it would be repeated over the radio and be heard by Monis, putting hostages' lives at risk.
 157. However, Helen Ma was sharing all these messages with police, including Fiona's concern about what would be done with the information.
 158. Officer WK was made aware of the text messages between Helen and Fiona. The content of Fiona's messages was also conveyed to Investigations Liaison Officer, who indicated that they should be recorded and passed on to the PFCP verbally or by telephone. In the main, this occurred.
 159. At 2.30 p.m., a negotiator known as Joseph was tasked with contacting family members who had called 000 to obtain as much background information as possible. When he did so, he was informed about messages from the hostages to their families, including messages from Fiona to her friends and from Tori Johnson to his father.
 160. At 5.32 p.m., screen shots of the various messages from Fiona were uploaded to iSurv by Andrew 2.
 161. Shortly after 5.30 p.m., Marcia Mikhael posted on Facebook, "*he is going to kill us*". This prompted several calls to 000 from friends and relatives reporting the post. Whether based on these calls or otherwise, the post came to the attention of police, and at 6 p.m. an iSurv entry recorded "*advice received that a Facebook post from Marcia inside stronghold 'he is going to kill us'*".
 162. At 6.10 p.m., Sasha spoke to Marcia's husband George Mikhael, who referred to this same Facebook post. Sasha asked him to send a screenshot of the post to Emma. A screen shot of the message was uploaded to iSurv shortly after 6.30 p.m.
 163. At 6.37 p.m., an officer at the POC made an entry on iSurv that "*advice received by Negs - hostages are being allowed to use a toilet upstairs (location unknown) during this time hostages are sending out messages*".
 164. The information of greatest tactical significance as to both content and timing came from Tori:
 - at 7.05 and 7.40 p.m., he sent identical messages to Paolo Vassallo and to Alistair Keep, the retail director of Lindt: "*tell the police the lobby door is unlocked. He is sitting in the corner on his own*"; and
 - at 1.43 a.m., he sent a message to his partner, Thomas Zinn: "*He's increasingly agitated. Walks around when he hears a noise outside with a hostage in front of him. Wants to release 1 person out of good faith.*" A second message, "*tell police*", was sent seconds later.
 165. The evidence does not indicate what (if anything) police did upon receipt of the 7.05 p.m. message. However, they acted swiftly on the 7.40 p.m. repeat message, which was disseminated via iSurv at 7.50 p.m. and directly reported by telephone to Deputy Tactical Commander and by email to Tactical Commander.
 166. As the Johnson family observed, this information, in conjunction with a sketch map of the café drawn by Mr Keep, suggested a means of entry close to and concealed from Monis, in circumstances where he was reportedly sitting alone in a corner. It was of particular relevance to the tactical officers, includ-

ing in relation to the development of the DA.

167. However, as detailed in Chapter 15, I accept the submission of the NSWPF that the text message from Tori could not solely be relied upon as confirmation of Monis' position and circumstances for the purpose of assessing the feasibility of a tactical entry. It was always necessary for the tactical officers to take into account all available information; this message was a part of that larger information pool.
168. The text message sent at 1.43 a.m. was immediately drawn to the attention of an officer at the family liaison area and conveyed to the negotiators liaison officer, Rob.
169. Rob informed his fellow negotiator, Winston, who recorded in the negotiators' log at 1.58 a.m.: *"SMS from Thomas Singh [sic—Zinn] from Manager. Agitation. Wants to release one hostage as good faith."*
170. However, it is not apparent that this message from Tori was disseminated any further. Notably, the night negotiator Matt and coordinator Darren B were not told; the latter accepted that this was relevant information for him to receive. Similarly, the Consultant Psychiatrist was not told; he also said this information about Monis was something he would want to know. It was certainly contrary to the Consultant Psychiatrist's assessment at the time that things in the stronghold were settling for the night.
171. Perhaps most significantly, however, neither Night Forward Commander nor AC Jenkins was made aware of the text message; the latter's evidence was that while the information it contained was not necessarily required by the POC, it was very important from the perspective of Forward Command.

Conclusion: Dissemination of hostage communications

172. Most relevant information covertly obtained from within the café was promptly and effectively disseminated in a form that was accessible to those who required it—in particular, officers at the Police Forward Command Post including the TOU and negotiators.
173. There was at least one significant exception, namely the 1.43 a.m. text from Tori which described Monis' increasing agitation and his desire to release a hostage. This message should have been passed on urgently to the Police Forward Command Post, particularly

to the Forward Commander, Tactical Commander and the negotiation cell, and to the Police Operations Centre.

174. The failure to transmit the message was a significant omission. However, it is not possible to conclude that events would have unfolded differently had it not occurred.

Absence of "eyes" within the café

175. As there was no electronic visual surveillance device within the café, police were at a significant disadvantage in terms of monitoring events there. Afternoon Forward Commander at the PFCP pressed for video surveillance from early in his period as Forward Commander but it could not be provided. Police tried to overcome this by relying on sniper observations, audio surveillance devices, telephone intercepts and cameras angled toward the café.
176. Overall, it may be observed that police efforts were hampered by limitations in the technology to which the NSWPF had access. The experience of the siege demonstrated the police need for more sophisticated surveillance equipment and the benefits such equipment would provide. Indeed, at 10.37 p.m. on 15 December, the Commissioner of Police sent an email to Deputy Commissioner Catherine Burn indicating he had spoken to *"the SSG¹ team that were forward tonight and it has become apparent that we should be preparing a fresh bid for any new equipment that is necessary"*. The Commissioner asked DC Burn to get advice as to *"any new electronic imaging/audio/intelligence gathering equipment that we may need for the future"*.
177. In addition, arrangements for monitoring the surveillance devices, telephone intercepts, and video feeds suffered from a lack of proper resourcing and cohesion, and thus impeded the timely dissemination of relevant information. The U.K. police experts emphasised the importance of video surveillance from a stronghold and indicated that from their experience the technical capacity to achieve it existed.

Information from audio surveillance devices

178. As noted in Chapter 7, two different audio surveillance devices were deployed during the siege.

1 Special Services Group

179. SD1 was made available for use by the AFP. It was deployed at 7.14 p.m. It provided usable product, although the audio quality was poor, and transmission to the listening post was delayed by two to three minutes on average, and sometimes many minutes longer. The work undertaken at the listening post is addressed below.
180. SD2 was not hampered by time delays and allowed for “live” listening. However, its audio quality was so poor that this device was of almost no assistance. SD2 was operational from 11.45 p.m.; it was monitored by Detective Senior Constable Tim Goodman-Jones, who kept a log from the outset. Recordings from SD2 commenced at 12.31 a.m. on 16 December. From time to time the audio feed ceased but was reinstated within a few minutes.
181. Owing to the significant limitations of SD2, the analysis below primarily focuses on the audio from SD1.
182. The NSWPF made the point that what can be heard on SD1 reflects the device’s proximity to the source of sound. This means the quality of the audio output was at times poor and was contaminated by other noises. Furthermore, the mere fact that voices or sounds were transmitted over SD1 does not mean that officers heard or indeed understood them.
183. The initial arrangements for monitoring SD1 product at the listening post were that an AFP officer listened and provided briefings every 15 to 20 minutes to a NSWPF officer within SIO’s team, who in turn disseminated this to other officers involved in the response to the siege.
184. Just before 9 p.m., an officer from the PFCP (known to the inquest as Steven) attended the SD1 listening post and began relaying information directly to negotiators at the PFCP. Eventually, the AFP officer ceased his briefings; he left the post at midnight. For the next hour, Steven continued the task alone until relieved by the NSWPF officer known in the inquest as “Mick” at about 1 a.m.
185. Mick provided regular reports to Darren B and/or Rob (respectively, the team leader and liaison officer of the night negotiators team), including an indication of the actual time at which the relevant conversations/events occurred. From at least 1.50 a.m., Mick sent text messages to Rob every few minutes containing information from SD1. On receiving such information, Rob would ensure that Darren B was made aware of it, then provide it to Winston, who recorded it into the negotiators’ log.
186. Mick also provided updates to Detective Inspector Mark Henney, who was part of SIO’s team.
187. The information from SD1 provided by Steven and Mick contributed to the impressions formed by police at the PFCP as to the mood within the stronghold. This was all the more significant because the snipers’ ability to see inside the café was greatly reduced as darkness fell and the lights in the café were extinguished.
188. Between 9 p.m. and 1 a.m., Steven sent 22 text messages to the negotiators’ cell. When considered as a whole, these conveyed a benign if not positive picture of what was occurring inside the stronghold. For instance:
- at approx. 9.30 p.m.: *“Speaking very calmly. Inquiring as to their welfare”*;
 - at approx. 10.00 p.m.: *“Positive response to news coverage. Police have decided not to do anything. That is good news. Selina asking to be allowed to talk to us”*;
 - at approx. 10.20 p.m.: *“Female (Selina?) crying and vomiting. No overt cause”*;
 - at approx. 11.00 p.m.: *“[Monis] suggested people ring their loved ones. Asked manager if he has spoken to his kids”*; and
 - at approx. 11.25 p.m.: *“Monis saying ‘Hopefully by morning everyone home. After Tony Abbott calls, everyone happy, go home.’”*
189. Steven does not appear to have relayed the following items to the PFCP/negotiators:
- at the start of his shift, Steven recorded in his notes that Monis had recently said: *“no one was killed because no one came close”* and *“If they make any plans something terrible is going to ...”*;
 - at approximately 9.30 p.m., SD1 captured Monis complaining that his demands were not being taken seriously and that dealing with negotiators was a waste of time;
 - at 11.04 p.m., SD1 captured Monis indicating that the hostages could not rely on [negotiator] Peter for anything;
 - at 11.10 p.m., Steven recorded in his notes that Monis was saying *“Your families have everything to lose”*; and
 - at approximately 11.22 p.m., SD1 captured Monis saying: *“I feel bad that I didn’t shoot that white shirt man [Stefan Balafoutis, who had escaped], because ah, I had a chance.”*
190. These comments by Monis do not align with the

impression conveyed by Steven's text messages of a calm stronghold overseen by a hostage taker who was concerned for hostages' welfare and talking about their safe reunion with loved ones. Nor—as is now known—do they align with the evidence of several hostages, including Jarrod Morton-Hoffman, that the atmosphere in the café became increasingly tense during the evening.

191. Mick conveyed a somewhat more accurate picture of the mood and dynamics within the café, though he too did not report matters which gain significance in retrospect.
192. For example, Mick's text messages included a report at 1.24 a.m. that Selina Win Pe was apologising to Monis about how he had been treated, and another at 1.31 a.m. saying Monis had declared that negotiations were finished and he did not want them. Furthermore, Mick was almost certainly the source of the Consultant Psychiatrist's awareness that Monis had admonished Selina for telling a 000 operator in a 1.12 a.m. call that she would be shot if Monis' demands were not met in 15 minutes.
193. However, Mick did not report Selina's agitation when she told a 2GB producer at 1.43 a.m. that the police were doing nothing and that the hostages had been left to die. His text messages to Darren B and Rob at 1.47 a.m. and 1.50 a.m. about Monis' proposed hostage release did not include reference to the precondition about a radio broadcast. Mick also did not report Monis' subsequent remarks that there was no point releasing a hostage because the media were refusing to broadcast his message.
194. Counsel Assisting submitted that overall, these messages from those monitoring the SD1 product may have contributed to the impression at the PFCP that negotiations were progressing and should be continued; and to the view at 1.50 a.m. that the stronghold was settling for the night and that negotiations would resume in the morning.
195. However, counsel for the Johnson family submitted that the content of information being conveyed from the SD1 listening post to the negotiators in this period does not adequately explain the incorrect assumption held by the Consultant Psychiatrist and others about the settled state of the stronghold approaching 2 a.m. That is a matter examined in Chapter 13, but for the purpose of examining the effectiveness of the monitoring and conveying information from SD1, I discuss below the ways in which that monitoring system was required to operate and how it may have compromised the effectiveness of the monitoring.
196. The Johnson family suggested that training should be given to officers monitoring surveillance product to ensure that they understand:
 - information and observations that may be particularly significant in the context of a terrorist incident; and
 - the potential for a high-risk terrorist incident to deteriorate rapidly, and thus the need for critical information to be conveyed expeditiously.
197. Any critique of the performance of Steven and Mick must be placed in proper context. The audio quality of SD1 was poor, and while monitoring it the officers were unable to replay what they heard: they had to discern all relevant material on a single listening. Furthermore, their attention was divided between listening to the audio, taking notes of what they heard, sending text messages to the negotiators with relevant details, answering telephone calls unrelated to that task, and fielding peripheral information and enquiries from the AFP (e.g. in relation to telephone intercept product). In those circumstances, any deficiencies in their interpretations and transmissions seem attributable to technical limitations and systemic issues rather than to any personal failings.
198. Moreover, the work of those monitoring SD1 was hampered by transmission delays. The Commonwealth indicated that such delays are an inherent feature of SD1, and that steps can be (and were during the siege) taken to reduce them. However, the delays could not have been reduced further, or eliminated altogether, with the technology that was available at the time.
199. The longest delay—seemingly caused by a technical problem—lasted for 29 minutes, from 12.07 a.m. to 12.36 a.m. Significantly, that period coincided with three calls by Marcia to the negotiators' landline, all of which went unanswered, as well as Selina's call to 000 to revive Monis' demands about the lights in Martin Place. Mick notified Darren B of this exchange by text message just after 1.00 a.m.
200. Counsel Assisting submitted that while Selina eventually spoke to Matt about the lights at 12.53 a.m., if SD1 had been functioning normally these events could have been reported to negotiators and acted upon much sooner.
201. Counsel Assisting suggested that in the circumstances, an additional 20 minutes might have permitted police to make definite arrangements for the lights to be turned off and to use this as a hook

- for negotiations. The failure in SD1 capability at such a pivotal time contributed to the loss of an opportunity.
202. The Johnson family endorsed these submissions.
203. I agree. However, given that this was a product of technical limitations, it cannot give rise to criticism of officer performance.
204. The consequence of the delays in SD1 transmissions became most crucial from 2.03 a.m. onwards, when the situation inside the café rapidly deteriorated and police were trying to quickly assess what had occurred based on all possible information sources.
205. During that period, the SD1 transmission delay was roughly two to three minutes. However, because the recordings were transmitted in blocks rather than as a continuous stream, this meant that sounds or conversations picked up at the beginning of a recorded period—i.e. the start of a file—could, in some instances, not be heard for approximately four to five minutes after they occurred.
206. The following sequence demonstrates the acuteness of this limitation. In a recording that commenced at 2.04.53 a.m., there is the sound of furniture being moved and Monis saying “*Manager stand there. There, there, there, don’t move.*” Tori can then be heard crying, followed by the sound of further furniture movement and ammunition being loaded into the chamber of a shotgun. That recording ceased at 2.05.52 a.m. It was not able to be heard by the monitor until 2.09.01 a.m.—a delay of 4 minutes and 8 seconds.
207. Then, in a recording that commenced at 2.06.23 a.m., Monis can be heard saying “*The manager, put your hand on your head. Hands on your* (indecipherable).” That recording ceased at 2.07.22. It was not able to be heard by the monitor until 2.11.01 a.m.—a delay of 4 minutes and 38 seconds.
208. This is a convenient point in the chronology to note that the only usable audio product obtained from SD2 was Monis’ gunshots. Det Goodman-Jones heard, in real time, the gunshot fired during the hostage escape at 2.03 a.m., which he described in his SD2 monitoring log as a “*bang*”. At 2.11 a.m. his log again notes a “*bang*”. It appears that he reported both of these sounds to Rob at the negotiators cell, who in turn conveyed the information to Darren B and Winston.
209. The Johnson family suggested that even with the SD1 delays, the information from SD1 and SD2 would have allowed police to initiate an EA prior to Tori’s fatal shooting at 2.13 a.m. They point out that from 2.11 a.m.—when the SD1 audio indicated that a shotgun shell had been chambered and Tori had been positioned with his hands on his head, until 2.13 a.m.—there was time to recognise the impending danger to Tori’s life and act upon it. They submitted that Tori’s life might have been spared if those monitoring the devices had immediately conveyed the information from the listening devices to the Forward Commander and he had acted on it appropriately.
210. However, Counsel Assisting noted that in that two-minute period, police had to both understand the significance of what could be heard over the surveillance devices, and act before Monis shot Tori. Furthermore, the real significance of what could be heard only crystallises when it is combined with Sierra Three 1’s observations during the same period of a hostage being placed on his knees, and of that hostage flinching and resuming the kneeling position when the second shot is fired. (As addressed elsewhere, his observations were not effectively conveyed to commanders and other officers.)
211. However, I do accept the submissions of Counsel Assisting, which are largely endorsed by the Johnson family, that overall the arrangements for the monitoring was SD1 were inadequate.
212. This arises on two bases. First, having regard to the delay in transmission and poor audio quality, there would have been real benefit in an additional NSWPF officer being present at the listening post to monitor the recordings in a more studied fashion, and where necessary, replay a recording to draw all relevant details from it.
213. Second, while monitoring SD1, Steven and Mick were also required to undertake unrelated tasks, such as answering telephone calls and receiving updates from the AFP about the results of telephone intercepts. It would have been preferable to have a monitor dedicated exclusively to the task, or have multiple people assigned to it, to ensure that nothing was overlooked.
214. Counsel Assisting also raised concern that SD1 could not be monitored from within the POC or the PFCP. Had this been possible, relevant information could have been disseminated more expeditiously. Furthermore, the officer/s monitoring the product would likely have had more up-to-date situational awareness about the siege.
215. The Commonwealth indicated that it would have

been technically possible to provide access to the audio from SD1 at the PFCP and/or in the negotiators' cell. However, nothing like that had been attempted before, and trying to achieve it without prior planning could cause numerous complications and present risks to security. Any such planning would have needed foreknowledge of the state of the monitoring technology at that time.

216. Finally, Counsel Assisting also noted that initially there were no arrangements for passing on audio material to the PFCP (other than to the negotiations cell) or the POC. This deficiency appears to have been identified on the evening of 15 December. At about 10.30 p.m., SIO received a call from the PFCP seeking an allocation of staff to "relay" the SD product, but it does not appear that this occurred.
217. The U.K. expert Deputy Chief Const Chesterman expressed the view that a dedicated officer ought to have been allocated to the SD1 listening post in addition to Steven and Mick so that information directly relevant to the Forward Commander could be relayed expeditiously. Counsel Assisting made a submission to like effect, as did the Johnson family, who submitted that the commanders should have had in place a system that enabled them to receive information from the surveillance device at a much more rapid pace.
218. The U.K. experts also suggested that it was "suboptimal" to use text messages to convey information obtained from the surveillance devices; they suggested that iSurv should have been used instead. The NSWPF accepted that in future iSurv may be a better tool by which to communicate surveillance product. It seems to me that this would also address the dissemination issues identified above.

Conclusion: Audio surveillance devices

219. The deployment of an audio surveillance device within the café had the potential to significantly assist police in shaping their response to events during the siege. That potential was not fully realised because of the technical limitations of the available equipment and because of a shortage of human resources and inadequate coordination of the available personnel.
220. The NSWPF did not have the technology needed to undertake remote audio surveillance of the inside of the café, so its officers were forced to rely on access granted by the

AFP. This meant that the audio captured by the devices in question was not monitored or disseminated as effectively as it might have been.

Recommendation 12: Acquisition of audio surveillance technology

221. *I recommend that if it has not already done so, the NSWPF acquires the audio surveillance technology that in similar circumstances would allow a device to be monitored in the Police Forward Command Post and/or the Police Operations Centre and that the organisation ensures that its capacity in this regard keeps pace with technological advances in the area.*

Information from telephone intercepts

222. As noted in Chapter 7, the NSWPF and the AFP placed telephone intercepts on Monis' mobile number, the mobile phone numbers of various hostages, and the phones at the NSW Leagues Club, where the negotiators were located.
223. Officers from Senior Investigating Officer's team monitored the lines being intercepted from SIO's office in the POC, and a negotiator was also allocated to listen to the "live feed" of calls and pass relevant information to the PFCP expeditiously.
224. Relevant information coming off lines intercepted by the AFP was also passed to members of the SIO team and to Mick, who was at the SD1 listening post.
225. Utilisation of telephone intercepts during the siege was a sensible step in the quest to improve police understanding of events inside the café. However, while the system for monitoring of the intercepts appears to have been inadequate, and while the dissemination processes appear to have been *ad hoc* in some respects, no particular criticism arises. Advances in technological capability and in the technology itself, will bring improvements to the systems and the effectiveness of, monitoring.

Video footage of the siege

226. Live television broadcasts of the siege unfolding were shown in the PFCP and the POC. Additionally, the State Technical Investigation Branch (**STIB**) eventually established ten video feeds, none of which had an audio component.
227. Those feeds relayed vision of all sides of the café, the Martin Place foyer and the streets around the

- stronghold. The first feed became operational at about 1.00 p.m. and the others came on stream sequentially over the next 5.5 hours.
228. The video feeds obtained by STIB were initially received in the STIB mobile command post (a truck stationed in Elizabeth Street, adjacent to the Seven Network building), commencing at 1.14 p.m.
229. Some of these video feeds became available in the PFCP and the POC. At 3.55 p.m., the PFCP commenced receiving a feed that was displayed on a large wall screen in “quad split image” format, with all available video shown—from STIB Cameras 1, 2 and 3.
230. At 4 p.m., the same video transmissions became available at the POC.
231. At 5 p.m., a fourth camera stream was added to display, being the feed from STIB Camera 4.
232. At 7.20 p.m., thanks to a change in equipment, higher-resolution images were transmitted to the PFCP in real time.
233. Other feeds were eventually provided to the PFCP from around 6.20 p.m., including CCTV from the foyer of 53 Martin Place from approximately 10.05 p.m.
234. While police appear to have had the ability to pause, rewind or replay the STIB feeds, doing so interrupted the live streaming capability and was subject to bandwidth issues. These limitations meant replay was impracticable. The NSWPF has indicated that it is evaluating the feasibility of adding such technological options.
235. No officer within either the PFCP or POC was assigned specific responsibility for monitoring these feeds (STIB officers were monitoring them, but for technical/maintenance reasons). Any monitoring that occurred was *ad hoc*—for example, as a result of individuals tasked with other work noticing something happening on screen and drawing it to the attention of others.
236. Counsel Assisting submitted that given the impracticability of replaying the STIB feeds, a police officer in the PFCP and at the POC should have been assigned to perform the sole task of monitoring and reporting.
237. The Dawson family joined in this submission, and submitted that the importance of close monitoring of any changes in the stronghold was underlined by the events of 2.03 a.m.
238. These submissions found favour in the view expressed by the U.K. team that they would expect dedicated officers monitoring the screens.
239. The NSWPF accepted this.

Conclusion: Video material

240. Although it took many hours to do so, officers of the State Technical Investigation Branch set up adequate relays of visual coverage of the outside of the café into the Police Operations Centre and the Police Forward Command Post. Given the important contribution of this facility to situational awareness in the command centres, a dedicated officer should have been nominated to monitor the screens in both places. The benefits of sophisticated audio and video surveillance devices will be maximised only if such devices are adequately monitored and the information they afford is appropriately disseminated. At times during the siege, neither of those things happened.

Recommendation 13: Audio and video surveillance

241. *I recommend that the NSWPF review its personnel arrangements and structures for the monitoring of surveillance devices, including the number of officers allocated to a listening or viewing post for monitoring purposes, and the demarcation of roles, including primary monitor, scribe/log keeper, and disseminator. I also recommend that clear communication channels be established for reporting data captured during such surveillance, including via integrated electronic intelligence-sharing platforms or applications.*

13 Negotiation

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Introduction

1. From an early stage of the siege, the police approach was to seek to contain the situation and to negotiate a peaceful resolution of the incident. Containment involved controlling entry and exit from the café and communicating with those inside the café. Negotiation involved establishing communication with the hostage taker and identifying the demands that would lead to his releasing the hostages and surrendering to police.
2. Police negotiators were on site approximately 20 minutes after Tori Johnson's initial 000 call, which commenced at 9.41 a.m. Negotiators began attempting to call those inside the café at 10.42 a.m. Police negotiators tried to engage with Monis right through to the resolution of the siege but never succeeded in talking to him directly.
3. The inquest focused on whether different negotiation strategies and/or tactics ought to have been tried and whether, in light of the lack of progress in the negotiations, consideration ought to have been given to alternative means of resolving the siege.
4. This chapter examines the negotiation techniques used and the policies on which they were based, and makes recommendations to improve practices.

Was “contain and negotiate” appropriate?

5. “Contain and negotiate” was the principal operating strategy of the NSWPF for resolving high-risk situations in accordance with *Tactical Operations Unit—Management Operational Guidelines* and the *Negotiation Unit—Management Operational Guidelines*. That also accorded with Clause 92 of the *National Counter-Terrorism Plan 2012* (3rd edn) (NCTP 2012).
6. Because Monis was making demands and seeking to initiate communication through Tori's 9.41 a.m. 000 call, it was entirely appropriate for the NSWPF to respond with containment and negotiation.
7. While Monis' actions from the outset traumatised the hostages and exposed them to a very real risk of physical harm, Monis had not immediately begun shooting hostages, which would have necessitated a different form of initial response. It was always open to the NSWPF to move to a different form of response depending upon how the siege developed.
8. The U.K. policing experts were unequivocal, in both their reports and their oral evidence, in stating that the initial police response of establishing containment of the café stronghold and dialogue with the hostage taker was entirely appropriate.
9. As noted in Chapter 7, shortly after 10.15 a.m., the NSWPF Counter Terrorism and Special Tactics Command Threat Assessment Team assessed the likelihood that the siege was a terrorist incident as “extreme”. That led to the activation of the Pioneer and Eagle arrangements.
10. “Contain and negotiate” continued to be an appropriate strategy for the management of the siege once it was assessed to be a terrorist incident.
11. Monis used his shotgun to threaten and terrorise the hostages and claimed to have a bomb that he could detonate. He was not, to use a term recently adopted in policing and counterterrorism circles, an active armed offender because he was not using a weapon to cause actual physical injury. Rather, Monis made demands and threats. Against this backdrop, after having achieved containment, police settled into a regime of negotiation. This approach was within the applicable protocols and was appropriate.
12. The experience of international law enforcement agencies in recent years has shown that sieges motivated by terrorism are less likely to be resolved by negotiation alone.
13. After a siege is determined to be driven by terrorist motivations, it is necessary for police regularly to assess and reassess whether “contain and negotiate” continues to be the appropriate tactical response.
14. The Lindt Café siege continued for some 16 hours. During that time, there is little evidence to suggest that negotiators, or those commanding them, conducted any systematic review of the efficacy of the “contain and negotiate” strategy to assess whether progress towards resolution of the incident was being achieved.
15. In Chapter 7, the structure of the Negotiation Unit and the make-up of the day and night negotiation teams are detailed. Under the Negotiation Commander and Negotiation Coordinator, each team had a Team Leader, a Primary Negotiator, a Secondary Negotiator and two persons fulfilling the Fourth Member role. Graeme was the Negotiation Commander and he remained on duty at the Police Operations Centre (POC) for the duration of the siege.
16. Graeme said that if the approach of the negotiators was not working, “they would sit down and

discuss in their downtime the appropriate course of action in changing their methods". No such discussions were documented. To the extent that they occurred, such discussions do not appear to have resulted in a thorough assessment of the progress of negotiations.

17. The expert report of Dr Andrew Brown, a former U.K. police inspector and a specialist in crisis negotiations, suggested there are common indicators of progress in a negotiation that can be monitored and assessed. These can be summarised as:
 - Emotional outbursts are declining and conversations with the stronghold are getting longer.
 - Hostages are released.
 - Weapons are surrendered.
 - There has been no physical injury to hostages.
 - The incident is static.
 - A routine has been established.
18. Throughout the siege, negotiators had no direct conversations with Monis, and, to the extent that there was communication with hostages in the café, those communications were marked by emotional outbursts on the hostages' part. Calls with hostages were regularly terminated in an abrupt fashion, usually at Monis' insistence. Notably, although negotiators made dozens of calls, they had no communication with anyone inside the stronghold between 8.42 p.m. and well after midnight.
19. No hostages were released, no weapons were surrendered (despite Monis at times suggesting a willingness to surrender the bomb he claimed to have), and the evidence from Surveillance Device 1 (SD1), which began to function at 7.14 p.m., ought to have dispelled any beliefs that the incident was static or that a routine had been established. To the contrary, the surveillance device material should have suggested to police that those inside the stronghold were becoming increasingly frustrated and that Monis was becoming agitated. Even before SD1 was operating, information made available to police through debriefs of escaped hostages indicated that things inside the café were far from static.
20. A robust consideration of these objective factors ought to have led police negotiators and commanders to conclude by late afternoon, or early to mid-evening at the latest, that the "contain and negotiate" strategy, as implemented, was not working. That conclusion, in turn, should have led police negotiators to attempt other approaches to nego-

tiation, having first canvassed the situation and the proposed change in tactics with the Forward Commander.

21. The Dawson family submitted that while "contain and negotiate" need not necessarily have been abandoned once the siege was assessed to be a terrorist incident, the NSW Police underestimated the risk Monis presented. That restricted police to responding reactively to the shooting of Tori Johnson rather than taking a proactive approach to resolve the incident much earlier. More particularly, the Dawson family submitted that Monis engaged in acts of violence from the outset by using the shotgun to direct and menace the hostages; this should have led police to assess a higher level of risk and implement a proactive strategy.
22. This chapter considers the extent to which the NSWPF may have underestimated the risk to hostages during the siege as a result of misunderstanding the significance of Monis' asserted terrorist motivations, his past criminal history and his conduct in the early stages of the siege.
23. The NSWPF submitted that containment and negotiation was the appropriate strategy throughout the siege. As addressed further in Chapter 15, deciding whether that strategy should have been abandoned in favour of a Deliberate Action (DA) depended upon a rigorous assessment leading to a conclusion that the incident was not likely to be resolved by negotiation.

Conclusion: The use of containment and negotiation

24. "Contain and negotiate" was the appropriate initial response to the siege. It continued to be so even after the siege was assessed to be a terrorist event. How long it remained the appropriate primary response depended upon a rigorous evaluation of its effectiveness. There is no evidence that an adequate evaluation was made.
25. Reassessment of the "contain and negotiate" strategy would not necessarily have led to the termination of negotiations. However, it should have led to changes in the approach to negotiation while alternative measures for resolving the siege were also considered.

Negotiation restrictions in the NCTP

26. Declaring the incident to be terrorism-related brought into effect restrictions contained in the NCTP 2012 concerning what concessions could be made in response to the hostage taker's demands.
27. Clause 92 of the NCTP 2012 provides in part that:

Australia's policy is, wherever possible and appropriate, to resolve terrorist acts through negotiation to minimise the risk to life. Australia will not make concessions in response to terrorist demands.
28. Counsel Assisting submitted that there was a conflict between the preference for negotiation and the prohibition on making concessions. They submitted that the negotiators did not adequately understand that they were not precluded from engaging with Monis on any particular demand. The Dawson and Johnson families supported that submission.
29. The NSWPF and the Commonwealth disputed that there was any ambiguity in the terms of Clause 92 and disputed that it created an impediment to negotiators engaging with Monis on his demands.
30. A further potential source of confusion arose because the national strategy setting out the requirements for negotiators in counterterrorism matters refers to the wrong NCTP.
31. The NSWPF negotiators, being part of a negotiation unit established pursuant to ANZPAA and ANZCTC arrangements, were required to abide by the National Strategy for Terrorist Negotiation and the NCTP 2012 when they were deployed to high risk situations, as they were during the Lindt Café siege. However, at the time of the siege, the National Strategy for Terrorist Negotiation wrongly made reference to the terms of Clause 64 of the NCTP 2005 rather than Clause 92 of the NCTP 2012.
32. Clause 64 of the NCTP 2005 provided that:

*Australia's policy is, wherever possible and appropriate, to resolve terrorist incidents through negotiation to minimise the risk to life. Australia will not make concessions in response to terrorist demands. **However, in siege/hostage situations, minor concessions may be made to further the comfort and health of hostages.*** [Emphasis added.]
33. The evidence suggests that the Police Forward Commanders and Police Commanders who were appointed from the Pioneer cadre were determined not to give in to Monis' demands. An 8.01 p.m. entry on iSurv about a teleconference involving Assistant Commissioner Mark Murdoch, other senior officers at the POC, and negotiators and the Consultant Psychiatrist at the Police Forward Command Post (**PFCP**) recorded that none of Monis' demands would be met.
34. However, I do not conclude that any potential ambiguity or inconsistency in the terms of Clause 92 of the NCTP 2012 or conflict between that clause and Clause 64 of the NCTP 2005 influenced the conduct of the negotiations. Rather, the negotiators failed to pursue opportunities to attempt to engage with Monis because of a lack of experience in terrorist negotiations, a lack of flexibility in approach and a lack of initiative.
35. I accept, consistent with the submission made on behalf of the Commonwealth, that there is no contradiction between a quest, wherever possible and appropriate, to resolve terrorist acts through negotiation and a prohibition on making concessions in response to terrorist demands. While granting a concession is one possible response during a negotiation process, there are other means of conducting negotiations that may progress an incident towards resolution.
36. I also accept that under Clause 92, it is only "terrorist demands", not all demands made by a terrorist, that must be rejected. While the NCTP 2012 does not spell out what exactly is required to make a demand a terrorist demand, I conclude that demands of a terroristic character are those in respect of which concessions are prohibited under Clause 92. That is, demands that could be seen as advancing a terrorist cause or objective or that bespeak a political motivation connected to an act or threat of violence.
37. The prohibition against granting terrorist demands is sound policy. However, a distinction should be made between demands made by a terrorist and demands of a terroristic nature. Acceding to some demands made by a terrorist may be part of an effective strategy to resolve a siege situation. Guidelines should be developed to help negotiators identify which types of demands cannot be conceded so as to avoid facilitating the furtherance of terrorists' goals, and which types of demands can be considered with a view to reaching a safe resolution of a terrorist incident.

Conclusion: The impact of the NCTP

38. The prohibition in the *National Counter-Terrorism Plan 2012* against making concessions to terrorists did not prevent the negotiators in the Lindt Café siege from actively exploring opportunities to engage with Monis. However, some clarification of what demands cannot be acceded to is required. Further, the Australia–New Zealand Counter-Terrorism Committee documents and State Protection Group documents should be updated to refer to the latest versions of the *National Counter-Terrorism Plan*.

Recommendation 14: Concessions to terrorists

39. *I recommend that the Secretariat of the Australia–New Zealand Counter-Terrorism Committee prepare guidelines regarding the interpretation and scope of the restrictions contained Clause 92 of the NCTP 2012. The Secretariat should also update relevant Australia–New Zealand Counter-Terrorism Committee documents and the NSWPF should update State Protection Group documents to refer to the latest versions of the National Counter-Terrorism Plan.*

Attempts to engage with Monis

40. The inability of negotiators to speak directly with Monis was recognised early on as a significant impediment to effective negotiations. Both Reg, the Negotiation Coordinator, and Graeme, the Negotiation Commander, gave evidence to that effect.
41. For the majority of the day and night, negotiators' attempts to get Monis to speak with them were limited to repeatedly calling his phone, hostages' phones, and occasionally, the café landline. Most calls went unanswered. On the occasions when the calls were answered, they were answered by hostages. On multiple occasions, the negotiators asked whether Monis would speak to them. Each time, Monis communicated his refusal through the hostages. It should have become apparent to police by at least early afternoon that this strategy was not working.
42. The NSWPF maintained that repeated calls into the café were a proper and sufficient means of seeking to engage directly with Monis. It asserted that while speaking to hostages was not direct communication, it was a form of indirect communication which permitted the negotiators to gather information, check on the hostages' health and welfare, receive Monis' demands, and try to understand them.
43. Police did not seek to implement an alternative or additional strategy until [REDACTED] the afternoon of 15 December. At approximately 4.52 p.m., in a call with the hostage Viswakanth (Viswa) Ankireddi, the negotiator Peter [REDACTED]. Negotiators had hoped that this strategy would lead Monis to speak with them. It did not. Instead, Viswa hung up, apparently at the direction of Monis. Peter [REDACTED] again in a call with Selina Win Pe at 4.54 p.m., and also in calls with Marcia Mikhael at 5.03 p.m., 5.13 p.m., 5.16 p.m. and 5.36 p.m. These calls were terminated, either immediately or after the hostage said that Monis would speak to negotiators only after he spoke to the Prime Minister, Tony Abbott. Similarly, when Peter called Marcia at 7.13 p.m. and 7.53 p.m. and again resorted to the same strategy, the calls were promptly terminated.
44. After this series of calls, it ought to have been apparent to negotiators that the strategy Peter had employed was unlikely to lead to personal contact with him. Nevertheless, the evidence suggests that—with the exception of some text messages sent to hostages from 10.05 p.m. onwards, in which they were reminded of the negotiators' phone number and encouraged to call it if they need to speak to Peter—the negotiators did not try any alternative strategies for securing Monis' engagement with them. They simply called repeatedly in the hope that his approach would change. The sound of a phone can be heard on SD1, ringing more or less continuously.
45. The Dawson family criticised the strategy of [REDACTED] on the basis that it reflected ignorance of the Islamic State directive to its followers to commit attacks anonymously and to attribute them to IS. Further, they argued that the NSWPF never thought through how [REDACTED] was going to bring about a change in Monis' behaviour that would assist in achieving a peaceful resolution of the siege.
46. There were risks inherent in letting Monis know that the NSWPF had [REDACTED]. However, the [REDACTED] was a strategy worth attempting. There is no evidence that anyone within the POC or PFCP concluded that Monis might be trying to [REDACTED] consistent with an

IS call to action. However, even if such a view had been formed, I accept that there might have been value in letting Monis know that [REDACTED] had failed, with a view to encouraging him to speak to negotiators. Trying to [REDACTED] with a view to encouraging direct engagement was a legitimate approach. Accordingly, I accept that the tactic of [REDACTED] was a legitimate one to employ after hours of calling the café and asking to speak to the hostage taker, [REDACTED].

47. The strategy Peter sought to employ proved unsuccessful, and negotiators reverted to repeatedly calling the hostages' mobile phones.
48. The U.K. experts suggested other strategies the negotiators could have attempted, such as:
 - ensuring that messages released to the media by the government and police were in keeping with the negotiators' objectives;
 - giving more thorough consideration to the use of third-party intermediaries;
 - considering making additional concessions in the course of negotiations;
 - attempting to employ alternative communication methods such as the Long Range Acoustic Device (LRAD);
 - considering changing the primary negotiator before the handover from the daytime to the night shift; and
 - introducing the topics of Monis' religion and/or his children in conversations with hostages.
49. I will consider each of those alternative approaches.

Media releases and statements

50. During the siege, media releases were issued by the NSWPF and media conferences were held involving either Commissioner Scipione or Deputy Commissioner Burn. Specifically, there was a media conference involving Commissioner Scipione at 1.30 p.m., media conferences involving Deputy Commissioner Burn at 3.30 p.m. and 6.30 p.m., and an 8.15 p.m. media conference involving Commissioner Scipione and the NSW Premier, Mike Baird.
51. Escaped hostages told police that Monis was listening to radio live streams and checking news online. When product from SD1 became available just after 7.14 p.m., Monis was heard listening to radio broadcasts and commenting on them to hostages. Yet no media release or statement made at a media conference was crafted with input from negotiators with a view to communicating directly with Monis and encouraging him to engage with police.
52. The representatives of the NSWPF confirmed that the media statement delivered by Commissioner Scipione and the Premier was not crafted with a view to furthering negotiations with Monis. None of the negotiation Team Leaders or the Negotiation Coordinator, nor the Negotiation Commander, suggested that be done.
53. According to the evidence of U.K. expert negotiators Temporary Chief Superintendent Kerrin Smith and Dr Andrew Brown, the crafting of such messages should have been at least considered and discussed. Given the evidence of Monis' continued refusal to engage directly with negotiators and the expert opinion on Monis' narcissistic personality disorder that the police had from the Consultant Psychiatrist and Kimberley Ora, negotiators should have been asked to assist with the crafting of media releases and media statements. No witness suggested risks or downsides that would have rendered it inappropriate to obtain such input. It was simply not considered.
54. The Dawson family submitted that negotiators' input should have been obtained before Prime Minister Abbott stated publicly at 12.57 p.m. that Monis' motivations were "not known" and before statements were made by Deputy Commissioner Burn at about 4.45 p.m. and 6.45 p.m. and Commissioner Scipione, at 8.24 p.m., that police had been in contact with Monis. Commissioner Scipione's statement was made during the 8.15 p.m. media conference in which the Premier, Mr Baird, also participated.
55. The Dawson family submitted that those statements were contrary to both Monis' demands and to the true situation within the café. The NSWPF asserted that contact with Monis had been achieved, albeit via hostages and thus indirectly. Further, while Monis had repeatedly communicated his demands to police through the hostages, police were still unsure of what links, if any, he had to IS and what he was actually seeking to achieve.
56. The fact that those official statements had the potential to incite an angry or violent response from Monis made it more important to seek negotiators' suggestions about what should be said.
57. The NSWPF submitted that the benefit of involving negotiators in crafting media releases and statements can be seen only with hindsight. However, given that police knew Monis was following media

coverage of the siege, anxious to have his true motivations broadcast, and keen to take part in some form of broadcast himself, I am satisfied that the negotiators should have identified and raised with the Forward Commander the potential advantages of their helping to craft media releases and media statements by senior police officers and politicians. That type of negotiator involvement could have been organised through the NSWPF Media Unit. The fact that this strategy did not occur to negotiators indicates a lack of training or initiative on their part and an apparent inability to reflect on the progress of negotiations and consider alternative strategies.

Third Party Intermediaries

58. At least four people were available who could have been used to try to establish direct contact with Monis. The use in negotiations of Third Party Intermediaries (TPIs), or people known to the hostage taker, is complex and far from risk free. However, in this case it seems that little consideration was given to the possibility.
59. The Supplementary U.K. Expert Report noted that TPIs are used in the U.K. only in exceptional circumstances. However, in her oral evidence, Temp Chief Supt Smith added that in the U.K. in recent times, police have become more inclined to use TPIs in crisis situations.
60. The Scottish Manual of Guidance for Negotiator Deployment, provided to the inquest by Dr Brown, noted that the use of a TPI requires “careful consideration” but essentially leaves the decision to the discretion of negotiators. The document does not seek to restrict TPI use to exceptional circumstances.
61. The NSWPF seemed to take a more restrictive approach. Negotiation Coordinator Reg stated that “a third party is not something that is widely used or considered”. Negotiation Commander Graeme observed in his statement that the use of TPIs is a “high risk proposition” and that it is “not recommended” in crisis situations.
62. The inquest heard evidence of some past unsuccessful attempts by NSW police negotiators to use TPIs in circumstances very different from those prevailing during this siege. Family-member TPIs were said sometimes to be “part of the problem” and likely to heighten the tension and emotions associated with the incident. There is a perceived risk that TPIs of non-English speaking background could lapse into a different language, leaving negotiators unable to follow what is being said. Such potential problems highlight the need for careful vetting, risk management and—where appropriate—input from consulting psychiatrists. This is reflected in the protocol concerning the use of third party intermediaries in the *Negotiation Unit—Management Operational Guidelines*.
63. Reg’s evidence on the possible use of TPIs during the siege was somewhat confused. He initially stated that he was aware the Grand Mufti and one other well-known Muslim (Mamdouh Habib) had offered to speak with Monis during the siege. He then observed that he and Graeme discussed the possible use of a TPI, but decided against it because it was “too early in the day”. When asked if he could pin down the time of this conversation, he said it would have been “late afternoon”. After being taken to an entry in the negotiators’ log showing that Mamdouh Habib had contacted police at around 9.47 p.m., Reg stated that his conversation with Graeme related to Mr Habib and would have taken place after that time. Subsequently, Reg clarified that he did not become aware of the Grand Mufti’s offer until some time after the siege.
64. Graeme’s evidence was that he did not become aware of the Grand Mufti’s offer of assistance nor that of Mamdouh Habib. He stated that no proposal for the use of a third party was ever put to him. Peter gave evidence that he did not recall any discussion about the use of a TPI during the siege.
65. The log of Assistant Commissioner Murdoch suggests that police became aware of the Grand Mufti’s offer shortly before 3.00 p.m., while Mamdouh Habib’s offer appears to have been conveyed to negotiators via the Police Assistance Line some time around 10.40 p.m. The absence of any record of decisions about the use of TPIs makes it difficult to assess whether—and if so, when and how—the use of TPIs was considered by negotiators or command.
66. Michael Klooster, Monis’ former barrister, who had engaged in an apparently pleasant conversation with Monis at the café earlier in the day, made contact with police at about 2.15 p.m. and told them of his knowledge of Monis and his contact with him that morning in the café. He should have been carefully considered as a possible TPI. Others of Monis’ former lawyers, Gregory Scragg and Philip Green, who were present at the siege perimeter at about 6.18 p.m. and offered to help, could also have been considered.
67. Dr Brown’s report suggested that in addition to Mr

Klooster, the Grand Mufti should have been briefed and considered. A clear record of assessment processes in respect of TPIs and the rationale for any decision/s should have been kept. The NSWPF suggests that the use of TPIs might have been explored later on 16 December 2014 if the siege had continued. There is no proper explanation as to why this did not occur sooner.

Additional concessions

68. A question arises as to whether police should have considered offering concessions in an effort to secure Monis' engagement with the negotiation process or perhaps to improve conditions for the hostages, independently of demands Monis was making.
69. The U.K. expert Temp Chief Supt Smith suggested that an offer of medicine could usefully be used as a point of engagement. Police were made aware that some of the hostages were ill. At approximately 3.09 p.m., for example, Katrina Dawson informed Peter that one of the hostages was vomiting and in a state of shock, that two of the hostages were or might be pregnant, that three people had heart conditions, and that a mother and daughter were both on medication. In a call with Marcia Mikhael at approximately 4.04 p.m., Peter asked if Monis would release the sick people. However, it does not appear that consideration was given to offering medication, suggesting that a doctor visit ailing hostages, or, perhaps more practically, suggesting that a doctor speak to such hostages over the phone. Significantly, at 9.20 p.m., the 2GB talk-radio host Ben Fordham interviewed a doctor of Muslim background who offered to go to the café and attend to the hostages. That interview was heard in the stronghold and was captured via SD1.
70. Any such offer would presumably have been made via hostages in the first instance, but it could also have included a request that Monis come to the phone so the logistics could be agreed upon. Even if Monis refused, the exchange offered a chance to seek engagement with him and provide assurance to the hostages. As a collateral benefit, the process of delivering the medication or of a doctor attending or speaking to hostages over the phone could have afforded an opportunity to gather additional tactical intelligence.
71. Other concessions that could have been offered in an attempt to engage Monis included blankets and pillows, cigarettes, or food and drink. Dr Brown gave evidence that even if the latter offer was unlikely to be taken up in a café stocked with food and drink, the making of the offer itself was important. Temp Chief Supt Smith stated that such concessions are useful in storing up a base of positive police actions that can help build rapport with a hostage taker.
72. No such offers were made during the course of negotiations. While there was a prohibition on making concessions in response to (substantive) terrorist demands under the NCTP, that did not prevent concessions being made in respect of non-political demands, nor did it prevent engagement in respect of demands generally.
73. The NSWPF took the position that there was obviously little point offering food or drink and limited utility in offering other comforts, comestibles or medications, which Monis never directly requested.
74. That misses the point that by the late afternoon or early evening of 15 December 2014, the siege had been going on for a number of hours without any successful direct engagement with Monis. Concessions of the types identified above could have been offered because the initial approach of the NSWPF had not worked and alternatives needed to be explored. It is impossible to know whether such concessions might have succeeded in getting Monis to come to the phone.

Alternative communication strategies

75. The NSWPF had available to it during the siege a LRAD, which broadcasts sound in one direction. It is effectively a powerful megaphone or loudhailer.
76. Police commanders gave consideration to the use of the LRAD. The iSurv log included an entry timed at 7.08 p.m. in the following terms: *"NEGS are unable to contact POI [person of interest], refusing to talk to Police. Option to possible use of LRAD."*
77. At 7.26 p.m., a further entry appeared in iSurv suggesting that Tactical Commander had specifically requested the use of the LRAD. The evidence suggests that there was initially some concern that the LRAD could not be used on account of the possible presence of an IED in the stronghold. This concern was, however, resolved by about 7.24 p.m. after the receipt of advice from the commander of the Rescue and Bomb Disposal Unit (**RBDU**).
78. AC Murdoch's log contained the following entry in respect of a 9.00 p.m. briefing (the comment is attributed to Afternoon Forward Commander): *"... should we start using LRAD—look at two pronged*

strategy. Will it agitation [sic] Haroum, consensus unlikely as he has not raised his agitation all day."

79. At approximately 9.30 p.m., Reg informed negotiators Sasha and Matthew 2 that they would be deployed with the LRAD. Shortly thereafter, Sasha prepared the LRAD for use and remained on standby. Matthew 2 and Sasha were instructed to deploy with the LRAD shortly before midnight. The LRAD was in place and ready for use by 12.40 a.m. It was never used. Sasha gave evidence that she was not told that police commanders had decided not to use the LRAD. On her understanding, it "*was just a matter of when*".
80. Graeme's notes include an entry at 10.41 p.m. stating: "*LRAD ready to go*". In evidence, Graeme observed that there were no discussions at that stage about the use of the LRAD. It was merely part of the negotiators' "*contingency planning*". Subsequently, Graeme gave evidence that the decision whether to use the LRAD would ultimately be one for the negotiation Team Leader and the team on the ground.
81. The use of the LRAD would not have been without risks. It was likely that communications via the LRAD would be heard by members of the media or other bystanders. However, that was controllable, as only police words would have been heard. Additionally, the LRAD is so loud that it might have led to an increase in tension in the stronghold. Still, at least as at 9.00 p.m., it appears that police did not perceive that risk to be great. Further, by that time, nothing else had succeeded in securing direct communication with Monis.
82. The NSWPF submitted that the deployment of the LRAD was not warranted during the siege, particularly in light of the fact that the hiatus in communications between negotiators and hostages in the café came to an end at about 12.40 a.m. That submission is premised on the position taken by the NSWPF that negotiations were still progressing when the Emergency Action was ordered at 2.13 a.m.
83. Both U.K. negotiations experts, Temp Chief Supt Smith and Dr Brown, gave evidence that use of the LRAD should have been attempted. I accept their evidence that the LRAD should have been tried at some stage between 8.40 p.m. and 12.30 a.m.—when police were unable to make any phone contact with those in the stronghold. The facts that no direct communication with Monis had been established and negotiations had stalled called for attempting alternative means of engaging with Monis, including via the LRAD.

Changing the primary negotiator

84. Through the course of the day and night of 15 December 2014, Monis challenged the honesty and truthfulness of the daytime primary negotiator, Peter, on a number of occasions. More particularly, there were explicit challenges during calls between Jarrod Morton-Hoffman and Peter at 1.34 p.m. and 2.22 p.m., both of which were abruptly terminated. In a call between Peter and Marcia Mikhael at 4.04 p.m., there was a further challenge to the effect that Monis did not believe Peter and Peter had not actually done anything that Monis had asked for. Each of those challenges was conveyed by a hostage at Monis' behest.
85. Subsequent to those calls, SD1 detected conversations within the stronghold at 8.30 p.m. and 11.04 p.m. that again suggested that Monis did not trust Peter. At 8.30 p.m., he directed hostages not to answer any calls from Peter. At 11.04 p.m., he indicated that the hostages could not rely on Peter for anything.
86. It is not suggested that Peter needed to be replaced *per se* on the basis of the above challenges. I note that where he had the opportunity, Peter tried to respond to the challenges to his trustworthiness. For instance, during the 4.04 p.m. call to Marcia Mikhael, he responded to the suggestion that he had failed to do anything Monis had been asked for by explaining that he had assisted in meeting some of Monis' demands: police had moved away when Monis complained they were too close, and an email address had been provided so that photos from the café could be uploaded to websites, as per Monis' request.
87. While Peter did not necessarily need to be replaced, what police needed to do—and apparently did not do—was record and acknowledge the challenges to Peter's honesty and trustworthiness so that consideration could be given to whether a change in negotiator might benefit the negotiation process. There appears to have been a failure to objectively assess whether Monis' challenge provided an opportunity to adjust the approach. The chosen course was to support Peter rather than consider the alternatives.
88. Temp Chief Supt Smith and Dr Brown indicated that establishing rapport is an essential step along the path of influencing a hostage taker's behaviour. The challenges to Peter's honesty and trustworthiness may have been an indication that no rapport was being established between Monis and negotiators. They may have been unwarranted and a deliberate

ploy by Monis to seek to manipulate the police and assert power.

89. Peter appeared to have some understanding of the issue when he gave evidence. He said he believed at all times that he was acting honestly and truthfully, but that was not what mattered when it came to seeking to establish a rapport. The essential thing was Monis' perception, rather than any view held by Peter or objective reality.
90. What required assessment was not Peter's honesty, or how to persuade Monis of it, but rather how best to use or respond to Monis' challenge.
91. Dr Brown concluded that after the 2.22 p.m. call from Jarrod Morton-Hoffman, consideration should have been given to changing the primary negotiator. After that call and after the conversations picked up on SD1 at 8.30 p.m. and 11.04 p.m., the case for considering Peter's replacement as primary negotiator only strengthened.
92. That the decision on whether Peter needed to be replaced was not black and white was acknowledged by Dr Brown in his report. There is some force in the NSWPF submission that police generally do not pander to the making of allegations against negotiators or attempts to have them replaced
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████████████████████. However, Monis did not ask for Peter to be removed. As time passed and there was no direct engagement with Monis, there was good reason to carefully consider alternative strategies, including a change in primary negotiator. One option would have been to bring forward the change of shift.
93. By no later than late afternoon/early evening on 15 December 2014, the negotiators should have reflected on the lack of progress of the negotiations. If negotiators' position statements had been prepared during the siege, the Negotiation Unit officers would have recognised the pattern of challenges to Peter's honesty and trustworthiness. That might have led to Tim, as Team Leader, in discussion with the Negotiation Coordinator, seriously considering the need to replace Peter with a different primary negotiator.

Other avenues for engagement

94. In addition to the approaches I have considered above, there were other tactics that ought to have been considered in an effort to engage with Monis

personally. I will consider each of them briefly.

95. First, in line with the observations made by Dr Brown in his report, the negotiators lacked specialist knowledge or access to the expertise that would have enabled them to pay greater attention to Monis' religion in crafting their messages. Such an approach might, for example, have involved seeking Monis' perspective on religious issues, or asking whether Monis required anything to assist with his prayers. Reg gave evidence that the use of religion in the negotiations was difficult on account of Monis' apparent transition from Shia to Sunni Islam. He did not, however, seek any advice as to how Monis' religion could have been employed in an attempt to encourage further engagement.
96. Peter gave similar evidence. Once he learned that Monis had referred to himself as a *sheikh*—in the sense of a learned Muslim cleric—Peter referred to him by that title, but Monis' religion does not appear to have played any further part in the way Peter approached the negotiations.
97. I accept the NSWPF submission that there were dangers in using Monis' religion as a hook for engagement and that this tactic needed to be approached carefully and sensitively. There was a danger that the issue of religion, if not broached with care, could provoke an adverse response from Monis.
98. Notwithstanding the risk in seeking to engage with Monis in the area of religion, Monis was known to have grandiose ideas of himself as a person of religious significance, and this could have been used to try and encourage communication. As the Johnson family submitted, citing Dr Brown's evidence, the negotiators could have asked Monis questions about how best they could respect his religion. Further, the negotiators did have external sources from which they could have sought help and advice. In particular, the Grand Mufti had personally offered his assistance in dealing with Monis. My view is the negotiators should have at least considered and discussed the possible use of Monis' religion as an aid to engaging with him.
99. The U.K. negotiation experts suggested other possible avenues. They considered that the negotiators ought to have assessed the possibility of using Monis' children to engage him in the negotiation process. As part of such an approach they could, for instance, have examined the practicability of conveying to Monis a pre-recorded message from or about his children. Such a tactic would have required a thorough risk assessment. While

police knew Monis had fought hard for access to his children in the Family Court and seemed to value his relationship with them, it was possible that knowing the police had arranged for the children to record a message could have enraged him. Ultimately, it might not have been prudent to proceed with the tactic. There is, however, no evidence that it was even considered by negotiators.

100. The negotiators' lack of experience with terrorist incidents seemed to colour their response to the siege. The techniques they adopted were limited to those generally employed in domestic events. There is no evidence that more interventionist approaches or techniques specifically tailored to terrorist events were considered or used in an effort to engage with Monis.
101. Police negotiators made repeated and persistent attempts to establish direct contact with Monis. They were unsuccessful. Opportunities to overcome his refusal to speak with them were not effectively pursued. In particular:
 - Although Monis was known to be monitoring news media broadcasts, senior police and politicians making media statements did not seek input from senior negotiation officers or the Consultant Psychiatrist regarding text that might be inserted with a view to encouraging Monis to engage with negotiators.
 - Adequate consideration was not given to the use of third parties in an attempt to coax Monis into communicating directly with people outside the stronghold.
 - No offers to provide commodities or services to Monis or the hostages were made.
 - A LRAD was not used.
 - Despite signs that Monis distrusted the daytime primary negotiator, Peter, and was therefore unlikely to form any rapport with him, no consideration was given to replacing him with another negotiator until a change of shift occurred after midnight.
 - No consideration was given to raising the subjects of Monis' religion or his children during phone conversations with the hostages to prompt or provoke Monis into speaking directly with negotiators.
102. It is not possible to know whether any of these additional tactics would have contributed to a more effective outcome, but it is clear that they should have been considered.

Conclusion: Attempts to engage with Monis

103. It is not suggested that the negotiators failed to adequately pursue opportunities to engage with Monis because of any lack of diligence or commitment. Rather, it appears that their practice lacked the sophistication necessary to generate options, probably because that had never been necessary in their previous work dealing with domestic sieges.

Responding to Monis' demands

104. The negotiators' role did not include deciding whether to grant demands made by Monis. Rather, under the command structure that was in place, their role was to report demands to the Police Forward Commander so that he or, where appropriate, the Police Commander, could decide whether they should be granted. There is no suggestion that negotiators failed to pass on any of Monis' demands so a decision could be made.
105. However, it is relevant to consider whether the negotiators might have played a greater role in advocating for a decision in respect of particular demands and actively following up such demands through the Police Command structure. It is also important to consider whether particular demands that were not acceded to should have been granted by the Police Forward Commander or Police Commander. And third, it must be considered whether the demands could have been better used as a basis upon which to seek direct engagement with Monis or to induce him to grant concessions. The U.K. negotiations expert, Dr Brown, stated that "*every demand is an opportunity to open dialogue with a hostage taker*", emphasising that even demands that cannot be met present such opportunities. Each of the demands made by Monis is considered from these three perspectives.

Speak to the Prime Minister

106. Monis had demanded to speak to the Prime Minister from the beginning of the siege. When Tori Johnson spoke to a 000 operator at 9.41 a.m., he read out Monis' demand that Tony Abbott call Monis and have a debate that would be broadcast on ABC radio. That demand was repeated many times, in slightly varied forms. For instance, during a 3.32 p.m. call Peter made to Marcia, she asked:

Where is Tony Abbott? Why can't he pick up the phone and make one phone call? That's all we want: one phone call. We're not asking for Tony Abbott to come over here. We're asking for a phone call. Is that too much to ask?

107. At 5.16 p.m., when Peter called and asked Marcia if he could speak to “Sheik Haron”, Marcia indicated that Monis was saying he was waiting for the Islamic State flag and for Tony Abbott. In a further telephone discussion with Peter at 7.53 p.m., Marcia reiterated that Monis was not prepared to speak to Peter and just wanted a flag and then Tony Abbott. At 12.02 a.m. on 16 December 2014, Monis was picked up on SD1 discussing with hostages a possible release so that one of them could contact the Human Rights Commission and Amnesty International in order to inform them that Tony Abbott had not called Monis and that Monis had not been provided with an IS flag.
108. Allowing Monis to speak with the Prime Minister would have contravened terrorist concession restrictions in the NCTP and was unlikely to present a significant opportunity for further engagement with Monis. Nevertheless, the negotiators could have conveyed to the hostages the reasons behind Monis not being permitted to speak to the Prime Minister in a less distressing manner. In conversation with Marcia at approximately 4.04 p.m., Peter said words to the effect of:
- ... you realise that he is our Prime Minister, he's a very busy man who deals with people not only nationally but internationally as well and he has a lot of, um, minders and people that he has to, um, deal with on a national and international basis. So it is difficult ...*
109. As Dr Brown noted in his report, this remark was “dismissive” of the demand and plainly infuriated Marcia. It also left the demand open for the remainder of the siege. A far better approach would have been for negotiators to engage directly with the demand, clearly stating that it would not be possible for Monis to speak with the Prime Minister. Negotiators could also have asked why Monis wanted to have a public discussion with the Prime Minister and what issues he wanted to ventilate. It appears that the individuals in the negotiation cell may have been hampered by the absence of direction in this respect. While negotiators certainly assumed Monis would not be permitted to speak with Mr Abbott, the evidence suggests that they were never clearly informed that the demand would not be met, nor were they directed to com-

municate that information to the stronghold.

110. While the demand to speak to the Prime Minister was promptly conveyed to the relevant decision makers in the PFCP and POC, the communication with hostages about why Monis would not be permitted to have a radio debate with Mr Abbott left them feeling upset and ignored, increasing the risk that the hostages would act impetuously.

Broadcast on ABC Radio

111. Permitting Monis to speak on the ABC, the national public broadcaster, was also seen as contravening the NCTP’s restrictions on making concessions to terrorists. There were also risks, which included that Monis might terrorise the general public through what he said or by committing a violent act live on air, or that he might prompt violent action, including the detonation of bombs, through communications with “other brothers” and inspire similar actions by other individuals. Afternoon Forward Commander specifically referred to those risks in explaining why he decided against granting Monis air time on ABC radio.
112. It is nonetheless striking that during the early hours of the siege, Supt Allan Sicard and Asst Commissioner Michael Fuller were supportive of the proposal to grant Monis some form of radio air time in exchange for the release of hostages and approved it as a negotiation tactic, whereas the later, Pioneer-trained Forward Commanders and Police Commanders, with the support of Graeme, the Negotiation Commander, took a very different view. During their periods of command, no negotiation or engagement in respect of possible radio air time was permitted.
113. Supt Sicard and Assistant Commissioner Fuller plainly saw value in exploring the demand for radio air time and using it as an opportunity to engage with Monis and to try and extract some hostages from the stronghold. Just before the end of AC Fuller’s time as Police Commander, he authorised the negotiators to contact Monis about the demand with the proviso that to facilitate it, Monis must stay on the phone and release hostages. That decision is recorded in the negotiators’ log at 11.47 a.m.
114. As I have already noted, Afternoon Forward Commander decided against granting ABC air time once he took over as Police Forward Commander at about 12.00 p.m. AC Murdoch, who took over as Police Commander at the same time, took the same view, and an 8.01 p.m. iSurv entry confirms his decision that none of Monis’ demands be met,

including the demand for radio air time. AC Jenkins indicated that when he took over as the final Police Commander, the demand for radio air time was no longer a live demand, so he never considered it.

115. However, Monis' demand in relation to the ABC changed over the course of the day. During the initial 000 call, Tori Johnson stated that Monis wanted the ABC to contact him on his mobile phone so he could inform the "other brothers" not to explode their bombs and, apparently, so the debate with the Prime Minister could be organised. In a call at approximately 1.42 p.m., Jarrod Morton-Hoffman indicated that Monis wanted a message delivered over radio by one of the hostages. In a further call at approximately 2.37 p.m., Jarrod indicated that two hostages would be released if "politicians" informed the media that Monis' actions constituted an attack on Australia by Islamic State.
116. While these demands may have continued to be unacceptable to government and to police commanders, consideration could have been given to whether, if it were expressed in a particular way and pre-recorded by a hostage or read out by an announcer, the broadcast of a statement might have been acceptable and might have been provided to Monis in exchange for the release of a hostages or some other benefit.
117. Alternatively, the demand could have been used as a vehicle to seek further engagement with Monis on some unrelated matter in which the police were interested. As observed by the U.K. expert, Temp Chief Supt Smith, the conclusion that acceding to this demand was contrary to government policy did not preclude discussion on the subject. It does not appear that such considerations were examined in any detailed or systematic way.
118. Had this demand been the subject of detailed consideration (and, in turn, record-keeping), negotiators or police commanders might have recognised that, on one view, the objective Monis sought had already been met. During the course of 15 December, various media outlets made reports to the effect that Monis was asserting that his action was an attack by Islamic State on Australia. For example, during the 2GB broadcast at approximately 6.26 p.m., the host read out a Facebook post by Marcia as follows:

The man wants the world to know that Australia is under attack by the Islamic State. The demands are:

I. Send an IS flag to the café and someone will be released.

II. Speak to Tony Abbott via live broadcast and five people will be released.

III. Media to tell the other two brothers not to explode the bomb. There are two more bombs in the city.

119. That broadcast was significant in that it involved a public communication of Monis' "motivations", which was what he had sought to achieve throughout the siege. The negotiator at 2GB studios at the time did not inform those in the negotiation cell of what had been broadcast. Accordingly, no attempt was made to leverage this broadcast to secure the release of hostages or, perhaps more realistically, direct contact with Monis. This, again, was a missed opportunity. The primary negotiator, Peter, stated that he would have expected to be told what had been broadcast, as it could have been used as a hook with which to seek engagement with Monis.
120. No adverse finding is made in respect of the decision of the Forward Commanders and Police Commanders not to grant Monis air time on the national broadcaster or commercial radio. Nonetheless, the decision of the Pioneer-trained commanders not only to refuse the demand but to shut down all negotiation, and thus possible engagement, relating to the demand was unnecessary. It is not now possible to know what might have come about if the negotiators had sought to explore with Monis, via hostages, the possibility of some form of statement being read out.
121. On the evidence, it is not possible to pinpoint why the Pioneer-trained commanders were so averse to even entering into negotiations or discussions about Monis being granted some form of radio air time. As I have noted above, consistent with the submissions made on behalf of the Commonwealth, there is a significant difference between negotiation and engagement on the one hand and conceding a terrorist demand on the other. The evidence of the non-Pioneer-trained commanders seemed to reflect an understanding of that distinction. The evidence of the Pioneer-trained commanders did not. That raises the possibility that something in the Pioneer training led to the later Forward Commanders and Police Commanders taking such an inflexible line with engagement. Whatever the cause, it inhibited the negotiation process.
122. I do not suggest that any adverse finding should be made against the negotiators for the manner in which they handled the demand for radio air time. After the initial decision made by AC Fuller at about 11.47 a.m., they had insufficient time to seek

to engage with Monis about radio air time before Afternoon Forward Commander and AC Murdoch took command and the decision was made that no radio air time would be granted. The negotiators were plainly constrained by that change in position.

Movement of the police

123. Jarrod conveyed Monis' demand that police move back from the café during calls to Radio 2GB at 12.25 p.m. and in a 000 call at 12.28 p.m. During the call to 000, Jarrod stated that Monis had threatened to shoot someone if the police did not move back within two minutes. He also said Monis had the gun pointed at one of the hostages at that time.
124. The police action in response to that demand was prompt and entirely appropriate. The evidence indicates that the demand was not conveyed through the negotiators and that neither the Forward Commander nor the Police Commander made the decision for the Alpha Team members to move back. Rather, Officer B, as the Team Leader of Alpha Team, realised that the team had been noticed after seeing hostages and Monis looking through the window at them, and after Fiona Ma held a sign up to the window reading "*LEAVE OR HE WILL KILL US ALL. PLEASE GO*". Officer B then directed Alpha Team to move back. The negotiation team also learned of the demand that the police move back. A 12.36 p.m. entry in the negotiators' log indicated that information had been received from the Police Assistance Line in Tuggerah to the effect that the TOU officers could be seen and that if they did not move, hostages would be shot. It appears that Tactical Commander was informed of this information by the negotiators shortly afterwards, though by then Alpha Team had already moved back.
125. In view of the urgency of the situation and the specific threat to kill hostages, Officer B's actions were eminently sensible and appropriate. In the circumstances, Alpha Team were not in a position to send the matter up to the Forward Command or the POC for a decision.
126. Graeme conceded that even after the event, police could have attempted to secure something from Monis in return for moving the officers back from the café window. That said, I am satisfied that no criticism is warranted for the lack of further engagement in relation to this demand. The concession was a minor one and was made in circumstances of apparent urgency. Peter later appropriately used it (during a 4.04 p.m. telephone discussion with Marcia Mikhael) as an example of "positive police actions" in the course of attempting to build rapport with Monis.

Movement of vehicles

127. Jarrod twice conveyed Monis' demand that vehicles parked on Phillip Street and close to the café windows be moved away from the café—first during a call to 000 at 12.56 p.m., and then during a call with Peter at 1.34 p.m. In the initial call, Jarrod specifically identified an Armaguard truck and a white Volkswagen van that Monis wanted moved and indicated that if the police moved the cars quickly, Monis would not shoot anyone.
128. The vehicles were ultimately moved shortly after 5.00 p.m., without any further contact with the stronghold to indicate that it was about to occur and without negotiators seeking anything in exchange.
129. Monis' request that the vehicles be moved was handled in a somewhat unusual manner. Negotiators were aware of it and passed it up for a decision. A decision was eventually made by Tactical Commander, not by the Forward Commander or the Police Commander. There was no clear explanation for why it took so long for the vehicles to be moved, though during the 1.34 p.m. phone discussion between negotiator Peter and Jarrod, Peter suggested that it would be difficult to remove the cars while there was still a bomb in the café. Peter was seeking to remind Monis of an earlier indication that he might be prepared to give up the bomb and have it taken away. Unfortunately, the evidence did not indicate one way or the other whether the delay in moving the vehicles on Phillip Street was the result of a conscious strategy of trying to get the bomb out of the café first, or whether the demand was simply overlooked or priority given to other issues.
130. Given that the vehicles were not moved with any particular urgency, it is difficult to understand why the negotiators did not contact Monis beforehand to seek something in return from him, such as the release of one or more hostages. By 5.00 p.m., Monis had proposed a number of "deals" that included the release of one or more hostages.
131. The U.K. negotiation expert Temp Chief Supt Smith observed that the potential to obtain something from Monis as a condition of moving the vehicles should have been explored.
132. Graeme, who stated he was not told of the demand for the movement of the vehicles, acknowledged

that it would have been possible to at least attempt to obtain an agreement that a hostage would be released in exchange.

133. The NSWPF conceded that it would have been possible to attach a condition such as the release of a hostage to the demand to move vehicles. Whether Monis would in fact have been prepared to release a hostage in return for the vehicles being moved will never be known. Nonetheless, some form of concession, such as a hostage release, should have been sought.
134. There were other, practical, reasons for seeking to communicate with Monis before moving the vehicles. By at least letting him know that this was about to occur, the police could not only have sought something in return but could also have given him advance notice, so as to minimise the risk of any adverse reaction if Monis was caught unawares by the sight of vehicles suddenly moving in Phillip Street.

Delivery of a flag

135. Monis' initial demand for an IS flag was communicated by Jarrod during a telephone discussion with negotiators at 1.42 p.m. It was then repeated many times in telephone discussions with negotiators through the afternoon and evening and into the early hours of 16 December. On a number of occasions, when hostages were told that police did not have an IS flag, the calls were promptly terminated from the café end, no doubt at Monis' direction.
136. Both Afternoon Forward Commander and AC Murdoch, the afternoon Police Commander, concluded that Monis should not be provided with an IS flag. Afternoon Forward Commander was legitimately concerned about the risk of Monis using the flag as a backdrop to an atrocity. On that ground alone, he decided that no IS flag would be delivered. AC Murdoch similarly indicated that while providing the IS flag was debated in the POC, such a demand was never going to be met because of a concern that the flag would be used as a backdrop against which to execute hostages.
137. The rationale for the refusal of Afternoon Forward Commander and AC Murdoch to supply an Islamic State flag to Monis was undoubtedly sound. Monis' demand for the flag was a terrorist demand, in that it was related to his repeated demand for a media announcement that the siege was an attack on Australia by Islamic State. Accordingly, it would have amounted to a concession to a terrorist demand, which is contrary to the NCTP.
138. Nevertheless, more could have been done to convey to the hostages why the flag was not being provided. The Police knew that the hostages were upset and angry and did not understand why no flag had been delivered. During a telephone discussion with the negotiator Peter at 4.04 p.m., Marcia stated, "*we want the flag. The flag is not so hard. Just give him a flag. Just show that you are willing to negotiate. Just give him a flag.*" In a telephone conversation with Peter at 5.54 p.m., Selina said:
- I'm sick of hearing these conversations. Tony Abbott has not called. We have not got a simple fucking flag. We have not got the requests that the brother has asked for.*
139. The negotiators needed to use some delicacy when suggesting to the hostages the risk inherent in providing Monis with a flag. During calls at 5.13 p.m. and 7.53 p.m., Peter asked Marcia to ask Monis why he wanted the flag and what would happen once he received it. They were appropriately careful questions, but it was evident from Marcia's response at the time and, indeed, from her evidence to the inquest, that Peter's efforts did not have the desired effect of providing reassurance.
140. Some efforts were made to explain to hostages why no flag was forthcoming. However, in light of the feedback negotiators were obtaining, more should have been done to convey to the hostages that supplying the IS flag could increase the risk to them. Further, more should have been done to try and convey to Monis, through the hostages, that police would continue to look for other means to work with him and ultimately achieve a peaceful resolution of the siege. While achieving engagement with Monis [REDACTED] would not have been easy, it was worth pursuing [REDACTED].

Martin Place lights

141. At 8.38 p.m., Marcia telephoned Peter and passed on Monis' demand that the lights in Martin Place be turned off. By that time, the siege had been in progress for almost 11 hours and despite repeated calls to Monis' mobile phone, to the landline in the café and to the mobile phones of hostages, the negotiators had not been able to speak directly to Monis.
142. The lights demand was the first non-political one Monis had made for some hours. It was not a terrorist demand, as it related to the practical matter of lighting rather than to any communication or perpetuation of his terrorist motivations or ideology.

143. Turning the lights off also suited the TOU officers, who wanted less light outside the café.
144. While it is not disputed that the police response to this demand was a decision for the Forward Commander or perhaps the Police Commander, Monis' lights demand represented a near perfect opportunity for engaging with him, presumably in the first instance via the hostages, by asking about the details and rationale for the demand and explaining the practical steps involved in getting the lights turned off.
145. Peter told Marcia that he would pass the demand up to the bosses and then changed the subject, first asking about the well-being of hostages and then asking whether it was possible to speak directly to Monis.
146. What then followed, in terms of how the lights demand was recorded, considered and dealt with, does not reflect well on the Negotiation Unit, the Forward Command or the POC.
147. Reg indicated that he sent the lights demand received by Peter directly to Graeme in the POC for a decision. It does not appear that Reg informed Afternoon Forward Commander of the lights demand or that he had sought a decision about it from the POC. Similarly, later that night, Reg did not inform Night Forward Commander of the lights demand after he assumed control.
148. Because Reg failed to inform either Forward Commander of the demand, they of course were not in a position to realise that the POC was not making a decision about it as the hours ticked by and the siege continued.
149. However the evidence establishes that one of Night Forward Commander's Incident Management Team members was aware that Monis had made the lights demand and that enquiries were being made as to the logistics of having the lights turned off. Inexplicably, Night Forward Commander does not seem to have been informed that the demand had been made, or told who could turn off the Martin Place lights and how it could be done.
150. Reg took an entirely passive attitude to the demand. He accepted that he was in a position to recommend the use of the lights demand as a means of engaging with Monis. He said he believed that turning the lights off was something that could be offered to Monis and that it would suit the TOU officers, but he took no action to advocate in favour of turning the lights off. He simply passed the demand up to the POC and waited for a decision. When no decision had been made by the end of his shift, Reg did nothing about it.
151. In Reg's oral evidence, he accepted that the lights were a missed opportunity to seek engagement with Monis, potentially get one or more hostages out and test Monis' genuineness and preparedness to actually negotiate.
152. Graeme's evidence demonstrated the significant misunderstanding Reg had as to the role of the Forward Commander and what Reg should be communicating to him in respect of negotiation issues. Graeme plainly stated that all tactical decisions regarding the negotiations should have been made by the Forward Commander, after discussions between Reg, as Negotiation Coordinator, Tactical Commander and the Forward Commander.
153. Reg's misunderstanding explained why he had passed the 8.38 p.m. lights demand to Graeme so a decision could be made by the Police Commander, without even mentioning the demand to Afternoon and Night Forward Commanders. Unfortunately, Graeme was unaware of Reg's misunderstanding. He thought Reg was simply ringing him for discussion, though Graeme did pass on the Martin Place lights issue within the POC.
154. Reg's erroneous understanding about who should be making tactical decisions on negotiations and whom he needed to communicate with in respect of such decisions was compounded by his passive approach to his role as Negotiation Coordinator. He neither advocated for a decision on turning off the Martin Place lights nor chased one up when a decision failed to arrive from the POC. That was because he took the view that his role was limited to referring information up and decisions down.
155. The lights demand was conveyed to AC Murdoch, the Police Commander on duty until approximately 10.15 p.m., but by the end of his shift the issue seemed simply to have been forgotten. AC Murdoch acknowledged that the feasibility of turning off the lights was discussed during the period of his command, but he had no recollection of the issue ever being decided upon. He acknowledged that he had advice from Tactical Commander that there would be a tactical benefit in having the lights turned off, but despite that, no decision was made and the issue stalled. AC Murdoch seemed to suggest that the decision was left to his functional area heads, and that he did not monitor it closely but relied on those below him to consider it and make a recommendation to him. It does not appear that he was

told of the arrangements that had been made with Ausgrid.

156. Before Asst Commissioner Jenkins took over as Police Commander at approximately 10.15 p.m., he was not informed about the earlier lights demand or provided with Ausgrid's explanation of the two means by which the lights could be turned off. When he came to deal with further calls about the lights after midnight, he was ignorant of the earlier demands and earlier enquiries made by police as to the logistics of turning the lights off.
157. The end result was that the initial lights demand, made at 8.38 p.m., was mismanaged. While it was not followed up in hostage phone calls for some hours, SD1 detected Monis raising the issue of the lights with the hostages at approximately 9.24 p.m. and 9.31 p.m. He said calling again about the lights was pointless and a waste of time because the police were not taking him seriously.
158. The NSWPF sought to defend the handling of the Martin Place lights demand, at least in part, by suggesting that turning off the lights did not appear to be a high priority for Monis because he did not renew the demand for some hours. I do not accept that that justifies the failure to properly record the demand, communicate it to commanders, make a prompt decision as to whether it would be granted, and seek to engage further with Monis on the subject.
159. When the second demand for the lights to be switched off was made, at 12.53 a.m., Graeme recommended to AC Jenkins that it be acceded to. After considerable delay, at 1.59 a.m. AC Jenkins authorised negotiators to convey to Monis an offer for the lights to be turned off in exchange for the release of all female hostages.
160. There is no good reason why that decision could not have been made several hours earlier, soon after the 8.38 p.m. demand was received. It should have been made, and negotiators should have been authorised to contact those in the café to try and negotiate a hostages-for-lights exchange.
161. The Martin Place lights demand was an excellent opportunity for police to engage with Monis and to seek a substantive concession from him. It was let slip because after Reg passed the demand up to the POC, no decision was made to authorise the lights being turned off. Further, the negotiators, and Reg in particular, waited passively for a decision instead of actively seeking one. In the meantime, they made no attempt to use the demand as

an opportunity to engage. They could have called the hostages and sought to speak to Monis about the practicalities of turning off the lights and the possibility of obtaining something in return.

Conclusion: Responses to Monis' demands

162. It was entirely appropriate for police not to accede to Monis' demand to speak to the Prime Minister. Doing so would have breached the prohibition against acceding to terrorists' demands. However, Monis' reasons for seeking an on-air debate could have been explored, and police could have told the hostages why the demand could not be met. The failure to do the latter increased the hostages' frustration and sense of abandonment.
163. Similarly, it would have been dangerous to allow Monis to speak live on national radio. Such a broadcast could have induced widespread fear and even panic. However, here too a compromise could have been explored, such as an offer to let a released hostage read a statement prepared by Monis. The opportunity to use this demand to foster engagement with Monis was not sufficiently considered.
164. The same applies to Monis' demand for an IS flag. The decision to refuse the request was reasonable. The failure to explore why Monis wanted the flag and explain why it would not be provided was counterproductive.
165. The moving of police and parked vehicles out of Phillip Street in response to demands by Monis was reasonable and appropriate. The failure to pursue engagement with him on this matter and to seek to extract reciprocal concessions from him, or at least obtain an acknowledgement that police were being cooperative, were missed opportunities.
166. Monis' demand for the lights in Martin Place to be extinguished was mismanaged by the negotiators and by those above them in the chain of command. It was a demand that could have easily have been granted, and it provided an opportunity to engage with Monis with a view to extracting concessions. None of those who were made aware of the demand pursued it until after midnight, and the prolonged failure to address it only increased Monis' anger and frustration.

Assessing progress

167. Throughout the siege, the assessment of the NSWPF was that the negotiations were progressing. On that basis, the police commanders determined that it was appropriate to continue with “contain and negotiate” as the principal strategy for managing the situation. AC Murdoch explained that he decided not to approve the Deliberate Action plan put before him because he remained confident that the potential of negotiations had not been exhausted and that police would ultimately negotiate a satisfactory outcome.
168. This position seems to have been predicated on the view that until there was an immediate threat to life or of serious injury, negotiation should continue to be the primary approach to managing the siege. There was no evidence from any officer that the police had identified anything that would change that view.
169. As set out in Chapter 9, the view of the U.K. experts was that police should have planned to order a DA when it became apparent that negotiations were unlikely to lead to the resolution of the siege. It was therefore essential for the progress of the negotiations to be monitored and assessed throughout the siege.
170. The NSWPF submitted that progress in negotiations cannot be measured in the linear way that would allow it to be plotted on a graph or evaluated against key performance indicators. That overstates the complexity of the issue, in my view. Negotiations are a process whose ultimate aim is influencing the behaviour of the hostage taker so as to bring about a peaceful resolution of the situation. Those controlling the process need to have a system for gauging progress or lack of it.
171. As described earlier in this chapter, the negotiations expert Dr Brown articulated six factors that could be readily assessed and recorded to identify change in a hostage siege over time: the number of emotional outbursts, the length of conversations between those outside the stronghold and those inside it, whether hostages are released, whether weapons are surrendered, whether there is physical injury to hostages, whether the incident is static, and whether a routine has been established.
172. While I accept that it is not appropriate or possible in all situations to apply a set checklist of objective measures of progress in negotiations, those managing high risk situations need some means of assessing what, if anything, the negotiations process has achieved if they are to form a meaningful view as to whether and when other strategies need to be employed.
173. The NSWPF submitted that negotiation can be a long exercise and can on occasions take several days. However, that does not derogate from the need to look at what is occurring during the negotiations and assess what has been achieved. For instance, a negotiation that might span several days but involves the hostage taker speaking to negotiators, gradually releasing hostages and otherwise making concessions, could properly be regarded as having progressed. Duration is but one measure.
174. During the Lindt Café siege, Monis refused at the outset to speak to negotiators directly, and that did not change. Monis made a number of demands and, as noted above, some involved offers to release hostages in return for the demands being met. None of the relevant demands were met and no hostages were released.
175. At least during the morning and afternoon of 15 December, Monis permitted hostages to take calls from negotiators, and a number of discussions—some quite lengthy—took place between negotiators and hostages. However, during the late afternoon and early evening the situation changed.
176. At approximately 8.42 p.m., Marcia Mikhael telephoned negotiators and asked that police move away from the café windows. Police were unable to successfully contact those inside the café from that time until Selina Win Pe answered a call from the negotiator Matt at 12.53 a.m. During that four-hour period, negotiators made a large number of calls and sent many text messages to hostages’ phones. They provided the negotiators’ phone number and encouraged the hostages to call, but no contact resulted.
177. During a slightly earlier call between Peter and Marcia, at approximately 8.38 p.m., Marcia raised several matters that might have been relevant to continued negotiations.
178. Throughout the siege, the assessment of the NSWPF was that the negotiations were progressing.
179. In the course of the call, Marcia stated that Monis did not want to talk to police and would not do so until he had spoken with Prime Minister Abbott. After that call, the negotiators’ repeated calls and text messages went unanswered. Monis was captured on the surveillance device directing that Peter’s calls were not to be answered. It was known

that Monis was never going to be granted a debate or discussion with the Prime Minister. Many hours had passed. Monis had been given extensive opportunities to contact police personally and knew they wished to speak with him. In all of those circumstances, it ought to have become apparent to negotiators and Police Command that negotiations had stalled soon after Marcia's call at 8.38 p.m.

180. Indeed, a conclusion that negotiations were not progressing could have been reached at a significantly earlier point. After the call between Peter and Marcia at 4.04 p.m., police had very little engagement with those in the café until a further call between Marcia and negotiators at 7.53 p.m. Police made a large number of calls in that period. Those that were answered generally ended abruptly after a request was made for an IS flag and the negotiators said they did not have one to provide.
181. The NSWPF submitted that there were opportunities for further progress to be made in the negotiations after the night negotiation team took over, at approximately 12.50 a.m. on 16 December. The NSWPF said such opportunities included the second Martin Place lights demand, received by negotiators at 12.53 a.m., and the discussion between Monis and hostages about possibly releasing a hostage, which was picked up on SD1 at approximately 1.30 a.m.
182. Reg and Graeme both asserted that extended duration of a siege was not cause for concern—“*Time is our friend*”—so long as hostages were not being hurt and there were no other signs that the situation was unstable or out of control.
183. By the late afternoon or early evening of 15 December at the latest, it was evident that negotiations were not progressing. The negotiators should have become aware of this if they had taken time out and reflected on what had occurred and what had been achieved in the negotiations to date. That should have prompted negotiators to advise the Forward Commander, through the Negotiation Coordinator, that despite negotiation efforts continuing for many hours, no discernible progress had been made.
184. Even were it accepted that the events cited by the NSWPF provided evidence of progress, that would not obviate the need for negotiators to reassess the status of negotiations on an ongoing basis and report on it to the Forward Commander.
185. Selina phoned negotiators to reiterate the Martin Place lights demand at 12.53 a.m. and 1.12 a.m. When her earlier calls to negotiators, at 12.30 a.m., 12.31 a.m. and 12.32 a.m., went unanswered, Selina also called 000 about the lights at 12.35 a.m. and 12.48 a.m. When she finally made contact with the negotiators, that represented an opportunity for progress, as the negotiators could have made the concession Monis was seeking. However, in fact no progress was made by the time of the mass hostage escape at 2.03 a.m. This was partly because of the time it took negotiators to answer Selina's calls and partly because, since the night negotiation team had not been briefed about the earlier lights demand, they had to once again find out how to get the lights turned off and obtain a decision from the Police Commander to do so.
186. The NSWPF submission that the discussion picked up on SD1 at 1.30 a.m., in which Monis spoke about his possibly releasing a hostage, indicated the start of the siege's resolution phase is unfounded. Shortly after that discussion was intercepted, Selina called 2GB to try and have Monis' proposal to release a hostage broadcast. When the radio producer at 2GB who took the call refused to put Selina to air and directed her to call negotiators, Selina conveyed this to Monis, who was heard on SD1 at 1.41 a.m. indicating that there was no point releasing a hostage because the media were not allowed to broadcast his plan.
187. I am fortified in the conclusions I have reached as to the lack of progress in negotiations by the expert evidence presented to the inquest, particularly by Temp Chief Supt Smith and Dr Brown.
188. When asked, in summary terms, about the progress of negotiations, Temp Chief Supt Smith stated that she did not “*see any particular progress being made whatsoever*”. Having noted that negotiators were unable to contact Monis and, in turn, had been unable to affect his behaviour, Dr Brown agreed with Temp Chief Supt Smith's conclusion in this respect. In evidence given from his perspective as a police commander, Deputy Chief Constable Simon Chesterman agreed that there did not appear to be any progress in negotiations.
189. When asked about this apparent lack of progress, Graeme, the Negotiation Commander, gave evidence that the “*continuation of buying time*” was, of itself, an achievement in negotiations. He went on to note that time was on the side of police and that even after more than 10 hours of unsuccessful attempts to contact Monis, there was no need to consider, for example, the use of a third party intermediary.
190. I do not accept Graeme's view on that matter. Temp Chief Supt Smith observed that the use of a third

party intermediary should have been seriously considered five to six hours into the siege and stated that the passage of time did not, of itself, provide any reassurance. She explained that in the circumstances of the Lindt Café siege, she would not have taken any comfort from the passage of time, emphasising that there were no significant changes in Monis' behaviour and nothing to suggest that he was going to give himself up or actively engage with negotiators. Dr Brown expressed similar views, stating that negotiation is not a "wait and see option". While the passing of time without hostages being injured was superficially reassuring, a more thorough and analytical consideration of what was occurring during the negotiators' efforts to speak to Monis would have led to a realisation that no progress was being made.

191. The lack of assessment of the progress of negotiations may have been attributable to an apparent deficit in key negotiators' understanding of how progress in negotiations can and should be assessed. The expert evidence, particularly from Dr Brown, suggests that there are a number of objective measures police can use to help gauge whether negotiations are moving in a positive direction. None of the officers involved in this matter was aware of them.

Conclusion: Assessment of progress in negotiations

192. No progress towards a negotiated settlement of the siege was made at any stage. The negotiators failed to appreciate this because they did not undertake a structured assessment of whether headway was being achieved. They had no system or procedures for undertaking such an assessment. The Police Commander and Forward Commander did not press them for advice on whether the negotiations were advancing towards a resolution of the incident, nor did the commanders insist that more proactive strategies be used.

Recommendation 15: Negotiator training

193. *The sections above dealing with negotiators' attempts to engage with Monis, their responses to his demands, and their assessment of progress demonstrate deficiencies in current practice. To respond to those deficiencies, I recommend that the NSWPF conduct a general review of the*

training afforded to negotiators and the means by which they are assessed and accredited. Specifically, the review should consider the training provided regarding:

- *measuring progress in negotiations;*
- *recording of information, including the systems by which that occurs;*
- *the use of third-party intermediaries;*
- *additional approaches to securing direct contact with a person of interest; and*
- *handovers.*

194. *The NSWPF should consider drawing on international experience when reviewing its negotiator training.*

The role of the Consultant Psychiatrist

195. As noted in Chapter 7, the Consultant Psychiatrist was called in by police and arrived at the PFCP at approximately 1.15 p.m. He remained at the PFCP, providing advice to negotiators and participating in telephone conferences between the PFCP and POC, until the end of the siege.
196. Consideration of the Consultant Psychiatrist's contribution during the Lindt Café siege involves reviewing NSWPF arrangements regarding the role that consultant psychiatrists are to play during police responses to high-risk situations and the manner in which the Consultant Psychiatrist discharged his responsibilities in this case.

NSWPF arrangements

197. Surprisingly, there are no written guidelines, protocols or procedures that delineate the role to be played by a psychiatrist in a police negotiation.
198. A consultant psychiatrist may be retained to advise negotiators during high risk situations on a case-by-case basis at the discretion of the police. While the *Negotiation Unit—Management Operational Guidelines* (2011) describe the structure of the Negotiation Unit and individual negotiation teams and define the roles of team members, they make no mention of consultant psychiatrists other than as persons who may, where appropriate, provide advice as to whether third-party intervention might be appropriate.
199. The *Negotiation Unit—Management Operational Guidelines* (2011) do not indicate where a consultant

psychiatrist fits in the negotiation team structure, nor do they attempt to define the role of the consultant psychiatrist or his or her duties as they relate to the negotiators' task or the police role.

200. The Consultant Psychiatrist engaged to assist police in the Lindt Café negotiations indicated in his oral evidence that he provides his services on a case-by-case basis without any written contract. He simply submits an invoice for the hours of work he has done. The Consultant Psychiatrist noted that the arrangement is not based on any contractual agreement. He was introduced to the NSWPF by another psychiatrist who had served as a consultant to negotiators.
201. Instruction provided to police negotiators during training and set out in the *Basic Guidelines of Police Negotiators* indicates that they can obtain advice or assistance from a consultant psychiatrist in relation to:
- compiling a profile of the subject/s;
 - predicting the most likely pattern of behaviour;
 - analysing, identifying and interpreting hidden messages;
 - supporting negotiators by being completely objective;
 - monitoring the function of the negotiation team; and
 - assisting in the reduction of stress among officers.
202. The Consultant Psychiatrist retained in this case indicated that he was aware of the functions referred to in the basic guidelines and believed they accurately described his role. He was confident the negotiators and the police commanders also understood his role. He believed that for the Lindt Café siege he was called out not only as an expert psychiatrist but also to provide advice in respect of counterterrorism matters.
203. The evidence established that the Consultant Psychiatrist spent almost all his time at the PFCP in the negotiation cell itself, where he interacted with the key members of the day and night negotiation teams. The dictaphone recording and associated transcript captured some exchanges between him and the members of the day negotiation team. The Consultant Psychiatrist came out of the cell at times and spoke to Reg, the Negotiation Coordinator, as well as participating in various POC/PFCP briefings. But the majority of his time was spent interacting with the primary and secondary negotiators from the day team, advising them as to their dealings with Monis and listening to calls.
204. The NSWPF submitted that the consistent evidence of senior police personnel, members of the TOU and negotiators was that the role of the Consultant Psychiatrist was to provide insights into human behaviour and not to participate in decision-making about actions to be taken by police. The NSWPF further submitted that the negotiators understood that the psychiatrist informs the negotiation strategy but does not make decisions about tactics or strategy.
205. Those submissions do not reflect the evidence given by key members of the negotiation team. Reg's evidence was that the Consultant Psychiatrist was present to advise on human behaviour, but also to indicate whether particular negotiation strategies proposed by negotiators were appropriate. Peter, the primary negotiator for most of the siege, said:
- There's no limit—I'm not going to tell [the Consultant Psychiatrist] "That's enough. I don't want to hear." I let him go, like everyone else does.*
- Darren B, the Team Leader of the night negotiation team, indicated that the Consultant Psychiatrist had a role in formulating negotiation strategy, saying *"the strategies that we had discussed during our time as the negotiation team were formulated amongst the team and with [the Consultant Psychiatrist]"*.
206. Those dealing with the Consultant Psychiatrist during the siege did not in fact have a clear understanding of the appropriate limits to the areas or issues on which he should give advice. This was not the fault of the Consultant Psychiatrist. It was incumbent on the NSWPF to provide him with guidelines clarifying what was expected of him, and to inform and educate its negotiators on those matters.
207. Temp Chief Supt Smith and Dr Brown noted that when a psychiatrist sits with the negotiation team rather than with the Negotiation Coordinator, there is a risk that the psychiatrist may give direct advice to the team without its being checked or vetted by the Coordinator. As will emerge below, there is also a risk that different or incomplete advice may be given to police commanders without anyone realising that this is the case.
208. The other obvious means of helping the negotiation team members understand what advice a consultant psychiatrist should give and how the team

should use that advice would be the development of guidelines. Whether consultant psychiatrists should give advice about counterterrorism is a matter for the NSWPF to determine and describe in the *Negotiation Unit—Management Operational Guidelines*. It would be preferable for such matters to be clarified rather than leaving it to individual consultant psychiatrists to determine for themselves the appropriate limits of their involvement.

209. As noted, the NSWPF submitted that the nature and scope of the Consultant Psychiatrist's role were well understood by senior officers, members of the TOU and negotiators. Despite this, all interested parties, including the NSWPF, supported a recommendation that guidelines be created to further document the roles and responsibilities of consultant mental health professionals (psychiatrists and psychologists) engaged to assist police with high risk situations.

Conclusion: The role of psychological advisers in siege responses

210. The NSWPF has no policy spelling out the role of a consultant psychiatrist or psychologist if one is retained to assist in the response to a high-risk situation. It was apparent that the police commanders, police negotiators and the Consultant Psychiatrist involved in the Lindt Café siege response lacked a shared understanding of the limits of the psychiatrist's role. It is essential that all those involved in responding to a high-risk situation have a clear understanding of each other's roles.

Recommendation 16: Role description for psychological advisers

211. *I recommend that the NSWPF develop a comprehensive policy that describes the role and function of a psychological adviser engaged to assist in responses to high-risk situations and that all those involved be made familiar with that policy.*

The psychiatrist's advice

212. This section considers the advice the Consultant Psychiatrist provided to those in the negotiation cell and to officers in the PFCP and POC at various points during the siege. In doing this, it is essential to avoid hindsight bias. Events were unfolding fast, and there was significant pressure on those provid-

ing advice and making decisions in real time. That does not, however, preclude scrutiny of the actions of those involved, provided that due allowance is made for fact that they faced the circumstances prospectively, not knowing what lay ahead.

213. The Consultant Psychiatrist submitted that when considering particular excerpts from the transcript of the negotiators' dictaphone, care needs to be taken lest greater importance be attached to the views expressed by the Consultant Psychiatrist than they deserve when understood in context. I accept that submission. In setting out my views in this section, I have had regard not only to the words spoken by the Consultant Psychiatrist at the time, but also to their context, the Consultant Psychiatrist's statements, and his oral evidence. I am also conscious of the fact that because of problems with the way the negotiators' dictaphone was used, recordings were made for only a very small part of the period during which negotiations were being conducted or attempted.

Advice re negotiation strategies

214. In many instances, the advice sought from the Consultant Psychiatrist was within his area of expertise. For example, the transcript of the negotiators' dictaphone reveals that at 5.36 p.m., Peter, the primary negotiator, discussed the psychological profile of Monis prepared by the psychologist Kim Ora with the Consultant Psychiatrist and sought his view as to what significance the diagnosis of a narcissistic personality disorder might have. The Consultant Psychiatrist properly advised that this raised the issue of how Monis would behave when he became frustrated and whether he might come to the point of killing hostages if he were frustrated over a long enough period, perhaps through failure to have his demands met. The Consultant Psychiatrist advised that "a wounded narcissist is a dangerous specimen".
215. However, a number of other examples demonstrate that the Consultant Psychiatrist crossed over from expressing the views of an expert in human behaviour into giving opinions on what negotiation strategy and tactics should be used. For instance, notes made by the secondary negotiator, Gary, at 4.20 p.m. indicated that the Consultant Psychiatrist advised the negotiators that they should ask Monis why he wanted an IS flag and say they needed to speak with Monis directly. A 5.07 p.m. entry on iSurv indicated that the Consultant Psychiatrist advised the negotiators to engage directly with

Monis [REDACTED]. A midnight entry in the negotiators' log indicated that the Consultant Psychiatrist advised Graeme that police should "... Put out to the media that it is not Islamic terrorist. 1. Unintended attack".

Advice on grandstanding, Islamic State and the nature of the attack

216. The Consultant Psychiatrist also gave advice on matters that were outside his area of expertise. In some instances, this plainly influenced the Police and Forward Commanders. Perhaps the most significant example of this was the advice he gave that Monis was grandstanding, that his behaviour was not consistent with IS methodology, and that he was thus carrying out an individual or personal attack. That advice was given during a teleconference involving Assistant Commissioner Murdoch and the SPG Team at about 3.35 p.m. It constituted advice outside the field of psychiatry that was relevant to risk assessment, a crucial task the Forward Commanders and Police Commanders needed to undertake.
217. The Consultant Psychiatrist emphatically denied that in describing Monis as "*grandstanding*" he had intended to convey that Monis was bluffing. On that basis, he concluded that Monis lacked the personal resolve to hurt anyone. However, AC Murdoch indicated that was precisely what he took the Consultant Psychiatrist to mean. He said that advice had assisted him in concluding that Monis did not present a sufficient risk to justify pursuing an interventionist strategy such as a Deliberate Action.
218. Commander SPG took the Consultant Psychiatrist to mean that Monis wanted to establish himself as the first IS operative on Australian soil and to thus gain media attention. Commander SPG's interpretation was fairly close to what the Consultant Psychiatrist indicated he had intended to convey. Nonetheless, the advice he gave was vague, imprecise and open to different interpretations, and it was a factor in AC Murdoch's underestimation of the risk Monis actually posed.
219. In a submission made on behalf of the Consultant Psychiatrist, it was argued that the advice he gave during the 3.35 p.m. telephone conference was within his area of expertise "*as someone adept and experienced at analysing human behaviour in high risk settings and with significant background in counter-terrorism*". I do not accept that submission. The Consultant Psychiatrist undeniably had significant experience in analysing human behaviour in high risk settings, but as he himself acknowledged, his experience of sieges related entirely to domestic sieges, not terrorist sieges. Further, while he indicated that he understood he was being called to assist during the Lindt Café siege as both an expert psychiatrist and to provide advice in respect of counterterrorism matters, the evidence suggests that his background and experience in terrorism-related issues was generalist and fairly limited. While he had attended courses and read about terrorism, his knowledge of IS was superficial and seemed to emanate from reports in the popular press.
220. The Consultant Psychiatrist was unaware of Islamic State calls for lone-actor-type attacks in recent years and in particular the September 2014 call to violence made by IS' then chief propagandist, Abu Muhammad al-Adnani. Ultimately, the Consultant Psychiatrist conceded that he was not engaged by the NSWPF Lindt Café siege as an expert on IS methodology.
221. The Consultant Psychiatrist's advice that Monis' behaviour was not consistent with IS methodology and that he was carrying out an individual or personal attack took him into an area where he had no expertise. The Consultant Psychiatrist was not in a position to offer an expert opinion on IS methodology and, consequently, on whether police should or should not accept the siege as an IS attack.
222. Further, advice that the Consultant Psychiatrist was qualified to give was not conveyed to the Police Commander during the 3.35 p.m. conference call. In particular, no mention was made of Monis' presumed diagnosis of a narcissistic personality disorder and the very real risk that if he became frustrated, particularly by having his demands go unmet over a long period, he could become dangerous and potentially violent.
223. The Consultant Psychiatrist certainly provided advice about the risks posed by Monis in the course of discussions with Peter in the negotiation cell at approximately 5.36 p.m. Indeed, the Consultant Psychiatrist included in that advice the additional view that he suspected that Monis was responding to a slight or rejection by his former wife when he became involved in her murder. Unfortunately, that advice went no further than the negotiation cell. It was not passed to the Police Forward Commander or to the POC. This serves to highlight the inadvisability of having the Consultant Psychiatrist spend almost all his time in the negotiation cell and only occasionally participate in briefings involving the PFCP and POC.

224. The Consultant Psychiatrist disputed that he gave inconsistent or incomplete advice to those in the negotiation cell and those in the PFCP/POC about the danger Monis posed. He said Graeme, the Negotiation Commander, held a similar view about Monis having a narcissistic personality—the implication being that Graeme could have been expected to raise the matter with the police commanders. I do not accept that submission. Graeme was not located at the PFCP; the Consultant Psychiatrist was. He had no basis upon which to assume what Graeme would say to those in the POC about the danger Monis represented and should have expressed his view during the POC/PFCP teleconferences.

Advice re Monis' achievements

225. Ambiguity also arose with other aspects of the Consultant Psychiatrist's advice. His advice, during a teleconference involving the PFCP and the POC at approximately 7.30 p.m., that Monis had done nothing or achieved nothing to that point was not accurate. While it is correct that by 7.30 p.m. Monis' substantive demands had all gone unmet, he had, as submitted by the family of Tori Johnson, succeeded in shutting down the city, causing widespread panic and garnering international attention. He was staging Australia's first Islamic State-related terrorist incident.

226. The advice that Monis had achieved nothing likely fed into the earlier advice about his grandstanding and carrying out an individual or personal attack, and contributed to AC Murdoch's conclusion that Monis was unlikely to harm the hostages. In evidence, AC Murdoch referred to the advice from the Consultant Psychiatrist about Monis' lack of achievements and stated that he understood it to mean that although Monis had not succeeded in having any of his demands met, he had taken no overt action against the hostages. AC Murdoch said that to his mind, that was a "*significant indicator of his willingness to follow through on his threats*"—in other words, that Monis was all talk, no action.

Advice about the mood in the café

227. At about 1.50 a.m. on 16 December, the Consultant Psychiatrist advised Night Forward Commander to the effect that the mood in the café remained calm, that those in the café appeared to be settling down for the night, and that it was probably better for Monis to have a rest so that negotiations could resume in the morning.

228. The NSWPF submitted that the Consultant Psychi-

atrist's assessment of the situation and his advice were entirely proper, supported by what was heard on SD1 and consistent with the role fatigue often plays in high risk situations. The NSWPF submitted that nothing heard by the officers monitoring SD1 indicated that the café was unsettled. For the reasons that follow, I do not accept that submission.

229. The advice the Consultant Psychiatrist gave at that time was unrealistic. No hostage had suffered physical harm despite Monis menacing a number of them with his sawn-off shotgun, and earlier threats to shoot hostages if there were further escapes had not been carried out. However, there were other things going on that the Consultant Psychiatrist knew of but seemed either not to take into account or to minimise.

230. First, from 12.35 a.m. onwards there had been a series of calls to 000 operators and negotiators in which the request for the Martin Place lights to be turned off had been made and in which the hostages had conveyed Monis' threats to kill them if the lights were not turned off. That culminated in the 1.12 a.m. call in which Selina said she would be shot within 15 minutes if the lights were not turned off. Although the Consultant Psychiatrist was aware from the surveillance device output that very soon after that call Monis admonished Selina for mentioning the 15-minute deadline, a series of calls about the lights indicated renewed activity in the café and increasing tension in relation to a demand made by Monis.

231. In oral evidence, the Consultant Psychiatrist dismissed the calls about the lights and the threat to kill Selina as "*quite a lame escalation as things turned out*" and disagreed that they contradicted the idea of a settled stronghold. He advised Graeme (who passed the advice on to AC Jenkins) that Monis' threat to start shooting people within 15 minutes if the lights were not turned off was out of character and not credible. That advice was shown to be correct. However, the renewed lights demand indicated, objectively speaking, that after a fairly lengthy period during which there was no contact between police and the café, things were beginning to happen again.

232. Second, Monis was picked up on SD1 at approximately 1.32 a.m. speaking to hostages about the possibility of releasing a hostage provided the media were contacted and it was broadcast that the hostage had not escaped but been released. The Consultant Psychiatrist indicated that he was informed of that discussion, and that when the

mass hostage escape occurred at 2.03 a.m. he was watching the TV expecting the release to occur. That again suggests that there was renewed activity in the café, rather than its being calm and settling for the night.

233. Although the Consultant Psychiatrist was not aware of everything that was going on at the time, including hostage movements within the café and the 1.43 a.m. text message in which Tori told his partner that Monis was increasingly agitated, the material of which he did have knowledge indicated that there was renewed activity in the café from about 12.35 a.m. onwards. There were some broad indicators of stability, as submitted on behalf of the Consultant Psychiatrist, in the sense that there had been no significant escalation of violence within the stronghold for some 14 hours and no escalation of hysterical or religious-extremist outbursts. However, it could not properly be suggested that the café was calm, or that those inside it seemed to be settling down and perhaps going to sleep.
234. Temp Chief Supt Smith and Dr Brown indicated that it was simply unrealistic to believe that at 1.50 a.m. Monis was going to calm down and get some sleep so negotiations might resume in the morning. While that might have been a hope, the facts that Monis had struggled to control the café, that two separate escapes had occurred, and that thirteen hostages remained inside the café made it far more likely that when he eventually succumbed to fatigue, further escapes might be attempted through one of the three exit points. While there was no evidence that hostages had been physically harmed before 1.50 a.m., the café was neither calm nor settled.
235. That advice seems to have led Night Forward Commander to assess the level of risk within the stronghold as having reduced through the early hours of 16 December. It is ultimately impossible to know to what extent that influenced his decision not to move to an Emergency Action soon after the 2.03 a.m. mass hostage escape, but it is a reasonable inference that it played a role in his taking ten minutes to seek to understand the situation before taking further action.
236. The Consultant Psychiatrist erred in the advice he gave Night Forward Commander at about 1.50 a.m. to the effect that the café was calm and settling down for the night and that it was probably better that Monis had a rest so negotiations could resume in the morning. At the time, there were a number of indications that activity within the café was increasing and that Monis was becoming increas-

ingly agitated and hyperalert. To a significant degree, the Consultant Psychiatrist's views seemed to be informed by his lack of relevant intelligence as to Monis' observed movements, what Monis was heard saying on SD1, and what hostages had said about his mood and behaviour. The Consultant Psychiatrist's views also seemed to be influenced by that fact that the only sieges he had attended previously were domestic ones, where the passage of time and the effects of fatigue might be more likely to weaken the hostage taker's resolve than was the case during the Lindt Café siege.

237. If intelligence had been more effectively gathered and disseminated to those in the PFCP, and if guidelines had been in place to better define the Consultant Psychiatrist's role, the Consultant Psychiatrist might have been less inclined to give advice of the kind he offered at approximately 1.50 a.m., or at least more likely to be challenged about it.

Concerns about the Consultant Psychiatrist's advice

238. There were a number of shortcomings in the manner in which the Consultant Psychiatrist was utilised in his role of advising the NSWPF, particularly the negotiators, during the siege. He was able to stray from his proper role as a psychiatrist into the formulation of negotiation tactics and strategy. Even if he had acquired some knowledge from exposure to other police negotiation matters, he was not part of the command structure. He did not have access to the Commander's intentions, or to information on iSurv or other police systems. He was not subject to command direction, had not received police training, and was not privy to the intelligence structure that would give him all necessary information to advise on negotiations.
239. His advice on IS methodology was outside his area of expertise. No police check had been undertaken to assess his expertise. The use of the Consultant Psychiatrist as a terrorist expert seems to have been allowed to occur because there were no relevant guidelines delineating his role. The negotiators lacked an understanding of the proper limits of his role, and there was no one else present who had the relevant IS expertise.
240. The Consultant Psychiatrist's advice carried disproportionate weight in the minds of negotiators and led to their being overly deferential to him and reliant on him. The Consultant Psychiatrist submitted that this might have been a result of the lack of a Negotiation Coordinator in the negotiation cell, but

there seem to have been more fundamental causes.

241. The Consultant Psychiatrist's influence spread beyond the negotiators, through his participation in telephone briefings involving the PFCP and the POC, to the Forward Commanders and Police Commanders.
242. The shortcomings described arose because:
- The role of the Consultant Psychiatrist was not properly documented in NSWPF policies,
 - ██████████ allowed him to assume a more expansive role than was appropriate,
 - his unfamiliarity with terrorist incidents led him to make false assumptions, and
 - the response team's lack of an expert on Islamic terrorism allowed him to fill the role *de facto*.
243. Some of the submissions of the Dawson and Johnson families were directed at the Consultant Psychiatrist personally and suggested that he should be prohibited from participating in future siege responses. I consider such a recommendation unwarranted. It is true that the Consultant Psychiatrist adopted a defensive stance when giving evidence. On occasions, he gave the appearance of being more interested in promoting his opinions and perspectives than in seeking to help the court understand how things had gone wrong or demonstrating empathy for the hostages and the victims' families.
244. The Consultant Psychiatrist seemed affronted that his views would be challenged. Critical self-reflection seemed absent. Nonetheless, I have no doubt that he devoted his considerable skill and experience to trying to help resolve the siege. By and large, the reasons for the shortcomings I have identified above are structural and systemic, rather than personal attributes of the individuals concerned. I also have no doubt that the Consultant Psychiatrist has given great service to the NSWPF and the NSW public through his previous involvement in responding to high-risk situations. That ought not be swept away by this one terrible incident, which posed unique challenges to many of those involved in it.

Conclusion: The Consultant Psychiatrist's advice

245. The Consultant Psychiatrist's role in the siege response was suboptimal in four respects: he was permitted to give advice about negoti-

ation strategy and tactics, he made erroneous and unrealistic assessments about what was occurring in the stronghold, he gave ambiguous advice about the nature of Monis' behaviour, and he was permitted to go beyond his area of expertise to give advice about Islamic State terrorism.

246. Having more psychological advisers available would lessen the likelihood that individual practitioners might assume authority by expanding their role, while a more diverse panel of experts would both obviate the perceived need for psychological advisers to give advice outside their area of expertise, and give siege responders access to more reliable information.

Recommendation 17: Expanded panel of experts

247. *I recommend that the NSWPF consider expanding the panel of psychological advisers it retains and the range of disciplines it consults.*

Adequacy of risk assessments during the siege

248. As detailed in Chapter 15, risk assessments conducted during the siege by the Police Forward Commanders and the Police Commanders were central to their deciding whether the siege should be brought to an end by the initiation of a DA.
249. The consistent evidence of the Forward Commanders and Police Commanders was that in light of the facts that Monis had taken multiple hostages and was armed with a shotgun and a presumed body-borne IED, the baseline level of risk involved was a very high one. Nonetheless, it was thought unlikely that Monis would commit acts of violence.
250. Afternoon Forward Commander indicated that his perception through to the end of his shift was that the risk to those in the café did not increase and that the mood within the café was stable. He saw nothing to warrant any change in the strategy of "contain and negotiate".
251. Until the mass hostage escape at 2.03 a.m., Night Forward Commander continued to believe that there were good prospects of resolving the siege peacefully through containment and negotiation.

252. AC Murdoch stated that right through to the end of his shift, he remained confident that the police would negotiate an outcome. He did not regard Monis as presenting an erratic risk of violence; instead, he believed Monis “*did not have it in him*” to harm the hostages.
253. AC Jenkins indicated that while Monis had to be regarded as very dangerous based on the objective facts that he was holding hostages, brandishing a shotgun and claimed to have an IED, he nonetheless took some comfort from the information contained in Monis’ profile that he had worked through a third party in bringing about the murder of his ex-wife. AC Jenkins indicated that in his assessment the stronghold was calm, and that while the level of risk ebbed and flowed somewhat from relatively low to medium (against the baseline risk reflecting the objective circumstances), he expected a negotiated outcome.
254. AC Jenkins emphasised that at 1.58 a.m., he was more optimistic about the prospects of a negotiated outcome than at any other time during his period in command. He stated that based on the Consultant Psychiatrist’s advice about Monis “*grandstanding*”, he believed Monis was trying to bring himself to the attention of authorities without perhaps following through on his threats.
255. The police commanders’ views that things in the café were calm and stable were to some extent informed by what they were told by the negotiators during teleconferences. In that regard, I note that the information relayed by those monitoring SD1 appears to have led negotiators to conclude that, in general terms, the level of risk was not increasing. At 9.30 p.m., the negotiators’ log records that “*LD indicates very calm ... Tango is interested in talking.*” At 11.06 p.m., when Monis was telling certain hostages to phone their families, the log records “*demeanour remains calm*”. These observations were in keeping with the advice provided by the Consultant Psychiatrist, who perceived the period after dark to be a time of “*relative stability*” within the stronghold. The 9.00 p.m. entry in the Handover Running Log for AC Murdoch confirms that Graeme and Reg advised during a teleconference that the situation in the café was calm, with no rise in the threat level.
256. The NSWPF submitted that based on all the available information, there was no foreseeable error in the police assessment of the danger Monis posed. There were aspects of Monis’ conduct that militated against the conclusion that he posed an immediate or acute risk of homicide. In particular, the police commanders were entitled to place weight on the fact that right through until 2.13 a.m., Monis did not physically harm any hostages despite a number of threats to do so when his demands were not met, and despite two separate escapes from the café involving five hostages.
257. I conclude that there was a failure to properly assess, assimilate and communicate information about Monis, and that this contributed to a failure to appreciate that the risk to hostages was increasing as the siege wore on.
258. The police commanders failed to place adequate weight on a number of factors that were known or could have been known to them. These were:
- The recent purported conversion of Monis from the Shia to the Sunni branch of Islam, his 17 November 2014 pledge of allegiance to the Islamic State Caliph, and his recent posting of disturbing images of dead children online. While I accept that those matters had to be viewed against Monis’ actual conduct once the siege began, I am satisfied that they were suggestive of a real risk of violence to the hostages.
 - The facts that Monis had apparently become an IS adherent and was desperate enough to arm himself and take hostages suggested that he had moved on from letter-writing and public demonstrations, and that the risk of violence to the hostages was real from the outset. While it was entirely appropriate to ponder the significance of Monis’ recent conversion, it was dangerous to discount the risk he posed on the basis that he did not seem to be acting as IS adherents normally did.
 - The evidence of Monis’ lack of control of the café also represented a real danger to the hostages. There were three entrances/exits, and during the afternoon hostages had escaped through each of those exits. There was a real danger that more hostages would escape and that Monis would react violently to such an event. It was inevitable that he would become tired and eventually fall asleep. It was foreseeable that more escapes would be attempted, particularly as the siege dragged on and hostages became tired and desperate.
 - Only one of Monis’ previous criminal acts had been carried out through a third party. During the numerous sexual assaults with which he had been charged, he had displayed a continuous and prolonged indifference to the distress of, and serious harm to, the victims. His ability

to manipulate victims suggested that he had both the intellect and insight to understand the misery he was causing. His ability to stop those assaults from about 2010 suggests that he was choosing his course and was not pathologically compelled. That indicates a clinical absence of empathy and an indifference to the personal suffering he caused.

- The significance of the murder charges should not have been minimised on the basis that Monis had not carried out the killing himself. Monis' former wife had been stabbed many times and set on fire. That Monis had arranged for someone else to carry out the murder suggested a propensity for using violence to attain his ends that needed to be properly taken into account during the siege.
259. Monis' narcissistic personality disorder, as raised in the report from Ms Ora and accepted by the Consultant Psychiatrist and Dr Wright, suggested that if Monis perceived that he had been wounded or defeated in some way—including through not having his demands met over an extended period or losing control of the café so that more hostages escaped—he might react with violence. The Consultant Psychiatrist advised those within the negotiation cell of this risk. It was incumbent on the negotiators to pass that information up, via the Negotiation Coordinator, to the Police Forward Commander. That did not occur.
260. Information available via SD1, Channel 7 footage of the café and hostage reports of Monis' conduct indicated that he was becoming more agitated and erratic and thus presenting a greater risk to those inside. For example, the 1.19 a.m. discussion between Monis and the hostages picked up on SD1 indicated that he was concerned about particular noises in the café. Channel 7 camera footage of the café at 1.20 a.m. captured Fiona Ma and Jarrod Morton-Hoffman moving from the north-western part of the café through to the kitchen area at the southern end, presumably while they were investigating the noises that Monis complained of. At 1.43 a.m., Tori sent a text to his partner stating:
- He's increasingly agitated. Walks around when he hears a noise outside with a hostage in front of him. Wants to release one person out of good faith.*
261. AC Jenkins said that while both negotiators and the Consultant Psychiatrist advised him that the level of risk posed by Monis was not high, he interpreted certain of the objective facts as pointing towards the same conclusion. In his oral evidence, AC Jenkins referred to the fact that although Monis had been brandishing a gun all day and had used it to bully people around the café, he had not fired it. He also mentioned that he was aware, via SD1, that Monis had made threats to shoot people but not carried them out. AC Jenkins seemed to be of the view that Monis presented a fluctuating level of risk. Ultimately, the advice of the Consultant Psychiatrist and the negotiators seems to have swayed him to the conclusion that Monis was not likely to follow through on his threats and actually harm someone.
262. Afternoon Forward Commander said the Consultant Psychiatrist advised him in the early afternoon that Monis' behaviour was stable and that it was appropriate to continue to try to engage with him. He also recalled the Consultant Psychiatrist making the point that in the past, Monis had always done violence via third parties rather than harming anyone himself. This was misleading, as in only one case had Monis used a third party to commit a crime—the murder of his ex-wife. However, it seems this mischaracterisation wasn't challenged.
263. Like AC Jenkins, Afternoon Forward Commander recalled the Consultant Psychiatrist using the term “grandstanding” in relation to Monis; he took this to be an aspect of Monis' narcissism. He said he also recalled the Consultant Psychiatrist saying that Monis liked media attention. However, when assessing the level of danger that Monis presented, Afternoon Forward Commander spoke to Tactical Commander and the negotiators (principally Reg) on a number of occasions. He was also briefed on the statements of escaped hostages, on phone discussions between negotiators and hostages, and on snipers' observations. He was also provided with TOU views about the pros and cons of moving towards resolution via DA and negotiators' views about the ongoing utility of negotiation.
264. Night Forward Commander seems to have been provided with perhaps less explicit advice about the level of threat Monis presented, but he nonetheless indicated that the Consultant Psychiatrist advised him that through the day there were no escalation points and that Monis was remaining fairly calm. The Consultant Psychiatrist was recorded as advising during a 12.25 a.m. briefing that he was happy with the way things were going in circumstances where the siege might be long and drawn out. Afternoon Forward Commander explained that the Consultant Psychiatrist's advice reassured him that “contain and negotiate” remained the appropriate course of action.

Conclusion: Adequacy of risk assessment

265. The Police Forward Commanders and Police Commanders made assessments of the threat Monis posed based on information from a variety of sources. They were presented with summaries of the intelligence that had been gathered, given regular briefings by the TOU and negotiators, and also given advice from the Consultant Psychiatrist.
266. It is now very difficult to disentangle the various strands of information and advice they took into account. However, the evidence strongly points to the conclusion that commanders underestimated the threat Monis posed. This was partly because they were not given a complete and balanced picture of the available intelligence, partly because they placed undue reliance on the Consultant Psychiatrist (who himself underestimated the risk), and partly because they did not adequately challenge or test information and advice they received about the mood in the café or the likelihood that Monis might harm the hostages. While this is obvious in hindsight, with more rigorous analysis it could also have been discerned at the time.

Gathering and provision of intelligence to negotiators

267. Although I have dealt elsewhere with the topics of the gathering and communication of information and intelligence, I focus here on some of the detail relevant to the negotiators. They had a particular need for information about Monis. I accept, as per the submission made on behalf of the NSWPF, that a significant amount of intelligence material was received in the negotiation cell, including the report from the psychologist Ms Ora, criminal-charge Facts Sheets in respect of Monis, information from Det Senior Const Staples with respect to Monis' murder accessory charges (Strike Force Crocker), certain information picked up via SD1, information from hostage debriefs, INTSUMs, and intelligence gathered from telephone intercepts. Nonetheless, the negotiators were not provided with a number of pieces of important information.
268. During the negotiators' day shift, Sasha was tasked to assist with intelligence gathering until about 9.30 p.m., when she was asked to prepare the LRAD.
269. Sasha's evidence demonstrated that she did a thorough job of gathering intelligence information and ensuring that it was passed on to relevant members of the police team, including negotiators. Significantly, Sasha had prior knowledge of Monis, having assisted on the homicide investigation into the murder of his ex-wife. That put her in a good position when it came to knowing where to look for information and determining what parts of his criminal and psychiatric history might assist those managing the siege.
270. The failure to disseminate intelligence to the negotiation cell seems to have occurred after 9.30 p.m., when Sasha was reassigned to prepare the LRAD.
271. The negotiator who was located at the SD1 listening post sent a number of texts to the negotiation cell with updates on things he had heard on SD1 that he regarded as significant. I am conscious of the distorting effects of hindsight and the way it can amplify the significance of otherwise innocuous matters when one knows how a situation came to be resolved. Accepting that is so, I nonetheless conclude that there were some deficiencies in the conveyance of intelligence picked up on SD1 and that a more thorough and reliable system of passing on such intelligence was called for during the Lindt Café siege. I have addressed the dissemination of information gleaned from SD1 in some detail in Chapter 12 and will say no more of it here.
272. Furthermore, as noted earlier in this chapter, although a negotiations officer was present at radio station 2GB, neither the negotiators nor the police commanders were advised that at 6.26 p.m., one of Monis' key demands had been met by the broadcast of information from a Facebook post by Marcia that Australia was under attack by Islamic State and listing Monis' other demands.
273. Monis had sought for many hours to have his motivations and demands reported by the media. It is possible that the officer thought his fellow negotiators had access to live feed from radio stations, but this was a piece of information that one might expect to have been reported to the negotiation cell.
274. By the time of the mass escape at 2.03 a.m., the negotiation cell had not been told about Tori's 1.43 a.m. text saying Monis was increasingly agitated. Tori also referred to Monis wanting to release one hostage out of good faith. Despite the fact that Mr Zinn immediately telephoned a police officer to pass on the contents of the text and the fact that it was received by Rob at 1.53 a.m., no information about it was given to either Darren B or Matt in the negotiation cell.

275. Finally, at 1.32 a.m., SD1 picked up discussions in the stronghold in which Monis suggested that he would release a hostage provided this was pre-emptively announced by the media so police could not claim that it was an escape. Monis wanted to contrast his behaviour with that of the NSWPF, who he maintained had “*not negotiated*” and had “*done nothing*”. That information did make its way promptly into the negotiation cell, and the evidence indicates that it resulted in some optimism that progress might be made towards the safe release of some or all of the hostages. The Consultant Psychiatrist suggested that this was an indication that the “*resolution phase*” of the siege was under way.
276. However, there was further important information about the possible release of hostages that should have, but did not, make its way into the negotiation cell. At approximately 1.40 a.m., Marcia telephoned 2GB, where she spoke to a producer, Shannon Fahey. Marcia described Monis’ plan to release a hostage if the media would broadcast the fact. When Ms Fahey told Marcia that the message about releasing the hostages would not be broadcast on 2GB (in accordance with earlier police requests) and that Marcia would instead need to call negotiators, Marcia became upset and hung up. Monis was then heard on SD1 at 1.44 a.m. indicating that he was no longer interested in releasing a hostage because the media were not permitted to broadcast his message. He said there was “*no point*”. That information was not conveyed to those in the negotiation cell.
277. The news about the possible release of a hostage was greeted with optimism in the negotiation cell; indeed, as noted above, the Consultant Psychiatrist said he was convinced it would occur and was watching the TV screen expecting to see a hostage walking out of the stronghold. The negotiators should have been informed of the 1.44 a.m. discussion heard on the surveillance device in which Monis said he had changed his mind. It is likely that such information would have been relevant to the negotiators’ assessment of the progress of the negotiation as at just before 2.00 a.m.
278. For the reasons set out above, I find that while it appears that intelligence was appropriately conveyed into the negotiation cell during the early parts of the siege, that changed for the worse from about 9.30 p.m. The NSWPF acknowledged in its submissions that it would have been “*preferable*” if the above matters had been brought to the attention of those in the negotiation cell. I go further and conclude that the information should have been gathered and provided to negotiators.

Why were hostages’ calls missed?

279. Four calls from hostages to negotiators in the early hours of 16 December went unanswered. Marcia called the negotiators’ number at 12.30 a.m., 12.31 a.m. and 12.32 a.m. Selina made a call at 12.47 a.m. That was not the only period when it seems that calls to the negotiation cell were not picked up. The telephone intercept transcripts also indicated that calls from hostages were not picked up by negotiators at 7.51 p.m., 8.14 p.m., 8.34 p.m. and 8.36 p.m.
280. Additionally, at 12.35 a.m., Selina called 000 and requested that the Martin Place lights be switched off. She called 000 again at 12.48 a.m., explained that the negotiators were not answering the phone, and again asked that the lights be turned off. Selina eventually managed to speak to the primary negotiator, Matt, at 12.53 a.m. She noted that a request for the lights to be turned off had been made two or three hours earlier and repeated that request.
281. The evidence indicates that the outgoing day negotiation team was conducting a handover briefing to the incoming night negotiation team from approximately 11.50 p.m. to 12.50 a.m. The handover briefing seems to have occurred in an office adjoining the negotiation cell. It seems very likely that during the handover briefing, all members of both teams were in that office.
282. The NSWPF submitted that it was regrettable that the calls were not answered and argued that since the office where the handover was being conducted was next door to the negotiation cell, it is unlikely that the negotiators would have failed to hear the phone ringing. The NSWPF raised the possibility that the four unanswered calls were diverted to another part of the Leagues Club.
283. I have significant difficulty accepting that the four calls were diverted to other areas of the PFCP without the phone first ringing in the negotiation cell. The landline that Marcia and Selina called was located in the negotiation cell. The number was not widely available, and the evidence from telephone intercepts does not suggest that anyone other than Marcia and Selina was calling the negotiators at the time. There seems no reason why the negotiators themselves would have been making outgoing calls between 12.30 a.m. and 12.47 a.m., given that the handover was being conducted then. There is no suggestion that the negotiators adjusted their landline so as to automatically divert to elsewhere

in the PFCP at the time. Based on all of the above material, the most likely scenario is that the phone rang in the negotiation cell and went unanswered simply because the negotiators were otherwise engaged with the handover.

284. In light of what Selina said to the 000 operator when she called at 12.35 a.m., it can be inferred that when Marcia called the negotiators' number three times between 12.30 and 12.32 a.m., she intended to again request that the Martin Place lights be turned off. The renewed demand was not received until 12.53 p.m., when Selina got through to the negotiation cell—23 minutes later than it would have been received if Marcia's first call had been answered.
285. It is not now possible to know precisely what would have happened if Marcia's 12.30 a.m. call had been answered, but it would have increased the chances that the lights would have been switched off before the mass escape at 2.03 a.m. Further, police compliance with a demand from Monis after hours of stagnation in negotiations might have changed the dynamics in the stronghold considerably. Certainly, the negotiators would have been able to tell those in the café that approval had been given for the lights to be turned off and that the matter was in hand.
286. The U.K. negotiation expert Temp Chief Supt Smith said the negotiation team handover should have been done in a staggered fashion, with each member of the outgoing negotiation team handing over to the equivalent member of the incoming team. Handing over in that staggered fashion would have ensured that there was always someone available to answer the phone in the negotiation cell, rather than having both teams in an adjacent office.
287. The NSWPF submitted that I should infer that there was a staggered handover, and that Peter was sitting in the negotiation cell at the time of each of the missed calls. The NSWPF put forward this assertion in support of the argument that the calls likely diverted elsewhere in the Leagues Club. For the reasons I have already set out, I do not accept that submission.
288. I accept the Dawson family's submission that it should be inferred that the level of the hostages' anxiety increased as a result of their inability to contact the negotiators and communicate Monis' demands. That much seems to be evident from the fact that when Selina Win Pe spoke to Matt a second time, at 1.12 a.m., she introduced a 15-minute deadline to the lights demand.
289. I also accept the submission of the Dawson family

that the negotiators could and should have taken steps to let hostages know that calls might not be answered in the negotiation cell if someone was already on the landline. Reg had personal experience of that problem. There was no reason the negotiators could not have taken that step to minimise the prospect that the hostages or Monis would become frustrated or angry if a call went unanswered.

290. I also accept that the negotiators could and should have taken steps to minimise the likelihood that calls to the negotiation cell would be diverted if the landline was in use. As Reg conceded in his evidence, that could have been achieved by having all negotiators make outgoing calls on a mobile phone, so as to keep the landline free. They might also have requested an additional landline in the negotiation cell.

Conclusion: Missed calls

291. Eight calls by hostages to a number they had been told would connect them with a negotiator were not answered—four around 8 p.m. and another four between 12.30 a.m. and 1.00 a.m. An unknown number of calls were also diverted to other phones in the Police Forward Command Post. That these calls were missed represents a significant failure in a basic component of siege management—the maintenance of open communication between hostage/s and negotiators. It is likely that the calls between 12.30 and 1.00 a.m. were not answered because all the negotiators were involved in a handover briefing.

Recommendation 18: Review of negotiation team handovers

292. *I recommend that the NSWPF review its procedures to ensure that handovers between negotiation teams are staggered so that a fully briefed officer is always available to receive a call from the stronghold.*

Negotiation staffing, training and equipment issues

Human resources

293. Generally, the evidence indicates that there were enough negotiators present to staff the day and the night negotiation teams. Each team had a

- Team Leader, a Primary Negotiator and a Secondary Negotiator, as well as two persons fulfilling the Fourth Member role. One of the persons who acted as Fourth Member during the day shift, Tim, was specifically allocated the task of recording demands. He ultimately replaced Reg as Team Leader so that Reg could act solely as the Negotiation Coordinator. It is not clear precisely when that occurred, but it seems to have been relatively early.
294. The evidence also indicates that during the day and early evening of 15 December, there were enough negotiators to fulfil necessary roles outside the negotiation cell, such as monitoring 000 calls at the Police Assistance Line centre in Tuggerah, attending on media outlets that hostages were known to be calling, and monitoring SD1. Whether it was sufficient to have only one negotiator at a time monitoring SD1 is a separate matter, considered in Chapter 12.
295. It was not appropriate that, at least during the early phase of the siege, Reg was fulfilling the dual role of Team Leader and Negotiation Coordinator. As Temp Chief Supt Smith and Dr Brown pointed out, the Team Leader and Negotiation Coordinator have different roles, and at times it is necessary that the Team Leader come out of the cell with information the Negotiation Coordinator can question and discuss, with a view to deciding on strategies for recommendation and discussion with the Negotiation Commander. That did not occur during the Lindt Café siege, in part, it would seem, because Reg had a limited understanding of his role as Negotiation Coordinator, but also because for a time he was fulfilling a dual role. I note that since the siege, NSWPF has appointed a second, full-time Negotiation Coordinator so the issue of Reg having to perform two roles should not recur.
296. There was no dedicated Negotiation Coordinator at all during the night shift. Reg went off duty after the handover briefing, which ran from approximately 11.50 p.m. to 12.50 a.m. Again, the recent appointment of a second, full-time Negotiation Coordinator should mean that in future high risk situations a fresh Negotiation Coordinator can be called in as required.
297. During the day shift, a negotiator, Sasha, was given an intelligence-gathering role. Later, at 9.30 p.m., Sasha was sent to prepare the LRAD. Thereafter, she and Matthew 2 were deployed with the LRAD to the Alpha Team. From 9.30 p.m. onwards, no negotiator was specifically tasked to gather intelligence other than the negotiator assigned to monitor SD1.
- In short, no one replaced Sasha, and the difference was notable.
298. The length of time the day negotiation team was engaged at the scene—from 10.00 a.m. until 12.50 a.m., prompts consideration of whether the performance of team members may have been affected by fatigue.
299. The Dawson family submitted that the shift change-over should have occurred earlier, and that there was evidence, in the form of errors and failings on the part of negotiators, to support a finding that fatigue affected their performance. It is more plausible that the issues identified by the Dawson family relate to the negotiators' lack of experience in high risk situations of the scale of the Lindt Café siege and in situations involving a terrorist threat.
300. The situation with respect to Graeme, the Negotiation Commander, is different, in that he remained on duty throughout the siege. While Graeme disputed that fatigue affected him, it is unacceptable that he worked through both the day shift and the night shift, with no one able or qualified to replace him as Negotiation Commander. Not only did he have to try and maintain an intense focus on the negotiations, he was also called upon to provide strategic oversight of, and input into, three other police negotiations occurring in Sydney and country NSW at different times of the day and night.
301. In their supplementary report, the U.K. experts expressed concern about this. They observed that in light of the complexity and risks associated with the siege, Graeme *“should have been in a position to focus on it without the potentially dangerous distractions from other, unrelated tasks”*. They went on to note that the hours worked by Graeme were *“excessive and not conducive to effective decision making”*.
302. In evidence, Graeme agreed that the NSWPF will need to look at arrangements aimed at ensuring that the Negotiation Commander in an apparent terrorist situation is not required to become involved in other jobs.
303. Despite the addition of another full-time senior negotiator, Graeme's evidence was that the Negotiation Unit's operating strategy required him to be involved in every operation where negotiators are deployed. He is, in effect, on call at all times. This led Counsel Assisting to submit that the Negotiation Unit was not sufficiently resourced or valued compared with other NSWPF units. Reliance on one Negotiation Commander working unacceptably long hours supports a conclusion that more resources

need to be devoted to the Negotiation Unit.

304. The expert evidence also indicates that it would have been beneficial to have additional negotiators and Team Leaders available during the siege. In large, complex incidents such as this, there must be enough Negotiation Unit staff to allow intelligence-gathering tasks to be attended to and to enable negotiators to be posted at media outlets and/or other external locations as required. There should also be enough Team Leaders to allow them to be posted externally where required.
305. In this case, there were other negotiators who could have been called in from the Sydney Metropolitan Negotiation Unit if it had been recognised that the scale and complexity of the police operation necessitated it. A need for more negotiators and Team Leaders arose as the siege became prolonged. This should have been recognised by the Negotiation Coordinator and discussed with the Negotiation Commander. However, I accept that the need for additional negotiators and Team Leaders is more obvious in hindsight than it would have been in the midst of what was a large and complex police operation.

Rank restriction on negotiators

306. Graeme gave evidence that when the negotiation cadre was formed within the NSWPF, it was determined that commissioned officers (i.e. those with the rank of Inspector and above) would not directly engage in negotiations. Instead, the negotiation process would be left to those ranked between constable and Senior Sergeant.
307. The restriction was said to have been prompted by the need for negotiators to focus on communication rather than decision making. Graeme observed that it is important to avoid situations where negotiators are put under pressure to make decisions in the course of dealing with the person of interest. In practice, this means negotiators can indicate that they will take the request or demand to a higher authority.
308. The argument in favour of abandoning rank restrictions on negotiators is that such restrictions deprive the Negotiation Unit of access to experience and expertise, as negotiators of long standing are promoted in rank such that they are no longer eligible to engage directly in negotiations.
309. The NSWPF argued against modification of rank restrictions, submitting that the rank of the negotiator does not automatically correlate with negotiation outcomes. The NSWPF indicated that rather than amend the rank restriction, it intends to upgrade training for the current cadre of negotiators. It further points to practical difficulties, with senior police officers being unlikely to regularly practice and train in the skills necessary for negotiation work.
310. The imperative to separate decision makers from negotiators in the context of individual incidents does not justify a blanket restriction on negotiations being conducted by officers above a certain rank. It may be that, for resourcing reasons, it is not possible to have inspectors or superintendents routinely serving as on-call negotiators (or, indeed, engaged as additional full-time negotiators). However, it is troubling to consider that the NSWPF negotiation cadre has likely lost some of its best negotiators, and will continue to do so in future, on account of their promotion. Presumably, the best and the brightest are promoted. In complex circumstances such as the Lindt Café siege, it is important that the very best people are available, not just to make decisions but to actually interact with terrorists.
311. There is no restriction on the rank of negotiators in the United Kingdom. Temp Chief Supt Smith gave evidence that U.K. police invest heavily in the skill of negotiators, who typically carry out negotiation functions for a period of ten years before moving on to another role within the police force. She went on to observe that the expertise of negotiators gradually builds over time, and that only more experienced negotiators are “deployable” in high risk situations.
312. In evidence, Graeme agreed with the proposition that the rank restriction meant that his team trains officers, who may become highly skilled negotiators, only to lose them on promotion. This situation should not be permitted to continue.
313. I accept the NSWPF submission that enhanced training is an important and worthwhile goal. I also accept that there will be logistical challenges in having commissioned officers serving as negotiators. However, I am not persuaded that those hurdles are sufficient to justify ruling out all commissioned officers from active negotiation work. In light of the experience of the U.K. police, this appears to be a matter on which consultation with other police forces may bring benefit.

Training

314. A counterterrorism negotiation course has been run on a national level since at least 2001. Reg indicated that he attended this course in 2001,

2004 and 2008. According to the submissions by the NSWPF, approximately half the members of the Sydney Metropolitan Negotiation Unit are counterterrorism accredited, including all bar one of the Team Leaders.

315. However, the negotiation techniques taught in that counterterrorism course do not appear to differ significantly from those addressed in standard negotiator training and practice. Reg stated that the specialised content of the courses he attended was limited to presentations concerning religion and how to address it in the course of negotiations. Even this aspect of the training program appears to have been conducted at a very basic level. There was no evidence that any of the negotiators involved in the Lindt Café siege attempted to use Monis' religion as a potential way to engage with him.
316. At the time of the siege, police were apparently trained to approach negotiations with terrorists in much the same way they approach any negotiation. This seems to be at odds with the fact that persons staging terrorist sieges are likely to have significantly different motivations and goals from those staging domestic sieges. It is very likely that those motivations and goals will bear upon the negotiation process in some way.
317. For legitimate reasons of public interest immunity, the inquest did not receive detailed evidence about the content of counterterrorism negotiation training, but I do not accept the Commonwealth's submission that this precludes me from making comment or recommendations about such training. The evidence of Reg and other NSWPF negotiators and of the U.K. negotiation experts supports an inference that prior to 15 December 2014, the NSWPF negotiator training was not highly sophisticated. It was a matter of concern that the negotiators were unable to articulate specific counterterrorism negotiation tactics or approaches that they sought to deploy during the siege. They could not do so because they had no training in those areas.
318. The NSWPF stated in its submissions that since 16 December 2014, it has run a training day on the topic of Countering Violent Extremism, Radicalism, Islam and ISIS. However, there is no evidence of who attended or what was taught, and it seems to have been a one-off event. I am of the view that at least some of negotiators should receive training on the most effective ways to engage with terrorists in a siege situation.
319. Terrorism negotiation training should be reviewed, updated, further developed and improved. That is not a criticism of the police training. It is an outcome of painful experience from which important lessons are to be learnt.

Equipment

320. The equipment available to the negotiators during the siege was deficient in some respects. The telephone equipment was basic, and this meant that on occasions, calls were not received in the negotiation cell and instead diverted elsewhere in the PFCP. In view of the nature of the incident, additional phone lines should have been installed as soon as it became apparent that the siege was likely to be protracted.
321. The lack of space for whiteboards in the negotiation cell was less than ideal. One whiteboard was sourced and used to record hostage names. More should have been obtained and used to record demands so that progress could be tracked.
322. Negotiators also had a digital dictaphone which they used with less than complete success. The negotiators were supposed to use this device to record any relevant calls. However, the dictaphone transcript demonstrates that only calls made and received between 1.34 p.m. and 5.50 p.m. were recorded. This seems to have been because negotiators lacked familiarity with the dictaphone's use.
323. Frequent references were made in evidence to a purpose-built negotiators' truck that was damaged some years before the siege and has not yet been replaced. While negotiators might have benefited from access to the soundproofing, dedicated areas for team members and whiteboards with headings that the truck provided, in the circumstances of the siege it was more practical for them to operate from the same building as the PFCP.
324. The real significance of the unavailability of the truck was the inference that arises from the failure to replace it over such a long period. A large organisation must constantly juggle resources demands, but the delay of some three or four years strongly suggests that the NSWPF did not regard equipping the Negotiation Unit as a high priority.

Conclusion: Negotiation Unit staffing

325. The Negotiation Commander was overburdened and could not be relieved. Inevitably, his performance would have degraded as he became fatigued. The Negotiation Coordinator

was not replaced after his shift ended, and the officer assigned to intelligence gathering and dissemination was not replaced when she was assigned to other duties. In view of the shortfalls in personnel devoted to various negotiation functions during the siege, it is evident that the Negotiations Unit was understaffed.

Recommendation 19: Review of Negotiation Unit staff numbers and profile

326. *I recommend that the NSWPF review the number, rank and function of the officers comprising the Negotiation Unit.*

Conclusion: Rank of negotiators

327. U.K. policing organisations, which have greater experience in dealing with terrorist incidents, do not require negotiators to cease acting in that role when they are promoted to commissioned officer rank. I accept the NSWPF's submission that having commissioned officers act as negotiators introduces some complications, but I consider that the benefit of staffing those positions with the best officers available outweighs those concerns and conclude that the current prohibition is counterproductive.

Recommendation 20: Rank of negotiators

328. *I recommend that the NSWPF review its policy of requiring negotiators to relinquish that role when they are promoted to commissioned officer rank.*

Conclusion: Negotiator training

329. Negotiators do not receive adequate training in dealing with terrorists. The training of negotiators, which focuses on dealing with domestic high-risk situations, does not adequately equip them to engage effectively with terrorist/s in a siege. There are cadres of Police Forward Commanders and Police Commanders specially trained to deal with terrorist incidents; the same should be true of negotiators.

Recommendation 21: Specialist training for terrorist negotiations

330. *I recommend that the NSWPF develop a cadre of counterterrorist negotiators and provide them with appropriate training to equip them to respond to a terrorist siege.*

The adequacy of the negotiation records

331. There were significant deficiencies in the records kept by negotiators in a number of important respects that suggested a systemic problem.

Strategies and tactics to be considered

332. The overall strategy to be adopted in the course of negotiations does not appear to have been documented anywhere that was accessible to the negotiators. Graeme's handwritten notes do include the following:

Continue to try & get POI on the phone to discuss outcomes & peaceful resolution. H welfare. POI has not achieved anything at this stage. POI trying to achieve publicity through H's by social media.

This note, however, was not made until about 7.23 p.m. and was recorded in Graeme's own notebook rather than in a form accessible to those in the negotiation cell. It did not appear in the negotiators' log for either the day or night.

333. A range of evidence was presented relating to discussions between commanders in which tactics were considered. However, no record of the conclusion of those discussions was transmitted to the negotiation cell. The U.K. experts said in evidence that a consolidated record of the relevant strategies and decisions pertaining to them should have been kept in the cell. They observed for example, that neither the negotiators nor Reg nor Graeme appear to have made any record of their decisions regarding potential Third Party Intermediaries.

334. Specific records of strategies and tactics considered and implemented may be especially helpful in the course of a drawn-out siege. In the earlier phases they are likely to facilitate assessment of the success or otherwise of the relevant strategies by the team that implemented them. In case of a handover to another team, such records would be expected to help the new negotiators rapidly

acquaint themselves with the particular measures their predecessors have implemented and, in turn, their efficacy. Records of this type are also needed to assess the progress of negotiations.

Records of demands

335. After assuming command of the incident, Assistant Commissioner Murdoch noted that it was important that Monis' demands be identified and understood.
336. In their supplementary report, the U.K. experts observed not only that it is good practice to consider the strength of demands made, how they should be approached, and how those approaches could support the negotiation strategy, but also that each of those considerations should be properly documented. They also observed that the police commanders' decisions and police responses to each of the demands ought to be recorded. Such records should include the impact of the relevant decision on the hostages. Graeme, the Negotiation Commander, also agreed that there was a need for a document which captured demands and resultant police actions. No such records were kept.
337. Temp Chief Supt Smith observed that such records of demands should not only be made in the negotiation cell but should be included in position papers prepared by the Negotiation Coordinator and passed to police commanders every few hours. Doing this provides a fail-safe in the event that, for one reason or another, a demand is not properly communicated to command. Dr Brown reached a similar conclusion in his report.
338. I accept the submission made by Counsel Assisting and the Dawson and Johnson families that the failure to adequately record demands was not just a bureaucratic weakness; it had real consequences. For example, it meant that negotiators overlooked Monis' initial demand for the Martin Place lights to be turned off, because they had nothing to remind them of what demands were outstanding. If the lights demand had been documented at 8.38 p.m., as it should have been, it could have led to engagement with Monis.
339. Negotiators made no specific, regular records of any assessment on the progress of negotiations. Matters that bore upon the progress of negotiations were recorded in documents such as the negotiators' log and the notes kept by individual negotiators on a fairly frequent but idiosyncratic basis. For example, an entry in the negotiators' log at 1.54 p.m. reads "*Talking to Jarrod—hung up when pushed for information about bomb. 13.56.*" Tim made an entry in his notes at 4.40 p.m. that reads, in part, "*Not building up to killing— can't get through to Tony Abbott.*" There was no system of pulling together the information, recording it in a standardised form and then using it to track progress.
340. What was lacking was some form of regularly updated record which evidenced the negotiators stepping back from the minute-to-minute negotiation process and reflecting on what progress, if any, had been made in the negotiations to date. I accept the submission of the Dawson family that such a record should have been prepared as a matter of standard practice.
341. The record of the progress of negotiations that should have been prepared would have assisted the negotiators significantly in preparing position papers for provision to commanders.
342. A record of the progress of negotiations would also have helped commanders assess the extent to which the negotiation strategy and tactics were working. That assessment was a critical one for the Forward Commander and Police Commander to undertake. I note that it bore directly on matters such as whether a DA ought to be approved, authorised and initiated.
343. The most logical form in which to record demands made by Monis and the progress of negotiations would have been a position paper. Temp Chief Supt Smith and Dr Brown both advocated the use of periodic position papers. Temp Chief Supt Smith explained that typically, the Negotiation Coordinator writes such papers after discussion with the negotiation team and then discusses them with the Forward Commander.
344. As the Johnson family submitted, it was surprising that none of the negotiators who gave evidence had heard of position papers. Graeme's evidence was that before the siege, there been no discussion in NSWPF of the use of position papers in the event of politically motivated violence or terrorism.

Records enabling measurement of progress of negotiations

345. Each of the negotiators who gave evidence, including Reg and the Negotiation Commander, Graeme, accepted that there would be benefit in the use of position papers by the Negotiation Unit. Further, the NSWPF accepted that in the course of substantial terrorist incidents, position papers would be of assistance during team handovers and in the formu-

lation and development of negotiation opportunities. The NSWPF also accepted that position papers would enhance reflective practice and the development of lateral approaches to complex scenarios such as that presented during the Lindt Café siege.

346. A collateral benefit of the preparation and use of position papers or similar reports is their potential to shorten handover processes (and, of course, reduce the risk that important information will not be conveyed to an incoming negotiation team).
347. While the NSWPF conceded that the records kept by the negotiators could have been better, it also argued that the deficiencies in those records had no bearing on substantive decision making. I do not accept that submission and conclude, consistent with the submissions of the Johnson family, that the lack of proper records meant, among other things, that the negotiators were deprived of what would have been a useful aid to reflection on the progress of negotiations and the status of demands.

Materials used in record keeping

348. Temp Chief Supt Smith gave evidence in relation to the usefulness of recording key information on laminated or butcher's paper and positioning it where all persons in a negotiation cell can see it. Dr Brown, for his part, advocated the use of "situation boards" (which he described as a piece of paper taped to a wall) containing information such as: subject/s, hostage/s, victim/s, demands, deadlines, positive police actions and the like. The photographs of the negotiation cell set-up during the Lindt siege make it plain that paper or laminated boards could have been placed on the walls or windows in full view of the negotiators. None of these measures was adopted.

Conclusion: Record keeping

349. The NSWPF has no policy requiring commanders or negotiators to record negotiation positions and tactics, the demands made by a hostage taker, or any progress or lack of it in moving a high-risk situation towards resolution. Accordingly, during the siege there was no provision for recording these items in a readily accessible form. This was not simply a bureaucratic shortcoming: it had significant consequences and may have influenced such substantial decisions as whether "contain and negotiate" should be continued or whether a DA should be initiated. These shortcomings

were not the fault of the individual officers involved—they resulted from a gap in the NSWPF's policies and procedures.

Recommendation 22: Recording of negotiation positions

350. *I recommend that the NSWPF develop policies that require the recording of negotiation strategies and tactics, demands made by a hostage taker, and any progress towards resolution (or lack thereof) in a form readily accessible by commanders and negotiators.*

The impact of media reporting

351. Freedom of the press, including reporting of police operations, is an essential accountability mechanism in modern liberal democracies. During high risk situations such as the siege, media reporting can potentially increase the dangers involved and/or reveal police tactics or methodology that ought be protected.
352. There were no formal protocols enabling police to exercise any control over media broadcasts to prevent exposure of material that might negatively affect police work or hostage safety.
353. The Police Media Unit (**PMU**) exists to engage with media outlets and manage media presence at crime scenes. It also sends out media releases and is tasked with developing a police media strategy in relation to planned or spontaneous events involving the NSWPF.
354. Beyond the PMU, the Police Executive Office has a Director of Public Affairs and a Public Information Functionary Area Coordinator, who also deal with the public and the media on behalf of the NSWPF.
355. Shaun Fewings, the Senior Media Officer from the PMU, who was deployed to the POC on 15 December, acknowledged in his statements that police have no lawful power to stop or prevent media coverage of events such as the Lindt Café siege so long as media representatives position themselves beyond police perimeters and do not interfere with police operations. Mr Fewings indicated that police sometimes ask the media to modify coverage based on what he called "*a professional understanding*".
356. The evidence indicates that despite the lack of any formal arrangements or protocols, the media acted responsibly and cooperated with police requests in

- respect of the real-time coverage of the siege.
357. For example, Mr Fewings received instructions from the POC at about 10.48 a.m. to ask television networks, particularly Channel 7, which had a camera in its own premises opposite the café, to modify their coverage of the scene so as to avoid close-ups of the hostages in the windows. That request was passed on to the media via Strath Gordon, the Director of Police Public Affairs. AC Fuller, who initiated the request, said in evidence that, among other things, he was concerned that Monis might see the footage and observe the TOU *in situ* and possibly preparing for an assault. Mr Fewings confirmed, based on later discussions he had with Mr Gordon, that the media networks acceded to the request and immediately pulled back their visual coverage.
 358. Other requests to media outlets to modify coverage so as to minimise the risk of escalating tensions in the stronghold were similarly complied with. During the afternoon of 15 December, after Monis was identified as the likely hostage taker, the ABC asked the PMU whether it would be appropriate to release Monis' name and the answer was no. The ABC did not broadcast his name at the time, in keeping with the police response. Further, when hostages phoned media organisations, journalists and other production staff consistently refused to allow them to go on air and often urged them to call police negotiators directly, in keeping with police requests.
 359. Notwithstanding the above examples of media outlets seeking advice on coverage from the NSWPF and abiding by its requests, there were occasions when broadcasts were made that had the potential to endanger those within the stronghold.
 360. Notable among these was the reporting of the escape at 4.58 p.m. of April Bae and Elly Chen. Monis and most of the remaining hostages were unaware that the two women had escaped. Monis had earlier threatened to shoot someone if there were any further escapes. Police were aware of this from their debriefing of April and Elly.
 361. It was not until a subsequent radio news broadcast that Monis became aware of the media reporting a total of five hostages had escaped. He reacted angrily to the news, but the situation was diffused by the hostages, in particular Jarrod Morton-Hoffman, who, through presence of mind and ingenuity, convinced Monis that there had not in fact been a second escape.
 362. The live and largely unfiltered coverage of the siege had an effect on the dynamics of the café and increased the risk to the hostages. Had a hostage other than Jarrod been tasked with monitoring media reports and replayed them to Monis with less guileful "spin", the situation might have taken a very different turn.
 363. There was a potential for media coverage to interfere with the police operation, expose police methodologies and endanger police officers, particularly as regards the work of the negotiators, the TOU and STIB. To have the best chance of success, negotiators need as much control as possible of the information going into the stronghold (as part of the "containment" exercise), as well as the information they extract from it.
 364. From the outset of the siege, Monis sought to have his "motivations" broadcast via the electronic media. He also demanded to either make a statement or hold some form of discussion with the then Prime Minister on national radio. Media outlets cooperated with police requests not to broadcast these demands. However, at 6.26 p.m., 2GB broadcast details of a Facebook post by Marcia, which included the assertions that Monis was claiming to be acting for IS, that there were more bombs in the city, and that people would be released if the Prime Minister spoke to Monis in a live broadcast. There is no evidence to suggest this occurred in knowing contradiction of the police request.
 365. Counsel Assisting and the Dawson and Johnson families submitted that the NSWPF should consider asking media outlets to consent to a formal compact or agreement whereby they would consult with police before releasing potentially important information during a terrorist incident.
 366. The NSWPF submitted that traditional news media would be reluctant to sign a formal protocol, particularly in circumstances where that might restrict them from publishing material that overseas media outlets or social media sites might publish. Those concerns could be partly allayed if—as the Dawson family urged—social media platforms were included in any accord or compact.
 367. Counsel Assisting suggested that such an accord or compact might cover topics in respect of which broadcast or publication would be delayed, topics in respect of which there would be no publication or broadcast, and information about police operations that would be provided to the media as soon as possible. While those suggestions appear sensible, my view is that it would be best to leave the content of any agreement to negotiations between the NSWPF and media outlets.

368. All mainstream news media outlets acted responsibly during the course of the siege and voluntarily acceded to police requests to limit publication of material that they were legally entitled to publish.
369. Media reporting of police operations is an essential accountability mechanism in modern liberal democracies. Accordingly, the imposition of any limitation on the right of media outlets to do this must be approached with caution.
370. Any temporary restriction on the right of news media outlets to publish information could be justified only after all interested parties had an opportunity to fully ventilate the social, legal, commercial and technical considerations relevant to any such constraints. The prevalence of social media poses difficult challenges. The inquest did not attempt to undertake such a review, but the evidence before it highlighted the dangers inherent in the present arrangements.

Conclusion: Negative impact of media reporting

371. During the siege, some information was broadcast that had the potential to compromise the safety of hostages and to undermine the police negotiation strategy. These broadcasts were not deliberate but occurred because there

were no comprehensive arrangements for alerting the media to the potential harm that could be caused by proposed broadcasts or publications.

372. There was no evidence that any media outlet would not refrain from publishing material if it knew that doing so could compromise the police response to an ongoing terrorist incident. However, there is no mechanism for police to alert media outlets about material whose publication could cause harm, or for reporters and broadcasters to make their own inquiries in that regard.

Recommendation 23: Review of media publication of terrorist incidents

373. *I recommend that the Commissioner of Police consider seeking an agreement with news media outlets whereby the NSWPF will establish a way for such outlets to rapidly and confidentially determine whether publishing specific material could compromise the response to an ongoing high-risk incident and the media in turn will agree not to publish such material without first alerting a nominated senior police officer of their intention to do so.*

14 Snipers

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Introduction

1. Highly trained and well-armed police marksmen, referred to as snipers, were among the TOU officers dispatched to the scene in the first response to the incident. They scouted the vicinity and took up positions in elevated locations overlooking the café.
2. Observing through high-powered telescopic sights, the snipers could see Monis and some of the hostages through the café windows and doors at various times throughout the day and night, and they provided valuable intelligence on what was occurring in the stronghold. However, at no time did they attempt to shoot Monis. In tactical parlance, they were unable to provide a “firing solution”, in which all conditions were right for a precise hit on the target.
3. Understandably, the Johnson and Dawson families and members of the public have asked whether police should have shot and incapacitated Monis before he killed Tori and before police were forced to storm the café, leading to Katrina’s death.
4. To answer those questions the following issues need to be considered:
 - Before Monis shot Tori, did police have lawful justification to shoot Monis?
 - Did the snipers set up in the most appropriate locations?
 - Was an appropriate number of officers committed to the sniping function, and was there an appropriate command structure in respect of those officers?
 - Were the snipers appropriately armed and equipped?
 - Did the snipers have the technical capability to shoot Monis?
 - Did they have an opportunity to shoot Monis?
5. Officers in the NSWPF may use lethal force to discharge their duties in certain circumstances. The legal parameters commence with NSWPF’s statutory responsibility for “the protection of persons from injury or death”: s. 6(3)(b) of the *Police Act 1990*.
6. A police officer may use such force as is “reasonably necessary” to exercise his or her functions: s. 230 of the *Law Enforcement (Powers and Responsibilities) Act 2002*. This invokes a concept of proportionality—that is, officers can use a degree of force they reasonably believe to be necessary for the purpose, “provided that force is not disproportionate to the evil being prevented”: see *R v Turner* [1962] VR 30 at 36.
7. A use of force which is not justified can give rise to criminal charges against a police officer, in which case the question of self-defence may arise. For this reason, in assessing use of force by police it is relevant to have regard to the legal principles of self-defence.
8. Section 418 of the *Crimes Act 1900* relevantly provides that an accused will not be criminally responsible for an offence if:
 - a) he or she believes their conduct is necessary to defend another person, or to prevent or terminate the unlawful deprivation of liberty of another person; and
 - b) the conduct is a reasonable response in the circumstances as he or she perceives them.
9. If the use of force causes death and (a) is satisfied but (b) is not, the accused is criminally responsible for manslaughter: s. 421 *Crimes Act*.
10. There are three components to self-defence under s. 418. First, the accused must believe the conduct is necessary to defend himself or herself or another person or to terminate an unlawful deprivation of liberty. Second, the accused must carry out the conduct for that purpose. A third component, that the conduct be a reasonable response in the circumstances as perceived by the accused, only falls to be considered if the jury is satisfied that there is a reasonable possibility that the conduct was

Justification to use lethal force

5. At about 7.38 p.m., two snipers in the Westpac building—Sierra Three 1 and Sierra Three 3—saw a person they believed to be Monis sitting with his back against the Martin Place wall of the café and with part of his head visible through White Window 4. That prompted these snipers to consider shooting Monis.
6. In considering whether to do so, the officers had regard to whether they had lawful justification to use lethal force. They concluded that at that time

- carried out defensively. The question of whether the response was reasonable is determined by an objective assessment of the proportionality of the defensive response of the accused to the situation as the person perceived it: *Flanagan v the Queen* (2013) 236 A Crim R 255 [2013] NSWCCA 320 at [78] citing *Douglas v R* [2005] NSWCCA 419 at [79].
13. Section 419 provides that where self-defence is raised, the prosecution has the onus of proving beyond reasonable doubt that the accused did not carry out the conduct that is the subject of the charge in self-defence. The Crown would succeed in doing this if it proved beyond reasonable doubt either that the accused did not genuinely believe it was necessary to act defensively in the relevant sense, or that what was done was disproportionate to the danger or threat as the accused perceived it: *Flanagan* at [79].
 14. The decision to use lethal force can be made only by the individual police officer who takes the action, a principle which, in Australia, dates back to *Enever v the Queen* (1906) 3 CLR 969. It is the individual officer, on the basis of information provided and what they can observe, who must reach the requisite belief. An officer cannot be directed to take such action, although he or she can rely on information or advice provided by another officer.
 15. In evaluating the reasonableness of the use of force by police, it is essential to have regard to the real-world context; the question must be judged by reference to the pressure of events and the agony of the moment, not by reference to hindsight: *Woodley v Boyd* [2001] NSWCA 35 at [37].
 16. Applying those principles to the facts of the siege, before an officer could have lawfully justified shooting Monis, he would have needed to believe that shooting him was necessary to defend one of the hostages or to terminate their unlawful deprivation of liberty. The shooting would also need to have been a reasonable and proportionate response in the circumstances.
 17. When Sierra Three 1 saw Monis through the window at 7.38 p.m., he immediately sought information to help him assess the danger facing the hostages. He spoke to Alpha 2, who was with an entry team on Phillip Street and who had himself seen into the café earlier in the day. Sierra Three 1 asked Alpha 2 if Monis had a genuine shotgun, and Alpha 2 confirmed that this appeared to be the case. Sierra Three 1 also asked Deputy Tactical Commander if he had any information that might indicate whether the hostages at that time faced an immediate threat of harm from Monis. No such information was forthcoming.
 18. Sierra Three 1 told the inquest he made these inquiries because he understood that the test of legal justification to shoot Monis was whether there was an imminent threat of death or serious injury to one or more of the hostages. He considered that, as at 7.38 p.m., that test had not been met, because Monis had not physically harmed any hostages and there was nothing to suggest he was about to do so.
 19. Sierra Three 1 considered that the hostages in the café were under a general threat of death or serious injury and that they were being detained against their will. However, he referred to information he had gleaned from iSurv which suggested that Monis was relatively calm and had not, to that point, hurt anyone. When asked why he did not shoot Monis at 7.38 p.m., Sierra Three 1 said, “*At no point did I see him posing an immediate threat to anyone’s life ... and I saw no justification.*”
 20. The other marksman in the Westpac building, Sierra Three 3, was of the same view. Neither sniper was satisfied that Monis posed an imminent threat.
 21. The snipers were also concerned about the risk to hostages should they attempt to shoot Monis. At the window near which Monis was sitting, two hostages were holding up the *shahada* flag. This blocked the snipers’ view, and made it impossible to tell whether there were other hostages behind Monis, further inside the café.
 22. Sierra Three 3 said shooting at Monis “*wasn’t an option, both for justification reasons, and again, not knowing what was behind him.*”
 23. When questioned about the snipers’ authority to shoot Monis during the siege, all the police commanders involved expressed a similar view. Assistant Commissioner Michael Fuller, Commander SPG, Afternoon Forward Commander and Assistant Commissioner Mark Jenkins all gave evidence, or agreed with the proposition, that a sniper, like any other police officer, has lawful authority to use deadly force only to stop an offender from causing death or serious injury or if there is an imminent risk of that occurring. Assistant Commissioner Mark Murdoch gave evidence to similar effect—that all police officers, including snipers, are trained not to shoot at a person unless there is death or injury or the imminent threat of death or injury; and that the individual officer must believe such a condition or threat is present before taking a shot.

24. As set out above, one of the justifications for using force provided for by s. 418 of the *Crimes Act* is to terminate the unlawful deprivation of liberty of oneself or another. Commanders such as AC Fuller and Commander SPG acknowledged that police had lawful authority to utilise “reasonable” force to secure the release of the hostages. However, the effect of their evidence was that they did not consider police had lawful authority to utilise *lethal* force unless Monis was causing death or serious injury or there was an imminent risk that he would do so.
25. The submissions of the NSWPF on use of force contended that a broad-brush characterisation of Monis over a period of many hours during the siege fails to recognise that the threat he posed varied over time. The NSWPF submitted that it was incumbent upon police to do as the snipers did during the siege, that is, to conduct a considered, conservative assessment of the legitimacy of the resort to lethal force by reference to the nature and immediacy of the threat posed by the target at the relevant time.
26. The NSWPF expressed reservations about the “optimism” of suggestions by Counsel Assisting and the Johnson and Dawson families that the snipers could have taken a lethal shot with legal impunity as at 7.38 p.m. and, indeed, from much earlier in the day.
27. Counsel Assisting submitted that there was at all times a significant baseline threat to the hostages because Monis was wielding a shotgun, had threatened to kill them, claimed to be acting on behalf of Islamic State, and claimed he was carrying an IED. They submitted that given those prevailing circumstances, the snipers would have been legally justified in shooting Monis from soon after the siege commenced.
28. By 7.38 p.m. the siege had been under way for some 10 hours, during which time Monis had consistently refused to engage with negotiators and given no sign that he was prepared to make concessions. In the view of Counsel Assisting, these facts reinforced the authority of police officers to free the hostages by resort to deadly force if necessary.
29. Counsel Assisting submitted that under s. 418, self-defence is likely to have applied in the unlikely event that a sniper who took a shot at Monis was subsequently charged with manslaughter or murder.
30. The Dawson family and Johnson families made submissions to the same effect, arguing that at all times during the siege, the snipers had legal authority to shoot Monis if the opportunity presented itself.
31. In my view, the relevant legal principles meant that the police (including the snipers) had lawful authority to use lethal force against Monis from an early stage of the siege. I have reached that conclusion having regard to all the circumstances, in particular Monis’ wielding of the shotgun and claim to have an IED, his threats, his claimed allegiance to IS, his unwillingness to negotiate, and the continuing unlawful deprivation of the hostages’ liberty.
32. However, I accept the submission of Counsel Assisting that it was not unreasonable for the snipers to have had doubts about legal justification given the training they receive, the information available to them on the day, the pressure of events and the agony of the moment. In any event, concern about legal justification was only one of the reasons the snipers did not shoot at Monis when they saw him through White Window 4 at 7.38 p.m.
33. The Johnson family submitted that police training in the use of force does not appear to align with the legal framework. They submitted that police applied a threshold much higher than is required by law.
34. In response, the NSWPF submitted that for police, the operating principle is to use only such force as is reasonably necessary, proportionate and appropriate in the circumstances.
35. While I accept that this formulation is an accurate summary of the law on the issue, the more vexing question is how it is applied in incidents like the Lindt Café siege. The emphasis in the police evidence upon the need for death or serious injury to occur or be imminent suggests a hesitation to use force even where it may be legally justified.
36. The deliberate fatal shooting of a citizen by a police officer is the most extreme exercise of executive authority. The officers who gave evidence about this issue said that the use of lethal force is justified only to save an officer’s own life or that of another person. That is generally consistent with public expectations.
37. Usually, this principle does not pose too great a problem when police are called upon to intervene in a violent incident. If an officer who shoots and kills a person in such an incident is to escape censure or sanction, the coroner, the Director of Public Prosecutions and, if it gets that far, a jury must accept that the use of force was necessary for

self-defence and that it was reasonable and proportionate to the threat.

38. In effect, the existing legal framework means an officer's legal position depends upon others being satisfied after the event that he or she acted reasonably. This model has many strengths. It almost certainly both acts as an appropriate safeguard against unnecessary force being used *and* ensures that an officer is excused when such severe force is justified.
39. However, the existing legal framework might also unduly constrain officers responding to a terrorist siege. A determination to wait for objective evidence that the hostage taker is about to kill a hostage could expose the hostages to unacceptable risks, as occurred in this case. When Monis threatened them with death but did not carry out the threat because they placated him and complied with his unlawful demands, police considered they did not have legal justification for shooting him. When Monis finally explicitly manifested his deadly intent, no officer was in a position to intervene and save Tori.
40. The NSWPF has rightfully trained its officers to use deadly force only when that is absolutely necessary to preserve the life or safety of a person. I accept that such forbearance has enabled numerous sieges to be resolved without loss of life, even in cases where incidents have extended over days.
41. That approach led the snipers who saw Monis in the café 10 hours into the siege to conclude that the hostages were not in sufficiently imminent danger to justify the shooting of Monis because he had not, up to that stage, carried out his various threats.
42. Generally, police must take a cautious and circumspect approach when considering shooting an offender. The balance of the subjective and objective elements of self-defence in the *Crimes Act* encourages restraint and works reasonably well. However, the uncertainty of that framework has the potential to hamper effective responses to terrorist incidents.
43. The *Terrorism (Police Powers) Act 2002* gives police special powers to prevent terrorist acts. Those powers can be accessed only with the authorisation of the Commissioner or Deputy Commissioner of the NSWPF and with the concurrence or confirmation of the Police Minister—with alternative arrangements for urgent cases when those officials are not immediately available.

Conclusion: Authority to use deadly force

44. The snipers and the police commanders believed that police did not have lawful authority to shoot Monis because he did not pose an imminent or immediate danger to the hostages. That belief was an unduly restrictive view of their powers. This interpretation of the circumstances failed to have sufficient regard to Monis' possession of a shotgun and suspected IED, his threats, his claimed allegiance to Islamic State, his unwillingness to negotiate, and his continuing to unlawfully deprive the hostages of their liberty.
45. Nonetheless, I can readily appreciate why individual officers might be inclined to take a cautious approach to interpreting their powers. Their careers and even their own liberty could hinge on the later concurrence by others in the criminal justice system that their resort to deadly force was justified. I make no finding critical of the snipers who concluded they were not lawfully justified in shooting Monis before Tori Johnson was killed.
46. It may be that the special powers available to police responding to terrorist incidents should include a more clearly defined right to use force.

Recommendation 24: Use of force in terrorist incidents

47. *I recommend that the Minister for Police consider whether the provisions of the Terrorism (Police Powers) Act 2002 should be amended to ensure that police officers have sufficient legal protection to respond to terrorist incidents in a manner most likely to minimise the risk to members of the public.*

Sniper locations

48. I now turn to operational aspects of the deployment of snipers during the siege, including their positioning and the adequacy of their equipment.
49. The snipers were divided into three groups:
 - Sierra Two (one officer), located at the Seven Network building on Martin Place, opposite the Lindt Café;
 - Sierra One (two officers), at the Reserve Bank

- of Australia (**RBA**) building on Phillip Street, opposite the café; and
- Sierra Three (three officers), located at the Westpac building on the corner of Phillip Street and Martin place, diagonally opposite the café.
50. It is important for snipers around a siege to operate from places where they have a clear view of the stronghold but remain concealed from those inside it. The snipers' positions should enable them to convey information about events within the stronghold and if necessary fire at targets within it or escaping from it. In this case, the locations chosen were sufficiently covert and close to the café, but all were behind glass, which restricted the capacity of officers to take a shot.
 51. Sierra Two, the officer in the Channel 7 building, was located on the mezzanine level about 13 metres back from the glass. This vantage point, directly across Martin Place from the café, offered good vision through the four windows on the Martin Place (or White) side of the café, and through White Door 2 (the doors from Martin Place into the foyer of 53 Martin Place). Sierra Two observed Monis through White Windows 3 and 4 at various points throughout the day. At these times, Monis was usually sitting or standing on the other side of hostages who were positioned at the windows. As discussed later in this chapter, however, the glass in the Channel 7 building was bullet resistant. Accordingly, it would not have been possible for Sierra Two to take a shot from his location.
 52. The two snipers in the RBA building could see the four windows on the Phillip Street (or Green) side of the café, but there was little activity to be seen through Green Window 1, and visibility through Green Windows 2, 3 and 4 was extremely poor because of the advertising decals stuck to the glass. There was a view through White Door 1 (the door at the corner of Phillip Street and Martin Place), but this was restricted due to the angle. The U.K. review team described the RBA location as a "*poor sniper position*" affording "*little value in terms of observation / intelligence*".
 53. Given that the Channel 7 building's glass was bullet resistant, easily the best of the three positions was on Level 1 of the Westpac building. Snipers there enjoyed a good view into the café through White Door 1 and the four White Windows. They were about 50 metres from the furthest window, White Window 4.
 54. There were three officers at this location: Sierra Three 3, a marksman who was supported by a breacher; Sierra Three 2; and Sierra Three 1, who was also set up as a marksman but did not have a breacher assisting him. Sierra Three 1 was also the sniper coordinator.
 55. The process by which these locations were selected is described in Chapter 7. The question arises as to whether they were the best locations available.
 56. Counsel Assisting submitted that the initial exploration of suitable sniper locations was sufficient. However, they were critical of the fact that after the sniper locations selected, no further assessment was made as to their utility. Nor were other locations explored, aside from one instance after nightfall, when Sierra Three 1 investigated a florist's kiosk in Martin Place but rejected it because of the risk that a sniper in this position might be detected.
 57. Counsel Assisting and the Dawson family submitted that potential positions along Macquarie Street do not appear to have been considered beyond Sierra Three 3's cursory assessment when he was *en route* to the Westpac building. While a position on Macquarie Street may not have been advantageous because of the angles in the line of sight to the café, the greater distance between possible hides there and the café and the higher risk of compromise, the area could have been systematically assessed. It was not. There was also no systematic review of alternative sniper positions after nightfall.
 58. The U.K. experts said in evidence that police commanders did not appear to fully explore the viability of the snipers who were in position, or reassess their locations to see if improvements could be made. Deputy Chief Constable Simon Chesterman said he would have expected police to be "*constantly*" reviewing sniper positions to see if they could be improved upon. There is no evidence that this occurred during the siege.
 59. The NSWPF submitted that the task of assessing sniper positions was undertaken by Sierra One 1, and that while there was no systematic reassessment of sniper positions, this does not constitute a reasonable ground for criticism given the careful efforts involved in selecting the three sites, and given that the stronghold was a static site.

Conclusion: Sniper locations

60. The exploration of sniper locations does not appear to have been as comprehensive as it could have been. It would have been prefera-

ble for a reassessment of other possible locations to have taken place, particularly after nightfall. However, the locations chosen had reasonable visibility into the stronghold and there is no evidence that better sniper locations were available.

Adequacy of human resources

61. Two issues were raised as to the adequacy of the sniper personnel arrangements: Should there have been an additional officer in the Westpac cell? And should there have been a sniper coordinator at the Police Forward Command Post (PFCP)?
62. As noted above, there were three officers in the Westpac building. Two of them were designated as marksmen and one was a breacher. The precise responsibilities of this last position are discussed in detail below, but as the term suggests, a breacher makes holes in material through which a marksman wishes to shoot.
63. In this case, one of the marksmen, Sierra Three 1, did not have a breacher to assist him. The Johnson family submitted there should have been a breacher with each marksman. The NSWPF submitted that this submission was unrealistic, as such a use of resources would have been excessive and unnecessary.
64. Sierra Three 1's evidence was that the absence of a second breacher was not caused by resource limitations. He said he could have raised the topic with command had he thought it necessary. He did not do so because he did not believe an additional breacher was needed. In those circumstances, I am not persuaded that the resourcing was inadequate.
65. The Johnson family also contended that there ought to have been an additional officer tasked as a communicator. They made this point having regard to the communication problems which arose between snipers and command from shortly before 2.03 a.m. onwards. The submissions referred to the evidence of the U.K. experts, who suggested that a single officer should have been dedicated to communications rather than performing the dual role of breacher or shooter as well as communicator.
66. None of the three officers in the Westpac building indicated a tension between their various responsibilities. Furthermore, as concluded in Chapter 15, the communication problem that occurred appears to have originated in the radio system. The officers were not involved in any other physical task at the time, and there is nothing to suggest that a dedicated communicator at the Westpac location would have ameliorated that problem.
67. Placement of a sniper coordinator in the PFCP is envisaged under national PTG doctrine, and Sierra Three 1 said he expected that arrangement would be adhered to because the TOU officers trained on that basis. Sierra Three 1 asked to serve as sniper coordinator at the PFCP but was directed into the field by Deputy Tango Charlie. He said he performed the role as best he could from the Westpac building.
68. According to the U.K. experts, during incidents such as the siege, a sniper coordinator should be located in the PFCP to manage and review sniper positions, rotate and relieve snipers, advise as to sniping options and, particularly in complex Deliberate Actions, organise snipers in taking a coordinated shot or shots. More generally, the function of a sniper coordinator is to assist in coordinating sniper actions if a shot is to be taken.
69. Tactical Commander gave evidence that the role of the sniper coordinator is to ensure that all snipers have good situational awareness and to identify all of the sniping solutions available. He was satisfied that during the Lindt Café siege, the sniper coordinator, Sierra Three 1, carried out those functions in close consultation with Deputy Tactical Commander, even though the former was located in the Westpac building for most of the siege.
70. Counsel Assisting suggested that the failure to review the sniper positions after they were set may have been partly attributable to the absence of a sniper coordinator at the PFCP. However, they submitted that the absence of a sniper coordinator did not negatively impact upon the siege response.
71. The Johnson family disagreed, arguing that the lack of a dedicated sniper coordinator in the PFCP contributed to less effective hostage debriefing and reassessment of sniper locations. Furthermore, they suggested that a sniper coordinator would have identified and addressed what they contended were deficiencies in sniper resources (a breacher for Sierra Three 1, and a dedicated communicator at the Westpac location).
72. The Dawson family echoed this submission, contending that if a sniper coordinator had been located at the PFCP, there might have been more rigorous discussion with tactical commanders about reassessment of sniper hide locations, and more effective overwatch and coordination of snip-

ers to maximise their contribution: problems with sniper radios, for instance, might have been identified and remedied.

73. The NSWPF submitted that the absence of a sniper coordinator physically located at the PFCP did not impact adversely on the siege response. It noted that the sniper coordinator could have been called to the PFCP on an as-needed basis.

Conclusions: Human resources

74. Neither the absence of a second breacher (an officer tasked and equipped to penetrate barriers to enable a sniper to fire) nor the absence of a dedicated communications officer in the Westpac building, negatively affected the snipers' performance.
75. However, the failure to place a sniper coordinator in the Police Forward Command Post was not in keeping with national Police Tactical Group doctrine or with the way in which the TOU trains. There was no obvious reason to depart from those guidelines during the siege response. While there is no compelling evidence that having a sniper coordinator as part of the management team in the PFCP would have improved the performance of the sniper cells in this incident, no reason was identified for departing from this nationally recognised standard procedure. On occasions, such departures could degrade the quality of the response to an incident.

Recommendation 25: A sniper coordinator in the PFCP

76. *I recommend that the NSWPF review its policies to ensure that the usual arrangements for placing a sniper coordinator in the Police Forward Command Post are departed from only for sound operational reasons that are recorded.*

Armaments and equipment

77. All snipers allocated a shooter role were equipped with a Remington 700 bolt-action rifle. There is no suggestion that this was inappropriate.
78. There were four types of ammunition approved for use by TOU snipers generally. Two types were selected on the night:
- .308 165-grain Trophy Bonded Bear Claw

rounds (used by Sierra Three 3), which appear to have been appropriate; and

- .308 RUAG Swiss P Armour Piercing rounds (used by Sierra Three 1), which, as outlined below, were incapable of penetrating both the window glass in the Westpac building and the window glass in the Lindt Café. However, there is no evidence to suggest an alternative round would have been better.
79. The snipers did not have any special equipment for measuring the thickness of the glass they confronted; they were limited to making visual observations and to asking people such as building managers who might have relevant knowledge.
80. Since the siege, the NSWPF has acquired [REDACTED]. This would have assisted on the night to reduce the "guesswork" as to the feasibility of shooting through the glass. However, given that the snipers' assessment of the glass at each location was subsequently shown to have been correct, the availability of such equipment on the night would not have changed things.
81. Breaching of the glass was to be undertaken using a Remington 12-gauge shotgun firing a specialised breaching round, plus a manual tool known as a reamer. Subsequent testing indicated that this equipment was capable of breaching the glass at the Westpac building but did so imperfectly (see below).
82. Since the siege, the TOU has obtained [REDACTED]. Had this tool been available on the night, that option could have been explored. The risks of using [REDACTED] would have been that the noise and/or movement involved would compromise the position of snipers and potentially elicit a violent response from Monis. Nevertheless, Sierra Three 1 said in evidence that if the siege were to occur again, he would attempt to breach the glass immediately upon establishing himself in position, perhaps with the aid of [REDACTED].
83. Counsel Assisting observed that there is no evidence that police considered proactive steps to render firing positions more viable. They submitted that while it might not have been feasible to breach the glass at the Westpac building (or indeed any of the sniper locations) without alerting Monis, the option of doing so should at least have been explored.
84. The Johnson family took that submission further, contending that cutting an aperture in the Westpac glass could and should have been done under cover

of distractions earlier in the day. The Dawson family adopted this submission.

85. The NSWPF submitted that the discussion of distractions was speculative and therefore unhelpful, and discounted the risk that the noise of breaching the glass would have alerted Monis.
86. On balance, while it would have been prudent for police to have considered the options for breaching the Westpac glass, I am not satisfied that this would have been realistic given the limitations of equipment and the significant risk that any action that created loud noise could have prompted a reaction by Monis.
87. All TOU officers had their own radio for communicating with each other in the field and with the commanders in the PFCP and the Police Operations Centre. At the Westpac location, there were two radios between the three snipers. Sierra Three 3 did not have his own radio; he indicated that this was not because of any shortage but because it was not practical for him to operate a radio and firearm at the same time. Communication was the responsibility of Sierra Three 2.
88. Each of the sniper teams also had access to an iPad, which allowed them to read and add to the iSurv log. The iPads were delivered to each team by mid-afternoon. (Entries in the iSurv log suggest this occurred around 2.30 p.m., although the TOU radio transcript puts it closer to 4 p.m.)
89. As the iSurv log was a significant aid to situational awareness, it would have been preferable for snipers to have received the iPads as soon as practicable after taking up position in their locations. However, no actual disadvantage arose from this delay.

Conclusion: Arms and equipment

90. The snipers were armed and equipped in accordance with the relevant standards. As discussed below, their arms and equipment were not sufficient to overcome the challenges of the unique situation in which they found themselves. This was not due to any lack of planning or training. It was simply impossible to equip the snipers in a way that covered all possible eventualities, and the circumstances they faced on this occasion were not reasonably foreseeable.

Technical capability

91. A firing solution by police snipers necessarily required a shot through the café glass, because Monis remained in there throughout the siege. Each of the three sniper locations was less than 60 metres from the café—well within the ranges at which NSWPF snipers are trained.
92. However, each location was itself behind glass. The snipers were aware that firing through glass could cause bullets to deviate or fragment. Firing at an angle to the glass in the café was an added complication whose impact could not be calculated.
93. The glass at the Channel 7 building had been treated in a manner that rendered it effectively bulletproof. Information to this effect was conveyed early in the siege to Sierra One 1 and others in the TOU. Even if the glass was not completely bullet-resistant, a shot would have had to travel 13 metres, penetrate a layer of glass, travel across Martin Place and penetrate another layer of glass. The U.K. experts considered it highly likely that a bullet fired in those circumstances would have deflected or fragmented.
94. In short, a shot from the Channel 7 building would have been impossible.
95. The glass at the RBA building has not been tested. Sierra One 1 was informed during the siege that the glass was thin plate glass that would break if shot. Assuming that to be accurate, it could readily have been penetrated by a sniper's bullet. However, given the restricted field of view, it was very unlikely that the RBA snipers could have taken a shot at Monis. In fact, they observed him only once, when he took the unusual step just before 2 a.m. of moving Fiona and Selina towards the south-eastern corner of the café. Given the brevity of the snipers' observation, and Monis' proximity to the hostages, it would not have been possible to take a shot at that time.
96. In essence, while a shot from the RBA was physically possible, it was rendered impracticable because the only part of the café that the snipers could see to any extent was one that Monis almost never entered.
97. At the time, the snipers understood the glass in the Westpac building to be toughened commercial glass. Subsequent investigations revealed that to be essentially correct: it was insulated (double glazed) glass with a thickness of 30 mm.
98. Two methods were proposed to facilitate a shot

from the Westpac building into the café.

99. The first was for Sierra Three 2 to breach the glass by firing a specialised breaching round from his shotgun, and, if necessary, using a reaming tool to increase the size of an aperture through which Sierra Three 3 would fire his rifle. The plan was for the shot to be almost simultaneous with the breach, although Sierra Three 3's evidence was that before taking the shot, he would still have to be satisfied with his aim and sure that the target had not moved.
100. Subsequent ballistics testing indicated that if Sierra Three 3 had fired through a hole in the Westpac building glass, his bullet would have penetrated the glass window of the café without significant deviation. However, creating a hole in the Westpac glass posed a fundamental problem. When tested on similar glass, the breaching shotgun made a hole approximately 25 mm in diameter, but it also caused the glass to craze across an area of about 200 mm in diameter; this crazing made the glass in that area translucent. Although it was possible for the hole to be enlarged with a reaming tool, doing this would have resulted in a delay of 15 to 20 seconds and caused further crazing and noise.
101. The crazing would have reduced the field of view through Sierra Three 3's gun sight, reducing his confidence that his shot would be on target.
102. I do not accept the Johnson family's submission that it is speculative to assume Monis would have been disturbed by the noise of the breaching shot and reaming. While Monis seems not to have heard some noises within the café (for example, the sounds of doors closing when April and Elly escaped), he was at all times hyper-vigilant about police approaching the café and associated noises—a paranoia which increased as darkness fell. Police couldn't assume he wouldn't hear the noise made by breaching. Any such plan would have to factor in how he might react were he to become aware of the sniper activity.
103. The second method, considered by Sierra Three 1, was to use RUAG Swiss P Armour Piercing ammunition. This ammunition (which Sierra Three 1 was carrying) is designed to penetrate hard targets, so using it would—in theory—have avoided the need for a preliminary breaching shot. The question was whether such a bullet would penetrate both the Westpac glass and the glass at the Lindt Café.
104. Subsequent ballistics testing demonstrated that when fired through the same type of glass as was in the Westpac windows, the Swiss P rounds penetrated the glass but fragmented into at least ten pieces. None of the fragments made contact with the Lindt-type glass positioned 49.5 metres down range.
105. Shooting Monis from any of the three sniper locations would have required the penetration of two panes of glass—one at the snipers' location and another at the café. While penetrating the café glass did not pose a particular problem, the glass at the snipers' locations presented significant impediments. The glass in the Channel 7 building was bullet resistant. The RBA location did not have toughened glass, but visibility of the target from that site was almost non-existent. The glass in the Westpac building could be penetrated by armour-piercing ammunition, but such a bullet (or its fragments) would not have had sufficient residual penetrative power to strike a target in the café. Breaching the Westpac glass with a specially designed shotgun cartridge and, if necessary, a reaming tool, and then shooting through the aperture created would take significant time and generate noise that could have been heard in the café. Crazing of the glass around the aperture would have compromised the marksman's ability see clearly through his telescopic sight.
106. It is certainly *possible* that the snipers might have been able to hit Monis with a disabling shot from the Westpac building. However, there were complicating factors: the police actions necessary to do so might have alerted Monis, who might then have fired his own gun at a hostage. Additionally, police might have accidentally shot a hostage.

Conclusion: Technical capability

107. At the two locations from which snipers might have had an opportunity to fire at Monis—the Westpac building and Channel 7—the snipers lacked the technical capability to shoot him without creating unacceptable risks to the hostages. The glass of the windows at which they were positioned was toughened, and even if it could have been breached before a shot was taken, the resulting noise would have posed a substantial risk of alerting Monis.

Opportunity to effect a firing solution

108. To be satisfied with his firing solution (his calculus of all the variables involved in taking a shot), a

sniper needed to be confident that the bullet would immediately incapacitate the target—induce what is referred to as flaccid paralysis—so as to avoid the possibility of Monis activating an IED.

109. Leaving to one side what is now known about the challenges created by the glass through which a shot would have had to have been taken, there was no issue with the proficiency of the marksmen. They were trained and tested in hitting targets with a high level of accuracy over much greater distances than 50 to 60 metres. One example cited was the requirement to be able to hit a target the size of a dollar coin from 100 metres. However, before they could shoot, the snipers had to have a clear view of Monis. Throughout the siege, only one such opportunity presented.
110. That opportunity lasted for approximately ten minutes, starting at 7.38 p.m.
111. Subsequent to this, darkness fell and no further viable opportunities arose; there was never a point when Monis was within the snipers' sights.
112. At 7.38 p.m., the snipers in the Westpac location saw a person they believed was Monis sitting just inside White Window 4, with part of the back and side of his head visible beneath a black flag in the window. Sierra Three 1 took photographs of Monis in this position, which were uploaded to iSurv at 7.55 p.m. One of those photographs is reproduced in Chapter 7.
113. There was some doubt as to the identity of the seated person. Although they wore headgear that resembled Monis' bandanna, no part of their face could be seen. As a result of the evidence given by the hostages, it is now known that Monis did not make any of them put on his headgear, but that possibility could not be excluded during the siege.
114. Sierra Three 3 was "quietly confident" the person in the window was Monis, but he was not 100 per cent confident—and he explained in evidence that he needed to be 100 per cent confident of the target before taking a shot. When Sierra Three 1 telephoned Deputy Tactical Commander, the latter's recollection of the conversation was that it centred upon uncertainty in verifying the identity of the target. Sierra Three 1's recollection was that he had no doubt the person was Monis and that the focus of the conversation related to the question of lawful justification.
115. The Johnson family submitted that any concern about the identity of the person sitting in White Window 4 at 7.38 p.m. might have been reduced if the snipers had been made aware of the text message Tori Johnson sent just before 7.40 p.m. indicating that Monis was sitting on his own in the corner. A copy of this message was uploaded to iSurv at 7.50 p.m. In fact, that message was *first* sent at 7.05 p.m. and re-sent at 7.40 p.m. On both occasions, Tori was presumably in the bathroom and unable to see Monis. Accordingly, even if the snipers had been aware of the second iteration of that text message, I do not consider it could have extinguished any doubts about the person's identity.
116. In addition to the very real concern about how striking the glass in the café window might affect a bullet's trajectory, the snipers also had to consider who else might be placed at risk by their taking a shot.
117. The flag that was being held by two hostages covered most of White Window 4 and meant that the snipers could not see who or what was behind Monis. This created an unacceptable risk that a shot could hit a hostage either after passing through Monis' body, or, if it missed him, as a result of the bullet being deflected or fragmented by striking the window. I acknowledge the point made in the Johnson family's submissions as to the high level of accuracy of which the snipers were capable, but the snipers' evidence on this point was clear and convincing: notwithstanding their justified confidence in their own ability, they were troubled by the risk of hitting a hostage.

Conclusion: Opportunities to shoot

118. The only opportunity to shoot Monis before he killed Tori arose between about 7.38 p.m. and 7.48 p.m. During that time, only part of the back and side of the head of a person thought to be Monis was visible through White Window 4. The snipers in the Westpac building were not certain that person was Monis. Because most of the window was obscured by a flag, they could not see whether there were any hostages immediately behind or beside the individual in question. Therefore, they could not discount the risk that any hostages who were nearby might be killed or injured if they tried to shoot him. In those circumstances, the snipers' decision not to fire was entirely reasonable.

Summary of conclusions

119. For the reasons detailed above, I conclude:

- i. The police would have been lawfully justified in shooting Monis from soon after the siege commenced.
- ii. The sniper locations used during the siege were adequate and as good as were available.
- iii. An appropriate number of suitably qualified officers was posted in each of the sniper locations. However, it would have been preferable for a sniper coordinator to have been positioned in the Police Forward Command Post.
- iv. The snipers were furnished with appropriate weapons and ammunition and had sufficient communication devices. The TOU has since obtained further equipment that might have been of assistance during the siege, although it is far from certain that having this equipment would have led to a

different outcome.

- v. From any of the sniper positions, shooting Monis required penetrating two panes of glass. The snipers did not have the technical capability to achieve this without the risk of alerting Monis.
- vi. In any event, on the only occasion when Monis was in a position where snipers could target him, they were not certain that the person who could be seen was in fact Monis, and there was a high risk that shooting at him would endanger hostages.
- vii. To address the challenges this examination has highlighted, I recommend that the Police Minister consider seeking amendment to the *Terrorism (Police Powers) Act 2002* to ensure that the legal position of police officers resorting to the use of deadly force is sufficiently clear and certain to enable them to respond to terrorist incidents in a manner most likely to minimise the risk to members of the public.

15 Forced resolution

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Introduction

1. Monis executed Tori Johnson at about 2.13 a.m. Within a minute, members of the NSWPF Tactical Operations Unit (TOU) stormed the café, knowing that Monis was carrying a functioning shotgun and believing that he was wearing an IED on his back.
2. As the officers forced their way into the café, Monis shot at them twice. Moments later, two of the officers opened fire, striking Monis in the head and body. He died almost immediately.
3. The officers who entered the café did so courageously in extremely difficult circumstances. Nevertheless, Katrina Dawson was killed during the course of their operation, and four other hostages were struck by fragments of bullets fired by police.
4. It is therefore necessary to carefully consider whether an earlier entry or a different approach might have resulted in a better outcome.
9. The IEA plan was not initiated. It was superseded by the EA plan that Officer B was directed to formulate, the first version of which was uploaded to iSurv at 1.31 p.m. The EA plan was subsequently updated at 1.34 p.m. and 2.18 p.m.
10. The EA plan contemplated a forced entry by three main TOU teams through the public entrances to the café, supported by two further teams which would provide distraction and/or alternative means of entry to the café.
11. None of the police experts consulted by the inquest was critical of the proposed plan, but significant questions arose as to what the trigger or triggers for the EA were and whether they were appropriate in the circumstances.
12. In general terms, the families of Katrina and Tori contended that police should have entered the café earlier and that one of the reasons they did not do so was that the trigger for the EA was set too high—at the actual death or serious injury of a hostage. In response, the NSWPF contended that, appropriately, the trigger was lower than this, but entry did not occur sooner because the trigger was not met.

Emergency Action planning

5. As described in Chapter 5 and further considered in Chapter 13, the NSWPF's policy was to adopt a "contain and negotiate" approach at the start of a siege. That approach was supported by the development of an Emergency Action (EA) plan. The nature and purpose of EAs and Deliberate Actions (DAs) and associated plans are also detailed in Chapter 5.
6. Very soon after the Lindt café siege began, TOU officers arrived on the scene. Tactical Commander designated Officer B the Emergency Action Commander and asked him to prepare an Immediate Emergency Action (IEA) plan.
7. Officer B did so quickly: an IEA plan was recorded on iSurv at 10.51 a.m. That plan provided for separate teams of TOU officers to enter the café via each of the main entrances. The IEA plan did not specify a trigger for initiation of this action.
8. Officers who gave evidence described the trigger under the IEA plan in slightly different terms, variously observing that the trigger would be met if shots were fired in the stronghold, if Monis shot a hostage or hostages, or if Monis behaved violently. The nature of a trigger for an IEA/EA is described in detail in Chapter 5. It is invariably a violent or threatening circumstance that calls for immediate forced, armed intervention. The trigger for an EA as it applied in the Lindt siege is described in detail below.

Triggers for Emergency Action

13. A trigger for the Emergency Action was not recorded in the EA plan itself. Entries in the logs of the Forward Commander and the Police Commander recorded the trigger as "death or serious injury" to one or more hostages.
14. There was no dispute that a trigger in those terms applied to the EA plan. This trigger was said to be the "primary" or "non-negotiable" trigger; if police became aware that a hostage had been killed or seriously injured, the EA plan was to be initiated immediately. In such a situation, there would be no need for discussion, consultation or debate.
15. Afternoon Forward Commander described his understanding of serious injury to be "an injury that when inflicted would most likely result in the death of a person if immediate medical intervention was not provided".

A secondary trigger?

16. In addition to this primary trigger, a number of NSWPF officers gave evidence that the EA trigger also included events that created an imminent or immediate risk of death or serious injury to a hostage. Such a trigger was repeatedly referred to in evidence as a "secondary" or "debatable" trigger.

17. The first Police Commander, Assistant Commissioner Fuller, said he told both Tactical Advisor and Tactical Commander that TOU intervention would be precipitated by immediate or imminent threats of serious injury or death. Tactical Commander confirmed this.
18. In his evidence, Officer B, who had prepared the EA plan, described the trigger as “*Death or serious injury or risk of death or serious injuries to any of the hostages.*”
19. Assistant Commissioner Mark Murdoch, who followed AC Fuller as Police Commander, similarly gave evidence of a secondary trigger involving notions of imminence and immediacy:
- Look, in the way we exercise, and certainly what the policy talks about to initiate an Emergency Action is about **immediate, imminent or an unexpected recurring event**, which triggers an Emergency Action. In this instance there’s been a lot of talk around the trigger to the EA being the death or serious injury of a hostage. I don’t know where I’ve heard that from, but I’ve heard it a thousand times. I don’t have any clear recollection of that being the trigger for the EA. My assumption, my belief, understanding, [call] it what you like, is in concert with the way we train, and that is around **immediate, imminent and an unexpected occurring event** will trigger the EA. [Emphasis added.]*
20. AC Murdoch provided further clarification, noting: “*My understanding of the trigger was the immediate, imminent or unexpectedly occurring event that would result in the death or serious injury of a hostage.*”
21. AC Murdoch’s evidence suggested that the concepts of imminence or immediacy were automatically imported into the EA triggers in line with well-established policy and police training. In this respect, his evidence echoed AC Fuller’s statement that the secondary or debatable trigger was “*almost a hand-book type statement*”.
22. Night Forward Commander gave similar evidence, noting that: “*Imminent or immediate is always present in our daily duties as a police officer. It’s always on the table. It’s a given.*” Having made that observation, Night Forward Commander addressed the fact that such a trigger had never been documented, saying that “*In my mind, I don’t think there is a need to record that.*”
23. Assistant Commissioner Mark Jenkins, the night-Police Commander, characterised the triggers in equivalent terms, stating that while the “debatable” trigger was not discussed during the course of the briefings he received on the EA, “*It’s well understood by people that are performing these roles*” that an “*imminent death or imminent serious injury*” will trigger an EA. “*Police are trained to protect life, and so all police officers are going to respond, all police officers should respond to any imminent threat to a person of serious injury or death.*”
24. AC Jenkins’ comments are consistent with the provisions of the NSWPF Training Manual, which states that the use of a firearm is justified “*when there is an immediate risk to your life or the life of someone else, or there is an immediate risk of serious injury to you or someone else and there is no other way of preventing that risk*”.
25. AC Fuller observed that if there is “*an immediate risk to [an officer’s] life or the life of someone else, or there is an immediate risk of serious injury to [an officer] or someone else and there is no other way of preventing that risk*”, officers at the scene would have been entitled to use their firearms to negate that risk.
26. It would be incongruous if the EA triggers were so restrictive as to prevent police commanders initiating an EA in response to an imminent threat to which any sworn officer would have been permitted to respond with deadly force without any direction or order from a superior.
27. The various guidelines governing responses to terrorist incidents are consistent with the officers’ view of the scope of the secondary trigger, though I note that—as observed in Chapter 5—there are differences in the way Emergency Action is defined in the various Australia New Zealand Policing Advisory Agency (**ANZPAA**) and Australia–New Zealand Counter-Terrorism Committee (**ANZCTC**) documents.
28. Real-time support for the proposition that the triggers extended to include imminent or immediate risk of serious injury or death can be inferred from the actions of Sierra Three 1 when he observed Monis through White Window 4 at about 7.38 p.m. As noted in Chapter 14, he telephoned Alpha 2 because he wanted to confirm that Monis was armed with a shotgun and that the hostages were under threat of death or serious injury. Having received that confirmation, he telephoned Deputy Tactical Commander to discuss whether any information held by those at the Police Forward Command Post (**PFCP**) (e.g. arising from the debriefing of escaped hostages) might be relevant to his assessment of whether Monis was an “immediate” threat to the hostages. When asked why he did this,

he said, *“If we could satisfy ourselves that there was immediate threat at that time, that we could shoot the offender and ... initiate the forced resolution.”*

29. The reference to a forced resolution suggests that Sierra Three 1 considered an immediate threat to hostages to be grounds for an Emergency Action. He confirmed this when giving evidence. When asked what he understood the triggers for the EA to be, Sierra Three 1 said, *“Generally the guidelines for triggers are immediate threat to hostages inside. Immediate threat of death or serious injuries to hostages.”*
 30. The Dawson and Johnson families did not accept that the evidence supports a conclusion that the trigger for the EA in this case included the imminent risk of serious harm. Both families submitted that the EA trigger was limited to death or serious injury of a hostage.
 31. They referred to the interview of Night Forward Commander that took place soon after the siege and to log and notebook entries in which he and others repeatedly described the trigger for the EA as *“death or serious injury to a hostage.”* At no point did Night Forward Commander or any other officer speak or write of the trigger as including imminent or immediate risk of serious harm. In an interview conducted during the investigation, he stated that there were no triggers other than the death of or serious injury to a hostage.
 32. I am not persuaded that the answer Night Forward Commander gave in his interview means that the imminent threat of death or serious injury was not an operative trigger. Rather, I accept that—in line with their consistently expressed evidence, their training and the relevant policies—all of the relevant police commanders considered that the secondary trigger was included in the explicitly recorded primary trigger of death or serious injury.
- Conclusion: Emergency Action triggers**
33. The triggers for the execution of the EA were the death or serious injury of a hostage or the imminent or immediate threat of such events.
- ### Appropriateness of the triggers
34. Counsel for the Johnson family submitted that in order to give effect to the goal of recovering hostages from siege situations, and in view of the absence of an approved Deliberate Action plan, it was necessary for triggers lower than *“death or serious injury”* to be employed. They referred to Clause 84 of the National Counter-Terrorism Plan (NCTP), which countenances an immediate response to provide relief to those impacted by terrorism.
 35. However, as its name makes clear, the NCTP is not an operational document; it sets parameters and gives guidance for planning responses to relevant incidents that include much more than a forced entry. The NSWPF’s response to the siege was immediate, even if the forced entry was delayed for many hours. That is not necessarily inconsistent with the NCTP.
 36. Contrary to the submissions of the families, I have found that the trigger for the EA included the imminent risk of harm to hostages. Initiating an EA entailed an unavoidable risk to hostages. Setting a lower threshold for a forced entry would have meant taking such a risk at a time when the hostages were not judged to be in imminent danger. That would not have been a better strategy, in my view.
 37. Similarly, the absence of an approved Deliberate Action plan could not reasonably be used to justify the earlier activation of an EA. The ANZPAA guidelines described in Chapter 5 stipulate that a DA plan should be developed, and cite inability to initiate such a plan as a consideration relevant to determining whether an EA should be initiated. That does not lead to the conclusion that the absence of an approved DA plan should result in the lowering of the EA triggers.
 38. I am satisfied the triggers for the EA were appropriate and that they accorded with the relevant ANZCTC and ANZPAA guidance documents.
 39. A further question is whether it would have been beneficial for the secondary trigger to have been elucidated by concrete examples. Deciding whether a threat is imminent is necessarily subjective and imprecise. “Contingency” triggers which provided that the EA would be triggered automatically on the occurrence of a particular event (for example, the escape of hostages or the firing of a shot) would have reduced the uncertainty.
 40. It was submitted on behalf of the Johnson family that such triggers ought to have been in place. That submission referred to the evidence of U.K. Armed Policing expert Deputy Chief Constable Simon Chertman that police should have undertaken forward planning in relation to how they might respond to

events such as a shot within the stronghold.

41. I accept that it would have been desirable for such planning to have occurred and to have been documented. However, that is different from fixing such events as “contingency triggers” that would automatically lead to the initiation of an EA.
42. Deputy Chief Const Chesterman said he “*would want predetermined plans in place, so everybody would understand if a shot is fired in the stronghold what are we going to do*”. However, he went on to agree with the suggestion that considering such possibilities beforehand would facilitate decision making, not supersede it, if an agreed-upon contingency trigger eventuated.
43. In all of the circumstances, I do not consider that it would have been prudent for the commanders in the Police Forward Command Post to have implemented automatic contingency triggers in respect of events such as hostage escapes, kneeling hostages, or the firing of a shot. All such events had a range of potential meanings and consequences that would have needed to be considered before a decision was made about how to react.
44. Any of these occurrences should have prompted an immediate and rapid risk assessment, preferably informed by earlier consideration of potential responses, but the automatic initiation of an Emergency Action could have resulted in an undue escalation of risk to those within the café.

Conclusion: Appropriateness of Emergency Action triggers

45. The primary and secondary triggers for initiation of an EA were appropriate. There was no requirement for further “contingency triggers”, although better planning for possible incidents that would require a prompt response would have improved the efficiency of the response if any of those incidents had eventuated. (This issue is addressed in Recommendation 26.)

Documentation of the EA triggers

46. The Emergency Action plan triggers were not recorded on the plan itself, or at a central location accessible by TOU officers and police commanders (such as the iSurv log). More particularly, the secondary triggers of imminent or immediate risk of serious injury or death or loss of control of the incident were not documented anywhere.
47. The NSWPF submitted that the secondary triggers “*did not need to be documented as the primary and secondary triggers are both understood by all relevant personnel and are ingrained into their practice*”.
48. The evidence supports the contention that both the primary and secondary triggers were ingrained into the practice of key personnel. However, that is not a comprehensive answer to the question of whether the triggers should have been recorded.
49. Evidence given to the inquest suggested that in some cases police employ additional Emergency Action triggers (for example, where a person of interest begins harming him- or herself). The fact that the triggers are not always the same suggests that it would be prudent to document them.
50. Additionally, the relevant officers may not always possess a uniform understanding of what the triggers are. It is easy to see how a slight difference in such understanding could have a significant impact. As noted above, for instance, Officer B described the triggers as “*death or serious injury or risk of death or serious injuries to any of the hostages*”. This formulation omitted the concept of imminence or immediacy. It seems likely that Officer B was simply expressing the trigger in a broad, shorthand way in response to the question he was asked. Such a difference in formulation, however, could lead to a meaningful difference in the ultimate police response; there is undoubtedly a distinction between a risk of serious injury or death—which arguably existed for the entire duration of the siege—and an *imminent* risk of serious injury or death.
51. A further example of the potential for confusion in the absence of documented triggers is offered by Delta Alpha’s statement, in his record of interview, that Deputy Tactical Commander told him there were no triggers for the Emergency Action. It is entirely possible that, as the NSWPF submitted, those officers were speaking at cross purposes. Either way, such confusion would have been unlikely to arise if the triggers had been clearly documented.
52. In keeping with this, Deputy Chief Const Chesterman noted that he would expect the EA triggers to be recorded in a command log of key decisions. Additionally, both he and fellow armed policing expert, Inspector Nigel Kefford agreed that it would have been useful for the triggers to be noted on iSurv.

53. There is currently no requirement for the primary or secondary triggers of an EA plan to be recorded. In this case, the primary triggers appeared in some command logs, but the secondary triggers were not recorded at all. This had the potential to create confusion as to what the triggers were.

Conclusion: Recording EA triggers

54. There are no sound reasons why the triggers for an EA should not be recorded, either in the plan itself, in a central decision log and/or on iSurv, the electronic police log. I am conscious of the need to avoid requiring officers to document their decisions in a way that distracts from their primary responsibilities. But a requirement that EA triggers be recorded could not possibly be said to have such an impact.

Recommendation 26: Recording EA triggers

55. *I recommend that NSWPF policies be amended to require documentation of triggers for Emergency Actions. Consideration should be given to stipulating that “contingency triggers”—specific events that will require initiation of an EA or some other agreed response—should also be recorded.*

Assessing imminent risk

56. Unlike the primary trigger, the secondary triggers were not specific, determinate events. Rather, they required a qualitative assessment of matters on which precision was impossible. The hostages were at risk of being injured or killed from the outset of the siege. The point at which that risk became imminent or immediate was an issue on which reasonable persons could well differ. How should a commander responsible for determining that the situation had become so unstable that the risks of intervening were justified make that assessment?
57. Counsel Assisting the inquest submitted that determining whether a risk is imminent or immediate is inherently subjective. Further, in circumstances where police commanders held an overriding concern that Monis had a bomb, it was unlikely that they would ever have considered that the trigger of imminent or immediate risk of death or serious injury had been met with sufficient certainty to warrant initiation of the EA.
58. After taking over from his predecessor, Night Forward Commander had primary responsibility for ordering an EA. In evidence, he initially rejected the proposition that he would have activated the EA only if someone had been killed. Later, however, he acknowledged that the potential presence of a bomb in the café weighed on his mind to such an extent that he would not have ordered an EA before it became apparent that someone had been killed:
- State Coroner: Absent the definitive objective evidence that someone had been killed, you couldn’t balance the risk of the bomb?*
- Night Forward Commander: That’s right your Honour and it does weigh heavily on me. It’s not a decision to make lightly. For those officers going in there, they’ve got families and children as well ...*
- State Coroner: On that basis you accept that on the night you felt you couldn’t order them to go in until someone was killed and the subjectivity about assessing the risk of someone being killed hadn’t been met?*
- Night Forward Commander: Yes. I accept that your Honour, I accept that.*
59. Subsequently, in examination by counsel for the NSWPF, Night Forward Commander sought to retreat to his initial answer, indicating that if he had concluded that there was an immediate or imminent risk of death or serious injury to a hostage, he was “*absolutely*” prepared to initiate the EA even if no one had at that stage been killed or injured. However, when presented with a hypothetical situation in which Monis had withdrawn a knife from his backpack and approached a hostage, Night Forward Commander responded with a degree of equivocation: “*It would certainly prompt a heightened level of discussion with Tac[tical] Commander, but yes, we would be close, if not activating.*”
60. The NSWPF submitted that the possible presence of a bomb in the café had the effect of raising the threshold of imminence or immediacy of risks necessary to trigger the EA.
61. I accept that the possible presence of an IED had to be taken into account. However, the risk-assessment balance appears to have swung so far in the direction of that caution as to render the secondary trigger essentially redundant.
62. No NSWPF policies or ANZCTC documents give

guidance as to how these challenges should be addressed.

63. The NSWPF rejected the submissions that there is any deficiency in the current policies, though it did concede that it would be constructive for the generic trigger of death or serious injury, or immediate or imminent risk thereof, to be stated explicitly and consistently in written policies, procedures and protocols.
64. Both the Commonwealth and the NSWPF indicate that the ANZCTC documents and related materials are undergoing review and accept that it is appropriate for the guidance regarding triggers to be carefully considered in that review.
65. It would not be appropriate for that review to result in an inflexible direction as to which trigger/s (whether primary or secondary) *must* be adopted in future cases. As noted by the Commonwealth: *“The circumstances of terrorism are too varied and too dangerous for such a step.”*
66. Nevertheless, the variance of the views and opinions expressed by the officers involved in this incident strongly suggests that greater certainty is called for in evaluating risk in similarly dangerous and volatile situations.

Conclusion: Assessment of risk

67. The commanders involved in the response to the siege had insufficient guidance to help them assess whether the risk of Monis killing or injuring a hostage had escalated to the point where it outweighed the risk associated with a forced entry. The evidence of the Police Forward Commander at the relevant time suggests that he was so concerned with the possibility that Monis might activate an IED during an EA that he had difficulty applying the secondary triggers and effectively negated their effect.
68. Because high-risk situations such as sieges are so variable and dynamic, secondary triggers for the initiation of an Emergency Action cannot be comprehensively described in concrete terms. Consequently, imponderable or unquantifiable evaluations cannot be avoided. Fixed, rigid or prescriptive rules would be counterproductive. Nonetheless, guidance can and should be given to aid police commanders in assessing when such triggers have been met.

Recommendation 27: Assessing imminent and immediate risk

69. *I recommend that the Australia New Zealand Policing Advisory Agency and the Australia–New Zealand Counter-Terrorism Committee review the Australia–New Zealand Guidelines for Deployment of Police to High-Risk Situations and the Police Tactical Group Operations Manual to ensure that those documents give commanders guidance on how to assess imminent or immediate risk.*

Deliberate Action Plan

70. Police did not enter the café until after Tori Johnson had been killed by Monis. They did so by way of an Emergency Action in response to the killing. That raises questions about whether police ought to have entered the café earlier than they did.
71. A police entry could have occurred either by way of a Deliberate Action or as part of an Emergency Action, as occurred in this case. All of the evidence indicated that a DA entry posed less risk for the hostages and the tactical officers. It is therefore necessary to consider why a DA did not occur.
72. A Deliberate Action involves four stages:
 - the formulation of the DA plan;
 - approval of the content of the plan by the Police Forward Commander and the Police Commander;
 - authorisation of the plan by the Police Commander, such that it can be initiated at a time of the Police Forward Commander’s choosing; and
 - the initiation of the plan.

DA planning process

73. After being tasked to prepare the Deliberate Action plan, Delta Alpha undertook a reconnaissance of the café and surroundings in which he investigated the possible entry points. The process of drawing up the DA plan was not a short one; it involved a number of meetings between Deputy Tango Charlie and Delta Alpha. It appears that the DA plan was reviewed by Tactical Commander shortly after [REDACTED], and was available for consideration by the Police Commander and Police Forward Commander from about [REDACTED] onwards.
74. It does not appear, however, that either the Police

- Forward Commander or the Police Commander (i.e. Afternoon Forward Commander or AC Murdoch) were briefed on the plan until after 8 p.m.
75. In evidence, the U.K. policing experts observed that police commanders should have as many tools as possible (including a DA plan) available to them for the resolution of the siege. Each of those options should be made available as soon as practicable.
 76. In support of his contention that a DA plan should be prepared as soon as possible, Inspector Kefford noted that the early preparation of a DA plan means that police will have a foundation from which to build if it becomes apparent that circumstances have changed and the plan requires amendment.
 77. There is some doubt as to precisely when TOU officers began working up the DA plan. Tactical Commander's statement suggests he tasked Delta Alpha with the preparation of a DA plan at approximately [REDACTED]. He reiterated this in evidence. Delta Alpha, on the other hand, says he was asked to prepare the DA [REDACTED]. There is no independent evidence on the point.
 78. In any case, Tactical Commander gave evidence that it is typically not prudent to begin planning a DA in the early stages of a siege, when police may lack crucial information and when preliminary activities such as the evacuation of nearby buildings are still being attended to.
 79. In support of this position, the NSWPF submitted that early in the siege, police response teams were still trying to determine who Monis was, whether there was more than one offender, and whether the siege was part of a coordinated series of attacks around the city.
 80. Considering these factors, I accept that it would have been neither practicable nor prudent for TOU officers to begin planning the DA immediately upon their arrival at the scene or, for that matter, in conjunction with the Emergency Action planning process.
 81. The process of planning the DA was an involved one. Delta Alpha appropriately conducted detailed reconnaissance of the café entrances, familiarised himself with the café's floor plan and sought to consult with other tactical officers (including Tactical Commander, Deputy Tango Charlie and the sniper Sierra One 1).
 82. Nevertheless, the evidence suggests that police had obtained a copy of the floor plan of the café from Sydney City Council by around 11 a.m. By midday, the evacuation of surrounding buildings was largely complete and police had developed an understanding of Monis' threats and the gun he was carrying.
 83. Delta Alpha appears to have worked diligently on the tasks he was called on to perform, so it is somewhat difficult to understand why a DA plan was not available for consideration by commanders prior to [REDACTED], more than [REDACTED] after the siege began.
 84. The length of the delay suggests that either Delta Alpha did not receive adequate support in the preparation of the plan (for instance, he appears to have fulfilled a number of other duties during the course of the day), or that Tactical Commander's recollection that he tasked Delta Alpha with preparing a DA plan at roughly [REDACTED] is inaccurate.
 85. After the plan was complete, more than [REDACTED] elapsed before either the Forward Commander or the Police Commander received a briefing on its content. The explanations for this delay are similarly difficult to understand.
 86. Tactical Advisor said in his statement that he provided an update to AC Murdoch as to the "timing for delivery of a DA from the PFC" at about 7.10 p.m. It does not seem that the content of the DA was discussed at this time.
 87. The first discussion between TOU officers and police commanders about the content of the DA plan seems to have occurred at approximately 8.20 p.m., when Tactical Commander spoke with Afternoon Forward Commander and outlined the DA plan in its entirety. In turn, AC Murdoch was briefed on the plan at 8.40 p.m., shortly before he handed over command to AC Jenkins.
 88. The NSWPF submitted that both the Forward Commander and the Police Commander were participating in other important briefings during this period, including discussions on whether concessions ought to be made in response to Monis' demands.
 89. In fact, as observed in Chapter 13, there was little engagement with those in the café from about 4 p.m. onwards. By the time the DA plan was complete, police should have become keenly attuned to the possibility that negotiations might not result in a peaceful resolution of the siege.
 90. Police should have foreseen that if the DA plan was not adequately considered before the departure of AC Murdoch and Afternoon Forward Commander, it was likely to be some time before their replacements (AC Jenkins and Night Forward Commander

respectively) had developed sufficient situational awareness to effectively assess the plan and determine whether it ought to be approved.

Conclusion: Preparation of the Deliberate Action plan

91. The precise cause of the delay in developing the DA plan was not established. This plan should have been available for consideration by police commanders at an earlier stage than it was.
92. The delay between the completion of the DA plan and its consideration by the Police Forward Commander and the Police Commander suggests that the task was not afforded the priority it warranted. Considering the lack of progress with the negotiations, it is difficult to see why the DA plan was not considered with a greater sense of urgency.

Adequacy of the DA plan

93. Evidence of the precise content of the DA plan was heard in closed court during the inquest and cannot be repeated in public.
 94. As noted in Chapter 7, at about 10.45 p.m. police were advised by the ADF liaison that some of its Tactical Assault Group East (**TAG-East**) officers had conducted a run-through of the DA plan using a mock-up of the café and that the plan was “*tactically feasible*”.
 95. In their report, the U.K. experts indicated that the DA plan was “*arguably as good as it was going to be*”. They echoed that sentiment in evidence. Insp Keford observed that “*Having viewed the plan that was given to me, the framework appears to be workable.*” Deputy Chief Const Chesterman likewise affirmed that nothing he saw in the DA plan caused him concern about its design.
 96. The evidence indicates that the Deliberate Action plan provided to police commanders for consideration was appropriate.
- ### Covert entry
97. However, a further question arose as to whether the DA planning process gave sufficient consideration to the possibility of covert entry.
 98. Delta Alpha gave evidence that in formulating the DA plan he reviewed the possible entry points to the café and considered whether the TOU officers might be able to stealthily enter the café with a view to disabling Monis before they were detected. He concluded that any covert entry involved “*a high probability of compromise*” for TOU officers.
 99. As part of his reconnaissance process, Delta Alpha inspected the rooftop of 53 Martin Place and assessed the possibility that police might be able to gain access to the café via an opening into ducting which went to the lower floors of the building. He concluded it would not be possible for TOU operatives to enter the café via that point while carrying their equipment and that, even if it were possible, the noise likely to be created during the entry would put the officers at an extreme risk of compromise. Having inspected the shaft, I can readily accept that entry by it into the café would have been almost impossible and far too dangerous to attempt.
 100. Tactical Advisor, Tactical Commander and Deputy Tango Charlie (who engaged in a number of discussions with Delta Alpha while the DA plan was being formulated) all agreed. Those officers all expressed concern that Monis would notice any attempted entry either by hearing or seeing the TOU officers himself or by observing the reaction of hostages who did. In their view, the risk that he could then detonate an IED before he could be neutralised was too great.
 101. Counsel Assisting, with whom the Dawson and Johnson families agreed, submitted that while Delta Alpha adequately assessed the prospect of a successful covert entry when he formulated the DA plan, the possibility of such an entry should have been further considered at about 8 p.m. following receipt of Tori Johnson’s message stating that the lobby door was unlocked and Monis was sitting on his own in the corner of the café. No such consideration occurred; indeed, the possibility of covert entry into the café was never raised with either AC Murdoch or AC Jenkins.
 102. The U.K. experts observed in their supplementary report that:

...a covert entry would still have presented a better chance of success (for the DA plan) than a forced entry by the use of [REDACTED]. This is because police would have been able to position themselves in such a way, that clinical and accurate incapacitating shots delivered to Monis may have been possible.
 103. The NSWPF submitted that a covert approach was

appropriately rejected as a possible means of entry into the café and could not have been used to commence a Deliberate Action, or for any other purpose. They responded to criticism of the failure to reconsider covert entry after the unlocking of the foyer doors by saying that “*further reconsideration of the possibility of covert entry would not have changed the analysis*”.

104. In this respect, the NSWPF made reference to the fact that the foyer doors had clear glass panels that were “*in the line of sight of where [Monis] was situated for most of the day*”.
105. The evidence does not support that assertion. After the first escape at 3.35 p.m., Monis spent most of the time in the north-western corner of the café. He did not notice Elly and April’s escape via that doorway at roughly 5.00 p.m. Tori’s text message referred to him being located in the north-west alcove of the café, and police snipers observed him positioned in front of White Window 1 at about 7.35 p.m.
106. As is apparent from the café floor plan in Chapter 7, the foyer doors are not observable from where Monis spent the vast majority of his time from the late afternoon.
107. Nevertheless, in the absence of visual surveillance of Monis’ position within the café and confirmation that the foyer doors had not been re-locked, a conclusion that a covert entry via those doors posed too great a risk was not unreasonable.

Conclusion: Adequacy of the DA plan

108. Tactical operatives of the Australian Defence Force concluded that the DA plan was feasible, and the U.K. policing experts and TOU commanders gave evidence that the plan was appropriate. I readily accept that evidence.

Refusal to approve the DA plan

109. Despite each of the key officers concluding that the DA plan was tactically sound, it was not approved by either AC Murdoch or AC Jenkins.
110. As noted above, at about 8.20 p.m., Tactical Commander briefed Afternoon Forward Commander on the DA plan. He made it clear to the Police Forward Commander that his preference was for any entry by police to occur through a Deliberate Action rather than an Emergency Action.
111. AC Murdoch was in turn briefed on the plan by

Afternoon Forward Commander at approximately 8.40 p.m. In that conversation, Afternoon Forward Commander expressed a view that further attempts should be made to negotiate with Monis and that consequently he did not think the plan ought to be approved. AC Murdoch took a similar view. In evidence, he stated, “*It was a worthwhile plan but, as I’ve said before, I didn’t approve the plan on the basis that I wasn’t prepared to accept the risk of the plan being initiated.*”

112. AC Murdoch said, “*I felt it was, during my time, a risk we didn’t need to take at that particular point in time. I was confident that we would negotiate an outcome.*”
113. The command view of the DA plan did not change following the handover to AC Jenkins. During the briefing he received from Tactical Advisor about the DA plan at 11.17 p.m., AC Jenkins got the impression that the “*plan was as good as it could get*”. In line with that assessment, Tactical Advisor recommended that the plan be approved. Tactical Advisor’s recommendation accorded with the assessment of Tactical Commander, who agreed in evidence that the DA plan was in “*good shape*” to be approved when it went to AC Jenkins for consideration.
114. Before he even received this briefing, at about 10.57 p.m., AC Jenkins had a telephone conversation with Police Commissioner Andrew Scipione. AC Jenkins’ scribe’s note of that conversation included an entry: “*DA plan to occur as last resort.—COP*”.
115. There was uncertainty as to whether that comment was made by the Commissioner or by AC Jenkins. Initially, AC Jenkins agreed with Counsel Assisting that the entry in the log indicated that Police Commissioner Scipione was suggesting that a DA would be initiated only as a last resort. He said: “*I agree, which is entirely consistent with my thoughts.*” When asked by Counsel Assisting: “*Is that what he [Mr Scipione] said?*” AC Jenkins answered: “*I believe so.*”
116. While being re-examined two days later, AC Jenkins said the Commissioner did not give him any directions in relation to the DA and resiled from his earlier evidence about his conversation with the Commissioner:
- Gormly (Counsel Assisting): I want to put to you clearly, so that you understand the position. I want to put to you that on a reasonable reading of that entry, what you said on 23 May, two days ago, was correct; that is, that Mr Scipione was suggesting that the DA would be used only as a last resort. That that’s what he said. That you*

agreed with him and that that was a joint position between the two of you?

Jenkins: No. Well, I agree that I—on the transcript I've said that, but on reflection, after looking at that and understanding the circumstances, that my views are that those are my words and that I've had to tell the log keeper [the scribe] who I was talking to.

117. Commissioner Scipione could not recall the exact words of the conversation but stated emphatically that he did not say words to the effect of those contained in the note. He stated that the purpose of his call to AC Jenkins was simply to check on the adequacy of the resources available to AC Jenkins and his general well-being in light of the significant responsibility that had been allocated to him. As to the DA, Commissioner Scipione stated that he had “no reason” to make a recommendation that a DA be used only as a last resort; noting “*That’s not an area where I would in any way play a role.*”
118. It is more likely than not that the note reflects a statement made by AC Jenkins. In reaching this conclusion, I note AC Jenkins’ observation that during the call he had the phone to his ear; it is therefore unlikely that his scribe could have heard words spoken by the Commissioner.
119. Approximately an hour after their first briefing, at 12.15 a.m., AC Jenkins and Tactical Advisor had a further discussion about the DA plan. During this exchange, Tactical Advisor sought to ensure that AC Jenkins understood that he was “*just asking for approval of the substantive plan, so that we can get things going ...*” rather than seeking authorisation of the plan for initiation. Tactical Advisor’s evidence was that AC Jenkins “*clearly indicated to me that he was fully aware of what I was asking for*”. The conversation was, in effect, one in which AC Jenkins told Tactical Advisor: “*I understand my job, just go and do yours.*”
120. At about 12.30 a.m., AC Jenkins and Acting Deputy Commissioner of Police Jeffrey Loy had a conversation in which the subject of the DA was broached. ADC Loy gave evidence that AC Jenkins told him that the DA plan would entail a “*probable loss of life*” and that “*they couldn’t get it under the loss of two or three lives*”.
121. Tactical Advisor gave evidence that he never informed AC Jenkins that two to three lives would likely be lost if the DA plan was implemented. Indeed, his evidence was that it would be an overstatement to say that there would “*probably be loss of life*” in respect of the hostages if a DA was launched. He did, however, indicate that such an outcome could not have been discounted. In explaining his decision not to approve the plan, AC Jenkins stated in evidence that “*My starting premise would be that a DA should be the last resort full stop.*” He went on to say that this would remain the case “*[u]nless someone could come up with a plan that made it an absolute 100% certainty of everyone getting out of there safely, which I’m not sure a DA plan could ever do, yes.*” He did not agree that such a characterisation meant that a DA would likely never be used. He gave as an example a situation where continued attempts at negotiation were escalating the risk of violence in the stronghold.
122. Both Insp Kefford and Deputy Chief Const Chesterman stated unequivocally that there was no rational basis for failing to approve the DA plan. Among other things, they noted that it was not reasonable to refuse to approve a DA plan on the basis that it entailed a risk of civilian casualties. DCC Chesterman noted that “*there’s always going to be a risk*” and observed that “*just because you’ve approved [a DA] doesn’t mean you’re going to authorise it to be carried out*”. Similarly, Insp Kefford stated that “*there would be no plan in the Lindt siege or on many occasions where you could guarantee there would be no loss of life*”.
123. In its submissions, the NSWPF did not accept that the DA ought to have been approved. It argued that the “*decision not to approve the DA was consistent with the management of risks as they presented during the siege*” and went on to indicate that:
- while the DA optimises the prospects of an intervention, it still retains high levels of risk in a scenario such as that which presented during the Lindt Café siege.*
124. The NSWPF submission referred to the concern shared by AC Murdoch and AC Jenkins that Monis had an IED which, if detonated, would likely have killed everyone in the café.
125. The NSWPF submitted that the “*risks were too great when there was still a possibility that Monis might leave the stronghold through negotiation*”. The impact of these risks was said to “*attach not just to initiation but also to the process of approval and then authorisation.*” In the NSWPF’s view, to suggest that serious risks should influence whether a DA plan is authorised and initiated but not whether it is approved constitutes an “*artificial distinction*”. The NSWPF argued that this distinction necessarily leads to a conclusion that a police commander

would not be justified in refusing to approve a DA plan even where he or she knew that initiating the plan would cause a major loss of life. The NSWPF submission went on to say:

Unless it can be said that a DA must be approved in all cases, it cannot be said that AC Jenkins was unreasonable in exercising his discretion to decline to approve a DA when the preconditions for its authorisation did not appear close.

126. Before addressing the NSWPF's submissions in this respect, it is necessary to consider the impact of the failure to approve the DA plan.

Consequences of non-approval

127. The NSWPF asserted that failure to approve the plan did not hinder preparations for its initiation, saying: *"The mere fact that a DA is approved advances the status of a plan only a very short distance when an approval and an authorisation can take place at the same time."*
128. This assertion is at odds with the evidence of Tactical Advisor. Speaking of the DA process in general terms, he observed that following approval of a DA plan, *"[w]e can prepare to enact it. We can prepare—we will ready ourselves in terms of resourcing, positioning, all those elements, to enact it."*
129. Approval of a plan enables TOU officers to be briefed on it and rehearse it; they can then act very quickly to implement it if the circumstances demand and the Police Commander authorises it. Tactical Advisor agreed with the suggestion that in the absence of an approved DA, TOU operatives were *"effectively hamstrung"*.
130. The NSWPF submitted that although the plan was not approved, TOU officers began preparing to implement it. As examples, they observed that the plan was uploaded to iSurv at 10.04 p.m. and that [REDACTED] was prepared for use as part of the DA.
131. It is certainly true that some preparatory steps were undertaken without the plan being approved, but there is no evidence that the plan was uploaded onto iSurv at 10.04pm. The entry at that time reads simply: *"[TOU 4] approved upload of DA"* and a summary of the timing of document uploads to iSurv suggests that the DA plan was not in fact uploaded until 2.02 a.m.
132. The NSWPF submitted that having prepared the DA plan, Delta Alpha had conducted briefings on it by moving around the TOU teams and explaining what the entry would entail. Delta Alpha's evidence, however, was not that he had conducted appropriately comprehensive briefings on the DA plan with all relevant officers, but that he had held *"discussions with a number of team members as I moved around as to what the DA was going to comprise"*. Delta Alpha's aim in this respect was to ensure that the officers he spoke to would have *"a rough idea"* of the DA plan. He gave evidence that had the DA plan been approved, it would have been necessary to conduct further briefings with TOU operatives.
133. The NSWPF's submissions responded to the criticism that the TOU officers had been unable to conduct rehearsals to assess the plan by referring to the ADF Tactical Assault Group's observation that the DA plan was *"tactically feasible"* after its run-through using the café mock-up. They submitted that in any event, the DA plan was well understood by officers at the scene and it would have been impractical for the operatives to have left their command posts to rehearse the DA plan.
134. Finally, the NSWPF submitted that it would have been possible for the DA plan to have been approved and then authorised more or less simultaneously.
135. Deputy Chief Const Chesterman accepted that this could have occurred, but both he and Insp Kefford gave evidence that such an approach was problematic:
- Insp Kefford: That's fine, but the point is if they're happy with the contents of the plan and other organisations are helping to facilitate the practice and rehearsal of it, great. But the point is that we wouldn't expect to be rehearsing something that hadn't been approved ...*
- DCC Chesterman: Just to build on that. If I put myself in the position of the person who's gone and presented the plan that hasn't been approved, and then I've got to take it away and potentially ask the operators to start rehearsing and preparing just in case it gets approved, I can imagine that those operators would be really concerned about a lack of grip and leadership. So we're having to rehearse a plan that may or may not get approved. I'd be really worried about that.*
136. I do not accept that, as the NSWPF submitted, concerns about police commanders' refusal to approve the DA plan are based on an artificial distinction between the assessment of risk at the approval stage and the assessment of risk at the authorisation and initiation stages.
137. The approval stage of the DA process centres on

assessing the quality of the plan and determining whether it ought to be subject to revision or improvement. If a DA plan is “*as good as it can get*” and if, as in this case, it has been reviewed and tested by relevant experts in the ADF and found to be sound, it should be approved.

138. If the Police Commander considers that further negotiation is likely to resolve the incident without need for the use of force, or that initiating the DA plan might involve too great a risk in the prevailing circumstances, he or she would be right not to authorise its initiation. However, that is no reason not to approve the plan.
139. Conflation of the approval and the authorisation stages of the DA process undermines the rationale for that process. The objective of the approval stage is to progress a DA plan to the point where TOU operatives are able to prepare for the potential authorisation of the plan, comfortable in the knowledge that the action they are preparing for is the action that, following authorisation, they will be ordered to undertake.
140. The evidence of both the U.K. experts and the TOU commanders indicated that the refusal of the afternoon and night-shift Police Commanders to approve the DA plan was an error of judgement. This refusal did not reduce the risk to the hostages of an unwarranted forced entry into the café because approval was but one stage in the process leading to implementation. Instead, the refusal deprived the TOU operatives of the opportunity to be as well prepared as they could have been. It meant that had the need for a Deliberate Action arisen, the plan could not then have been initiated with maximum expedition.

Conclusion: Should the DA plan have been approved?

141. The DA plan should have been approved. Approving it would have had no disadvantages and might have enabled the tactical officers to be better prepared were it eventually initiated.

142. That leads to the next question: should the DA plan have been authorised and initiated?

Initiation of a Deliberate Action

143. The Dawson and Johnson families submitted that

police ought to have entered the café in accordance with the Deliberate Action plan before 2.03 a.m. on 16 December, when the situation inside the stronghold drastically deteriorated and Tori was killed.

144. With hindsight, knowing that Monis did not have a bomb and that the initiation of the EA resulted in the loss of another innocent life, this submission appears attractive. However, the circumstances confronting police during the evening of 15 December and the following morning were more complicated than the submission suggests.
145. There were four main issues that police commanders would have needed to consider in determining whether to authorise a DA:
- the legality of entering the café prior to 2.03 a.m.;
 - the status of negotiations;
 - the risks presented by Monis; and
 - the risks associated with the DA itself.

Legal issues

146. The law in relation to the use of force by NSWPF officers is set out in Chapter 14. To recap, police officers may use such force as is “*reasonably necessary*” to exercise their functions.¹ Section 6(3) (b) of the *Police Act 1990* provides that the policing services to be provided by the NSWPF include “*the protection of persons from injury or death*”. Essentially, this means that police officers may employ the degree of force they reasonably believe is necessary to protect persons from injury or death, “*provided that force is not disproportionate to the evil being prevented*”.²
147. The Deliberate Action plan called for police to force their way into the café to confront or “challenge” Monis. Such a confrontation may have been likely to result in injury or death to Monis, but that outcome was not a certainty. The evidence suggests that if Monis had immediately put down his weapon and done nothing to indicate he would set off an explosive device, he would simply have been arrested. Evidence from TOU officers indicated that this happens not infrequently.
148. That being so, there is no doubt that at all times during the siege police had the power, pursuant to s. 230 of the *Law Enforcement (Powers and Respon-*

1 Section 230, *Law Enforcement (Powers and Responsibilities) Act 2002*

2 *R v Turner* [1962] VR 30 at 36

sibilities) Act 2002 (LEPRA), to use force to enter the stronghold and confront Monis.

149. This general power to use force is supplemented by s. 9(1)(a) of LEPRA, which provides that police may enter premises if they believe on reasonable grounds that “*a breach of the peace is being or is likely to be committed and it is necessary to enter the premises immediately to end or prevent the breach of the peace*”. The notion of what constitutes a breach of the peace was considered by Watkins LJ in *R v Howell* [1982] QB 416: “... we cannot accept that there can be a breach of the peace unless there has been an act done or threatened to be done which either actually harms a person ... or is likely to cause such harm, or which puts someone in fear of such harm being done.”
150. Monis’ actions undoubtedly constituted a breach of the peace sufficient to justify police entry to the café. All relevant police commanders accepted that entry on a DA would have been lawful; the decision not to proceed with a DA was not influenced by doubts about the NSWPF’s legal capacity to launch such an action.

Progress of negotiations

151. The question of whether negotiations were likely to succeed is of primary importance to the question of whether a DA ought to have been authorised and initiated.
152. The police goal throughout the siege was the safe retrieval of hostages from the café. Any forced entry by police would necessarily involve a risk that hostages would be harmed, either by Monis or in the course of the police operation.
153. The principal approach of the NSWPF in response to such incidents is “contain and negotiate”. Pursuant to that approach, provided a hostage taker does not kill or seriously injure any of the hostages, so long as the police commanders believe there is no imminent or immediate threat of death or injury occurring, and so long as negotiations are progressing towards a peaceful resolution of the incident, they will not authorise a forced entry—either a DA or an EA.
154. That was the view of the police commanders in charge of the siege response until the moment when Tori was shot, at which point the EA was initiated. An important question for the inquest was whether the commanders appropriately considered whether a DA should have been initiated before they were left with no choice but to initiate the EA.
155. As is made clear in Chapter 13, the evidence suggests that from about 4 p.m. onwards, there were few grounds for believing that the matter would be resolved through negotiation. Negotiations were simply not progressing. Indeed, from around the time of the DA briefing with AC Murdoch at 8.40 p.m. until well after midnight, there was absolutely no contact between negotiators and those within the café.
156. That factor ought to have weighed in favour of the initiation of the Deliberate Action.

Risk presented by Monis

157. The assessment of the risk presented by Monis is also of great importance to the question of whether the DA should have been initiated.
158. The Dawson family submitted that “*Monis’ dangerousness was grossly underestimated*” and contended that “*had a more accurate and realistic assessment of Monis’ personality and past behaviour been provided to Police Command then it should have been far more receptive to a DA*”.
159. I have already concluded in Chapter 13 that the NSWPF underestimated the risk posed by Monis.
160. The U.K. experts noted that while Monis had not behaved in a manner typical of Islamic State militants (i.e. he had not engaged in killing from the outset), his claim to be motivated by IS had to be taken into account in assessing the risk he posed. DCC Chesterman said that “*if [Monis] genuinely was IS inspired ... he probably didn’t expect to survive the siege, and that puts the risk very high*”.
161. It seems that NSWPF commanders and negotiation unit leaders, in part because of advice from the psychiatrist advising them, adopted a view that Monis was conducting the siege for personal reasons rather than on behalf of IS.
162. In addition to ascribing insufficient weight to Monis’ claimed terrorist motivations, police took a significant degree of comfort from their assessment that while Monis’ criminal history was heinous, he had not himself committed acts of violence.
163. Finally, the decision as to whether or not to enter on a DA required an evaluation of whether Monis (a) was in possession of a functional IED; and (b) was likely to explode it during the siege.
164. The NSWPF submitted that the police commanders were right to take the threat of an IED very seriously, and to act on the assumption that Monis’

backpack contained a sizeable bomb which he could detonate at will. This, the NSWPF submitted, meant that it was prudent for officers to explore at length strategies for resolving the siege that did not involve a forced entry.

165. Assessing whether Monis had a bomb was complicated. On one view, two pieces of information that either were available or could have been available to police suggested that the threats Monis made in relation to the IED in his backpack might not have been genuine.
166. The first was that Monis' claims of having other bombs placed around the CBD turned out to be false. The second was that his residence contained nothing to suggest that he had been involved in assembling a bomb.
167. As to the first of these considerations, the NSWPF submitted that there were no definitive "*contra-indications*" to Monis' claim of having a bomb in his backpack. In this respect, it noted that debriefs of Stefan Balafoutis and April Bae suggested that the backpack appeared to be full, and submitted that it is only *ex-post facto* knowledge that permits the attachment of probative value to the fact that Monis' claims of IEDs in other locations were not borne out.
168. In relation to the second consideration, the NSWPF submitted that the possibility of a bomb in Monis' backpack could not be discounted until the end of the siege, when officers from the Rescue & Bomb Disposal Unit (**RBDU**) accessed the backpack. It submitted that even had the RBDU been informed of the absence of bomb-making materials or equipment at Monis' residence, it "*would not have materially assisted the assessment of whether what was in Monis' backpack was a real bomb*".³
169. On a related note, the NSWPF submissions drew attention to Insp Kefford's observation that there is a limit to the information that can be gained about a suspected IED from witness reports, particularly when the item in question is contained within a backpack. In the NSWPF's submission, had TOU officers been able to make unobstructed observations of the IED or obtain details about it from an informer, they might have sought advice from RBDU officers about the likely blast zone or trigger mechanism. In the absence of such advice, the officers were left to develop a strategy for disabling Monis as fast and effectively as possible.

³ I note that the search of Monis' residence was not, in fact, concluded until after the time of the EA. As noted in Chapter 12, I consider that the search should have been conducted earlier.

170. I accept that the police commanders were never able to discount the possibility of a bomb in the café until after the siege was resolved.
171. It is clear that the possible presence of an IED contributed to AC Jenkins' reluctance to contemplate a DA. The expert evidence, however, suggests that the possible presence of an IED would not necessarily militate against the initiation of a DA.
172. Deputy Chief Const Chesterman said: "The advantage that the DA gives you is that you are entering the stronghold on your own terms and at a time of your choosing and potentially when the hostage taker is at his lowest ebb." Considering this factor, the increased preparation associated with a DA, and certain aspects of the DA plan that might have decreased the risks an IED posed to hostages, the U.K. experts observed that the danger of the IED would have been better addressed by the DA plan than it was by the EA plan.

Risks associated with the DA

173. In addition to the risks posed by Monis, the risks introduced by the DA plan itself also have to be considered in determining whether a DA ought to have been initiated.
174. As noted in the foregoing consideration of the DA approval process, both AC Murdoch and AC Jenkins gave evidence that they were not prepared to consider a Deliberate Action because of the risks associated with it.
175. The nature and extent of those risks was the subject of some debate.
176. Both the Johnson and Dawson families submitted that there was no basis for AC Jenkins' view that a DA would "*probably*" result in a loss of life. In support of this contention, the Johnson family cited Tactical Advisor's aforementioned evidence that while it was "*highly likely*" that Monis would suffer injuries, it would be an overstatement to say that there would "*probably be loss of life*" among the hostages.
177. The Johnson family also cited AC Murdoch's evidence that Tactical Commander had told him that (in AC Murdoch's words) he "*was confident that [the TOU] would successfully assault the stronghold and release the hostages*".
178. There is necessarily a speculative quality to any assessment of how the Deliberate Action would have played out, but as Insp Kefford observed, in circumstances such as the siege, it would never be

possible to formulate a plan that would “*guarantee*” that all the hostages and TOU officers would survive a Deliberate Action.

179. Monis was carrying a shotgun, and police believed he had an IED in his backpack. The DA plan called upon tactical police to rapidly assault the stronghold [REDACTED]
[REDACTED]
[REDACTED] they were to enter the café and to confront Monis, who would likely have been positioned in the north-western corner of the café with a number of hostages nearby.
180. Even a brief review of the plan leads to the inescapable conclusion that a DA would not have been without significant risks. Those risks could never have been eliminated completely and needed to be weighed carefully when determining whether to enter the café.

Should police have entered the café on a DA?

181. To say that significant risks unavoidably accompanied the DA plan does not necessarily lead to the conclusion that it should not have been authorised and initiated. Insp Kefford characterised the appropriate decision-making process in terms of the following straightforward calculus: “*Is the risk of not doing it greater than the risk of doing it?*”
182. Similarly, Deputy Chief Const Chesterman agreed that even where it is probable that lives will be lost as a consequence of a DA, such an action would not be precluded—the overall outcome might still be better than if the DA were not initiated.
183. The evidence of both senior TOU officers and the U.K. experts made clear that the DA plan entailed a lower level of risk than the EA plan.
184. In addition to the aforementioned mitigation of risks associated with a potential IED, the DA plan’s provision for [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].
185. The Dawson family submitted that had police commanders been provided with a realistic assessment of Monis’ personality and past behaviour, they would have, or at least should have, been more receptive to a DA. They also contended that a rigorous critique of the negotiation strategy would have compelled the conclusion that it had failed and, in turn, that a DA was appropriate.
186. The Johnson family submitted that the lack of progress in negotiations, the possibility of an IED, Monis’ claimed allegiance to IS, and the threats he had made to kill hostages if any further escapes occurred, all militated in favour of a DA being authorised and initiated. They say that, at the latest, a DA plan should have been authorised and initiated once certain hostages were told to call their loved ones (at around 10.50 p.m.).
187. In support of this submission, the Johnson family also made reference to the increasing desperation of hostages and the likelihood of further attempts at escape if police did not enter.
188. In response, the NSWPF submitted that both AC Jenkins and AC Murdoch believed it was very likely that Monis had an IED that, if exploded, would kill “*all the hostages and the entry team*”.
189. The NSWPF added that the two police commanders’ evidence as to their decisions not to authorise a DA “*should be regarded as sensible and logical even though there are other reasonable views on the issue*”. As to the adequacy of the considerations undertaken by the commanders, the NSWPF noted that briefings and discussions regarding the plan were held with various participants on several occasions on the evening of the 15th and on two occasions on the morning of the 16th. During that time, the NSWPF submitted, those in command were of the opinion that continuing the “*contain and negotiate*” approach held prospects of resolving the siege.
190. The U.K. experts were somewhat equivocal about whether a DA should have been authorised and initiated.
191. After making reference to his view that a DA would have been the “*preferred option*” for mitigating the risks associated with an IED, Deputy Chief Const Chesterman had the following exchange with Counsel Assisting:
- DCC Chesterman: Can I just add, I don’t want my evidence to sound as though there should have been a DA in place and they should have initiated it. There should have been a DA in place. I’m clear about that.*
- Counsel Assisting: You mean approved?*
- DCC Chesterman: Approved, sorry, yes. There should have been a DA approved, but initiating it was still a very difficult decision bearing in mind the risk because it wasn’t going to be a no risk*

option, and so a lot would depend on the broader situational awareness, the feeds that are coming from listening devices, the intelligence that's coming from hostage debriefs, maybe intelligence that's coming from researching his background, and all of that built up into a picture as to whether to continue to try and negotiate and contain or whether, actually, the DA is the best option to bring a peaceful solution.

192. Subsequently, Deputy Chief Const Chesterman appeared to give a different assessment. After being asked about the divergence of views between Tactical Commander and Afternoon Forward Commander as to whether a DA ought to have been used, he said:

*Ultimately if you're dealing with Islamic terrorism in the form of a siege, the hostage taker's expectation of survival is not there, and the experience that we've had across Europe and other parts of the world is that this is not going to end well for the hostages. The likelihood is that they're all going to die so under those circumstances I would want a blunt instrument to bring the siege to a conclusion, to minimise the risk and save as many lives as possible. So I would want the DA but just to reemphasise what I said earlier, I do think that contain and negotiate initially was a valid tactic in these circumstances because of the behaviour of the hostage taker, **but as that started to deteriorate, the DA should have been used.** [Emphasis added.]*

193. The equivocation evident in Deputy Chief Const Chesterman's responses and the apparent shift in his position speak to the complexity of assessing whether a DA ought to have been initiated.

194. The NSWPF has appropriately adopted "contain and negotiate" as its primary response to sieges. Experience has demonstrated that in policing domestic sieges, this is the safest policy. However, all of the relevant experts accepted that if this approach does not resolve the incident and it becomes necessary to end a siege by a forced entry into the stronghold, it is preferable for that entry to occur via a Deliberate Action rather than an Emergency Action.

195. By going in at a time of their choosing, tactical police increase their chances of taking the hostage taker by surprise and thus reducing the risk to hostages. It is safer for the tactical officers; it is safer for the hostages. That said, it bears repeating that all forced entries entail very considerable risks.

196. The police commanders in this case were reluctant

even to consider a Deliberate Action. There were good reasons for caution. The possibility that Monis had an IED could not be discounted, and depending upon its detonation mechanism, it might have proved impossible to disable him before he could activate it. As the day wore on and the identity of the hostage taker, his crimes and his psychopathology became known to the commanders, they undoubtedly took comfort from the fact that although Monis had made threats of violence, no one in the stronghold had been killed or injured.

197. While it now appears they were wrong to do so, at the time the subject matter experts—the negotiators and the Consultant Psychiatrist—continued to advise the police commanders that the negotiations were progressing; that the stronghold was calm; that Monis' behaviour was not consistent with IS methodology—he was merely "grandstanding"; and, towards the end of the siege, that Monis was beginning to "settle" for the night. In light of the flawed advice they received, it was reasonable for police commanders to conclude that a DA was not warranted.

198. It could be argued that the police commanders should have more rigorously taxed their subordinates to prove the negotiations were progressing or to generate more effective engagement with the hostage taker. However, considering the advice they were given, their reluctance to initiate a Deliberate Action that could have led to the deaths of all hostages and the entry teams was understandable.

Conclusion: Should a DA have been initiated?

199. Given the state of their knowledge on the night, and the NSWPF's commitment to a "contain and negotiate" strategy, it cannot be said that it was unreasonable for police commanders to refuse to authorise and initiate a DA.

Rethinking "contain and negotiate" in terrorist incidents

200. The reluctance of commanders to consider a DA may in part have arisen from organisational culture. "Contain and negotiate" was adopted as the primary approach to sieges and other high-risk situations after the NSWPF and other policing organisations were trenchantly criticised for rushing into dangerous situations and precipitating

deadly confrontations or for allowing dangerous suspects to escape. Maintaining a secure inner and outer cordon and continuing to attempt to negotiate until the hostage taker or offender either gave up or forced the launching of an Emergency Action makes criticism of the police force less likely. Either the incident is resolved peacefully, or the actions of the target make the use of force unavoidable, so police cannot be criticised if death or injury ensue. So entrenched has this perspective become that one of the commanders referred to a Deliberate Action as the “*last resort*”.

201. “Contain and negotiate” appears to have served the NSWPF and the public well as a response to domestic sieges, although the inquest could not undertake a review of other high-risk situations to assess whether refusal to initiate a Deliberate Action has led to sub-optimal outcomes in other cases.
202. In any event, the outcome of the siege suggests that the “contain and negotiate” strategy needs to be more rigorously assessed in the context of terrorist incidents. The evidence before the inquest suggests that the NSWPF is reconsidering its guidelines for responding to high-risk situations to more adequately incorporate international experience regarding “*active shooters*”. In that respect, there is a growing recognition that “contain and negotiate” can be counterproductive and that it is necessary for officers, particularly first responders, to be trained and equipped to adequately protect themselves and the public in the face of such offenders. I consider that the re-evaluation of training and policy regarding “contain and negotiate” ought to extend not only to “active shooter” situations but to terrorist actions where the hostage taker’s diminished expectations of survival may render “contain and negotiate” inappropriate.
203. Similarly, in view of the unjustified refusal of successive police commanders to even approve a DA plan, it is appropriate to consider the guidance that officers in their position receive in respect of the Deliberate Action planning and approval process.
204. The ANZPAA *ANZ Guidelines for Deployment of Police to High Risk Situations* and the *PTG Operations Manual* all define a DA in broadly similar terms, but none provide detailed guidance to delineate the process by which a DA plan ought to be approved and/or authorised.
205. Nor do the existing guidelines outline the considerations relevant to each stage of that process. The need for such an outline was evidenced by the two Police Commanders’ apparent view that, in decid-

ing whether to approve the DA plan, they should consider whether negotiations were progressing and what the outcome was likely to be if the DA plan were initiated, rather than focusing solely on the merits of the plan.

206. The NSWPF has indicated that it is engaged in broad review of its training and deployment model in light of the Lindt Café siege and the ever-changing counterterrorism climate. However, in view of the commitment to interoperability of law enforcement organisations, it is probably preferable that reform encompass all participants in the Australia New Zealand Policing Advisory Agency alliance.

Conclusion: Protocols and training in DA planning and approval

207. The unjustified refusal of successive police commanders even to approve a DA plan and uncertainty among them about aspects of the planning and approval processes suggests that protocols for and/or training in DA planning and approval are inadequate.

Recommendation 28: Reform of guidelines to DA planning

208. *I recommend that the Australia New Zealand Policing Advisory Agency and the Australia–New Zealand Counter-Terrorism Committee review the Australia New Zealand Guidelines for Deployment of Police to High Risk Situations and the Police Tactical Group Operations Manual to ensure that they adequately describe all aspects of the DA planning and approval process and present commanders with appropriate guidance on relevant considerations.*

Recommendation 29: Review of training for DA planning and approval

209. *I recommend that the NSWPF review the training provided to officers in relation to DA planning and approval.*

Conclusion: Cultural reluctance to initiate a DA

210. For historical reasons, the NSWPF may have become so wedded to “contain and negotiate”

that its senior officers are unduly reluctant to initiate a Deliberate Action in siege situations. When dealing with terrorists, this reluctance is problematic. The NSWPF has recognised that where an “active shooter” continues to threaten the safety of members of the public, securing the scene and waiting for negotiators to arrive may not be the most effective way to limit casualties. Similarly, the “contain and negotiate” approach may not be the best response to a terrorist incident if the offender/s believe that whether or not they survive, their cause will benefit from the publicity generated by a protracted siege. This issue should be resolved by consultation within the Australasian policing alliance, informed by international counterterrorism experience.

Recommendation 30: Reconsideration of response to terrorist incidents

211. *I recommend that the Australia New Zealand Policing Advisory Agency liaise with the Australia–New Zealand Counter-Terrorism Committee to determine whether policies requiring the consideration of more proactive intervention should be developed for responding to terrorist sieges.*

Timing of Emergency Action

212. In addition to determining whether police should have forced entry into the café in a Deliberate Action, the inquest also considered whether entry under the EA plan should have occurred sooner than it did. Did the triggers for the EA arise earlier in the siege than when the order to enter was given?
213. Counsel for the Johnson family submitted that given the facts that Monis had a shotgun and repeatedly threatened to shoot hostages; claimed to have a bomb and threatened to detonate it; and appeared to be motivated by IS, “*this surely meant that there was an imminent threat of death or serious injury present throughout the siege*”. They argued that the EA should have been initiated well before 2.00 a.m. and by no later than approximately 11.10 p.m. on 15 December, when Monis singled out certain hostages, including Tori, and told them to call their families.
214. In support of this submission, counsel for the Johnson family made reference to Deputy Chief Const
- Chesterman’s evidence that:
- it can be argued that the immediate threat to life is already present, so even if this hostage taker is not doing anything which indicates an immediate threat to life, the fact that he’s in a stronghold with hostages, with a bomb and a gun would suggest that immediate threat to life is kind of present throughout so if you get an opportunity to stop him, you may need to take it.*
215. In further support of their position, counsel for the Johnson family referred to Deputy Chief Const Chesterman’s evidence as to how police ought to have assessed the risk associated with Monis’ direction that certain hostages call their families:
- you’ve got to put it into the context of what you’re dealing with here, which is an armed and apparently dangerous man with hostages in a stronghold and because of his claimed allegiance to IS, the fact that he’s threatening or actually separating people off and **telling them to phone home would indicate that the threat to those people has just gone through the roof.*** [Emphasis added.]
216. However, neither of these comments directly concerned the question of whether an Emergency Action ought to have been initiated. The first was made during the course of a series of questions regarding the legal justification for a shot by a sniper. The second concerned whether there was a basis for initiating a Deliberate Action. At no stage did the U.K. experts suggest that an Emergency Action ought to have been initiated prior to the escape of most of the remaining hostages at 2.03 a.m.
217. It is true that a high level of risk persisted throughout the siege. The hostages were constantly at risk of harm—Monis could conceivably have fired his weapon or triggered an explosive device without notice. While that approach to the question of imminence and immediacy of risk may be appropriate when responding to abstract questions of legal justification *ex post facto*, it is not a valid means of addressing the practical question of when an EA ought to be initiated.
218. The ANZCTC documents and ANZPAA guidelines make clear that an EA is intended to be used as an *emergency* response to particular events that create an imminent or immediate risk of harm. Consistent with this, police commanders described the EA as a “blunt instrument” employed in reaction to events within a stronghold.
219. The events within the café before 2.03 a.m., includ-

ing Monis' instructing certain hostages to call their families and forcing hostages to move with him towards the rear of the café at about 1.55 a.m., were certainly alarming and suggested an environment of very high risk. They did not, however, provide any concrete indication that a violent change in Monis' behaviour was imminent.

220. In short, baseline risks of the type that characterised Monis' behaviour prior to 2.03 a.m. are better addressed by way of a Deliberate Action than an Emergency Action. For the reasons set out above, the police commanders did not conclude that the risk of initiating a DA was warranted. What follows is an analysis of the events leading up to Tori's death with an assessment of whether the EA triggers were met before entry was effected.

Following 2.03 a.m.

221. In the period immediately following 2 a.m., those baseline risks began to crystallise with the escape of hostages and Monis' reaction to those events.

222. As outlined in Chapter 7, at 2.03 a.m. Jarrod Morton-Hoffman opened the door connecting the café with the foyer and ran out, followed by five other hostages. As the last of the six hostages was passing through the door, Monis fired his shotgun in their direction, striking the glass immediately above the door. CCTV vision of this was seen in the Police Forward Command Post.

223. Just over 10 minutes elapsed between those events and the decision to initiate an EA, which followed immediately upon the shooting of Tori Johnson. In that time several key events transpired. In particular:

- Tori was seen to kneel;
- Monis fired a second shot at approximately 2.11 a.m.; and
- Fiona Ma escaped (about 30 seconds after the second shot).

224. Whether the EA should have been triggered in response to the mass escape and/or any of the above events was a key question during the inquest.

The first shot

225. It was not immediately clear to police whether Monis deliberately fired above the escaping hostages or tried to shoot them and missed.

226. Night Forward Commander gave evidence that in his opinion, the fact of the escape and the shot alone did not warrant the initiation of an EA. He indicated

that before initiating the EA, he needed information about precisely what had happened, the location of Monis and the remaining hostages, and what could be heard via the listening device.

227. Counsel Assisting submitted that Night Forward Commander's evidence that the bare fact of the shot did not necessitate an EA should be accepted and that it was appropriate for him to undertake some analysis, including "short, sharp discussions" with "subject matter experts" (i.e. Tactical Commander, the Negotiation Team Leader and snipers) in order to determine whether to launch an EA.

228. Both the Johnson and Dawson families submitted that if an imminent threat of death or serious injury to hostages was an operative trigger, that trigger had been reached at 2.03 a.m. They submitted that the EA should have been activated then. Counsel for both families made reference to the account Night Forward Commander gave of his exchange with AC Jenkins immediately after the 2.03 a.m. escape:

... so I've rung Mr Jenkins just, and just said, mate, look, to the effect of some hostages have got out, he said, yes, we're watching it. I said we're not at EA, it's not an emergency action, no EA, it's not the EA.

229. The Johnson and Dawson families submitted that this exchange does not suggest Night Forward Commander was gathering information to inform a decision as to whether an EA should occur but rather that it shows Night Forward Commander ruled out an EA. In their view, this supports their submission that police had no intention of entering the café unless or until somebody was killed.

230. The NSWPF contended that while it would have been open to police to initiate an EA at 2.03 a.m. or in the minutes that followed, it does not follow that the activation of the EA "was the only proper decision open to the Police Forward Commander or that it was his responsibility at that time in those circumstances to initiate the EA". The NSWPF made reference to Deputy Chief Const Chesterman's comment that he could not "hand on heart" say that he definitely would have initiated the EA prior to Tori's death. The NSWPF submission did not refer to DCC Chesterman's evidence that it is likely that he would have initiated it, or to his comment "to give you a straight answer, do I think at that point the EA should have been initiated, I do", referring to the minutes following the first shot.

231. In submitting that the fact of the shot did not call

for an immediate EA, the NSWPF observed that it was possible, among other things, that the shot had been an accident, that it was intended as a warning, or that it was a deliberate attempt to lure police into the stronghold so that Monis could detonate his explosive device.

232. In those circumstances, the NSWPF observed that it was appropriate for commanders to conduct further investigations and analysis before an EA was ordered. In that respect, the NSWPF noted that police performed a number of activities after the escape. In particular, snipers were asked to report in (this appears to have occurred at 2.05.44 a.m.), calls were made to the café, attempts were made to identify what had happened vis-à-vis the shot, and hot debriefs with escaped hostages were begun.

233. It was necessary and appropriate for the Police Forward Commander to conduct a brief analysis of events surrounding the escape and the shot by Monis in the moments following 2.03 a.m. A decision to initiate an EA should not be made in a knee-jerk manner, particularly in the absence of concrete information that a primary trigger has been met.

234. However, that analysis and consideration extended over 10 minutes and was apparently still occurring when Tori was shot. It took too long and did not reach the conclusion it should have. More decisive action was called for.

235. It was unlikely that Night Forward Commander would ever have been able to conclusively establish what Monis intended when he fired his weapon in the direction of the hostages. Police at the PFCP were not able to rewind the footage of the escape, snipers did not have good vision of events in the stronghold, and the audio available through SD1 was of low quality and subject to delays of at least 3 minutes. That being so, the information available to Night Forward Commander within the first few minutes after the escape was probably as much as he was likely to obtain.

236. As Deputy Chief Const Chesterman observed:

we're never going to know exactly what was in Monis' mind when he pulled that trigger as the hostages escaped, but I think we have good reason to believe that he was intending to harm the hostages and not just fire a warning shot.

237. Police commanders did not have precise details regarding the weapon, but officers had observed that it was a sawn-off shotgun. Deputy Chief Const Chesterman agreed that a properly advised police commander would be expected to recognise that

such a weapon was likely to tilt upwards when fired, and agreed that this should have been considered when interpreting the events of 2.03 a.m.

238. The information that was available to the Forward Commander, or which ought to have been available to him in the minutes immediately following the escape, included the following:

- Monis had a sawn-off shotgun that was functional;
- he had fired that shotgun in the direction of six hostages as they escaped together, with his shot striking above the doorway;
- his intention in doing so was not completely clear, but his weapon was one that might tend to discharge upwards;
- a number of hostages remained in the café;
- Monis had claimed to have an IED; and
- he had threatened to kill hostages at various points during the day, including if there were further escapes.

239. These factors were sufficient to pose an immediate or imminent risk of death or serious injury to hostages. The initiation of the EA would therefore clearly have been justified.

240. As quoted above, DCC Chesterman said he believed the EA should have been initiated. The police commander who had been in charge of the operation until 10.00 p.m. agreed.

241. Asked what his expectations would have been if he had still been Police Commander at 2.03 a.m., Assistant Commissioner Murdoch said: *"If the shot fired at 2.03 had have occurred when I was in command, I would have had an expectation that the EA would have been launched."*

Conclusion: Timing of EA

242. The decision to send TOU operatives into the café was unquestionably one no commander would want to face. The risks for the officers and the hostages were immense. However, after a brief period to allow officers to gather relevant information, an EA ought to have been initiated following Monis' first shot at 2.03 a.m. That event made it clear that negotiations had little or no chance of resolving the siege, and that the hostages remaining in the café were at extreme risk of harm. The 10 minutes that elapsed without decisive action by police was too long.

Events between 2.03 a.m. and 2.13 a.m.

243. In view of my conclusion that an Emergency Action should have been called soon after Monis fired his first shot, it is not necessary to conduct a detailed survey of the appropriate response to each of the key events between 2.03 a.m. and Tori's murder at 2.13 a.m.
244. In any event, I consider that there is little doubt as to what ought to have happened in respect of these events.
245. As noted in Chapter 9, Deputy Chief Const Chesterman stated unequivocally that an EA should have been initiated in response to other events which followed the 2.03 a.m. escape and the first shot.
246. Specifically, he said he would have called an EA in response to the information that Tori was kneeling. When pressed as to how certain he was about this conclusion, he indicated that he had no doubt about it. Deputy Chief Const Chesterman also said an EA should have been initiated in response to the firing of the second shot and the escape of Fiona Ma.
247. I agree with DCC Chesterman's conclusions in this respect (although I note that as described in Chapter 7 and below, notice of Tori being placed on his knees did not make it to the Forward Commander).
248. While there may have been some uncertainty as to exactly why Tori was kneeling, in view of the facts that six hostages had just fled the café and Monis had just fired a shot, the snipers' observations of Tori's position should have raised a real concern that Monis intended to execute him. That concern would have warranted the initiation of an EA.
249. There was also a degree of uncertainty about Monis' second shot. Even now it is not possible to identify precisely where he was when he fired that shot or why he did so. However, given the events that immediately preceded the shot, it should have led to the initiation of an EA. Indeed, on one view, the uncertainty about the second shot was of particular concern: for all police knew, it could have been fired directly at a hostage.
250. Finally, there was a significant likelihood that Fiona Ma's escape would elicit a violent response from Monis. By that point he had plainly lost control of the café stronghold and had already fired his gun twice. Police should have initiated the EA in response to her escape.
251. The evidence indicates that police commanders did not actually decide *not* to initiate an EA after each

of those incidents. Rather, it seems that communication problems prevented some of the incidents from coming to their attention. Other incidents were communicated but not responded to. These communications failures are considered further below.

Communications breakdowns after 2.03 a.m.

252. It appears that neither Night Forward Commander nor Police Commander Jenkins was made aware that Tori had been seen kneeling or that Monis had fired a second shot.
253. Analysis of these apparent communication failures was hindered by the absence of a complete recording of the radio transmissions on the TOU channel. Similarly, the available metadata allowed some inferences to be drawn as to when officers used, or attempted to use, their radios, but it did not permit conclusions to be reached as to the content of particular calls or whether the relevant transmissions were successfully broadcast.
254. Given the impact of the communications failures on the decision-making of police commanders, it is necessary to analyse them in some detail. To sum up:
- Snipers saw Tori kneel on the floor and made a call to report it. The metadata provides some evidence that a call was made at that time, but the call does not appear to have been heard by the relevant officers in the PFCP. The call may not have been successfully transmitted.
 - A number of officers heard the second shot at approximately 2.11 a.m. Some likely made radio calls to that effect. Again, it seems that, for reasons that cannot be determined, those calls were not heard by officers at the PFCP.
255. Around 2.06 a.m., Sierra Three 1 saw Tori go down on his knees. He considered it highly probable that he had made a radio call to report this observation. Sierra Three 3 heard another member of his team making a broadcast to the effect that "*it appears the hostage is on his knees*".
256. At 2.05.44 a.m., Tactical Commander is recorded on the TOU radio transcript as calling for "*any call sign that can provide a SITREP*". Tactical Commander is then recorded as saying "*acknowledge that*". No specific time is noted for this transmission, though the next entry—another call by Tactical Commander—is timed on the transcript at 2.06.32 a.m. This suggests that Tactical Commander's acknowledgement was made between 2.05.44 a.m. and 2.06.32 a.m.

257. The metadata for the TOU radio channel records that Sierra Three 1 made or attempted to make broadcasts at 2.05.44 a.m. and 2.05.58 a.m. These calls or attempted calls were followed by one logged at 2.06.03 a.m. and attributed to Tactical Commander.
258. Tori's family submitted that it can be inferred that one or both of the calls made by Sierra Three 1 just prior to 2.06 a.m. related to his observation of Tori on his knees and that the entry at 2.06.03 a.m. likely relates to the call wherein Tactical Commander says "*Tango Charlie acknowledge that*".
259. There are, however, two difficulties with this submission. First, at 2.06.10 a.m., Papa One 1, a TOU officer positioned on the corner of Elizabeth Street and Martin Place, made a call that was followed, at 2.06.21 a.m., by a call from Tactical Commander. Second, it is not clear that Tori had assumed his kneeling position by the time of the calls by Sierra Three 1; the only available evidence as to the precise time Tori went to his knees comes via the surveillance device, which recorded Monis telling Tori "*put your hands on your head*" at some time between 2.06.23 a.m. and 2.07.23 a.m.
260. The Johnson family sought to buttress their submission as to the likely timing of the acknowledgment call by noting Sierra Three 1's evidence that Tori did not put his hands on his head until after he had gone to his knees and by referring to the surveillance device recording of Monis directing Tori to "*stand there. There, there, there, don't move*" around 2.04.53 a.m. Counsel for the Johnson family then referred to a further call by Sierra Three 1 at 2.06.46 a.m., which is said to have occurred after Tori put his hands on his head.
261. Both Tactical Commander and Deputy Tactical Commander denied hearing a broadcast to the effect that Tori was on his knees. There are no entries regarding this observation in the iSurv log or any other log or set of notes. Night Forward Commander also stated that he was never informed of the snipers' observations in this respect.
262. If a radio call about Tori going onto his knees was heard by officers in the PFCP or POC, it is unlikely that no records would have been made of it and no action taken in response to it. Given the very recent escape of six hostages and the desire of Night Forward Commander and Tactical Commander to find out more about what was going on in the café, it seems likely that any such call would have been logged and that it would have prompted discussion in the PFCP and communication with the POC.
263. In those circumstances, and considering the uncertainty surrounding the evidence of radio transmissions made via the TOU channel, it is not possible to conclude that the PFCP received the call about Tori being on his knees. It seems more likely that it was not. Assuming that to be the case, it is not clear why the call was not effectively transmitted. There may have been technical problems or operator error of some kind. It seems that the call was not followed up to ensure it was received. It should have been. In that respect, Deputy Tango Charlie gave evidence that he "*absolutely*" would have expected a call of that nature to have been acknowledged had it been received. Tactical Commander gave similar evidence about the importance of acknowledgments.
264. Monis' second shot, at about 2.11 a.m., also seems to have been the subject of communication failures.
265. There was initially some doubt about the extent to which police were aware of this shot. Officer B, for example, gave evidence that he recalled hearing only two shots before the EA was ordered—including the shot that killed Tori—and a third shot as Alpha Team officers neared the café entrance. On balance, however, it is clear that the shot was heard by a number of TOU officers, if not all of them.
266. In that respect, various pieces of footage appear to record TOU officers reacting to the second shot. Officer A gave evidence that he heard three shots before the EA began. The audio recorded from the camera in the Seven Network building includes an exchange between Sierra 2 and another male about a "*second shot*". Sierra Three 1 gave evidence that he heard three shots from his position in the Westpac building.
267. Several TOU officers made, or attempted to make, calls at around the time Monis' second shot was fired. The metadata, for example, suggests that Alpha 3, a TOU officer positioned on Phillip Street, made two calls just after 2.11 a.m. In his police interview during a walk-through of the café, he recalled making a radio call to the effect of "*Alpha 2, second shot fired*".⁴ Officer B appears to have made a call at 2.11.53 a.m. Delta Alpha made several calls between 2.10 a.m. and 2.13 a.m. Some of these calls may well have related to the second shot.
268. Additionally, a negotiator positioned with the Long Range Acoustic Device on Phillip Street (i.e.

4 While he states that this call preceded the EA (with the implication that it referred to the third shot) given the timing of the call and the absence of further calls by Alpha 2 after the third shot, it is likely that Alpha 2 was, in fact, referring to the second shot.

in the immediate vicinity of Alpha team) sent a text message at 2.11 a.m. saying “2nd shot 2.11 a.m.” to another negotiator who was in the PFCP.

269. Nevertheless, Tactical Commander, Night Forward Commander and AC Jenkins all stated that they were not aware of the second shot. In line with this, there is no reference to the second shot in any of the police logs.
270. Given the difficulties in relation to recording of radio transmissions, I am unable to reach any firm conclusions as to precisely how and why communications about the second shot failed. The fact that none of the police commanders recalled being told about that shot is nonetheless troubling.
271. Tactical Commander gave evidence that had he been told that Tori was kneeling or that Monis had fired a second shot, it is likely that he would have recommended initiating the EA. A similar conclusion was reached by AC Murdoch and Tactical Advisor.
272. Asked what he would have done had he learned of the 2.11 a.m. shot, Assistant Commissioner Jenkins said in evidence:

Once again, that would have caused my concern to be heightened even further, in relation to the remaining hostages inside the stronghold, and once again, I would have expected the EA to be more strongly considered at that particular stage, pending what other information was being made available to the Police Forward Command Post.

273. This represents a serious failure in communications.

Radio problems

274. It was not possible to identify the root cause of these communications breakdowns. It was suggested in evidence that transmissions were sometimes missed when two officers attempted to communicate at the same time.
275. It does appear that some of these difficulties could have been mitigated if officers making key broadcasts had requested an acknowledgement of their call and, not receiving one, broadcast the message again. The evidence indicates that this is a commonly used means of ensuring that radio transmissions are heard by the intended recipient. There was no suggestion that it would have been impractical for such acknowledgement to be sought in relation to the relevant broadcasts.
276. It is also possible that some of the difficulties were attributable to the network or to the radios used.
277. These failures were not the only instances of radio problems at a critical time. As noted in Chapter 7, when Tactical Commander directed TOU officers to initiate the EA, it quickly became apparent that his transmission had not been received by the TOU operatives on the ground. It was therefore necessary for Deputy Tango Charlie to repeat the call using his own radio.
278. Following the siege, the TOU moved to a different encrypted radio network. The quality and efficiency of that network is monitored by the NSWPF in conjunction with the NSW Telco Authority.
279. The TOU has also begun using a different type of radio that may have longer battery life.
280. Given the serious communications breakdowns that occurred in the final stages of the siege, it is important that these new technologies are tested to check how well they work at times of high radio traffic and monitored to ensure that they adequately meet the needs of future operations.

The initiation of the Emergency Action

281. At 2.13.37 a.m., Sierra Three 1 broadcast a call to the effect of “White Window 2, hostage down, hostage down.” Night Forward Commander heard this call and ordered an Emergency Action. Tactical Commander attempted to initiate the EA via a radio broadcast at 2.13.52 a.m. It appears that this message was not transmitted effectively, so at 2.14.09 a.m. Deputy Tango Charlie made a further call, conveying the code word for initiation of the EA. This call was heard by members of the various TOU teams, who started moving towards the café.
282. The situation that confronted the TOU officers was extremely difficult. Monis was armed and had just killed Tori Johnson. He was undoubtedly on high alert and—as far as the TOU officers knew—may well have possessed an explosive device. Evidence given by Louisa Hope suggests that Monis was in a state of high agitation and was scanning the windows and doors of the café with his gun at the ready.
283. During the inquest, the actions of the TOU officers during the EA were carefully examined on a second-by-second basis. That was done in an attempt to determine whether lessons could be learned from the EA, not to attribute blame for actions that unfolded over mere seconds in an extremely challenging environment. It seems that

the entry could have been executed better, but the officers who stormed the café exhibited considerable courage, for which they ought to be commended. None of the analysis in this report should be read as either criticising them, raising doubts as to their competence, or questioning their bravery and commitment. Their courage and professionalism are beyond doubt.

The entry

284. There was a brief delay associated with Tactical Commander's failed attempt to broadcast the initiation of the EA. There is no evidence that this delay had any impact on the EA, which began approximately 50 seconds after Monis killed Tori.
285. The EA plan called for Alpha Team officers to enter the café via the main entrance on Phillip Street, while Charlie and Delta teams entered via the foyer entrance. The aim was for the teams to enter the café as close to simultaneously as was possible.
286. In accordance with the EA plan, the entry teams began moving towards the café at more or less the same moment. Most of the officers were armed with M4 carbine rifles and Glock handguns; those tasked as breachers were armed with shotguns. Two officers (Papa Two 1 and Papa Two 2) attempted to breach the southernmost window on Phillip Street, Green Window 1, so they could deploy a distraction device into the café and, if appropriate, provide covering fire while Alpha team attempted to breach the main doors. The Papa Team officers were unable to breach the window, so they quickly abandoned that effort and joined the Alpha Team officers at the main entrance. This was an appropriate response in the circumstances.
287. The TOU teams did not achieve simultaneous entry into the café through the main entrance and the foyer entrance. The evidence of Crime Scene Officer Domenic Raneri and the synchronised CCTV footage showing the entry of Alpha, Charlie and Delta teams enables the following timeline to be established from the start of the EA (at 0.000 seconds):
- **0.000 seconds:** The EA commences with Alpha Team advancing towards the Phillip Street doors to the café. A fraction of a second later a member of Charlie team opens the fire-door leading into the foyer.
 - **3.117 seconds:** An SF9 distraction device thrown by a member of Charlie Team, which is intended to break the glass of the foyer doors, hits a door, bounces onto the foyer floor and explodes. At the same moment, Delta Alpha reaches the fire door and enters the foyer. Charlie 1, a second member of Charlie Team, follows approximately 2 seconds later. The SF9 continues to go off, emitting flashes and loud bangs, as Delta Alpha crosses the foyer. He can be seen adjusting his night vision goggles.
 - **3.400 seconds:** Monis, likely in response to the SF9 detonation, moves past White Window 4 towards the north-western corner of the café.
 - **4.000 seconds:** Papa Two Team officers attempt to breach Green Window 1 by firing a shotgun round into the glass. The window does not shatter.
 - Approximately **6 seconds:** Delta Alpha takes up a position on the southern side of the foyer doors. The SF9 has stopped detonating, and he continues to adjust his goggles. Officers from Alpha Team reach the Phillip Street door.
 - **7.167 seconds:** Monis turns to face the Phillip Street entrance to the café. His gun is momentarily visible through White Window 4 before he drops out of view. This is the last time he appears on the available footage.
 - **7.467 seconds:** Alpha 1 fires a shotgun round into the eastern part of the glass of the Phillip Street door. That part of the door shatters and falls to the ground.
 - **Approximately 8 seconds:** A third member of Charlie Team enters the foyer.
 - **Approximately 9 seconds:** Charlie 1 reaches a position next to the foyers doors while officers from Delta Team begin to enter the foyer. Charlie 1 reaches towards the door and begins to open it.
 - **10.360 seconds:** Monis fires the first of two shots at Alpha Team officers, who are stacked at the Phillip Street door.
 - **10.651 seconds:** Monis fires a second shot at the Alpha team officers, again missing.
 - **10.832 seconds:** Officer B enters the café through the main, Phillip Street entrance, immediately moving south-west into the café and out of view of the cameras.
 - **11.899 seconds:** Officer A enters the café through the Phillip Street entrance and moves forward towards the Lindt Café panel in front of the doors.
 - **11.908 seconds:** Charlie 1 finishes opening

the foyer door.

- **12.667 seconds:** Another Alpha Team member enters the café through the Phillip Street entrance. At about the same time, the western side of the door smashes and falls to the floor.
- **12.783 seconds:** A Charlie Team officer attempts to throw an SF9 distraction device into the café through the open foyer doors. As this occurs, Delta Alpha is continuing to adjust his night vision goggles. At the same time, a Delta Team officer also throws an SF9 in the direction of the door. One of these SF9s hits the door and detonates in the foyer, close to where Delta Alpha is standing. As the SF9 detonates, Charlie 1 lets go of the door and Delta Alpha moves away from it. The door closes.
- **14.467 seconds:** The Lindt panel in front of the Phillip Street entrance is struck by a projectile, most likely a bullet fired by Officer A.
- **15.300 seconds:** The Lindt panel is struck by a further projectile—again, likely a bullet fired by Officer A. The panel shatters.
- **15.651 seconds:** The audio analysis conducted by Tim Kuschel suggests that a gunshot is heard at this time. This shot has a different audio signature from those associated with the shotguns of Monis and police. It was therefore most likely fired by Officer A or Officer B.
- **16.704 seconds:** Audio analysis suggests that a further shot is fired by Officer A or Officer B.
- **18.575 seconds:** The foyer door is opened a second time. Delta Alpha prepares to enter the café, then jumps backwards away from the door, apparently in response to a perceived threat. An SF9 appears to detonate in the café, having been thrown through the Phillip Street entrance by an Alpha Team officer.
- **18.600 seconds:** Officer A moves south into the café through the Phillip Street door and out of view of the cameras.
- **22.658 seconds:** Delta Alpha enters the café through the foyer entrance. He is followed by other Charlie and Delta team officers. SF9s continue to detonate in the café.
- **23.700 seconds:** A Charlie or Delta team officer, most likely Delta Alpha, can be seen for the first time through White Window 4.
- **33.267 seconds:** A final SF9 is thrown into the café through the Phillip Street entrance.

- **36.533 seconds:** The last SF9 stops detonating.⁵

288. A number of key issues regarding the implementation of the EA emerged from this timeline.

Synchronisation of the entry teams

289. Alpha Team had already shot Monis by the time Charlie and Delta team officers entered the café. The extent of the delay, the explanation for it, and its significance were the subject of competing submissions.

290. It appears that the reasons for the delay can be summarised as follows:

- at least two SF9s exploded in the foyer as the Charlie and Delta teams were attempting to make entry;
- Delta Alpha was wearing older-style night vision goggles,⁶ which he spent some time adjusting [REDACTED];
- the fact that some officers were not wearing hearing protection may have contributed to their backing away from the SF9s as they detonated; and
- other members of Charlie and Delta teams waited for Delta Alpha to enter the café first.

291. The NSWPF acknowledged that the EA did not involve a “*wholly synchronised entry in that the Charlie and Delta teams entered ten seconds after the Alpha Team*”. However, it submitted that the delay did not amount to the whole of that 10-second period; instead, in the NSWPF’s submission it lasted no more than the approximately six seconds from the detonation of the second SF9 in the foyer until the moment entry was made.

292. The NSWPF submitted that even if Delta Alpha did not have to adjust his night vision goggles and even if the SF9s were deployed properly, Delta Alpha could not have entered the stronghold until 10 seconds after the fire door was opened. This submission was premised on Delta Alpha’s evidence that at least two other officers are required to be present at the time of an entry so as to provide cover. The NSWPF observed that Delta Alpha’s adjustment of

5 Only four of the 22 M4 shots were able to be identified in the course of audio and CCTV analysis conducted during the investigation.

6 The evidence before the inquest suggested that the NSWPF have since acquired additional night-vision goggles that are more easily adjusted. That being so, I do not consider a recommendation in relation to the night-vision goggles used by Delta Alpha is necessary.

the goggles did not begin incurring a delay until the other officers were present and ready to enter the café with him. They characterised that time period as approximately 2 seconds.

293. I do not consider it possible to determine precisely when Charlie and Delta teams ought to have entered the café. As noted above, the Dawson family estimated that entry could have been achieved six seconds after the detonation of the first SF9 in the foyer (rather than the 19.541 seconds that in fact elapsed). If entry had occurred within six seconds, Charlie and Delta team would have made their way into the café before Alpha Team.
294. There is, however, little evidence to support the accuracy of that six-second estimate. While the officers of Charlie and Delta teams may have had a shorter distance to travel than those of Alpha Team, the Charlie and Delta teams had to pass through an intermediate door and were potentially exposed to Monis' view while moving towards the entrance to the café proper. Those factors may have slowed them down slightly. That being so, I am unable to find that they necessarily ought to have made entry before Alpha Team.
295. Nonetheless, it is clear is that the entry of Delta and Charlie teams was not as swift as it could—and should—have been.
296. As is apparent from the timeline, Delta Alpha entered the café approximately 22.658 seconds after the EA commenced and 11.826 seconds after Officer B made entry via the Phillip Street doors. When Officer B entered, Delta Alpha was next to the foyer door and Charlie 1 was beginning to open it. The third Charlie Team officer was then making his way across the foyer. For some reason, that officer did not enter the foyer until approximately five seconds after Delta Alpha. That delay remains unexplained.
297. In any event, the gap between the entry of Delta Alpha and the third Charlie Team officer does not appear to have been an operative factor in the delayed entry. The footage shows that Delta Alpha was continuing to adjust his goggles right up to the moment the door was opened and officers attempted to throw SF9s through it. It could not be said, for example, that he was simply waiting for enough support officers to be on hand before he entered.
298. More than 10 seconds elapsed from that point until Delta Alpha entered the café. During that time, an SF9 ricocheted away from the door and landed at Delta Alpha's feet. Delta Alpha moved away from the door, which was allowed to close. No other officer sought to enter the café in Delta Alpha's place.
299. Insp Kefford addressed this latter aspect of the entry in evidence. He observed that it is important for police teams to be flexible in the way that they approach an entry: *"All officers should be trained to the same level so they can fill any gaps that are created because of the dynamic nature of [the action]."* Consistent with this, Insp Kefford stated that it is not necessary for the team leader to enter a stronghold first. To the contrary, he observed that in practice it is often preferable for the leader to enter after other team members so the leader has a broader view of the action and is better able to respond to any difficulties with the entry.
300. When asked for his overall perspective on the delays associated with Charlie and Delta teams' entry, Insp Kefford stated that he *"would have expected the Charlie and Delta team[s] to have entered quicker than they did"* and he *"would be disappointed with a 12-second delay on an entry team"*.
301. In summary, were it not for the inadvisable deployment of the first SF9 in the foyer, the gap between the entry into the foyer of individual Charlie Team officers, the problems with Delta Alpha's night vision goggles, the inaccurate deployment of the second SF9 in the foyer, and the rigid adherence to the plan for Delta Alpha to enter the café first, Charlie and Delta teams would have been able to enter the café a number of seconds earlier than they did. In all likelihood, absent those issues, they would have entered more or less simultaneously with Alpha Team.

Impact of the delay

302. The Dawson family submitted that the failure of Charlie and Delta teams to engage Monis simultaneously or almost simultaneously with Alpha Team had significant consequences.
303. The EA plan called for Monis to be confronted from two sides in order to increase his confusion and improve the opportunities for police, if necessary, to overwhelm him with force before he was able to harm a hostage.
304. The Dawson family submitted that if Charlie Team had entered sooner and engaged or distracted Monis, the chances of incapacitating him while ensuring the safety of the hostages would have *"increased markedly"*. They also ventured that police on the southern side of the café would have

had a line of fire that was “*potentially less hazardous to the hostages inside*”.

305. I accept that it would have been preferable for the entries to occur simultaneously. The evidence does not, however, permit any conclusion as to whether the outcome is likely to have been different had this occurred.
306. Indeed, when the TOU operatives entered through the foyer doors, Louisa Hope was standing more or less directly between that entrance and Monis. In those circumstances, it might have been difficult for Delta Alpha or another Charlie or Delta team officer to engage Monis (at least without endangering Louisa). There is no basis for concluding that the line of fire available to officers entering via the foyer doors would have been less hazardous to hostages than that available to the members of Alpha Team as they entered the café via the Phillip Street doors.
307. Similarly, it would be speculative to conclude that if the teams had entered simultaneously, Alpha Team officers would not have had to fire as many bullets. Such a conclusion would hold only in the event that a Charlie or Delta team officer was able to enter the café and disable Monis before the Alpha Team officers had fired the majority of their bullets. It is of course possible that in the case of a simultaneous entry three officers, rather than two, would have discharged their weapons. The outcome in such a case might well have been different, but it would not necessarily have been better.

Use of distraction devices

308. It is apparent that the accidental deployment of two SF9 distraction devices in the foyer played a key role in the delayed entry of Charlie and Delta teams, forcing them to retreat. Further, the number of SF9s used overall was problematic.
309. A total of 11 SF9s were deployed during the course of the EA. The U.K. experts had no hesitation in concluding that this was too many. This conclusion was accepted by the NSWPF.
310. According to Insp Kefford, an entry team should stop deploying distraction devices once entry has been achieved and police have control of a situation.
311. Insp Kefford stated that he would not expect there to have been a prescribed number of SF9s, although in this case it should have been possible to adequately support the entry with approximately half of the SF9s actually deployed (i.e. five or six rather

than 11).

312. A consideration of the EA timeline supports this conclusion. The final SF9 was thrown through the Phillip Street doors of the café approximately 22 seconds after Officer B entered. In all likelihood, Monis was disabled at least 10 seconds before this.
313. Insp Kefford also made two important observations regarding the way in which the devices were deployed. First, he noted that an SF9 was unlikely to have broken the glass of the foyer doors given the distance from which it was thrown. Second, he said that given the inherent difficulty of throwing objects with any accuracy while moving, he would expect the devices to be thrown in a “*controlled manner*”.

Conclusion: Use of distraction devices

314. An unnecessary and excessive number of distraction devices were deployed during the Emergency Action. That was not the fault of individual TOU officers—the NSWPF has no policy or procedure regarding the use of such devices.

Recommendation 31: Use of distraction devices

315. *I recommend that the NSWPF develop a policy regarding the use of distraction devices and the training of officers in their use.*

Hearing protection

316. Closely related to the questions arising from the deployment of the SF9s was the question of whether the TOU officers were hindered by a lack of hearing protection.
317. On the night of the siege, it was left to individual officers to decide whether or not to wear hearing protection. Many officers decided not to do so because of concerns that hearing protection would limit their situational awareness.
318. It is clear that SF9s can have a significant impact on the hearing of people in their vicinity. The U.K. experts described their effect in the following terms:
- The intensity of the light flash momentarily activates all light-sensitive cells in the eyes, and can temporarily impair vision. The bangs are 160–170 dB within 5 feet of initiation. These very*

loud bangs are designed to attract attention, cause disorientation, and can cause momentary loss of balance.

319. In view of those effects, Deputy Chief Const Chertman suggested that the officers may have been hampered by a lack of hearing protection in that they *“were suffering probably the effects of the SF9s themselves”*. Insp Kefford also considered that the lack of hearing protection had the potential to cause problems for the TOU officers, though he was careful not to suggest that it had in fact done so: *“I’m not saying it’s actually affected the officers; I’m saying that there’s a risk that that could happen.”*
320. Notably, Insp Kefford stated that, when used appropriately, noise attenuation devices can actually improve communications and enhance situational awareness among officers because they dampen the effects of intrusive noises such as those from gunshots or distraction devices while allowing voices to be heard.
321. The NSWPF made reference to the evidence of Tactical Commander regarding his practical experience with the ADF overseas: he said he wore no hearing protection so as *“to maintain my situational awareness, and to be able to identify where particular sounds, calls etc were coming from”*.

Conclusion: Use of hearing protection devices

322. According to the expert evidence, the failure to wear hearing protection during an Emergency Action may degrade performance and reduce situational awareness. Since the siege, the NSWPF has acquired new hearing protection devices. The NSWPF has indicated that the effectiveness of the new devices is still being evaluated.

Recommendation 32: Use of hearing protection devices

323. *I recommend that the NSWPF evaluate whether the use of noise-attenuation devices should be mandated when explosive distraction devices are used.*

Shooting Monis

324. The ballistics evidence shows that after entering the café, both Officer A and Officer B fired at

Monis. Officer A fired 17 times and Officer B fired five times.

325. By the time the first of these shots were fired, Monis had fired his shotgun five times. He fired once during the escape of six hostages, a second time just prior to Fiona Ma’s escape and his third shot killed Tori Johnson. He fired a further two shots at Alpha Team officers as they sought to enter the café. There is no suggestion that Monis attempted to surrender. There was a real risk that he had a bomb.
326. Accordingly, there is no doubt that Officers A and B were lawfully entitled to fire at Monis; to do so was an appropriate, prudent and proportionate response to his actions.
327. The inquest considered a range of evidence as to the manner in which those shots were fired. Of particular interest were the number of shots fired, their timing and their accuracy.

Were too many bullets fired?

328. The semi-automatic M4 carbine rifles used by NSWPF TOU officers require the trigger to be pulled each time a bullet is fired. Despite this, a large number of shots can be fired very quickly. Ballistics testing demonstrated that, on average, it took 3.69 seconds to fire 17 aimed shots at a human-shaped target. Five shots took only 0.93 seconds.
329. The U.K. experts stated that it is impossible to determine whether too many shots were fired simply by counting bullets. Rather, consideration should focus on when bullets were fired and in what circumstances.
330. Notwithstanding the efforts of the audio analyst Tim Kuschel, and the CCTV analysis conducted by Crime Scene Officer Raneri, it was not possible to identify exactly when the officers fired their shots. Many other sounds were heard on the audio recordings (including, particularly, bangs from the 11 SF9s, each of which is designed to make nine explosive noises). Officer B was visible on footage for only a few moments following his entry. In addition, the numerous flashes and other light sources within the café, in combination with the poor quality of the available footage, precluded an accurate assessment of precisely when each officer fired.

Officer A

331. Officer A gave evidence that he began shooting almost as soon as he entered the café and fired his

weapon more or less continuously. He stated that while he was shooting time appeared to slow down, *“but in essence the whole engagement was a matter of seconds”*.

332. At the outset, Officer A used the laser sight mounted on his rifle to aim at Monis’ *“upper chest area”*. He then moved the laser up to Monis’ head and fired a number of times before again targeting Monis’ central body mass. He continued to fire until Monis was on the ground.
333. Officer A’s evidence, which was not challenged in evidence or submissions, was that he had finished firing at Monis by the time he moved out of view of the CCTV footage shown to him during his evidence. As is apparent from the timeline above, that occurred approximately 6.7 seconds after he entered the café.
334. Alpha 2, who was carrying a ballistic shield and standing close to Officer A when he entered the café, said that he noticed Officer A’s laser being pointed at Monis and could hear gunshots being fired very close to his left ear for a period of *“seconds”*.
335. The video footage also provides some indication of when Officer A was firing. In particular, the Lindt welcome panel is seen to be struck by two projectiles. The first of those impacts occurred approximately 2.5 seconds after Officer A entered the café; the second less than a second later. Given the position of Officer B, further south-west into the café, it is highly likely that these two shots came from Officer A.
336. A further indication as to the timing of the shots fired comes from the audio analysis, which suggests that an M4 round was fired approximately 3.7 seconds after Officer A’s entry and that another round was fired about 1.1 seconds later—approximately 4.8 seconds after his entry. It is not possible to verify whether those shots were fired by Officer A or by Officer B.
337. Finally, of the 17 cartridges connected to rounds fired by Officer A, three were found outside the café, while the remaining 14 were found close to the Phillip Street door on the Martin Place side of the café.
338. All of the objective evidence, then, is consistent with Officer A having fired his shots from a position close to the café door and soon after having made entry to the café.
339. Deputy Chief Const Chesterman observed in evidence that it is appropriate for an officer to *“continue to fire until such time as they are convinced that*

the threat has been neutralised”.

340. As to how an officer might be satisfied that this has occurred, he said:

When somebody is shot, the impact or the effect on the person is not immediately apparent. It’s not like in the movies. You know, somebody may be shot and may continue to fight. They may take up a prone position in order to continue to fight, so the fact that you start to see the subject dropping doesn’t necessarily mean that they are incapacitated. They could be going to a kneeling position to get out of the way. They could be able to still detonate [an explosive device]. There’s a number of things they can do.

341. Insp Kefford observed that police training has developed significantly in terms of the instructions given to officers regarding the firing of their weapons. Previously, trainers would instruct officers to fire a certain number of rounds (say, two), then to assess the impact of those shots, and then to fire again. Instructions of this type are no longer issued because of concerns that they unduly constrained officers and could prevent them from incapacitating a target in an appropriately rapid fashion.
342. In summary, the evidence suggests that Officer A fired his 17 shots rapidly upon entry to the café. It was entirely appropriate for him to continue firing his weapon until Monis appeared to be incapacitated. That Monis may, in fact, have been incapacitated before Officer A stopped firing does not call his actions into question. I accept that Monis’ fall to the ground might have appeared to be an evasive manoeuvre and that it did not in itself confirm that the risks he posed had been neutralised.

Officer B

343. The question of whether Officer B fired too many bullets rests on the timing of his shots rather than their number. Assessing the appropriateness of the shots he fired is complicated by his inability - in the immediate wake of the incident - to recall what had occurred.
344. Shortly following the EA, Officer A spoke briefly to Officer B, who was bleeding from his face as a result of injuries suffered during the operation. Officer A gave evidence that Officer B said something along the lines of *“I think I shot. I’m not sure. I don’t know if I shot. I think I shot.”* Alpha 2 stated that he had a similar interaction with Officer B when he went to check on his welfare following the EA. His evidence was that Officer B told him he had fired during the

entry but gave no detail as to the circumstances in which this occurred.

345. At about 4 a.m. on the morning of the EA, a police inspector who had accompanied Officer B to the hospital had a conversation with him about what had happened. He made a number of notes of that conversation. Those notes included the following: *“I felt being hit in the right side of my face by something. I did not engage.”*

346. In a detailed police interview conducted on 19 December 2014, Officer B stated that he could not recall whether he fired his gun or not:

Well I can't say with certainty that I did and I can't say with certainty that I didn't. I remember coming in, being up on target going to—taking a sight picture and then I remember seeing the white flash and, then I've been on the ground.

347. During the inquest, Officer B gave evidence that about a week and a half or two weeks after the incident, while on a long drive, he began to recollect having fired his gun. At the inquest, he gave the following account of his recollections:

I take a sight picture. I pull the trigger. I then see Officer A's laser and light rise upwards on the terrorist towards his head. I pulled the trigger a number of times. I then feel burning to the side of my face. I feel my head rock backwards. I remember being on the ground for a second or two, thinking that I'd just been killed, and then the flight response kicked in and I looked for cover, which is the concrete pylon that I'd seen over—that I'd seen over to my left. I moved over there, took a few moments to get my senses. I could see at that point Officer A and the shield holder moving forward. I saw Charlie team entering from their entry point. At that point I saw other tactical officers coming behind me to clear an area on the green side, assisted with that clearance, and by the time I came back around to the—towards the red side of the stronghold, I let my primary weapon [be held by my] sling and started throwing tables and chairs out of the way to begin the evacuation of the hostages.

348. As to why he did not tell investigators during his interview that he had a feeling that he fired his gun, Officer B said, *“I didn't want to seem like an idiot, sir, when testing later on would prove that I hadn't.”*

349. Before he was called to give evidence, Officer B indicated through his lawyers that he could not recall whether or not he fired his bullets in one burst. However, when giving evidence he said he

was sure he fired all his rounds while he was standing, because he did not fire his weapon again after getting up off the ground. He recalled that after he got up, there was no further shooting in the café, though SF9s were still going off.

350. The Dawson family submitted that, in view of the uncertainty of Officer B's recollection, it is possible that he fired his weapon significantly later than his evidence during the inquest suggests. They referred to the evidence of Delta Alpha, Charlie 1 and Charlie 3, all of whom suggested that they saw what they perceived to be muzzle flash after entering the café through the foyer doors.

351. Delta Alpha entered the café approximately 12 seconds after Officer B and 11 seconds after Officer A. Charlie 3 entered the café approximately 18 seconds after Officer B. Given the evidence suggesting that Officer A began firing almost immediately upon entry to the café, it is very likely that Monis had been incapacitated and was on the floor well before the Delta and Charlie team officers entered. If Officer B was firing his gun when those teams entered, it would suggest he fired well after Monis had been incapacitated.

352. There are a range of matters relevant to a consideration of this submission.

353. Officer B's initial inability to recall firing his gun may seem surprising. However, during the investigation, a report was obtained from Dr Geoffrey Alpert, a professor of Criminology and Criminal Justice at the University of South Carolina, regarding the impact on memory of involvement in high-risk operations such as the EA. Professor Alpert referred to a range of research showing that officers involved in incidents in which they fire their weapon often experience sensory and memory distortions and that after the event, most cannot accurately recall how many shots they fired. Only one study referred to by Professor Alpert involved an officer who was not aware that he had fired his weapon. In that case, the officer had been shot during the incident. Professor Alpert concluded that Officer B's lack of recall was more likely than not *“affected by the emergency action he was taking as well as being shot at as he entered the Café”* and that it *“fit well within the research findings that officers often fail to remember the number of shots that they fire”*.

354. The utility of Professor Alpert's observations is diminished somewhat by the fact that at the time he provided his report, Officer B had not told investigators of his recovered memory. Nevertheless, I

accept his observations that officers in high-risk, fast-moving operations such as the Emergency Action are likely to suffer from perceptual distortion and/or difficulties with accurate recall.

355. This conclusion aligns with the U.K. experts' evidence that, in their experience, it is not uncommon for officers involved in high-risk incidents to experience gaps and perceptual distortions in their memories of events.
356. In the circumstances, I do not draw any adverse inferences from the inconsistency between the account given by Officer B in his walk-through interview and the account he gave in evidence, although his recovered memory must be treated with circumspection.
357. The spent cartridges from the five rounds fired from Officer B's gun were found on the Phillip Street side of the café. Three of these cartridges were found between the "pick and mix" counter and the Phillip Street wall, while two were located closer to the middle of the café, within a metre or two to the south-west of the Lindt welcome panel.
358. The locations of these cartridges were broadly consistent with the results of tests of the direction in which Officer B's weapon ejected spent cartridges and with the CCTV footage which showed Officer B moving to his left (southwards) into the café after passing through the Phillip Street doors.
359. However, the positions in which the cartridges were found does not allow me to reach any more precise conclusions as to where Officer B was when he fired his bullets, or when he fired them. The cartridges may have unpredictably bounced off objects in the café or been moved during or immediately following the Emergency Action, before the café scene was preserved for investigators.
360. A bullet fragment found embedded in the western wall of the café was shown to have been fired from Officer B's M4. Counsel for Officer B submitted that the height of this fragment above the floor suggested that it was probably fired at Monis' upper chest or head while he was standing, or as he was starting to fall to the floor.
361. Furthermore, there were no marks on the floor near where Monis or the hostages were positioned during the EA that would have been consistent with the impact of bullets or large bullet fragments. Counsel for Officer B submitted that this tends to suggest that no bullets were fired by police when Monis was lying prone on the ground.
- In his submission, given the downward trajectory that any such shots would have taken, even bullets that passed through Monis' body would have been expected to leave some marks or damage on the floor.
362. As described in Chapter 9, Crime Scene Officer Raneri and Scientific Officer Lucas van der Walt conducted a series of tests aimed at determining whether it was possible to discern muzzle flashes on the available CCTV footage. That testing was inconclusive.
363. In the course of his analysis, Crime Scene Officer Raneri noted that muzzle flashes from an M4 were shown in testing to consistently last 0.0006 seconds (0.6 milliseconds). Such brief flashes would not generally be expected to extend across more than one frame of video footage. A number of the flashes observed in the footage extended for more than one frame and were able to be excluded as possible muzzle flashes on that basis, though not all of the potentially relevant flashes fell into this category.
364. As concerns Officer B, Crime Scene Officer Raneri viewed a slow-motion replay of video footage of the Phillip Street entrance at the time Charlie and Delta team officers were beginning to make their way into the café via the foyer doors. Counsel for the Dawson family suggested to CSO Raneri that the footage showed flashes consistent with muzzle flash from the rifle of an Alpha Team officer. CSO Raneri did not accept this. He considered that the flashes on the video likely represented not flashes *per se* but reflections (perhaps from the mirrored southern wall of the café), whose origin he could not determine.
365. As noted above, three Charlie and Delta team officers recalled seeing what they perceived to be muzzle flashes coming from the southern end of the café as they entered via the foyer doors.
366. There were, however, a number of difficulties with the accounts of these officers. Charlie 3, for example, said when interviewed that the muzzle flash he observed was coming from the area of the Lindt welcome panel. By the time he entered the café, neither Officer A nor Officer B was in that area. He was almost certainly mistaken.
367. Delta Alpha stated that when he made entry, Monis was still standing. Given the timing of his entry relative to the timing of shots fired by Officer A, this is also very unlikely. Setting aside for a moment the issue of Officer B's shots, Delta Alpha entered the café almost 12 seconds after Officer A. There

is little doubt that Officer A started firing almost immediately after he entered the café, and it is more likely than not that he had finished firing within several seconds—certainly before Delta Alpha made entry. Given the number of shots fired by Officer A, the number of shots that hit Monis, and the drastic injuries they caused, I consider it very unlikely that Monis was still standing when Delta Alpha made entry.

368. This should not be interpreted as a criticism of the relevant officers, who were entering a highly threatening, fast-moving situation. As noted in the consideration of memory issues above, some distortions in their recall of events are to be expected. A significant number of SF9 flashes were occurring at the time of the Charlie and Delta team entry, and I consider it entirely possible that what those officers perceived as muzzle flash in fact originated from distraction devices.
369. The accounts of Alpha Team officers who entered with Officers A and B were not conclusive, but they do offer some assistance.
370. Of particular relevance, Officer A gave evidence that he did not hear any additional gunshots after he stopped firing.
371. Alpha 2 gave similar evidence, saying that *“once [Monis] had gone down, there was no more—I could hear no more rounds being fired, but they continued to throw some sound and flash devices in after that”*.
372. Alpha 3 was the fourth officer into the café (behind Officer A, Officer B and Alpha 2). He entered the café approximately 3 seconds after Officer B (and 9 seconds before the first of the Charlie Team officers came through the foyer doors). During his walk-through interview, Alpha 3 stated that as he came into the café, Officer A was already firing at Monis. Alpha 3 therefore looked around the café to see if there were any other threats. After doing so for *“a split second”*, he turned to look towards Monis. By the time Alpha 3 got Monis in his sights, he was already falling to the ground. Accordingly, Alpha 3 did not fire. His interview makes no mention of Officer B firing.

Accuracy of the shots fired

373. The inquest also considered whether Officer A and Officer B fired accurately enough.
374. The expectations of TOU operatives in this respect are appropriately high. Those officers receive extensive training and are subject to regular

assessment. In particular, officers are required to ‘requalify’ for the use of each of their weapons every six months. The exercises leading to such ‘requalification’ are challenging

375. During the Emergency Action, Officer A, who was using a visible laser sighting system, gave the following description of his aim while he was firing at Monis:

Initially it was centre of seen body mass, so it was his upper chest area. I remember focusing my laser on that, ensuring that [the laser dot] was there. As I started to engage Monis, I then moved my laser up to his head area where I have engaged another number of times before I moved my laser back to the centre of seen body mass, so back to his chest. I continued to engage until he was on the ground.

376. Officer B stated that when he was shooting at Monis he used his electronic sight to aim at Monis’ left upper chest, where he could see Officer A’s laser pointing. He did not have his own visible laser, though he was equipped with an infrared laser that he would have been able to see if he had been using night vision goggles.
377. As noted in Chapter 9, the autopsy examination of Monis’ body revealed 16 gunshot wounds.
378. Dr Rianie Van Vuuren, the forensic pathologist who conducted the autopsy, concluded that seven of Monis’ wounds were likely caused by complete, intact bullets, while two could have been caused by either complete bullets or bullet fragments. The remaining seven wounds were, in Dr Van Vuuren’s view, caused by bullet fragments. The evidence did not permit conclusions to be drawn as to exactly which of these bullets and bullet fragments came from Officer A’s rifle and which ones came from Officer B’s rifle.
379. According to Dr Van Vuuren, at least two complete bullets struck Monis in the head,⁷ while he was also hit by complete, or largely complete, bullets in his right upper back, left posterior shoulder, left lower back, left buttock, and left lower chest. The two wounds that could have been caused by either complete bullets or bullet fragments were both located on Monis’ left arm.
380. The evidence suggests that a significant number of the 22 shots fired by police did not strike Monis,

⁷ In evidence, Scientific Officer Lucas van der Walt agreed with a suggestion that it was possible that three or even four bullets had struck Monis’ head.

while several of the shots that did strike him did so after first hitting a piece of furniture. Additionally, four of the hostages were struck by bullet fragments.

381. According to Scientific Officer van der Walt, 14 bullets hit chairs in the café, two bullets struck tables in the café, and two bullets hit the Lindt welcome panel. At the time of the EA, Monis was surrounded by a protective barrier of tables with chairs stacked on top of them. The results of autopsy testing and examination of that furniture indicate that a number of the bullets that hit these items went on to strike Monis.
382. One chair, in particular, was the subject of much attention during the investigative process. That chair (labelled XF000654599) appears to have been struck by ten complete bullets. Eight of those bullets hit the lower half of the chair's back support, one bullet struck the top right side of the chair's back support, and one bullet hit the left leg of the chair. Each of these bullets travelled in a downwards direction, from the back of the chair towards the front of the chair.
383. Chair XF000654599 was stained with a significant amount of blood, at least some of which came from Monis. Blood spatter analysis suggested he was very close to the chair when those stains were made.
384. Moreover, as noted in Chapter 9, trajectory analysis indicated that the 10 bullets that hit this chair appeared to originate from a concentrated source.
385. Testing showed that the bullets that struck the soft parts of the café chairs (for example, the seats) tended to remain intact. Those that struck the hard surfaces (the frames and legs) tended to fragment.
386. The mere fact that a number of the bullets missed Monis does not lead to a conclusion that they were fired inaccurately. Deputy Chief Const Chesterman gave evidence that experience in the U.K. has shown that in operational situations, even officers highly trained in the use of firearms miss their targets about 50 per cent of the time.
387. Scientific Officer van der Walt agreed with the proposition that the bullets fired during the EA were consistently on target. In view of the challenging circumstances in which the officers found themselves, the variety of intermediate barriers, and the number of bullets that in fact hit Monis, I accept this evidence.

Conclusion: Shots fired

388. Monis fired two shots from his shotgun at the TOU officers of Alpha Team as they were preparing to enter the café to rescue the hostages. Fortunately, pellets from both shots went high, striking the door surround. It was lawful and entirely appropriate for the TOU officers to return fire.
389. Officer A fired his M4 rifle 17 times. That may seem like a large number, but those shots were discharged over only a few seconds. I accept that Officer A kept firing until he perceived that Monis was no longer a threat, as he had been trained to do. His use of force was not excessive.
390. Officer B was the first into the café. He entered via the Phillip Street door a second before Officer A. He commenced firing almost immediately and fell to the ground when he was struck in the face by a projectile. When he regained his feet, he took cover. There is no foundation for a conclusion that he fired again after he stood up. I find that Officer B was lawfully justified in firing at Monis when he did and that he did not use excessive force.
391. Not all the bullets fired by the officers struck Monis. Some hit furniture that he had stacked around himself as a barrier. Many bullets fragmented when they hit the furniture and other objects in the café. With the exception of one round that struck Monis in the buttock, all the bullets that hit him caused wounds to his upper body and head.
392. It is tragic that fragments of one or more of the bullets fired by either Officer A or B struck and killed Katrina Dawson and highly regrettable that three other hostages were wounded. It is true that the more bullets fired, the higher the risk that this would happen. However, I accept that the officers had to ensure that Monis was completely incapacitated before they stopped firing to guarantee that he could not shoot them or the hostages or activate the bomb they feared he had in his backpack. The officers did not fire indiscriminately or excessively. Katrina was taking cover on the floor. The officers could not have seen her and could have done nothing to enhance her safety that was consistent with their primary imperative

to incapacitate Monis. Her death was a terrible accident, which occurred after Monis left the officers with no option other than to storm the café.

Weapons and ammunition used during the operation

393. The principal weapon used by the TOU entry teams was an M4 carbine rifle. Officers also carried Glock .40-calibre self-loading handguns and, in the case of officers designated as breachers, Remington 870 shotguns.
394. As noted in Chapter 9, the U.K. experts gave evidence that all three of these weapons were appropriate for use during the siege.
395. Relevantly, the evidence indicated that, as an alternative to the M4, it would have been possible for the entry teams to have been armed with a Heckler & Koch Universal Machine Pistol (**H&K UMP**) submachine gun. That weapon is designed to be accurate over short distances but, as noted in submissions by Counsel Assisting, it would have been less effective than the M4 in a longer-range confrontation (which may have occurred if, for example, Monis was supported by associates outside the café or tried to escape from it).
396. There was some speculation that using the M4 in a location such as the café might increase the risk of fragmentation and ricochet relative to the H&K UMP. The U.K. experts made it plain that such speculation was misconceived, stating that the risk of fragmentation and ricochet is principally related to the type of ammunition used rather than the choice of weapon.
397. The U.K. experts did express concern about one aspect of the M4s used by the TOU: that is, only two of the officers (Officer A and Delta Alpha) had a visible laser sighting system fitted to their rifle. Officer B's gun was not fitted with such a system.
398. The U.K. experts also recommended that laser sighting systems be procured for use with the Glock handguns used by TOU officers.
399. Since the siege, TOU officers have been issued with, and trained in the use of, appropriate laser sighting systems for both the M4s and Glocks.
400. The inquest received evidence concerning the most appropriate ammunition for use in such situations. A question arose as to whether 5.56mm calibre bullets (such as those used in the M4s) would, owing to their higher speed, have a greater tendency to over-penetrate—to pass through a body or a barrier while retaining enough energy to injure or kill—than do 9mm bullets. The U.K. experts said British studies conducted in 2012 and 2013 concluded that, because 5.56mm bullets more reliably expand and release their energy into the target, they are far *less* likely to over-penetrate. Those studies are consistent with test results from an ammunition tender process conducted by the NSWPF in 2008. Referring to this testing in evidence, Chief Inspector Richard Steinborn, Commander of the NSWPF Armoury, said it showed that the 5.56mm bullet ultimately utilised by the NSWPF did not overpenetrate.
401. The second issue concerning the NSWPF's choice of ammunition related to the type of bullet used. The TOU currently load their M4 carbines with pointed soft-point (PSP) bullets, in which the softer metal core is covered by a metal jacket left open at the tip; when the bullet hits a target, the core expands and can separate from the jacket. Counsel for the Dawson family submitted that bullets of this type are not well suited to an assault in a confined space with many hard surfaces because they have a propensity to fragment upon contact with solid barriers.
402. Chief Insp Steinborn stated that bonded bullets (in which the jacket and core are chemically fused to prevent separation) are less likely to fragment, but would present a greater ricochet risk in confined spaces with hard surfaces "*because there'd be nothing to pull [the bullet] up to expend its energy*". Scientific Officer van der Walt commented that the current TOU ammunition "*poses a lesser threat to a potential target down that bullet[s] path*" because the bullets are less likely to over-penetrate.
403. The U.K. experts stated that the ammunition used by the TOU "*is suitable for police use and similar ammunition is use[d] by police units around the world*". As noted in Chapter 9, however, the experts observed that because better alternatives to this ammunition are available, "*its use in close-quarter situations is questionable*". Regarding the risk of ricochet, the U.K. experts said: "*Any bullet of any calibre is capable of ricochet. The variables of strike angle and surface composition make a practical or scientific opinion of ricochet characteristics virtually impossible.*"
404. The U.K. experts' final conclusion on the subject

was as follows:

It remains the view of the U.K. experts (and also the FBI expert [Dr James Buford Boone]), that certain variants of tactical bonded 5.56mm bullet (which are designed to resist fragmentation) would be a more suitable choice for a law enforcement counter terrorist / serious crime capability. The suggestion that this type of bullet would over penetrate in comparison to 5.56mm pointed soft point [bullets] is rejected.

Conclusion: Firearms and ammunition

405. The carbine rifles used by the TOU officers during the EA were appropriate for the mission. Given the U.K. experts' observation that 5.56mm pointed soft-point ammunition is "suitable" for law enforcement use and is used by many agencies, no criticism is warranted in respect of the choice of ammunition.
406. The evidence does not support a conclusion that the selection of a different type of

ammunition would have either increased or decreased the likelihood of injury to the hostages. It is impossible to balance the risk created by bullet fragmentation against the risks of overpenetration or a greater propensity to ricochet.

407. However, the choice of ammunition for use in close-quarters combat is an area of evolving research and knowledge. The most up-to-date information suggests that better alternatives to the ammunition currently used by the NSWPF may be available.

Recommendation 33: Review of alternative ammunition

408. *I recommend that the NSWPF undertake a formal assessment of alternatives to the TOU's current soft-point ammunition to determine whether a more appropriate form of ammunition is reasonably available.*

16 Hostage and family management issues

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Introduction

1. For each of the 18 people trapped inside the Lindt Café, there was a group of family and friends desperately concerned about their wellbeing. It was incumbent upon police to establish a process for providing these people with information and support.
2. The individual officers involved in that process approached the tasks they were allocated in a sensitive and caring way. Nevertheless, there were a number of flaws in the system of family liaison established during the siege. Those flaws exacerbated the distress of family members and, in some instances, had the potential to interfere with the roles of certain officers at the Police Forward Command Post (**PFCP**).
3. At an early stage in the investigation process, the families of both Katrina Dawson and Tori Johnson expressed concerns about their interactions with police during and immediately after the siege. These concerns were the subject of discussions between police and the Johnson and Dawson families during Segment 4 of the inquest.
4. In view of those discussions, no oral evidence was called regarding the family liaison process. Nevertheless, a body of evidence relevant to this subject was collected during the investigation. Additionally, each of the families provided a written outline of their concerns about their interactions with police during the siege.
5. This chapter outlines what occurred and suggests ways in which the liaison process could be made more responsive to the needs of victims and their families.

The Strike Force Eagle protocol

6. The Strike Force Eagle protocols provide for the establishment of Terrorism Incident Reception Centres and Recovery Centres in response to suspected terrorist incidents. Reception Centres are designed to assist with the management of persons directly affected by the incident (i.e. victims), while persons indirectly affected (such as family and friends of victims) are to be managed at Recovery Centres.
7. Terrorism Incident Reception Centres and Recovery Centres are “*designed to provide a framework for the welfare, management, reception, identification, classification and collection of evidence / information from persons during or following a suspected terrorist incident*”.

8. In essence, the process of family liaison during the siege had two objectives: first, gathering information from family members; and second, providing them with appropriate information and support.
9. Information gathering is addressed in Chapter 12. This chapter will therefore focus on the second objective: supporting the families of the hostages.
10. Under the Strike Force Eagle protocol, responsibility for witness and victim management lies with the commander of the Canvass Management Team. The protocol does not specify who that person is to be. As it happened, Investigations Liaison Officer¹ within the PFCP initially assumed responsibility for hostage and victim reception.
11. At about 10 p.m., soon after his shift began, Night Forward Commander appointed Inspector Joel Murchie, who was serving as Operations Manager for the PFCP, to oversee the family liaison process.
12. Neither Investigations Liaison Officer nor Insp Murchie was dedicated exclusively to family liaison: both officers continued performing their other roles as well.

Family liaison during the siege

13. Early in the siege, family members of various hostages began to arrive near the scene. When they identified themselves to police, they were initially directed to Level 1 of the NSW Leagues Club, the building later occupied by the PFCP. It appears that at first there was a paucity of contact between police and some family members. Thomas Zinn, Tori’s partner of fourteen years, noted that at the outset, he had “*no significant or meaningful interaction with any police officers*”. In particular, no officer was identified as a “*go-to*” person for him.
14. As noted in Chapter 7, by around 1.25 p.m., police had determined that there was a need to establish a reception area where family members could:

wait, be protected from the media, have direct access to any contact from hostages to family and allow direct communication (update) from police.
15. To that end, an officer was directed to liaise with sheriffs at the Supreme Court building, on the corner of St James Road and Elizabeth Street, in an attempt to find a suitable alternative location. With the sheriffs’ cooperation, an area in the Supreme Court building (**Reception Centre**) was identified

¹ On account of a non-publication order, this person’s name cannot be published in this report.

as suitable and, shortly after 3 p.m., the families of hostages who had gathered in the Leagues Club were relocated there.

16. A number of NSWPF officers were then directed to attend the Reception Centre to provide support to the family members there. Those officers endeavoured to make families as comfortable as possible by providing meals and making tea and coffee available. Other measures were taken, including the provision of a NSWPF chaplain and mental health counsellors from the NSW Department of Health. The mental health officers were stood down at approximately 12.40 a.m. on 16 December.

The Reception Centre

17. The location of the Reception Centre was chosen on the basis that it would allow family members to be close to their loved ones and facilitate the conveying of information from family members to the PFCP.
18. These were sensible objectives, but the choice of the Supreme Court building gave rise to a number of difficulties.
19. Most notably, the building was close enough to Martin Place (a two-minute walk away) for the families to hear the events associated with the Emergency Action. The evidence suggests, unsurprisingly, that this was highly distressing. It also created a real risk that the families might divert attention from, or interfere with, police operations—for example, by attempting to leave the centre to locate their loved ones. The location also made it difficult for police to shield family members from the media positioned in the vicinity.
20. Further, the Reception Centre was not air-conditioned, there were not many toilets and the available seating was poor. The layout of the space did not give the families privacy from one another. This contributed to the distress they experienced, particularly in the wake of the Emergency Action.
21. Finally, the families did not have access to a television at the Reception Centre, and police refused their requests for one to be brought in. Officer WK stated that she did not arrange for a television to be provided because it could have become impossible to contain the hostages' families if they observed traumatic events and, as a consequence, attempted to approach the café.
22. The Johnson family submitted that it would have been preferable for the centre to have been located

elsewhere in the CBD, perhaps in the conference rooms of a hotel. The families could then have been better shielded from unnecessary additional trauma while still being relatively close to the hostages and able to feed information to police. It is also likely that the facilities at such a location would have been of a higher standard and afforded families a greater degree of privacy.

23. The NSWPF acknowledged that locating the Reception Centre further away from the café would have alleviated stress caused by the media presence outside and protected families from hearing the sounds of the EA. The NSWPF did not concede that a television ought to have been made available at the Reception Centre. It submitted that there were good reasons for Officer WK's decision in this respect. Counsel Assisting submitted that while in some respects that decision was understandable, most other Sydney residents had access to a television, and the decision of whether to watch the broadcast should have been left to the discretion of the families.
24. The decision not to provide a television is hard to understand. As noted by Counsel Assisting, it prevented family members from accessing a source of information that would have been available to them had they simply stayed at home. I consider that it would have been preferable for a television to have been made available to those who wished to watch it.

Communications with hostage families at the Reception Centre

25. Not only were family members precluded from watching television, but the officers stationed with the families at the Reception Centre were not able to provide much information regarding the progress of the siege or its likely course. For most of the time, family members were left to derive what information they could from media reports they accessed via their mobile phones.
26. That said, officers from the PFCP did periodically attend the Reception Centre to provide briefings to the families. The following is a short summary of those briefings:
 - Soon after the families were relocated to the Reception Centre, police gave an update on the siege's progress. A further update was provided shortly after the first escape of hostages.
 - At about 6.30 p.m., after family members expressed dissatisfaction with the information

- they were being given, Officer WK gave a general briefing that covered some details of the resources deployed to manage the siege, what was known about the welfare of the hostages, the investigations being undertaken by police, and the observations made of the café.
- At about 11 p.m., Insp Murchie and Officer WK provided a general overview of the operation. They also answered a number of questions from hostages' families and provided some advice as to how the families might best address repeated requests for interviews from journalists.
 - At about 12.50 a.m., Officer WK conducted another briefing. Again, the families were permitted to ask questions, including about the gunman, who had by that time been identified in the media. Officer WK confirmed that Monis was the gunman and outlined some of what police knew about him.
27. No further briefings were held until after the EA.
 28. Counsel Assisting submitted that the information provided during the course of these briefings was appropriate, but the briefings should have been conducted more frequently. The Dawson and Johnson families agreed with this submission.
 29. The NSWPF conceded that communication with the families *"could have been better"* and acknowledged that:

[t]his was a source of frustration not only to family members but also to the officers who were stationed in the reception centre facilitating family liaison.

It accepted that it would have been preferable for updates to have been provided more regularly, *"potentially on an hourly basis and in a more structured way"*.
 30. These criticisms are not aimed at the officers who provided the briefings. They had many other demanding tasks to attend to and responded to the needs of the hostages' families to the best of their ability. The failings in regard to briefings indicate that a sufficiently senior officer, with better access to information regarding the siege management process, should have been appointed to serve as a dedicated family liaison officer.
- ### Communications with the Dawson family
31. Liaison with the families who came to the Reception Centre was not optimal. However, it was of better quality than the liaison with family members who did not.
 32. Katrina's mother and brother both called an emergency hotline number in the morning and afternoon of 15 December respectively. They both explained the nature of their relationship to Katrina, who they believed was being held hostage in the café, and provided their contact details. Neither call was returned.
 33. Later in the day, Katrina's husband and brother were interviewed by officers at Randwick Police Station. After the interview, a liaison officer from that station was assigned to Katrina's husband. The Dawson family stated that this officer had scant knowledge of events unfolding in the café.
 34. When the liaison officer's shift ended, Katrina's husband was told that he could contact Officer WK for further updates. However, she had a number of other important duties to attend to and was unable to engage in detailed conversations with him.
 35. Katrina's family was not told that a Reception Centre had been established in the CBD. They became aware of that from a television broadcast around the time of the EA. As soon as they heard that the EA had taken place, the Dawson family travelled to the Reception Centre.
 36. The NSWPF acknowledged that communication between police and family members outside the Reception Centre should have been better. In particular, they conceded that there should have been a system that ensured the calls from Katrina's mother and brother were returned.
 37. In this respect, the NSWPF noted that the Real Time Intelligence Centre, which has responsibility for the review of police computer-aided dispatch logs, was established in August 2015, seven months after the siege. The Police submitted that, as a consequence, those responsible for family liaison will immediately be made aware of calls made to 000 during future events. This is a positive development, although the calls made by Katrina's loved ones that went unanswered were made to an emergency hotline, rather than to 000. The NSWPF needs to ensure that such calls are also fed to the Real Time Intelligence Centre.
 38. The Dawson family submitted that a system should be established that avoids the need for calls to be returned in the first place. In their view, calls from persons in a similar position to the one they faced should be immediately prioritised and directed to someone able to handle such calls appropriately. There is no evidence concerning the logistical feasibility of this suggestion, but I urge the NSWPF to

give it due consideration.

39. The deficiencies in the communications with those families who were not in the Reception Centre mirrored those that blighted the communications with those inside the Reception Centre: the NSWPF did not appoint a dedicated officer with knowledge of events to liaise with the relevant families. This should have occurred.

Family liaison following the Emergency Action

40. The Emergency Action was traumatic for the hostages' families. From the Reception Centre they were able to hear a large number of explosions, gunshots and other sounds associated with the EA. Despite this, they did not immediately receive an update on what had occurred. Nor had they been informed in advance what might happen if an EA was launched. This caused them significant distress. Thomas Zinn, Tori's partner, said of the experience:

We all assumed the worst because we didn't have a TV and didn't know what was going on. We could only hear the [distraction] grenades and the shots being fired. We didn't know there were [distraction] grenades being used at all, so for me personally I thought that the sounds meant that everyone was being shot.

41. Mr Zinn went on to note that the police officers present at the Reception Centre were "*friendly and empathetic*" but were unable to provide the hostages' families with any information.
42. Shortly after the EA, Katrina's husband—who was not then at the Reception Centre—telephoned Officer WK and said he had heard reports that two hostages had been killed. Officer WK told him that was not the case and that she would advise him of his wife's status as soon as possible. There was no further contact between Officer WK and the Dawson family. The reason for this appears to be that Officer WK later concluded that Katrina had died following the EA. Accordingly, she tasked another officer with contacting the Eastern Beaches Local Area Command to see if it would be possible to send officers to Katrina's family home. For reasons that remain unclear, police at the PFCP were unable to get in touch with officers at that command.
43. At about 3.00 a.m., Insp Murchie provided a briefing to hostages' families. In essence he told them only that hostages had escaped, Monis had fired

shots, and the police had entered the café and killed him. Insp Murchie said several hostages had been injured and one was dead.

44. The uncertainty this created heightened the trauma experienced by those in the Reception Centre.
45. For most families, this trauma abated as the surviving hostages re-established contact with them. For the Dawson and Johnson families, it persisted until they were finally informed of their loved ones' deaths just before 5 a.m. By then they had begun to deduce that Tori and Katrina had been killed.
46. The experience of Thomas Zinn is again illustrative of the way this period unfolded. Well before receiving any information about Tori's status from police, Mr Zinn checked the website of a German newspaper and noted a headline that translated as "*Gunmen and Two Hostages Dead*". Having scanned the story, he approached a police officer in the Reception Centre and asked her why no one had been able to give the families further information. He then began looking around the room and noting which of the families had been contacted by their loved ones in the wake of the EA. Very few family members had not been contacted, and a chaplain had arrived. He concluded that "*it was obvious that someone was about to receive some bad news*".
47. Both families expressed displeasure at having been approached by the chaplain without first asking for such assistance. The Johnson family described the chaplain's presence as "*not very subtle*". The Dawson family noted that his "*solemn demeanour exacerbated the already stressful environment*".
48. The NSWPF accepted that the information supplied to the family members after the EA was not as timely or as complete as it ought to have been.

Identification of the hostages

49. The problems with communication following the EA were, in part, attributable to failures in the process of identifying the injured and deceased hostages.
50. By approximately 4 p.m., the police list of hostages included the names of all of the people trapped in the café. However, by evening there were still some "false positives": two people who were not actually in the café consistently appeared on the list of hostages disseminated in intelligence summaries.
51. Well before the conclusion of the siege, there was a process in place for managing the hostages, who

were taken from the café to the hostage reception centre in the NSW Leagues Club. That process was:

- one detective would be allocated to each hostage;
 - after any necessary examination by the NSW Ambulance Service and mental health personnel, a hostage reception questionnaire would be completed; and
 - as part of the questionnaire process, the relevant hostage would be allocated a number and photographed to assist in ensuring that all hostages were accounted for.
52. Soon after their escapes, the hostages who had fled the stronghold just after 2 a.m. were brought to the hostage reception centre and treated in accordance with this process. As the process unfolded, these hostages began to contact their families.
53. The NSWPF submitted that the system in place for identifying hostages immediately after the siege was adequate. That appears to have been the case in relation to the uninjured hostages who were taken to the Leagues Club. The position of the injured hostages was somewhat different.

Identifying injured hostages

54. As noted in Chapter 7, Louisa and Robin Hope and Marcia Mikhael were injured during the EA. Louisa Hope was transported to the Prince of Wales Hospital, Robin Hope was taken to the Royal Prince Alfred Hospital (**RPAH**), and Marcia Mikhael was conveyed to the Royal North Shore Hospital.
55. There was no systematic process for ensuring that these injured hostages were rapidly identified. Rather, their identity was established in an ad hoc fashion, including by police who went to the relevant hospitals. No single officer appears to have been responsible for coordinating the identification efforts, managing the information gleaned from those processes, and conveying it to an appropriate commander to pass on to family members.
56. This does not appear to have created any difficulties in the cases of Robin and Louisa Hope, whom police seem to have identified by around 3.00 a.m. Marcia Mikhael was not positively identified until approximately 3.44 a.m., following an update from ambulance personnel.
57. Even after that, some officers involved in the post-siege management of the hostages continued to regard Marcia Mikhael as unaccounted for at approximately 4 a.m. Given that Marcia was a

43-year-old woman, the failure to identify her and communicate that identification to all relevant officers may have contributed to the delays in confirming Katrina's identity and relaying news of her death to family members.

Identifying the deceased hostages

58. There is some ambiguity surrounding exactly when and how Tori and Katrina were identified. In any event, that was not done as rapidly as it should have been—their families were not advised of their deaths until nearly 5 a.m.
59. At 3.28 a.m., an entry on iSurv recorded that the descriptions of negotiators suggested that the deceased hostages were likely to be Tori and Katrina. This entry, however, included the notation, *"THIS IS NOT CONFIRMED AT THIS STAGE—but both are unaccounted for"*.
60. Accordingly, efforts to identify Katrina and Tori continued. They did not conclude until after 4 a.m.

Identifying Tori

61. Immediately following the EA, Tori was removed from the café and treated by paramedics, who quickly ascertained that he was dead. His body was taken to an ambulance, where it remained until it was transported to the Glebe Morgue later in the morning.
62. At about 2.45 a.m., Detective Sergeant Jason Pietruszka informed Officer WK that he had performed CPR on a Caucasian male in his 30s who had curly hair and was wearing a black shirt. He went on to note that the male's body was in an ambulance in the vicinity of the café. This does not appear to have led to Tori's identification.
63. In fact, the evidence does not disclose exactly how Tori came to be identified.

Identifying Katrina

64. After being taken from the café and placed in an ambulance, Katrina was transported to the RPAH. She underwent emergency treatment before being declared dead at 3.12 a.m. Neither paramedics nor hospital staff knew who she was.
65. The identification of Katrina was undertaken principally by officers who attended the RPAH. Julie Taylor (who had been taken to the RPAH for precautionary checks) and her husband played a key role in this process. Soon after Julie arrived at the hospital, she and her husband gave police a descrip-

tion of Katrina. Police later showed Julie's husband a photograph of a ring taken from Katrina's body. He confirmed that the ring belonged to Katrina.

66. The Dawson family have expressed concern about this process, which—among other things—created a risk that Julie or her husband would extend condolences to the Dawson family before they had been told of Katrina's death. Generally speaking, friends of the deceased should not be called upon to participate in their identification if family members are available. However, in the circumstances of this case, the actions of the officers were not unreasonable.

A process of elimination

67. While police at the RPAH were still attempting to identify Katrina, it started to become apparent to those at the Reception Centre that most of the hostages had made contact with their families.
68. Sometime around 4 a.m., Det Sgt Klotz, who was at the Reception Centre, telephoned the PFCP to say he believed the deceased hostages were Katrina and Tori. His belief was founded on the fact that the Johnson and Dawson families were the only people at the Reception Centre not to have been contacted by their loved ones.
69. It seems that this call may have pushed the identification process towards conclusion. The PFCP Operations Log at 4.16 a.m. records: "*Reasonably confident of identity of deceased. Manager and Katrina Dawson.*"

Could Katrina and Tori have been identified sooner?

70. Given that Tori was the only male hostage in the café when the EA was launched, it should have been possible for police to identify him quickly. The description Det Sgt Pietruszka gave Officer WK, for example, should have led police to conclude that the deceased man was Tori. That conclusion could have been reached before 3 a.m.
71. The identification of Katrina was complicated by the fact that she was taken by ambulance to the RPAH and that she continued to receive treatment until approximately 3.12 a.m.
72. By 3.30 a.m., police had determined that she was probably dead. It is difficult to understand why they could not have been more certain about this at that time.
73. The NSWPF acknowledged that "*police should have*

been confident of Tori Johnson's and Katrina Dawson's identity earlier", and that if this had occurred, police could have informed Tori and Katrina's families sooner than they did.

Delivering the death messages

74. Ultimately, the Dawson and Johnson families were informed of Katrina and Tori's deaths just prior to 5 a.m. This was almost three hours after the Emergency Action, 90 minutes after the first iSurv entry about the deceased hostages' identities, and an hour after officers in the Reception Centre had worked out—via a process of elimination—that they had died.
75. This delay was unjustified.
76. There is no easy way of telling a family that their loved one is dead. Nevertheless, the process by which these messages were delivered could have been improved.
77. Just before the two families were notified of the deaths, they were moved into separate rooms. The locations of these rooms did not give the families sufficient privacy; each could hear sounds of distress issuing from the other family's room.
78. After notifying Katrina's family of her death, police told them they would have to attend the Glebe Morgue to identify her body. This was inaccurate. Katrina's brother-in-law was a doctor. He contacted the RPAH to arrange for the identification to occur at the hospital.
79. Police ought to have ensured that the officers responsible for informing the families were properly aware of the options available for Katrina's formal identification.

Structural issues

80. As noted above, from approximately 10 p.m., Insp Murchie, oversaw the family liaison process.
81. He was tasked to do so by Night Forward Commander, who made the following comments about his discussion with Insp Murchie in his recorded interview:
- I got pulled offline a couple of times by Inspector Murchie because of the family members that were in the Supreme Court [building], and I must admit that it was probably something that, that I wasn't prepared for, I was focused on that [the siege] and Inspector Murchie came through and said, "Oh, boss, are you aware that there's forty family members at the Supreme Court," and I*

thought yeah, I think I've been told that and of course they're operating in a bit of an information vacuum so I tasked Joel [Murchie] to become the point of contact for them.

82. After assuming responsibility for family liaison, Insp Murchie had several discussions with Night Forward Commander about the needs of family members.
83. The U.K. experts considered it inappropriate for the Forward Commander to be involved in the family liaison process. Deputy Chief Constable Chesterman stated: *"It would just be too much to cope with in a high risk and potentially fast moving operation."*
84. His colleague Inspector Nigel Kefford said that in the U.K. the practice was to appoint an "outer scene commander" to deal with matters such as family liaison and traffic control. He said that doing this freed the Forward Commander to concentrate on matters from *"sniper positions inwards"*.
85. Counsel Assisting submitted that it would be preferable for a structure of this kind to be implemented in future incidents. They noted that it would be important for strong links to be maintained between any outer-scene commander and the PFCP. Such links would help ensure that families received up-to-date information and also aid the effective collection and dissemination of any intelligence derived from communications between families and hostages.
86. The Johnson and Dawson families agreed with this.
87. Since the siege, the NSWPF has reviewed its family liaison capability. It has accepted *"that a more systematic structure should have been applied to the family liaison aspect of the operation"*. In its submissions, the NSWPF observed that family liaison should become a *"stand-alone capability reporting to the police commander as a member of his or her Incident Management Team"*.
88. The NSWPF submitted that given the need for the Forward Commander to be briefed on family liaison issues and intelligence flowing from the families, the family liaison capability should not sit in a separate command structure.
89. The evidence does not permit a conclusion as to precisely which form of command structure ought to be adopted in respect of liaison with hostages' families. However, it is abundantly clear that the NSWPF's family liaison process was flawed in this case, and that a well-defined, dedicated family liaison capability should be introduced.

Conclusion: Family liaison

90. The family reception centre was inappropriately situated and inadequately equipped. The hostages' families were given infrequent and inadequate briefings. The families of Katrina and Tori were treated insensitively in some respects, and confirmation of their loved ones' deaths was unduly delayed.

Recommendation 34: Family liaison

91. *I recommend that the NSWPF develop a comprehensive policy and set of procedures in relation to family liaison capability for high-risk situations. Those policies and procedures should ensure that:*
 - *The capability is scalable depending on the nature of the incident.*
 - *An appropriately senior officer is responsible for overseeing the liaison process. He or she should have direct access to officers in the Police Forward Command Post for the purpose of conveying and receiving information in a timely manner.*
 - *A dedicated family liaison officer (or officers) is assigned to the family of each victim and given responsibility for managing the needs of that family.*
 - *Officers are given guidance on communicating with families, including the appropriate frequency and content of briefings both during and after an incident.*
 - *Officers are advised of the proper process for gathering and disseminating intelligence from family members.*

Recommendation 35: Casualty identification and death notice delivery

92. *I recommend that the NSWPF review its policies, procedures and training to ensure the rapid identification of persons killed or injured in high-risk situations. Those policies should provide appropriate guidance on how and when death messages ought to be conveyed following such incidents.*

17 ADF and AFP involvement in the siege response

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Introduction

1. The inquest considered a range of issues concerning three Commonwealth agencies: ASIO, the ADF and the AFP.
2. The issues concerning ASIO are addressed, to the limited extent it is possible to do so publicly, in Chapters 1, 3 and 18, and otherwise in a closed version of Chapter 18. The AFP's investigation and assessment of Monis prior to the siege is dealt with in Chapter 3.
3. Where relevant, the activities of AFP and ADF officers during the siege response are described in Chapter 7. This chapter assesses the role played by the ADF and the AFP during the siege, with a particular emphasis on the sharing of information and resources between those entities and the NSWPF.

The Australian Defence Force

4. The extent to which the ADF was or could have been involved in the response to, and management of, the siege was a matter of interest to both the inquest and the broader public from a very early stage.
5. The investigation of the ADF issues ultimately consisted of attempts to examine a number of broad areas:
 - What was the role of the ADF during the siege?
 - What role might the ADF have played in the siege if it had been "called out"?
 - How might its approach have differed from that of the NSWPF?
 - What are the existing handover arrangements by which the ADF might "take over" a domestic terrorist event from police, and are they appropriate?
 - Are the NSWPF and ADF joint counterterrorist training and other measures sufficient to meet challenges presented by the current security environment?
 - Is there a need to reconsider the legal and jurisdictional divisions between the Commonwealth-governed ADF and State police to facilitate sharing or optimal pooling of counterterrorist response capabilities?
6. As part of the investigation of those issues, the Commonwealth was asked to provide statements from the ADF officers who performed duties relating to the siege. Ultimately, statements from 11

such officers were received by the inquest.

7. Each of those statements provided a relatively brief overview of the relevant officer's activities. They did not provide a description of the ADF's capabilities or the way it would have approached the siege if called out. Such descriptions, in any event, would likely have been protected by public interest immunity.
8. The material provided did not include a statement or statements from the officer/s to whom the military personnel who attended the siege reported. Accordingly, the Commonwealth was requested to identify a senior ADF officer who could address some of the broader questions arising from the ADF's involvement. The Commonwealth did not accede to that request.
9. In submissions, Counsel Assisting observed that the Commonwealth resisted the provision of further information on the following grounds:
 - the ADF had not been called upon to manage the siege and attended largely in an observation and liaison role, i.e. to prepare ADF officers in the event of a call-out;
 - it would be inappropriate to compare NSWPF actions with the actions the ADF might have carried out, in part because policing ought not to be compared with potential actions of defence forces (which are informed by experience in international armed conflict); and
 - any investigation of the actions that the ADF might have taken, if actively involved in the siege response, would expose ADF methodologies (including methodologies used by officers presently deployed overseas), which would be contrary to the public interest.
10. In view of those objections, the inquest was not able to comprehensively examine the ADF issues outlined above. In particular, it was not able to thoroughly consider the role the ADF might have played if called out, the ADF's capabilities generally, and whether or how those capabilities differ from those of the NSWPF.

The role played by ADF officers

11. As noted above, there was evidence available to the inquest about what the ADF actually did during the siege. The key aspects of that evidence are described in Chapter 7.
12. Of particular note, officers of Tactical Assault

Group (**TAG**) East, stationed at Holsworthy Barracks, constructed a mock-up of the café and conducted a review of the Deliberate Action (**DA**) plan prepared by the NSWPF. Having done so, TAG East advised the NSWPF that the plan appeared to be “*tactically feasible*”.

13. Beyond this, it appears that the ADF’s involvement in the siege was fairly limited. Essentially, the ADF officers who attended during the siege served as liaison officers. Their role was to relay information to and from ADF command, and to develop a degree of situational awareness that could be relied upon in the event that the ADF was formally called out.
14. Besides the construction of the mock-up and the review of the DA plan, there is little evidence to suggest that the ADF officers provided advice, equipment or other material assistance to the NSWPF during the siege, though it does seem that a NSWPF officer spoke with an ADF officer about Monis’ alleged IED.

ADF call-out

15. While the Segment 4 hearings were under way and the various issues relating to the ADF were still under consideration, a number of media reports relevant to the ADF’s involvement in the siege appeared. Those reports contained criticism of the NSWPF management of the siege from anonymous sources who appeared to be, or to have recently been, ADF officers. In particular, the sources criticised the weapons and ammunition and methods of entry employed by the NSWPF. They asserted that the armed response to the siege should have been conducted by the ADF rather than the NSWPF.
16. Those assertions were subjected to investigation. As part of that process, Counsel Assisting made a public call for information and/or witnesses who could assist with the issue. In response, some former ADF officers and members of the public came forward with information, or offered to provide information on certain conditions. Ultimately, this process did not yield any significant usable evidence, in some cases because the information provided was predicated on erroneous assumptions or proffered on unacceptable conditions; in other cases because the information could not be explored without risking the violation of Commonwealth secrecy provisions.
17. All told, comprehensive evidence regarding potential intervention by the ADF is not available. Nevertheless, it is appropriate to broadly address the two questions that arise regarding the possibility of an

ADF call-out:

- Could the ADF have been called out in respect of the siege?
- Should the ADF be called out in response to such events?

Could the ADF have been called out?

18. As set out in Chapter 5, the calling out of the ADF to assist in domestic incidents is governed by Part IIIAAA of the *Defence Act 1903* (Cth). A call-out could only have occurred if, on an application for assistance from the state of NSW, the Prime Minister, the Attorney-General and the Defence Minister were satisfied that the state was not able, or was not likely to be able, to protect its people from the threat that presented during the siege.¹
19. While the ADF has never been called out to respond to a terrorist incident, a number of steps have been taken to prepare for such an eventuality. In particular, the army has established two Tactical Assault Groups—TAG East and TAG West—based in Sydney and Perth, respectively. These groups are designed to be able to deploy rapidly to conduct domestic counterterrorist operations.
20. The evidence suggests that if the ADF had been called out, TAG East could have responded to the siege. This raises the question whether such a response would have been possible within the terms of the *Defence Act*.
21. The answer to that question, having regard to the circumstances of the siege, is no; Monis was a single armed offender staging a siege in the Sydney CBD. He presented a real and terrible threat, but responding to that threat was at all times within the capacity of the NSWPF. So much was agreed by the NSWPF, the Commonwealth and the U.K. policing experts. The position might have been different if, for example, accomplices of Monis were engaged in other violent acts, or the capacity of the TOU officers was exhausted by their attendance at other incidents.

Conclusion: ADF call-out?

22. The preconditions for a call-out set out in Part IIIAAA of the *Defence Act 1903* (Cth) were not met because the NSWPF considered it had the capacity to respond effectively to Monis’ actions and did not advise the NSW government otherwise.

¹ See *Defence Act 1903* (Cth), s. 51B

Should the ADF be called out in all terrorist incidents?

23. In most comparable countries, the response to domestic terrorist events is managed principally by domestic policing units.
24. There are a number of sound reasons for this. Police forces are positioned throughout the country and are able to respond relatively rapidly to events. Moreover, incidents such as the siege demand a multi-faceted response, including in areas where police would be expected to have particular expertise, such as negotiation with non-military actors, traffic control, and the evacuation and management of innocent bystanders.
25. On the other hand, it is beyond question that with the rise of global terrorism and Islamic jihadist movements, the domestic security environment has shifted significantly in recent years.
26. It is not possible for this inquest to determine whether, in view of this shift, the traditional roles of domestic police forces and the ADF in Australia ought to be reconsidered. Any such reconsideration needs to be underpinned by a comprehensive understanding of ADF capabilities and appropriately detailed consultation with all relevant stakeholders (including, for example, the police forces of all states and territories).
27. It appears that such a process has started: at the conclusion of the oral evidence, the Commonwealth informed the inquest that it has begun a “comprehensive” review of the support that the ADF provides to domestic counterterrorism operations. That review was said to touch upon the legislative and policy framework for call-out as well as ADF capabilities in the current threat environment.
28. As noted above, Part IIIAAA of the *Defence Act* presently requires that any call-out of the armed forces (whether in response to a terrorist incident or otherwise) be initiated by the relevant state or territory. The criteria to be considered by the state or territory in making an application for assistance are not limited by the *Defence Act*, but remain a matter for the relevant state government.
29. Counsel Assisting submitted that any consideration of the adequacy of current call-out arrangements might consider, as an alternative, the establishment of more objective criteria (relating to, for example, the nature and extent of the incident) which, if met, would lead the ADF to be called out automatically.
30. As noted by the Commonwealth, any consideration

of the call-out arrangements needs to bear in mind the constitutional context, including s. 119 of the Constitution, which provides that on the application of a state, the Commonwealth shall protect it against “domestic violence”. It is not necessary for me to express a concluded view on the subject, but it might be thought that an “automatic” call-out of the ADF of the type contemplated in Counsel Assisting’s submissions is inconsistent with s. 119.

31. That is not to say that the provision of further guidance as to the criteria for an ADF call-out in incidents such as the siege is not warranted; it is simply to observe that such criteria will likely need to be established in conjunction with the states.

Conclusion: The ADF and terrorist incidents

32. The challenge global terrorism poses for state police forces calls into question the adequacy of existing arrangements for the transfer of responsibility for terrorist incidents to the ADF. The foreshadowed comprehensive review of the ADF’s role in domestic counterterrorism operations—including as to the legislative and policy framework for call-out (**ADF Review**)—is an opportunity to review the call-out threshold.

Recommendation 36: ADF call-out arrangements

33. *I recommend that the ADF Review confer with state and territory governments about the criteria governing applications for the ADF to be called out pursuant to the Defence Act 1903 (Cth) with a view to determining:*
 - *whether further guidance is required on the criteria to be used by states and territories in determining whether to apply for Commonwealth assistance; and*
 - *if so, what criteria ought to be stipulated.*

Consistency between ANZCTC documents and the Defence Act

34. The Dawson family submitted that there is an inconsistency between the legislative position and that expressed in the Australia–New Zealand Counter-Terrorism Committee (**ANZCTC**) protocols. They contended that the effect of the protocols is that, in

the event of a terrorist siege, any offensive assault on the stronghold is to be carried out by the ADF.

35. The Commonwealth resisted the Dawson family's interpretation of the protocols. In the Commonwealth's view, ADF involvement is possible in some cases, but such involvement need not necessarily occur. On account of protective orders made on the basis of national security, the parties' submissions cannot be explored further in public.
36. I am not satisfied that there is any requirement that armed intervention during terrorist sieges be carried out by the ADF. However, there is some ambiguity between Part IIIAAA of the *Defence Act* and the ANZCTC protocols concerning the circumstances in which the ADF is to be called out in response to terrorist incidents.

Conclusion: Consistency between ANZCTC protocols and the *Defence Act*

37. There is no requirement that every armed intervention in response to a terrorist incident be carried out by the ADF. However, there is some inconsistency between the *Defence Act 1903* (Cth) provisions regarding ADF call-out and the position set out in the Australia–New Zealand Counter Terrorism Committee documents.

Recommendation 37: Consistency between ANZCTC protocols and the *Defence Act*

38. *I recommend that the ADF Review give consideration to amending the Australia–New Zealand Counter-Terrorism Committee protocols to ensure that they provide sufficient guidance as to the respective roles of the ADF and state police tactical groups. Such guidance should accord with the legislative framework in Part IIIAAA of the Defence Act 1903 (Cth).*

Sharing of resources and expertise

39. Evidence before the inquest also raised questions about the possibility that the ADF might possess particular resources or expertise that were not available to the NSWPF during the siege.
40. It is clear that the role played by the ADF during the siege was closely circumscribed. The ADF concluded that the DA plan was “*tactically feasible*”, but its officers did not provide assistance with the formulation of the plan or offer suggestions in respect

of it. Similarly, the ADF officers played no part in the Emergency Action planning process. Further, the ADF sniper officer present at the scene did not assess the sniper locations chosen, and ADF officers did not provide advice regarding the IED that Monis had claimed to be carrying.

41. The evidence, however, does not reveal any particular difficulties in communications between the ADF liaison officers and the NSWPF, nor is there any evidence that requests of the NSWPF were not acceded to by the ADF. That being so, there is no basis for criticism of the actions of individual ADF officers.
42. As observed above, it was not possible for the inquest to hear detailed evidence on the precise nature of ADF capabilities. However, it is possible that those capabilities, whether in the area of snipers, IED assessments or tactical intervention, differ in some material respect from those of the NSWPF.
43. The Dawson family submitted that even in the absence of evidence of these capabilities, it is possible to identify some ADF resources that were available but not used during the siege. Those resources were said to include TAG East and the Special Operations Engineering Regiment (whose role extends to counter-explosive capabilities) and a capability to defeat glass barriers that Tactical Advisor said was held by the ADF.
44. In the context of possible resource-sharing, it is important to recall that the role of the ADF in terrorist incidents is not limited to circumstances where they are called out pursuant to Part IIIAAA of the *Defence Act*. As noted in Chapter 5, the policy position as concerns the provision of assistance by the ADF to state police agencies is set out in the *National Counter-Terrorism Handbook (NCTH)*. Essentially, the NCTH provides that the ADF maintains certain specialist counterterrorist capabilities that can, in response to sufficiently grave threats, be allocated to support the states and territories.
45. The Dawson family referred to this policy in submitting that the relevant policies provide for support by the ADF in a “*far more flexible way than was perceived by Forward Command*”. Neither the submissions of the NSWPF nor those of the Commonwealth directly addressed this observation. It does appear that Night Forward Commander, at least, did not view the ADF's role as extending to the provision of broader support. He had the following exchange with Counsel for the Dawson family:

Q: The role of these liaison officers was to provide advice on the potential use of defence resources in

support of the response to the siege, wasn't it?

A: No. I don't agree with that position, your Honour. They're actually there in an informal capacity. Defence and the Defence Act is quite clear about the formal call-out arrangements. They were there in an informal capacity to build their situational awareness and, I would imagine, keep their chain of command informed so that if we got to that point, that they had the situational awareness.

46. Night Forward Commander's response appears at odds with the position clearly expressed in the NCTH. It is not apparent whether Night Forward Commander's view reflects a systemic misapprehension among police commanders, but it certainly raises a question as to the guidance that officers in his position receive on the subject.
47. The process by which members of a state police force request assistance from the ADF when the call-out of the military is not being contemplated is unclear.
48. Specifically, the relevant NSWPF officers may not have a sufficient understanding of the ADF's capabilities to enable them to sensibly request assistance. This was acknowledged in evidence by Deputy Commissioner Catherine Burn—who had earlier given evidence of her understanding that the ADF liaison officers' roles extended to providing information about relevant ADF capabilities. DC Burn agreed that, in order to responsively volunteer ADF capabilities, the relevant ADF liaison officer would need to maintain awareness of what was happening at the Police Forward Command level. In view of the limited contact between ADF liaison officers and police commanders, a question arises as to whether the ADF personnel had sufficient awareness of police activities to allow them to proactively assess whether they would be able to offer assistance. Given the limited evidence about interactions between ADF personnel and police, and the absence of evidence on ADF capabilities, it is not possible to satisfactorily resolve this question.

Conclusion: ADF support short of call-out

49. The *National Counter-Terrorism Handbook* envisages that the ADF will provide advice, assistance and support to state police tactical groups in situations where the call-out threshold is not met. ADF liaison officers attended the Police Forward Command Post

during the siege, but their potential role was not well understood by the police commanders and they were not utilised as effectively as they might have been.

50. Some senior NSWPF officers seemed uncertain about the role of ADF liaison officers, particularly regarding the provision of advice, equipment or assistance where no ADF call-out has occurred.

Recommendation 38: Procedures for obtaining ADF assistance

51. *I recommend that the ADF Review, in consultation with the police forces of the states and territories, examine the guidance available to ADF officers and state and territory police regarding:*
 - *the role of ADF liaison officers;*
 - *the availability of ADF assistance in the absence of a call-out; and*
 - *the procedures to apply in relation to requests for, and the provision of, equipment or advice by the ADF.*

AFP issues

52. The Commonwealth's involvement in the management of the siege extended to work done by officers of the Australian Federal Police.
53. The AFP supplied a number of tactical officers to provide relief to officers of the NSWPF. Those officers were not ultimately called upon by the NSWPF and it is not necessary to consider their actions further, save to note that such cooperation is important and ought be commended.
54. Additionally, a number of AFP agents provided assistance to the NSWPF during the siege by virtue of their assignment to the Joint Counter Terrorism Team (JCTT).
55. AFP officers, for example, were engaged in the provision of assistance regarding the deployment and monitoring of a surveillance device and telecommunication intercepts. Details of this involvement are set out in Chapter 12.
56. AFP officers also performed a number of specific tasks, including attending media organisations to obtain information regarding calls from hostages, liaising with hostages' families and assessing

intelligence regarding Monis' identity.

57. The material gathered during the inquest suggests that three aspects of the AFP's activities concerning the sharing of information during the siege warrant further consideration:
- Tactical Intelligence Reports (**TIRs**) regarding the potential risks associated with Monis' claimed explosive device;
 - the AFP's investigation of Monis's identity; and
 - material possessed by the AFP not provided to the NSWPF, particularly a profile of Monis drawn from the AFP's prior contact with him.
58. I will consider each of these in turn.

Tactical Intelligence Reports

59. After being informed that Monis might possess an explosive device, the AFP's Technical and Forensic Intelligence (**TFI**) Team began preparing a TIR that modelled the risks to people and property posed by the claimed explosive device. The AFP indicated that the TFI Team began this process of its own accord; it was not directed to do so by anyone in the AFP hierarchy, nor was it requested to do so by the NSWPF.
60. The first TIR (**TIR 1**) prepared by the AFP observed that some reports suggested Monis' backpack had wires protruding from it. It was said that those wires could be indicative of a concealed person-borne explosive device. It went on to say that such a device "could feasibly contain 7–15 kilograms of explosives" and that a blast from such a device could lead to the death or injury of persons within "tens of metres", while "fragmentation could potentially kill or injure persons to hundreds of metres". TIR 1 also noted that personnel outside the café ought to be aware that there were significant risks associated with glass breakage. The posited IED was assessed as likely to cause significant damage to the building's pillars if it exploded close to them. Such damage, though, was not thought likely to result in "catastrophic destruction" of the building.
61. TIR 1 was distributed to a range of AFP personnel at about 7.30 p.m. on 15 December 2014.
62. The second TIR (**TIR 2**) was circulated at 9.16 p.m. It reported the results of blast modelling of a hypothetical explosive device in the café. These suggested the possibility of significant damage to the building's walls and the first-floor concrete slab above the café. TIR 2 was provided to the same people within the AFP as TIR 1. It was also emailed to a Major in the ADF's Counter Improvised Explosive Device Task Force, who was at that time temporarily working within the TFI Team of the AFP. That ADF officer provided a statement to the inquest in which he indicated that he had no dealings with the NSWPF in relation to the potential effects of Monis' claimed device.
63. Representatives of the AFP informed the inquest that neither TIR 1 nor TIR 2 was prepared on the basis of information provided by the NSWPF. Rather, these reports were said to have been prepared by reference to:
- historical information held by the TFI Team;
 - information obtained from an English-language online magazine published by al-Qaeda in the Arabian Peninsula; and
 - a variety of information provided by the Defence Science and Technology Group.
64. This does not appear to be accurate. Both TIR 1 and TIR 2 stated that "reporting notes that the POI ... has a backpack with wires protruding." The TIRs indicated that this information derived from a "NSWPOL" Joint Intelligence Group cell report.

Were the TIRs provided to the NSWPF?

65. There is no evidence that either TIR 1 or TIR 2 was provided to the NSWPF.
66. Counsel Assisting submitted that the overwhelming inference is that the reports were not so provided. The NSWPF agreed that the evidence indicated that it did not receive the TIRs.
67. The Commonwealth adopted an adversarial approach to this issue. Notwithstanding that it is, along with the NSWPF, best positioned to determine whether the TIRs were provided, it asserted that the failure to provide the TIRs had not been proved. The inability of the Commonwealth to itself conclude whether or not the TIRs were provided was said to be attributable to the "late raising of the issue".
68. Had either document been provided, it is probable that some record of it would have appeared in the logs or statements provided by the NSWPF or in the material produced by the AFP. I conclude that the TIRs were not provided to the NSWPF.
69. It is more difficult to rule out the possibility that the contents of the documents were otherwise communicated to the NSWPF. A statement by a NSWPF bomb squad officer indicates that he discussed information from hostages about Monis' backpack with an ADF officer. Additionally, another

ADF officer was involved in the process that led to the preparation of the TIRs. However, there is no evidence that any information was fed back (either from the ADF or the AFP) to the NSWPF in this respect.

70. I do not accept the Commonwealth's submission that because the TIRs were not likely to have changed the NSWPF's approach to the management of the siege, the likelihood of their being mentioned in logs and similar documents is reduced. There are countless examples of relevant information that did not result in a change to strategy or the management of the siege appearing in the NSWPF logs. Similarly, while it is conceivable that AFP officers in the JCTT who received an email relating to the TIRs mentioned them to nearby NSWPF officers, I think it more likely that such an exchange did not take place, or did not take place in any meaningful way. As observed by the Commonwealth, "*Reference to the existence of the TIRs and/or to their basic content would have been sufficient to trigger a request for a copy of the TIRs to be provided if the NSWPF thought that they were needed.*" It is likely that, having been told of the existence of the TIRs and their content, NSWPF officers in the JCTT would have requested copies of the TIRs, otherwise made a record of them, or conveyed the information they contained to relevant NSWPF commanders.
71. As to the Commonwealth's assertion that there had not been sufficient time to determine with certainty whether the documents were provided, I note that on 15 November 2016 (several months before the submissions of 23 March 2017) it made the same assertion—that is, that the AFP had been unable to determine whether either of the TIRs were provided to the NSWPF. It may be that the late emergence of the issue relating to the TIRs has had some effect upon the memories of those involved, but that does not necessitate a conclusion that the Commonwealth has not had sufficient time to investigate whether the TIRs were provided. If records existed, they could have readily been identified and provided in the available time. Memories may have degraded, but that does not alter the fact that there is no documentary or other evidence to suggest that the TIRs were supplied.
72. On balance, the total absence of records of communication of the TIRs to the NSWPF indicates that it did not occur.
73. It is difficult to assess whether the assessments contained in TIR 1 and TIR 2 would have had any bearing on the actions of the NSWPF. Counsel Assisting submitted that the NSWPF Rescue and Bomb Disposal Unit (**RBDU**) officers present during the siege do not appear to have conducted a risk assessment of the type set out in the TIRs. The NSWPF disagreed. In doing so, it made reference to its officers' assessment that, if Monis' claims regarding a bomb were true, his backpack was likely to contain between 2 and 4 kilograms of explosives. Such an explosive device was determined to necessitate an evacuation area of 150 metres and was assessed as likely, if triggered, to kill all inside the café and any officers attempting a rescue.
74. While the NSWPF did not produce a formal risk assessment document, or conduct modelling of the type described in the TIRs, I am satisfied that the NSWPF's RBDU officers did conduct some assessment of the risks associated with the bomb and its possible effects. That assessment was not set down in writing, and the statements of the various NSWPF RBDU officers obtained during the course of the inquest focus on the bomb disposal process and detonation mechanism rather than the potential effects of a blast. The evidence does not allow me to precisely determine the nature of the assessment conducted by the NSWPF officers, but if a structured assessment process based on modelling of the type set out in the TIRs was conducted, I would expect that some reference to it would have appeared in the various logs and statements produced to the inquest.
75. I note that the investigations conducted by the AFP were predicated on a larger amount of explosive material than that estimated as likely by the NSWPF. No criticism of either organisation is warranted in this respect; both estimates necessarily carried an element of speculation and, in any event, police commanders clearly understood that the detonation of an IED in the café could have catastrophic effects.
76. It may be—as posited in submissions by the Dawson family—that members of the ADF and AFP have more real-world experience with IEDs than their NSWPF counterparts by virtue of their overseas deployments. Indeed, as noted above, the TIRs relied on information held by the TFI Team about the use of person-borne IEDs in Iraq and Syria. But that does not mean that the officers in the NSWPF RBDU lacked sufficient expertise to assess risks associated with Monis' claimed bomb. The evidence indicates that all NSWPF RBDU officers are trained

What impact would the TIRs have had?

73. It is difficult to assess whether the assessments

in accordance with national standards established by the ANZCTC.

77. Ultimately, no conclusions can be drawn as to what impact, if any, the TIRs would have had on police actions had they been shared. Counsel Assisting submitted that, for example, the information in the TIRs might have influenced the placement of TOU officers. I do not consider that it is possible to reach such a conclusion. The TIRs suggested that the explosion of a bomb in the stronghold could have catastrophic effects. It is clear, however, that the NSWPF proceeded on a similar basis.

Should the TIRs have been provided?

78. The Commonwealth submissions noted that it: *is surely not the case that every piece of information known to the Commonwealth about Monis or the siege, no matter how tenuous the connection, how repetitive of other information or how unlikely to assist, should have been volunteered by the Commonwealth to the NSWPF.*
79. That proposition is unimpeachable. But the information contained in the TIRs was not tenuously connected, repetitive of other information or unlikely to assist. It was clearly relevant to the decisions facing police commanders.
80. However, I accept the Commonwealth's submission that what should be shared is ultimately a matter for the professional assessment of the officers involved as to whether the significance of the information outweighs any reason not to share it (which might properly include security concerns or a desire to avoid overburdening the NSWPF with excessive information).
81. In all the circumstances, I make no finding as to whether the TIRs should have been shared by the Commonwealth.
82. Either way, it is crucial that the professional judgement of officers in respect of information sharing is assisted by clear guidance and an appropriate policy framework addressing what should and should not be shared. At the end of this chapter, I will further consider whether additional consideration of the present sharing arrangements is required.

Monis' identity

83. Similar considerations arise in relation to investigations undertaken by the AFP regarding Monis' identity. I note that the Commonwealth submissions in relation to this issue (and concerning the

profiles of Monis, considered below) were supplemented by a confidential annexure containing classified material. Nothing in that annexure causes me to alter the views expressed below.

84. The NSWPF's efforts to identify Monis are detailed in Chapter 7 and assessed in Chapter 12. The first indication that the gunman was Monis came when he was recognised by homicide detectives around 11.30 a.m. At about 2.30 p.m., NSWPF commanders were told that reliable sources indicated that Monis was the gunman.
85. Meanwhile, the AFP was undertaking an identification process of its own. It appears that it identified Monis at about the same time, by different means. The material on Monis available to AFP officers included information derived from AFP investigations into the offensive letters he wrote to the families of deceased soldiers (Operation Picton).
86. In those circumstances, Counsel Assisting submitted that the material available to the AFP for identification purposes was different to that at the disposal of the NSWPF and would have been useful in corroborating the results of the NSWPF's identification efforts.
87. The limited nature of the evidence available precludes a satisfactory conclusion as to the adequacy of the information the AFP gave to the NSWPF about its efforts to identify Monis.
88. In any event, it cannot be said that the AFP did not assist, or attempt to assist, the NSWPF with the process of identifying Monis. Correspondingly, the evidence does not permit a conclusion—advocated for by the Dawson family—that the NSWPF did not make adequate attempts to seek information regarding Operation Picton.
89. The interactions between the NSWPF and an AFP officer who was involved in Operation Picton, are relevant to this issue. The AFP officer stated that during the siege he was shown a print-out image of a man inside the café by a NSWPF officer and asked if he could positively identify Monis. Because of the poor quality of the image, he could not. Later in the day, at about 2.00 p.m., the same AFP officer spoke with an officer of the NSWPF Sex Crimes Squad in an effort to obtain more information about Monis' recent movements and activities. These communications go to show that there were at least some interactions between the AFP and the NSWPF regarding Monis' identity.
90. As a further example of the assistance provided

in the identification of Monis, the Commonwealth pointed to a range of tasks performed by the AFP in ruling out possible alternative perpetrators, such as targets of the counterterrorism investigation known as Operation Appleby.

91. The Commonwealth submitted that every request made of the AFP by the NSWPF was met. It is not possible—or necessary—to individually assess every request made of the Commonwealth in a way that would permit a positive finding to this effect to be made; for present purposes, it is sufficient to note that there is no evidence that any request for Commonwealth assistance was refused.

Profiles of Monis

92. The documents produced to the inquest include several profiles of Monis prepared by the AFP over a number of years. The most recent of those was compiled in 2011.
93. Counsel Assisting submitted that these documents do not appear to have been disseminated to the NSWPF and asserted that some of the information contained in the documents could have been useful to NSWPF. Counsel Assisting acknowledged that some of the AFP profiles included material that is protected by public interest immunity or is otherwise sensitive. Counsel Assisting also observed that security considerations might have affected the AFP's ability to provide these profiles to the NSWPF.
94. The Commonwealth submitted that while these documents were not physically or electronically disseminated to the NSWPF, they were nonetheless available to it, because NSWPF members of the JCTT have access to AFP holdings via the PROMIS system and other facilities. All of the relevant profile documents were stored in such a way as to be accessible to NSWPF JCTT officers.
95. The Commonwealth submitted that disseminating documents is not always the ideal way to communicate the information they contain. In the Commonwealth's submission, a more effective approach may be to establish joint teams that have standing access to a pool of information.
96. In some respects this submission is unconvincing. Pooling information is undoubtedly an effective way of sharing it, but it does not obviate the need, from time to time, for a party familiar with particular information in the pool to draw it to the attention of others. It is not apparent whether a structure to facilitate such a process has been

adequately implemented.

97. Nevertheless, I do not consider that any criticism is warranted in respect of the sharing of AFP profiles of Monis. The question of whether and how those profiles ought to have been shared has not been explored in evidence. The profiles were apparently present in an information pool accessible to the NSWPF, and it is possible that there are good reasons why they were not actively disseminated to NSWPF officers. In any case, the profiles do not contain any information that would have been likely to change the NSWPF's approach to the management of the siege.

Is a review of NSWPF–AFP information sharing required?

98. It appears likely that some information prepared or held by the AFP was not provided to the NSWPF. This certainly seems to be true of the TIRs. With regard to the profiles of Monis and other material that might have been relevant to identifying him, the position is more equivocal. To at least some extent, such material appears to have been available to officers of the NSWPF via the pooling arrangements in place in respect of the JCTT. Questions as to whether additional efforts should have been made to identify that material and specifically disseminate it to NSWPF officers cannot be conclusively answered at present.
99. Counsel Assisting submitted that, in circumstances where the available evidence does not allow satisfactory conclusions to be drawn about the adequacy of mechanisms for sharing information, it would be appropriate to direct a recommendation to the issue.
100. The recommendation proposed by Counsel Assisting urged the Commonwealth and state and territory police agencies to review the present arrangements for the transfer of information, and design a system to ensure that information held by one government agency that might assist in the management of a response to terrorism is speedily transferred to other relevant agencies.
101. The Commonwealth (with the concurrence of the NSWPF) submitted that the proposed recommendation is not adequately supported by the available evidence. In its view, it cannot be said that the non-dissemination of the relevant documents resulted from a systemic failure.
102. I accept that the available evidence is insufficient to

support a conclusion that there was any systemic failure in respect of the sharing of information between the NSWPF and the AFP during the siege.

103. That does not preclude the need for further consideration of the issue. The effect of the Commonwealth's submissions is that I should *assume* the adequacy of the information-sharing process in the absence of clear evidence to the contrary. I do not accept that. The evidence does not permit conclusions adverse to any party to be drawn, but it does suggest that further assessment of the relevant systems is warranted.
104. As to the need for such further consideration, the Commonwealth observed that a number of potentially relevant reviews, with various remits, are already under way or planned. Those reviews include:
- the ANZCTC review of national counterterrorism arrangements;
 - the ANZCTC review of the ANZCTC documentation;
 - the Commonwealth's review of the provision of support by Defence agencies to national counterterrorism arrangements;
 - the Commonwealth review into governments' responses to terrorism, particularly the identification of persons at risk of radicalisation; and
 - the independent review of the Australian Intelligence Community to be conducted by Michael L'Estrange AO and Stephen Merchant PSM, scheduled to report in the first half of 2017.
105. The Commonwealth submitted that another review should not be recommended unless it is evident that the above reviews will not address the subject matter of the proposed additional review.
106. There is no evidence before me as to the precise content of those reviews. While I am conscious of the need to avoid redundant or overly burden-

some recommendations, I do not consider that I am precluded from making a recommendation simply because an actual or contemplated review might conceivably address the same subject matter.

107. This is particularly true given the potential ramifications of breakdowns in the flow of information between state and federal agencies in the context of events such as the siege. In the circumstances, it is important that possible shortcomings in information sharing be thoroughly considered.

Conclusion: Sharing of information between the AFP and the NSWPF

108. The AFP provided the NSWPF with access to surveillance technology the NSWPF did not possess and supported the siege response in other ways. Important information contained in Tactical Information Reports compiled by AFP officers during the siege and relevant to the NSWPF's response to the siege was not provided to the NSWPF, and questions remain as to whether other important information was adequately shared. There is a basis for concern about the mechanism for sharing information between the two agencies.

Recommendation 39: Review of information-sharing arrangements

109. *I recommend that the Commonwealth Attorney-General, in consultation with states and territories, review existing arrangements for information sharing between federal, state and territory agencies during terrorist events to determine whether those arrangements (and the guidance provided to officers in respect of them) adequately facilitate the efficient identification and transfer of pertinent information between agencies.*

18 ASIO and Monis

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Introduction and background

1. ASIO had cause to deal with and assess Monis from soon after his arrival in Australia.
2. Evidence from ASIO was sought to determine whether Monis could have been detected as a security risk of politically motivated violence (PMV) before the siege, and whether matters arising from the siege might inform recommendations for future action.
3. Because of the inherent sensitivity of ASIO's work and its holdings, which invoke strong public interest immunity concerns on the grounds of national security, the inquest received evidence from ASIO in accordance with a strict regime of access to documents, rigorous storage and handling requirements, and closed court hearings.
4. Accordingly, this chapter of the report comprises an open "public" version, and a second, larger "closed" (classified) version. Access to that "closed" version is restricted for reasons of national security. Pursuant to orders that I have made, only a limited number of specified people can access it. They include:
 - the Director-General of ASIO;
 - the Inspector-General of Intelligence and Security;
 - the Commonwealth Attorney-General;
 - the Commonwealth Minister for Justice;
 - Mr Chris Moraitis (Secretary of the Commonwealth Attorney-General's Department);
 - Ms Katherine Jones (Deputy Secretary of the Commonwealth Attorney-General's Department);
 - Ms Sarah Chidgey (First Assistant Secretary, Cyber and Infrastructure Security Division, Commonwealth Attorney-General's Department);
 - Ms Anna Harmer (First Assistant Secretary, Intelligence and Identity Security Division, Commonwealth Attorney-General's Department);
 - Mr Pablo Carpay (First Assistant Secretary, Countering Violent Extremism Centre, Commonwealth Attorney-General's Department);
 - Mr Anthony Coles (Assistant Secretary, Counter Terrorist Unit, Commonwealth Attorney-General's Department); and

- Ms Tara Inverarity (Director, Intelligence and Identity Security Division, Commonwealth Attorney-General's Department).
5. This "public" version comprises a condensed, "unclassified" and publicly accessible version of the closed chapter. The "public" version endeavours to provide as much information as possible that emerged from the coronial investigation into ASIO's response to Monis.

The investigation

6. The investigation undertaken in this area of the inquest is described as far as it can be in public in Chapter 20.

Legal framework

7. The work of ASIO is governed by the *Australian Security Intelligence Organisation Act 1979* (Cth) (**ASIO Act**). The ASIO Act confers confined authority and functions on ASIO and its employees. ASIO's work is also addressed in guidelines issued by the Attorney-General for the Commonwealth to the Director-General of Security, pursuant to subsections 8A(1) and (2) of the ASIO Act. The relevant guidelines here are the *Attorney-General's Guidelines in relation to the performance by the Australian Security Intelligence Organisation of its functioning of obtaining, correlating, evaluating and communicating intelligence relevant to security (including politically motivated violence)* (**Attorney-General's Guidelines**).
8. Relevant aspects of the applicable legal framework include:
 - s. 17 of the ASIO Act, which confers seven functions on ASIO, most of which relate to "security". Within that remit is the function "to obtain, correlate and evaluate intelligence relevant to security", and also, "for purposes relevant to security, to communicate any such intelligence to such persons, and in such manner, as are appropriate to those purposes" (per s. 17(1)(a) and (b));
 - "security" is defined in s. 4 to mean the protection of the Commonwealth and its people, states and territories from specific threats. One such threat is PMV;
 - PMV is defined in s. 4. The definition is, in essence, met when an act of violence is motivated by a political objective (or the criteria relating to other statutory definitions are met). It is not sufficient for a person to be both violent and political: there must be a causal nexus for an act to

fall within the definition's scope;

- s. 18(1) limits communication of intelligence on behalf of ASIO, ie *"only by the Director-General or by a person acting within the limits of authority conferred on the person by the Director-General"*; and
- Divisions 2 and 3 of Part III of the ASIO Act provide for ASIO and its employees to exercise *"special powers"* in specified circumstances. Such special powers include search warrants, use of surveillance devices, and questioning warrants, and are deployed as investigatory tools.

9. Significant aspects of the Attorney-General's Guidelines include that:

- the Director-General of ASIO is *"responsible for deciding ASIO's intelligence collection, analysis and assessment priorities"* as well as *"subjects for investigation"*;
- *"ASIO is not required to investigate every instance of activities relevant to security"*;
- *"The more intrusive the investigative technique, the higher the level of officer that should be required to approve its use,"* and a sliding scale of intrusiveness (from least to greatest) should be applied to information collection. Nonetheless, *"where a threat is assessed as likely to develop quickly, a greater level of intrusion may be justified"*;
- in all investigations, the *"means used ... must be proportionate to the gravity of the threat posed and the probability of its occurrence"*, and a principle of minimal intrusion applies; and
- *"ASIO is not to investigate demonstrations or other protected activity" unless it falls within specified exceptions, and "Minor acts of violence ... are properly matters for ... police"*.

ASIO's resources and the changing security environment

10. In considering ASIO's assessment of Monis (in particular the 18 National Security Hotline (NSH) referrals in December 2014), as well as its contribution to the response to the siege, it is relevant to acknowledge ASIO's resources and capacity. Like all government agencies, finite resources necessarily impose limits on what ASIO is able to achieve, and how quickly.
11. The first observation to be made is that ASIO's functions are not confined to counterterrorism; its resources are distributed across all heads of secu-

rity (as defined by s. 4 of the ASIO Act).

12. Second, resource allocation, particularly when viewed against the prism of investigative yield, is a relevant consideration when scrutinising ASIO's work.
13. Third, in the months immediately preceding the siege, there was a significant rise in the international and domestic terrorist threat. These and other factors led to a surge, from September 2014, in ASIO's receipt of information about terrorist threats, and a commensurate increase in the amount of work to assess those "leads". That surge included dealing with an increased volume of reports referred to ASIO by the NSH, and came in the context of a more general increase in ASIO's counterterrorism work. There was a particular rise in workload in December 2014 alone, even when compared with the previous few months.
14. By way of illustration, in May 2012 and May 2013 ASIO had approximately half as many investigations as it did by May 2014, a figure which then rose again in November 2014. It was in that context that Monis re-appeared on ASIO's radar by virtue of the 18 NSH reports made in respect of his public Facebook page.

New leads

15. Analysts undertake triaging of new "leads" (which generally come via a NSH referral), then perform checks on those referrals, and undertake assessments of leads as required.
16. Triage precedes a "full" assessment of leads. In essence, the triaging process determines the priority with which leads are handled. That is, determining the level of potential threat disclosed and corresponding urgency in terms of any further assessment or investigation that is warranted.
17. Triage is undertaken by informed and trained analysts, who consider each lead and assign a categorisation—either, that no further action is required, or referring the new lead for assessment and investigation as appropriate. This is considered in further detail below.
18. A primary tool used within ASIO in the assessment of security threats and risks (including PMV) is the Reasoned Assessment Model (RAM). It comprises a formal paradigm and system of analysis specifically designed for ASIO. It has been used for over a decade.

ASIO's information systems

19. ASIO uses information databases to store and manage information and intelligence.
20. During the course of the hearings, extensive documentary and oral evidence was taken about the ASIO information management system insofar as it related to ASIO's responses to Monis.

Monis' history with ASIO pre-2008

21. As noted in Chapters 1 and 3, Monis had been known to ASIO since 1996 and had been investigated and interviewed by ASIO several times. However, it was not until late 2007 that he came to ASIO's attention in relation to possible PMV.
22. Following consultation and negotiation with ASIO, and having regard to relevance and remoteness, material regarding ASIO's pre-2008 investigations of Monis (concerning non-PMV matters) was not produced to the Court by ASIO. All of ASIO's material relating to Monis was examined in advance by those assisting me, but the inquest's focus was on ASIO's interaction with and assessment of Monis from 2008 onwards.

The 2008 investigation

Factual background

23. The change in ASIO's consideration of Monis to a PMV focus may be traced to 4 July 2007, when an academic interviewed on the Channel Seven breakfast program *Sunrise* made comments about the (then recent) arrest of Dr Mohammed Haneef and Muslim doctors in the United Kingdom. Monis took umbrage at the academic's comments. From late 2007 he made increasingly provocative public statements that caused ASIO to undertake an investigation in 2008 into Monis' possible involvement in, or support for, PMV.
24. That investigation commenced in 2008 and was finalised in 2009 (**2008 investigation**).
25. The term "Investigation" has a technical meaning within the Attorney-General's Guidelines, namely "a concerted series of inquiries in relation to a subject where it had been determined that the activities of the subject could be relevant to security". In that context, "inquiry" is defined as "action taken to obtain information ... for the purpose of identifying a subject and/or determining whether the activ-

ities of a subject could be relevant to security; or ... as part of an investigation". Prior to the siege, the 2008 investigation was the only occasion that ASIO formally investigated Monis for risk of PMV.

26. The 2008 investigation commenced in April with certain emergent lead enquiries being undertaken. A formal investigation commenced in June 2008. The decision to investigate Monis was made by reference to the RAM.
27. Analysts considered that there were sufficient security indicators to warrant further investigation.
28. The terms of the formal investigation indicated that ASIO took the potential threat posed by Monis seriously.
29. Beyond Monis' reaction to the *Sunrise* program, a key initial driver for the 2008 investigation arose on 28 April 2008 when ASIO received a DVD containing a "fatwa" from Monis.
30. Also around that time, Monis had published the "fatwa" in the "Religious Q&A" section of his website www.sheikhharon.com (**Monis' website**). The fatwa read: "*Tony Blair, George W Bush and John Howard are 'Kafir Harbi' according to Sharia law.*" By conferring that epithet, Monis had designated those heads of state as "unbelievers" who could be lawfully attacked or killed under some interpretations of Islamic law.
31. Within days of receiving the DVD, ASIO had commenced enquiries into Monis' provocative statements and actions. As one senior ASIO witness attested, "*On face value, this fatwa appeared to provide Islamic justification for killing Bush, Blair and Howard, thereby endorsing PMV.*"
32. Another key driver for ASIO's investigation was Monis' issue of a "suicide fatwa" and video on suicide bombing in May 2008.
33. The initial parameters of the 2008 investigation were confined to certain investigative methods with the work to be completed within a specified timeframe.
34. An interim review of the investigation conducted on 21 August 2008 observed that ASIO had "*no information to suggest [Monis] has been engaged, or [is] likely to engage, in politically motivated violence*", and assessed that Monis "*has not been in regular contact with individuals of security concern and his main contacts are unlikely to be of security interest*".
35. The investigation continued; and Monis contacted ASIO a number of times in October 2008 about an

alleged threat to security (which ASIO concluded did not warrant further investigation and that Monis was unlikely to provide reliable information).

36. The outcome of ASIO's investigative activities included the following:
 - Monis was not in significant contact with individuals who were of security interest to ASIO;
 - Monis' main contacts were associates with no criminal or security-related backgrounds; and
 - Monis' website did not pose any significant threat to security.
37. As noted in part in Chapter 3, ASIO's final assessment on 5 December 2008 concluded that Monis:

was not involved in politically motivated violence and has not tried to incite communal violence. While [Monis] endeavours to use language that is ambiguous and open to interpretation, he makes sure not to cross lines and tries to ensure he can protect himself from allegations of inciting terrorism. [Emphasis added.]
38. ASIO concluded that Monis engaged in inflammatory activities in order to elicit a response from the media, police and ASIO. The possible motivation for this was assessed to be Monis' desire to gain and retain the support of female followers; and based on his previous behaviour, Monis was possibly motivated by his own sexual gratification.
39. ASIO considered that even though Monis' statements were at times indicative of some violence, the ambiguity in his language was deliberately evasive, designed to protect him from the possibility of criminal charges, and potentially to confer deniability should anyone choose to act on the basis of his comments.
40. The 2008 investigation was formally closed in January 2009, following a conclusion that:
 - there was no indication that Monis or his associates were *likely* to personally engage in violence; and
 - while Monis' website had the *potential* to incite others to engage in acts of violence, the risk of incitement was low.
41. ASIO undertook a threat assessment in early August 2008 in response to Monis' letters to high office holders which claimed that three recent incidents involving Qantas aircraft were terrorist acts. The threat assessment concluded that Monis had no credible information to provide, Monis did not pose a direct threat to security, and there was no basis

for altering the threat level regarding Australian aviation interests.

Analysis of the 2008 investigation

42. The 2008 investigation was both adequate and appropriate.
43. The investigation's scope permitted an understanding of Monis' activities sufficient to enable a reasonable and accurate assessment of his risk, while minimising intrusion. ASIO did not solely rely on baseline checks, but extended the investigation's parameters and collaborated with the NSWPF, AFP and NSW Joint Counter Terrorism Team (JCTT).
44. The staged approach to the investigation accorded with the Attorney-General's Guidelines, including the principle of minimal intrusion. It reflected the appropriate categorisation of Monis' case within the spectrum of seriousness. Finally, the duration of the investigation—comprising some nine months—permitted sufficient thoroughness and detailed analysis. The decision to close the investigation in January 2009 was reasonable. ASIO had uncovered no evidence that Monis himself had the *capacity* for an act of PMV and responded accordingly.
45. There are, however, some aspects of the 2008 investigation that warrant particular comment.
46. The 2008 investigation took into account Monis' broader criminal history in assessing his risk for PMV. ASIO was aware of Monis' criminal history as it then stood (including alleged sexual assaults). ASIO took into account both Monis' criminal activity and his political conduct, and extrapolated what could be relevantly drawn from it in assessing his risk for PMV. That appears to have been an appropriate course and a valid use of contextual material.
47. Also of note is ASIO's consideration, arising from the 2008 investigation, that Monis remained a potential danger.

Conclusion: ASIO's 2008 investigation

48. ASIO's 2008 investigation into Monis' risk was balanced, comprehensive and appropriate in the circumstances. Information outside the strict realm of security indicators was appropriately taken into account, and is a useful demonstration of the relevance of context when assessing the risk of politically motivated violence.

2009 to November 2014

ASIO's consideration of Monis

49. Following the conclusion of the 2008 investigation, and until November 2014, Monis came to the attention of ASIO several times, including through NSH reports. The majority of that information was received between December 2008 and October 2009.
50. As each new piece of information was received, it was assessed. On each occasion an analyst was required to form a view about whether the new information altered ASIO's extant assessment. Nothing caused such a change.
51. Part of ASIO's rationale for ending the 2008 investigation when it did, was that ASIO had the ongoing capacity to monitor Monis.
52. It is apparent from the evidence that ASIO did not view the conclusion of its 2008 investigation as representing a hard line in terms of Monis' relevance to security. ASIO had the ongoing capacity to make low level enquiries regarding Monis, as required.
53. Throughout 2009, Monis was the subject of periodic discussions at JCTT meetings due to the potential criminality of his conduct, particularly his provocative and inflammatory correspondence, including to the families of deceased servicemen.
54. Throughout 2009 and 2010, there were no indications that Monis or his associates were likely to personally engage in violence.
55. During this period, ASIO was made aware of the circumstances of the murder in April 2013, and the charges laid against Monis and Ms Droudis in November 2013. It had been aware in 2008 of initial sexual assault allegations; and in 2014 was made aware of the further sexual assault allegations and charges preferred.

Analysis of ASIO's consideration of Monis from 2009 to November 2014

56. Monis was assessed by ASIO at various times throughout 2009 to November 2014. Two aspects of that work arise for particular consideration.

Monis as a serial pest

57. ASIO has resisted any suggestion that it formally or informally labelled or treated Monis as a "serial pest". However, in my view Monis did earn such a label, and furthermore it was justified having

regard to the nature and frequency of Monis' interactions with ASIO from 2008 onwards, including his regular supply of unreliable information/leads which wasted ASIO's valuable time and resources. This aspect of ASIO's consideration of Monis is dealt with in greater detail in the closed version of this chapter.

58. I accept ASIO's submission that "*A person can of course be both a serial pest and a threat to Australia's security.*" The question is whether labelling an individual as a pest or nuisance gives rise to an institutional bias that infects a proper assessment of the risk he might represent. Having regard to ASIO's consideration of Monis each time he came to their attention, I accept that no such bias arose.
59. However, I note that for reasons addressed elsewhere in the Report, the kind of behaviour exhibited by Monis made him a likely candidate for a Fixated Threat Assessment Centre (**FTAC**), a point dealt with in further detail below.

2014 knowledge gaps

60. During 2014, there were two "knowledge gaps" within ASIO in relation to Monis' activities. Although these apparent deficits had limited consequences, they are nonetheless relevant to consider given that ASIO's work is driven by the quality and completeness of the information it obtains. They are dealt with in detail in the closed version of this chapter.
61. Only the second of those gaps can be referred to in any capacity here.
62. The second information gap relates to the letter sent by Monis to Attorney-General Brandis. In that letter he enquired whether it would be lawful to correspond with the "Caliph" of Islamic State. The letter was not passed to ASIO.
63. Counsel Assisting submitted the letter might have been relevant to an assessment of Monis' risk because it revealed a desire on Monis' part to engage with a registered terrorist organisation. ASIO submitted that its ignorance of this letter "*in no way can ... be seen as a failure on the part of ASIO*", and emphasised that the evidence regarding the assessment of the 18 NSH reports in December 2014 would not have been altered by that knowledge. However, ASIO accepted that a review of procedures relating to letters of this kind may be appropriate.
64. I accept that the reasons for the letter not being

passed on to ASIO represent no failure on ASIO's part. Any question concerning how the letter was dealt with in the Attorney-General's Department was not examined in the inquest. I am aware that it was examined in a Senate inquiry, but the result of that inquiry is not of relevance to the inquest except as to the development of a process of referring such letters to ASIO (a matter addressed below). Monis' desire to engage with IS, coupled with his ostentatious self-reporting of this desire to the authorities, is relevant to any assessment of security risk conducted by ASIO. That is so notwithstanding the letter's bizarre content.

65. Indeed, such correspondence would also fall within the remit of a Fixated Threat Assessment Centre, and given its security-related content, would be a prime case for liaison between such a unit and ASIO.
66. ASIO did not disagree with the submission by Counsel Assisting that where correspondence is received by a government agency, minister or public office holder from a non-government entity, which refers to a terrorist organisation or a representative of such an organisation, it should be referred to:
- ASIO; and
 - a Fixated Threat Assessment Centre.
67. However, ASIO urged, and I accept, that the wording of any such recommendation must be drafted with care.

Conclusion: Correspondence regarding terrorist organisations

68. There does not appear to be an effective policy in place to require the Commonwealth bureaucracy to forward correspondence received by it to ASIO where that correspondence is relevant to security considerations. The Senate Legal and Constitutional Affairs References Committee inquiry into the "Handling of a letter sent by Mr Man Haron Monis to the Attorney-General" made several recommendations in that regard in September 2015.

Recommendation 40: Correspondence referral

69. *I recommend that the Commonwealth Attorney-General liaise with ASIO to develop a policy to ensure that where correspondence is received*

by a government agency, minister or public office holder, from a non government entity, and that correspondence is relevant to the security assessments of the author, the correspondence be referred to:

- ASIO; and
- a Fixated Threat Assessment Centre (see Chapter 19).

Conclusion: ASIO's assessments of Monis from 2009 to November 2014

70. After the 2008 investigation, and during the period from 2009 to November 2014, the subsequent assessments conducted by ASIO relating to Monis, and ASIO's consideration of Monis, were in my view, adequate and appropriate. Monis remained on ASIO's radar and was susceptible to ASIO scrutiny as and when required.

December 2014 and the NSH reports

Triaging of the NSH Reports

71. As noted in Chapter 3, 18 NSH reports about Monis' public Facebook page were referred to ASIO between 9 and 12 December 2014. It is not necessary to recount the detail here.
72. By 12 December 2014, all of these NSH reports had been "triaged" by ASIO. The siege intervened before a full/complete assessment took place. As a result, these 18 "leads" were still "open" as at 15 December 2014.
73. The evidence disclosed a lack of clarity and consensus about the precise scope and boundaries of the triaging task. However, for present purposes it is sufficient to refer to what was accepted as common ground between the parties. That is, the "triage" of a NSH report involves an analyst examining a NSH report, and assessing the level of priority it should be given for more in-depth analysis and further assessment.
74. Very little contemporaneous documentary or electronic evidence was available to the inquest about the triaging exercise. This issue is dealt with further in the closed version of this chapter.
75. The first of the 18 NSH reports was flagged

Category 3. That is, it was not rejected (which can occur at the triage level). Rather, it was rated as “low priority”.

76. Each subsequent NSH report was either flagged Category 3 or a notation was made that it was a duplicate of the first report and should be treated in the same manner.
77. The reasons for that categorisation are dealt with in the closed version of this chapter.

ASIO’s management of the NSH reports

78. Before addressing the adequacy of ASIO’s response to these 18 NSH reports, the following preliminary observations are warranted given that both the AFP and the NSWPF received some or all of the 18 NSH reports.

79. ASIO submitted that the:

primacy of the NSWPF is generally accepted by all in the inquest. That general proposition finds no exception, eg, in the handling of the [NSH] reports ... ASIO had no greater responsibility to assess and respond to those reports than did any of the police forces, which unlike ASIO, have a general law enforcement function.

80. While I accept that the police also have responsibility in relation to such NSH reports, I do not accept ASIO’s attempt to diminish its role. Unlike the various police forces, which have a broader range of responsibilities, ASIO exists to identify threats to national security. This is clear in the statute by which it is created and is reflected in ASIO’s website homepage, which states: “ASIO is Australia’s national security service” and:

ASIO’s main role is to gather information and produce intelligence that will enable it to warn the government about activities or situations that might endanger Australia’s national security.

81. The inquest received evidence from both the NSWPF and the AFP about their respective consideration of these NSH reports, and my conclusions in this regard are set out in Chapter 3.
82. The inquest focused particular scrutiny on ASIO’s consideration of these NSH reports because it is an intelligence and security risk assessment entity. On this issue it bears additional and different burdens from police forces.
83. That being so, in my view, the analysts appropriately discharged their duties in triaging the NSH reports and acquitted themselves with diligence

and skill. In doing so, they also demonstrated a general attitude of thoroughness and conscientiousness. The rating allocated to these NSH reports was appropriate. The resulting prioritisation timeframe was acceptable. That is so given the resourcing and work flow requirements of ASIO at the time, and in particular, the volume of apparently more serious cases with which it was then confronted.

84. While Monis’ public Facebook page (being the subject of the reports) did contain confronting and provocative content, there was nothing indicative of a desire or intent to undertake an act of PMV nor suggestive of a capability or intention to commit PMV.
85. Nevertheless, some broader systemic issues came to light as a result of the examination of ASIO’s treatment of the NSH reports. These are considered below.

Conclusion: ASIO’s management of the National Security Hotline reports

86. I consider that the treatment and management of the National Security Hotline reports by ASIO in the period between their first receipt and the siege, including their triage, was adequate and appropriate.

Anticipating the siege

87. Allowing for a staged approach to the assessment of leads (by way of a triage and subsequent full assessment), given that Monis came to the attention of ASIO so soon before the siege, the question that naturally arises is whether ASIO could, or ought to, have identified Monis as a PMV risk in December 2014, and, if so, anticipated the siege. That is, had a full assessment of the NSH reports been conducted, would Monis’ risk have been detected by ASIO? The short answer is “no”: Monis’ plans for the siege were not reasonably capable of being detected.
88. It is now obvious that immediately prior to the siege, Monis did pose a risk of PMV. Precisely when that risk crystallised is much harder to determine. It is likely that a risk germinated several weeks before the siege, with the apparent swearing of allegiance to the Caliphate and putative religious conversion. It is also possible that it only became a fully formed and heightened risk very proximate to Monday 15 December 2014, and possibly as late as the weekend before (13–14 December 2014), given Monis’ activities including his purchase of

the backpack and emptying of his bank accounts. It was common ground between Counsel Assisting and ASIO that Monis posed a risk of PMV during that weekend.

89. There is no definitive evidence as to when Monis formed an intention to stage the siege. Among the information available to ASIO in December 2014, there was nothing that signalled what was shortly to occur.
90. Counsel Assisting submitted that had all information available to ASIO about Monis been taken into account when considering the NSH reports, further emergent lead enquiries, and potentially the commencement of a low level investigation into Monis, would have been undertaken.
91. In response, ASIO observed that “*may be true but [it is] ... beside the point*” because in reality the triaging was competently undertaken and an assessment (being the next stage) had not yet commenced. ASIO urged the court not to examine what might have occurred upon later analysis of the referred NSH information, on the basis that such an exercise would serve no purpose, concerned hypothetical matters, and would constitute “*speculation based on scant evidence*”.
92. Nevertheless, I consider that it is important, from a systemic perspective, for me to consider what *ought* to have occurred had the siege not intervened before the later analysis, as this has bearing for future cases. Moreover, there is sufficient evidence before the inquest (including in relation to how assessments are conducted) to make the following observations about how the NSH reports about Monis ought to have been treated in the later analysis.
93. In my view, had analysts had the opportunity to undertake a full assessment of the NSH reports, including taking into account all relevant (and available) information about Monis, what would have emerged was an individual whose concerning behaviour was escalating, including in the “security” arena, such as to justify the commencement of a formal investigation by ASIO.
94. What that information comprises is detailed in the closed version of this chapter.
95. In essence, there had been a malignant shift in Monis’ presentation—reflected in his apparent increased violence (exhibited by his involvement in his ex-wife’s murder, and his posting of graphic images from conflict zones), coupled with a burgeoning interest in IS pointing toward radicalisation.

This would have warranted the commencement of an investigation regarding a risk of PMV.

96. While any such investigation would have been unlikely to uncover Monis’ plans for the siege (particularly given the rapidity with which those plans likely formed and came into fruition), Counsel Assisting submitted that an investigation *might* have disrupted those plans. ASIO resisted that submission as “*highly speculative*” and lacking in utility. In my view, such an outcome can only ever be considered as a hypothetical, but it serves to demonstrate the potential benefits of ASIO’s investigative work, had the siege not intervened.

Assessing the risk of PMV

Overview

97. In keeping with its statutory responsibilities to identify security threats, ASIO has developed a sophisticated, dextrous and comprehensive system for assessing and detecting PMV. The evidence before this inquest indicates that ASIO approaches its tasks conscientiously and thoroughly. For example, when ASIO was asked in December 2014 whether it wanted to continue receiving seemingly duplicative NSH reports, it asked for them to continue.
98. However, evidence exposed two significant aspects of the PMV risk assessment process that I consider require recalibration by ASIO. They are the scope of leads triaging, and the criteria used for assessing PMV. The Reasoned Assessment Model is also relevant to this issue. Details about those issues, and how I consider they ought be addressed, are dealt with in detail in the closed version of this chapter.

Triaging

99. A particular issue which arose during the inquest was how ASIO’s initial triaging exercise ought be conducted. Submissions were made by both parties, and they are dealt with in the closed version of this chapter, along with my findings.

PMV risk assessment criteria

100. Submissions were made about the criteria for PMV risk assessment in three respects. They are dealt with in the closed version of this chapter, along with my findings. By way of broad overview, those three respects concerned security-related information, histories of violence and aberrant behaviour, and mental health.

The Reasoned Assessment Model

101. Predicting PMV is plainly a difficult task. ASIO's framework for assessing the risk of PMV is the RAM, which includes, as essential criteria, concepts of capability and intent.
102. ASIO submitted that the system it uses is the product of rigorous expert preparation, and has been "*used ... with consistent success*".
103. It was common ground that ASIO's system provided a useful framework for the assessment of risk of PMV. However, Counsel Assisting submitted that the application of the system could be enhanced in ways dealt with in the closed version of this chapter.
104. This was resisted by ASIO, which contended that there "*is [an] insufficient basis for the inquest to reach any concluded view that [Counsel Assisting's suggestions] would enhance the RAM*".
105. The system that has been developed appears to provide a useful and sound framework for the assessment of information by analysts. I do not suggest that amendment of the system is necessary. However, having regard to matters referred to in the closed version of this chapter, in my view analysts ought to be encouraged to view the system in a different way.

Conclusion: ASIO's approach to Monis

106. In raising the topics above, I do not intend to convey criticism of the way ASIO approached Monis prior to the siege. However in my view, the gaps and shortcomings identified in the closed version of this chapter could have real bearing on future assessments of the risk of politically motivated violence by ASIO.

ASIO's systems and information access

Information holdings

107. A broader issue that emerged in considering ASIO's assessment of Monis was the adequacy of its systems for retaining/accessing information.
108. Close scrutiny of the interaction of triaging analysts with ASIO information systems occurred during the hearings. I have detailed some deficiencies that I have found to exist in those systems in the closed version of this chapter. They cannot be

outlined here. I am of the view that there is room for some upgrading and improvement in ways detailed in the closed version of this chapter. I have made recommendations accordingly.

Accountability in triaging

109. Another "systems" issue that arose in the inquest concerned the analysts' recording of triage evaluations.
110. The RAM guide refers to the importance of accountability, and that analysts need to be "*able to demonstrate how [their] judgments were reasonable in light of the available information*".
111. Counsel Assisting submitted that while time and volume pressures were acknowledged, consideration should be given to a system by which analysts record their triaging decisions.
112. ASIO resisted this, contending that any criticism of the existing arrangements lacked validity because the analysts referred the NSH reports for further assessment. ASIO observed that the triaging process must dispose of numerous matters quickly: triaging exists to assign priority for later assessment and ensure that any matter requiring immediate investigation receives the necessary attention.
113. While I accept that the triage process should not be so encumbered with record keeping obligations that it ceases to be a quick and efficient mechanism, ASIO's submissions did not grapple with the heart of the issue.
114. The relevant guide refers to the need for accountability, and that analysts need to be "*able to demonstrate how [their] judgments were reasonable in light of the available information*". Such judgements would, in my view, include decisions about priority allocation at the triage stage.
115. Furthermore, ASIO accepts that its records should be sufficient to allow its management and the Inspector-General of Intelligence and Security to discharge their supervisory and other functions.
116. Some additional observations are made in detail in the closed version of this chapter.
117. Triaging exists in many professional environments, perhaps most notably in the hospital setting. Even there, brief notations are made, including the basis for referrals for further enquiries and assessments. This enables such early triaging decisions—which can be critical to a later outcome—to be interrogated later as required.

118. ASIO has no such equivalent system. I consider that ASIO does not have adequate record keeping systems for the triaging of leads.

The challenge of lone actors

The paradigm shift

119. In considering ASIO's assessment of the risk of PMV, the issue arose as to whether ASIO is sufficiently equipped to deal with the challenges posed by lone actors.

120. It was generally acknowledged that lone actors are inherently mercurial and capricious in their presentation, creating significant challenges for detection and prevention.

121. Further detail about this issue is included in the closed version of this chapter.

122. By way of overview, I note that ASIO submitted that it was *"well, if imperfectly, equipped to deal with a difficult problem"*. To a substantial degree, the submissions of Counsel Assisting concurred with that position.

123. Also arising in this regard is the role of a Fixated Threat Assessment Centre. I make recommendations in relation to the establishment of a FTAC elsewhere in my Report. It is sufficient for present purposes to note that a FTAC and ASIO should be of considerable assistance to one another in identifying lone actors in the community.

124. It is envisaged that a national FTAC or state and territory FTACs would have ready access to local communities, police and health services. And, the overlapping concerns of a security intelligence entity such as ASIO with a FTAC, mean that a properly functioning and adequately resourced FTAC would complement ASIO's work. That is especially so regarding lone actors.

Accessing mental health information

125. It is apparent that identifying lone actors may be assisted by improved access to mental health information about individuals in the community.

126. This is an area for useful reform.

Australian Psychological Society restrictions

127. Current rules and frameworks do not permit health-care professionals to provide information to relevant authorities about their patients and clients

except in limited circumstances. In particular, the Australian Psychological Society's *Code of Ethics* (2007) permits disclosure only in rare instances, specifically, *"if there is an immediate and specified risk of harm to an identifiable person or persons that can be averted only by disclosing information"* (Clause A 5 2). Such a provision does not cater well for current terrorism threats, which include the risk of random, non-specific attacks at an unspecified time, upon people who cannot be identified.

128. Given the insights potentially available to mental health practitioners I consider there is likely value in considering what legal permissions, protections and/or indemnities might be needed for healthcare professionals to facilitate such reporting.

Conclusion: Australian Psychological Society Code of Ethics

129. Clause A 5 2 of the Australian Psychological Society's *Code of Ethics* (2007) only permits disclosure of information gained from a client where the client identifies a specific individual (or individuals) as a target for potential violence. It does not allow psychologists to disclose information to law enforcement/intelligence/security agencies about more generalised threats of violence or harm.

Recommendation 41: Review of Australian Psychological Society's disclosure rules

130. *I recommend that:*

- *the Commonwealth Attorney-General and ASIO confer with the Australian Psychological Society regarding the restrictions in clause A 5 2 of the Code of Ethics (2007) with respect to radicalisation, terrorism and politically motivated violence; and*
- *the Australian Psychological Society consider amending clause A 5 2 of the Code of Ethics (2007) to enable psychologists to report risks of a terrorist nature.*

Privacy and information sharing

131. The effect of privacy legislation, in the context of the challenges posed by potential lone actors, arose for consideration in this segment.

132. As noted by the Joint Review, the extent to which information held by one government agency may be

shared with another government agency is predominantly guided by the legislation under which the agency providing the information operates, together with relevant privacy acts. This issue has most relevance in this context in relation to ASIO's receipt of information from NSW government agencies.

133. With respect to health-related information, a NSW government agency or health organisation can pass information they hold directly to ASIO if they believe that passing the information is necessary to lessen or prevent a serious and imminent threat to life, health or safety of the individual or another person, or a serious threat to public health and safety. It is easy to imagine a situation in which an agency has information that is relevant to an ASIO assessment of a person's risk of PMV, but which does not meet these criteria. The current limitations on information disclosure to ASIO contained in NSW privacy legislation may therefore, in certain circumstances, not cater well for current terrorism threats. Indeed, as noted by the Joint Review, possible legislative impediments to sharing information have the potential to inhibit the flow of important information in future cases, and should be further investigated.

Conclusion: Privacy legislation constraints

134. The *Privacy and Personal Information Protection Act 1998* and *Health Records and Information Privacy Act 2002* have the potential to impinge upon ASIO's ability to access the information and records it needs.

Recommendation 42: Privacy legislation review

135. *I recommend that the Premier of New South Wales consider whether the Privacy and Personal Information Protection Act 1998 and the Health Records and Information Privacy Act 2002 should be amended to ensure that there is appropriate access to health related information available to ASIO (consistent with recommendation 12 of the report of the Martin Place Siege Joint Commonwealth—New South Wales review).*

ASIO's response to the siege

136. Aspects of ASIO's role during the siege were dealt with in open court. That occurred during evidence regarding ASIO's contribution to the Joint Intelligence Group (**JIG**), which was "stood up". Those aspects are referred to elsewhere in this report.
137. The following focuses upon the evidence of ASIO's response to the siege that was received as part of segment 3, which was conducted pursuant to the protective orders contained in Appendix 7.
138. Throughout the siege, an assigned officer was responsible for managing ASIO's response to it. That role included:
- managing the collection of information to address ASIO's information requirements;
 - allocating resources to the response;
 - facilitating the exchange of information with law enforcement partners at the NSW JCTT and New South Wales Police Anti-Terrorism and Security Group (**ATSG**);
 - managing the passage of information from law enforcement partners to ASIO's analytical areas for further investigation; and
 - ensuring operational efforts against other investigative targets were maintained.
139. Once the siege was underway, a specific unit within ASIO offered to assist the NSWPF in a particular respect, and that assistance was rendered.
140. Another example of assistance arose in segment 4: early in the siege, the NSWPF State Technical Intelligence Branch received an offer from ASIO to assist at the siege site. It is not clear what came of this offer, as there is no evidence before this inquest to indicate that the offer was taken up, progressed or otherwise responded to by the NSWPF.
141. Other details of ASIO's role, including the form it took once Monis was identified as the hostage taker, are dealt with in the closed chapter.
142. In the early afternoon, ASIO deployed staff to the Police Operations Centre (**POC**), including an officer to perform a liaison role. It does not appear that this liaison role included conveying information from ASIO into the POC. However, there were conduits for such information. In particular, representatives from the JCTT and the ATSG at the POC were able to pass along information to which ASIO was contributing. And as dealt with elsewhere in this report, the JIG (in which ASIO was participating) had been "stood up" and was feeding information into the POC.
143. The sufficiency and adequacy of ASIO's response to the siege, in particular the assistance provided to

the NSWPF, is addressed below.

Analysis of ASIO's response to the siege

144. Whether ASIO assisted the NSWPF as much as it could in relation to the siege response raises issues of inter-agency cooperation, liaison and most significantly, information sharing with respect to Monis.
145. Counsel Assisting submitted that the assistance rendered by ASIO was limited, and that while genuine and concerted efforts were made in some quarters, in others they were significantly lacking. The reasons for those submissions are dealt with in the closed version of this chapter.
146. In response, ASIO submitted that Counsel Assisting's criticism was incorrect and unfair for various reasons. Among other things it submitted that the NSWPF had not suggested that ASIO provided inadequate assistance. I do not regard this part of ASIO's submission to be of assistance since the NSWPF was not part of this segment and could not have been aware of what ASIO did (and did not) have to offer by way of information, intelligence and analysis that was not shared.
147. ASIO responded to this issue by making the following observations regarding the proper role of ASIO during the siege, which included the following:
- a) any assistance ASIO could have provided to the NSWPF in respect of the siege had to occur within an established framework, being the NSW Counter-Terrorism Plan and the Eagle and Pioneer protocols. Furthermore, the JIG and the Joint Analysis Group (JAG) had been "stood up" within that framework and ASIO officers were allocated to both of those entities;
 - b) the NSWPF was the "lead agency" responding to the siege. As a result, ASIO should only be criticised for any departure from the relevant NSW plans. It did not depart from those plans. If ASIO should have done more, it is a matter of the relevant plans being amended. And, ASIO cannot act unilaterally outside of the established framework;
 - c) ASIO's main role on the day of the siege was to monitor other threats to national security. It would not have been appropriate to devote all of the organisation's resources to the siege; and
 - d) the NSWPF had had more recent and extensive

dealings with Monis than ASIO.

148. In my view, in relation to (a), I note that even though there were ASIO officers at the JIG and the JAG, certain information about Monis was not provided to those entities (a point dealt with in depth in the closed version of this chapter).
149. In relation to (b), while those established frameworks exist, they do nothing, in my view, to prevent the provision of the information identified by Counsel Assisting.
150. In relation to (c), I accept that ASIO had a role outside the siege response. However, that does not constitute a reasonable explanation for not providing the information that would assist the NSWPF. I was unpersuaded by ASIO's other submissions in relation to that particular point.
151. In relation to (d), while the NSWPF may have had more recent—and possibly broad-ranging—dealings with Monis than ASIO, that does not mean that the information ASIO held would not have been of assistance to the NSWPF as siege managers.

Conclusion: ASIO's response to the siege

152. There were a few examples of information that ought to have been shared by ASIO with the NSWPF during the siege. Among them is one document in particular that I consider would have assisted the NSWPF in responding to Monis. In my view, it should have been shared, and the reasons for its not having been shared are unpersuasive. This issue is dealt with in detail in the closed version of this chapter. However, it can be recorded here that the document comprised an internal email sent at 19.55 on 15 December 2014 titled "*Haron—brief [...] summary on possible motivation*". It contained three dot-points on Monis' activities and possible motivations, and was "*based primarily*" on previous reports (one of which had been disseminated to the NSWPF earlier in the day), officers' recollections, and information from Monis' website and two Facebook pages.

Improvements and change

153. There was evidence that since the siege ASIO has attempted to improve certain of its communications methods to enable the faster release of information.

154. However, it is not apparent that any internal changes have been made which would address the issue of the non-supply of information held by ASIO referred to above.

Recommendations: Other issues

155. *I have made recommendations on areas that can generally be described as triaging, information management, the assessment of politically motivated violence, and inter-agency information sharing and cooperation. Those recommendations are contained in the closed version of this chapter.*

19 Fixated persons

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Identification of a problem

1. Radicalised lone actors pose a significant challenge for our community if they are intent on engaging in terrorist acts. They are now a constant and mercurial threat, not easily countered by a one-size-fits-all solution. As is now known, Monis emerged on Monday 15 December 2014 as a lone actor, with devastating consequences. The inquest therefore had to address the question of what could be done to prevent individuals like him from developing into lone actors and committing the kind of atrocity he did. The answer appears to lie in early identification of at-risk individuals and engaging with them before the risk they pose is actualised. Mental ill-health is frequently a common denominator among such cases, but at the issue's core is the concept of the *fixated* individual. The evidence before the inquest established that fixated persons like Monis need to be identified and managed through a formal, established multi-disciplinary approach.
2. Before the siege, no one government agency undertook a holistic assessment of the risks Monis posed to the community. Many agencies knew about part of his life or had insight into him from a particular vantage point. It is only now, with the benefit of hindsight, that this inquest can piece together the whole mosaic of Monis as a person. Understanding him and others like him is crucial to thwarting the threat posed by the fixated lone actor.

Monis and existing agencies

3. At the time of the Lindt Café siege, Monis was well known to multiple government agencies at a federal and state level. They included ASIO, the AFP, the NSWPF, the Joint Counter Terrorism Committee (JCTT, comprising representatives of the NSWPF, AFP, ASIO and NSW Crime Commission), the ADF, Corrective Services NSW, the Family Court, the NSW DPP, and the Commonwealth DPP. The Department of Immigration and Border Protection, the Department of Human Services, the Department of Justice, and various Local Health Districts in the New South Wales public health system had also been exposed to him. Medicare and the Pharmaceutical Benefits Scheme had extensive records for him.
4. As summarised in the *Martin Place Siege: Joint Commonwealth–New South Wales Review (Joint Review)*, different agencies shared information about Monis and considered whether he could be charged in respect of certain terrorism offences.

For example, in 2008, the JCTT, with the assistance of the Commonwealth Director of Public Prosecutions, considered whether a video available on Monis' website breached any Commonwealth laws (with respect to terrorism and politically motivated violence).

5. Those same agencies also considered whether control orders might be sought in respect of Monis. At the time of the siege he was on bail in respect of charges of sexual assault and being an accessory to murder.
6. However, each agency viewed Monis only through the prism of its own function and purpose. All of those agencies have extensive but specific statutory and public roles to fulfil. None alone has the task of gathering and managing information about the risk posed by persons who may be fixated and have the potential for violence. Nor should they. Such a role would require (with suitable privacy protections in place) access to a combination of medical, investigative, social service, intelligence, and community information, and the capability to respond accordingly.
7. The gap in the existing arrangements permitted a man planning a solo and relatively unsophisticated terrorist act to avoid being subjected to a systematic risk assessment or to any form of management in the period leading up to the siege.
8. What did not exist at a Commonwealth or New South Wales level at the time of the siege was a body tasked with amassing and considering a broad corpus of information about potentially dangerous or fixated behaviours, conducting a structured risk assessment, and then initiating contact with a person like Monis to try and steer him towards appropriate mental-health or other community services.

The current system

9. The Joint Review found that:

Under the current system, security and police discussion and coordination regarding these individuals can be undertaken bilaterally or within the JCTTs located in all states and territories. Susceptible individuals can and are engaged by police agencies or referred to other government agencies in order to receive necessary support. This currently occurs in an ad hoc way and would benefit from being systematised. There are currently no formal risk assessment and referral arrangements to identify and actively case manage individuals on a radicalisation trajectory.

10. The Joint Review thus identified a gap in the current arrangements. It also noted that in August 2014 some steps were taken to develop a Countering Violent Extremism intervention program to identify individuals who were becoming radicalised and divert them through active case management.
11. As has been noted elsewhere in this report, ASIO does not maintain a “watch list” of persons in Australia on whom surveillance is carried out. It is not suggested that it should.
12. Nevertheless, there is a need for fixated individuals to be identified and managed through a mechanism not unlike a watch list. The mechanism would draw upon existing services and agencies to gather and exchange information with a view to obtaining a comprehensive and informed understanding of those identified as fixated individuals. The mechanism would help to identify the potential threat posed by such individuals and manage them before that threat is actualised.
13. A possible solution is to be found in the concept of an assessment centre for fixated individuals.

The genesis of a new approach

14. The NSWPF has, in recent days, announced the establishment of a Fixated Persons Investigations Unit. The genesis of such a body can be traced to this inquest. A principal question throughout the inquest has been: could Monis’ staging of the siege have been anticipated and/or prevented, and if so, by whom? It was in that context that the concept of the fixated loner emerged and was examined during the inquest.
15. The possibilities of a fixated persons unit were explored by those assisting me, including in March 2016, when some of them visited the Queensland Fixated Threat Assessment Centre (QFTAC) in Brisbane to better understand its work and model. Dr Michele Pathé, the consultant forensic psychiatrist to QFTAC, was then engaged as an expert witness in this inquest, and she provided an expert report in May 2016. Much of that report informed my findings in relation to fixated loners. The other mental health experts engaged in this matter—Dr Phillips and Dr Barrelle—were also examined about the relevance of pathological fixations to this case.
16. In October 2016, Counsel Assisting presented in written submissions a case for the establishment of a fixated threat assessment centre in New South Wales. All other interested parties supported that suggested recommendation, as did NSW Health,

whose views had been sought by virtue of the impact any such recommendation would have on it.

17. The foundations for this new approach, and its applicability to people such as Monis, are described below.

The dangers of the fixated loner

18. Various experts retained in the inquest emphasised the relationship of mental ill-health, including fixations, to the issues of radicalisation and politically motivated violence. The global terrorism researcher and consultant psychologist Dr Kate Barrelle gave evidence that mental health issues may go hand in hand with radicalisation. The forensic psychiatrist Dr Pathé also highlighted the relevance of the fixated individual to the question of political motivated violence. She observed that there:

is a growing recognition of the nexus between lone actor terrorism and fixated loners, and a distinction between these individuals is regarded in some academic circles as a false dichotomy.

Dr Pathé also commented that:

The commonalities between lone actor terrorists and fixated loners are increasingly acknowledged in contemporary literature, particularly the elevated rates of mental illness in both groups relative to group actor terrorists and the general community, and their similar origins in experience of loss or injustice.

19. Some elements of a system for dealing with fixated individuals are already in use in Australia. The QFTAC identifies, assesses and manages risks posed by fixated individuals to public office holders. It aims to engage or re-engage those individuals with mental health or other community services. The QFTAC was established in 2013, and is largely based on the Fixated Threat Assessment Centre in the United Kingdom, which arose out of a Home Office report from 2006.
20. The QFTAC model provides a mechanism for identifying and managing fixated loners.
21. The QFTAC comprises police and senior forensic mental-health clinicians. It is jointly funded by the Queensland Police Service and Queensland Health, and is located at the Queensland Police Service headquarters in Brisbane.
22. QFTAC police staff are drawn from the Intelligence, Counter-Terrorism and Major Events Command. They comprise two plain-clothes senior constables

and a sergeant/team leader. On the mental health side, staff come from the Queensland Health Forensic Mental Health Service. There are two full-time senior forensic mental-health nurses and a senior forensic psychiatrist.

23. The QFTAC serves a number of key purposes, including protecting public office holders and other prominent people from harmful intrusions and attacks by fixated persons, identifying seriously mentally ill people and linking them with appropriate care, and seeking to reduce via early intervention the risk fixated persons pose to public officer holders and the wider community.
24. The QFTAC responds to referrals made to it. Each referral is allocated to a police officer–clinician case worker team. That team reports to the police sergeant and the psychiatrist, respectively, who in turn report up to the Detective Inspector, Security Operations Unit, and the Clinical Director, Forensic Mental Health Service.
25. The QFTAC accepts referrals from Queensland-based Members of Parliament (state and federal), public officials, their staff and families, heads of consulates or embassies, internationally protected persons (as defined by the *Crimes (Internationally Protected Persons) Act 1976* (Cth)) and persons who from time to time are assessed by the Police Commissioner to be in need of protection and/or security.
26. The QFTAC provides training on an annual basis to the bodies and organisations from which referrals are accepted. Potential referrers are thus educated, via an evidence-based screening checklist, in the criteria needed for a case to be taken on by the QFTAC. Potential referrers are encouraged to contact QFTAC to discuss any ambiguous cases.
27. Each referral is processed by the police officer–clinician case worker team, which obtains police and mental-health records on the individual. There is often further discussion with the referrer and other relevant parties, and the team undertakes a formal risk assessment using a structured risk-assessment tool known as a risk aide-mémoire. Both team members contribute to the risk assessment, as it involves applying both policing and mental health skills.
28. Under the risk aide-mémoire, the level of risk can be assessed as low, moderate or high.
29. If the referred person is currently being treated through the Queensland public mental health system, the clinician case worker contacts the relevant service and apprises clinicians of their patient’s behaviours and any other information obtained by the QFTAC that may assist in the patient’s ongoing management. If the reported person is being managed in the private sector (by a general practitioner or private mental-health professional), the QFTAC clinician case worker will contact that treatment provider.
30. For referred persons who are suspected to be mentally ill but are either no longer actively engaged in any form of treatment or have never come to the attention of the mental-health system, QFTAC facilitates psychiatric intervention. In cases of sufficiently concerning behaviour, that can mean making arrangements for compulsory referral to the person’s local mental-health service for assessment and potential scheduling (certification for involuntary admission to a mental-health facility). More typically, however, where mental illness is suspected but the assessed level of risk is not so high, the QFTAC police officer and clinician case worker conduct a joint home visit. The home visit is aimed at diagnosing or excluding cardinal signs of mental illness and determining appropriate interventions.
31. Once an individual is assessed as posing a moderate or high risk, his or her case is subject to weekly case-management review meetings until the level of risk is assessed as low. In particular instances, where the person’s degree of engagement with mental health care is uncertain, QFTAC may decide to extend the period of monitoring despite what would otherwise be a low level of assessed risk.
32. Even after a QFTAC case is closed, it can be reopened on the basis of further information. When a case is closed, QFTAC provides written feedback to the referrer, indicating that the person is now of low concern but advising that he or she can be referred again if certain factors arise.
33. If New South Wales had had a counterpart to the QFTAC, Monis would almost certainly have been the subject of a referral and subsequent assessment and intervention. While the chances of his being referred would have increased over time (given the accumulation of warning behaviours and collected intelligence), a referral would still have been likely from an early stage after his arrival in Australia.
34. It is worth noting that, according to Dr Pathé, the

Monis assessed by QFTAC system: a hypothetical case study

33. If New South Wales had had a counterpart to the QFTAC, Monis would almost certainly have been the subject of a referral and subsequent assessment and intervention. While the chances of his being referred would have increased over time (given the accumulation of warning behaviours and collected intelligence), a referral would still have been likely from an early stage after his arrival in Australia.
34. It is worth noting that, according to Dr Pathé, the

“typical” fixated person referred to QFTAC is:

- male;
 - aged in his mid-50s;
 - in pursuit of some idiosyncratic cause;
 - engaging in inappropriate correspondence, telephone calls, or direct approaches to a public office holder;
 - likely to be known to police;
 - more likely than not to have a mental disorder;
 - more likely than not either to have disengaged from mental health care or to have had no prior contact with the mental health-care system; and
 - in 9 per cent of cases, has as a primary diagnosis a personality disorder of a paranoid, antisocial and/or narcissistic type.
35. Monis was 50 years old at the time of the siege, notorious for pursuing various idiosyncratic causes, a notorious writer of inappropriate correspondence, known to various police forces, very likely to have had a mental disorder of some variety, and had disengaged from mental health care some years earlier. As I have set out in more detail in Chapter 1, in the expert opinion of Dr Jonathan Phillips, Dr Pathé and Ms Kim Ora, Monis had a personality disorder. That was also the view settled upon by the Consultant Psychiatrist and Dr Murray Wright, the Chief Psychiatrist for NSW, during the siege.
36. In support of her conclusion that Monis was pathologically fixated on a cause, Dr Pathé noted (among other things) his:
- dogged and single-minded campaign against, in particular, “unjust wars”, which appeared to increasingly consume him;
 - claimed preparedness to go to prison for his cause;
 - highly unreasonable expectations;
 - presentation as a rigid and ruminative individual resistant to criticism; and
 - alternately obsequious and condescending behaviour.
37. Dr Pathé observed that over the years Monis engaged in a number of typical “warning behaviours”, but the one most likely to prompt a referral to an FTAC was his inappropriate writing of letters to public figures, although his lone protests and hunger strike might also have been enough. Significantly, Dr Pathé also observed that:
- As is often the case for the fixated, Mr Monis’ warning behaviours occurred over a protracted period (13 years or more), with multiple opportunities to identify and assess these behaviours, had there been a system in place to do so.*
38. Dr Pathé said the “warning behaviours” would have translated into a referral to a FTAC because they met three of the relevant criteria:
- communications that contain a threat, either direct or implied;
 - a highly personalised quest for justice, in which a public office holder is seen as the problem; and
 - prolific letter writing.
39. Dr Pathé observed that when fixated individuals engage in prolific correspondence (as Monis did), they can target a wide range of public figures. However, it can be very difficult to appreciate the extent of the problem and associated risks if the various dignitaries and departments concerned are not communicating with each other. As the coordinating body for such intelligence, a FTAC could have formed a more complete picture of Monis’ activities than any other body was able to, and would thus have been better placed to identify the risk he posed. The practical problems of imposing such a task on a single Commonwealth entity, such as ASIO, would be substantial. There are benefits in monitoring and assessing individuals by reference to errant behaviour at the same level of government as policing and health—namely at the state and territory level. However, such activity should plainly be compatible with the JCTT structure so as to achieve useful exchanges of information relevant to the assessment of public risk.
40. In the particular case of Monis, the material that would have been available to, and likely collected by, a FTAC would have included:
- Monis’ letter to the Commonwealth Attorney-General regarding contact with Abu Bakr al-Baghdadi, “Caliph Ibrahim” of Islamic State;
 - his correspondence with other public office holders;
 - his website (including his oath of allegiance to the IS Caliphate);
 - material from his Facebook pages;
 - material from his Twitter account;
 - material from his YouTube accounts/channels;

- National Security Hotline (NSH) referrals;
 - police records and intelligence from both the NSWPF and AFP;
 - information on the various criminal charges against him (including the addition of new charges and his changing bail status);
 - Corrective Services records;
 - mental health service records;
 - information about his High Court challenge;
 - information about his attendance at the Hizb ut-Tahrir protests;
 - (possibly) his facsimile to the CIA in which he attempted to blackmail that organisation; and
 - Family Law Court material.
41. Had such an organisation been apprised of Monis' case, it would have considered all of that material as a whole. That, in turn, would have enabled a comprehensive, penetrating and accurate analysis of Monis' motivations and risks to be undertaken. By way of example, if the FTAC system had existed in NSW, and Monis' letter to the Attorney-General had been referred to it, that letter could have been placed in its proper and complete context. That, in turn, would have permitted the hyperbolic escalation of Monis' "warning behaviours" to be identified and then addressed.
42. The conclusion Dr Pathé reached on the basis of all the available material was that if a FTAC had existed in New South Wales at the relevant time, it was highly likely that at least one of the stakeholders with which Monis interacted would have proceeded with a referral. Dr Pathé also thought it highly likely that the case would have been accepted by the FTAC and that a formal risk assessment would have concluded that Monis presented a moderate level of risk, and that the FTAC should engage with him further.
43. In her report, Dr Pathé raised the question of whether Monis was mentally ill at any point. She was provided with a copy of Dr Phillips' report, and while she did not express disagreement with him, she indicated that she was not as confident that a diagnosis of delusional disorder—specifically, delusional disorder (grandiose type)—could be confidently excluded. The point of Dr Pathé's comments was not in any way to criticise the diagnosis Dr Phillips settled upon after the event, but to indicate that had her team assessed Monis, they would likely have raised concerns about whether he was suffering from some form of mental illness (or categorical psychiatric disorder, in DSM terms) when one looked at his various interactions with doctors and hospitals over the years. In Dr Pathé's view, that would likely have triggered attempts to have Monis re-engage with mental health services.
44. Counsel Assisting, the NSWPF and NSW Health submitted that there is significant doubt about whether Monis would have agreed to engage with mental health services and whether, if he had engaged, he would have remained engaged for very long. As the NSWPF pointed out, Monis' narcissism may have predisposed him to such interaction. However, his history of visits to mental-health clinicians suggests that he might have been very selective in what he disclosed and less than reliable in making and keeping further appointments, which would have made the task of detecting his plans very difficult.
45. Further, the paranoid features in Monis' personality might have rendered him wary of making any visits to mental-health clinicians that he regarded as in any way enforced. I note that the NSW Ministry of Health annexed to its submission an opinion provided by Dr Murray Wright, Chief Psychiatrist for NSW, who pointed out that Monis appeared very mistrustful of all authority figures and that this would have affected his degree of engagement. I accept that this was so.

The benefits of a fixated persons unit

46. Ultimately, it is impossible to know how events might have played out had Monis been visited by a team from a FTAC. To some degree, that might have depended on when he was visited and what then happened with his case. At the very least, the realisation that his activities had attracted the attention of both police and mental-health clinicians might have given him pause when he began considering staging the siege. It might have even been enough to disrupt his plans, but it is impossible now to know. However, had Monis been in the orbit of a FTAC, such a body would have represented the best chance of "picking him up" and thereby thwarting his plan.
47. There is no evidence that in the months and weeks leading up to the siege Monis was displaying signs or admitting to symptoms that would have enabled him to have been "scheduled", or involuntarily admitted to psychiatric care under the *Mental Health Act 2007*. The evidence before me indicates that at no time would he have met the relevant tests

for “mentally ill persons” or “mentally disordered persons”. Accordingly, even if he had been referred to a mental health service by a FTAC in late 2014, there is no basis upon which to find that he would have been scheduled and thus prevented from carrying out the siege.

48. Each of the interested parties has indicated support for a recommendation that the NSWPF establish a FTAC. The NSWPF noted in its submissions that it has recently established a Fixated Persons Working Group to develop arrangements to identify, monitor and case-manage individuals assessed as fixated. The NSWPF also submitted correctly that any FTAC would need to be supported with memoranda of understanding or legislation as required to facilitate sharing of health information.
49. NSW Health has indicated its support in principle for a FTAC and has confirmed that it would work with the NSWPF to develop a model that would be most effective in New South Wales. Further to that, Dr Wright indicated his strong support for the establishment of a FTAC.
50. Overall, the evidence demonstrates that there remains a gap in present policing, intelligence, security, counter-terrorism and mental health arrangements with respect to lone-actor terrorists or fixated individuals. A NSW-based body like the QFTAC could usefully fill that gap. While it seems that the Countering Violent Extremism intervention program, which was referred to in the Joint Review, has worked to some extent in that same space, its focus is very different from that of a FTAC. Additionally, as Dr Wright pointed out in his comments on the proposal for a NSW equivalent of the QFTAC, the experience of NSW Health with the Countering Violent Extremism initiative to date is that there is considerable difficulty engaging people on a voluntary basis.
51. Dr Wright has suggested there may be similar difficulties with engaging fixated persons in a voluntary unit via a FTAC assessment. However, I believe there is sufficient evidence of the utility of such a body in identifying higher-risk individuals and improving public safety to justify a recommendation that a FTAC be established in New South Wales, with counterparts in the other states and territories.
52. A system designed to identify fixated persons who have the potential to commit acts of violence could differ in significant ways from the QFTAC. It would need to be directed at detecting and managing threats posed by fixated loners to the commu-

nity at large, by focusing on those who obsessively contact officials and public figures in concerning ways. It would require access to national resources and information held by relevant Commonwealth agencies, including in the Australian intelligence community. It is likely to be local in structure and composed of investigative and mental-health personnel. It is likely to need ready access to human sources within the community in which a fixated person lives, works or worships. The most effective structure might be to have separate but harmonious state and territory-based units rather than one overarching Commonwealth entity.

53. It is highly likely that the work of a fixated persons unit would enhance the ability of ASIO, in concert with the nation’s police forces, to meet the challenge posed by lone actors.

Conclusion: Gaps in identifying potentially dangerous persons

54. Current arrangements for identifying and assessing the risks posed by self-radicalised and isolated or fixated individuals who are not necessarily committing crimes tend to be fragmented rather than holistic, piecemeal rather than coordinated, and not presently focused on fixated persons. The recent announcement of the NSW Police Commissioner, Mr Fuller, that he intends to create a unit to attempt to identify lone-actor terrorists is commendable. In my view, this unit should work collaboratively with NSW Health and have access to all necessary data.

Recommendation 43: A Fixated Threat Assessment Centre

55. *I recommend that the NSWPF, in conjunction with NSW Health, establish a Fixated Threat Assessment Centre to identify and gather information about fixated persons, assess the risks they pose, and attempt to mitigate such risks through early intervention.*

Conclusion: Relevance to ASIO’s work

56. There is potential for the work of a Fixated Threat Assessment Centre to overlap with that of ASIO. ASIO’s ability to meet the challenges posed by lone actors would be increased by the ability of such a centre to assess individ-

uals in their broader context and make available a more complete picture of them. That is, risk assessments would be likely enhanced if ASIO were apprised of up-to-date information about a potential lone actor's criminal, medical and social history and activity. Such information does not traditionally fit within the narrow definition of "security"-related material. In some cases, that information may inform the criteria by which ASIO assesses the risk of politically motivated violence.

That is likely to be especially so in the context of fixated persons who are possibly also radicalised.

Recommendation 44: Liaison with ASIO

57. *I recommend that ASIO liaise with the Fixated Threat Assessment Centre with a view to both agencies cooperating in the identification, assessment and management of fixated, radicalised individuals.*

Part V: Logistics

20 Inquest logistics

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Introduction

1. The new territory charted by this inquest may provide a useful guide for others embarking upon a similar undertaking. In addition, there were occasions when the process and scope of the inquest were matters of public comment and debate. It is therefore appropriate that a record be made of how this inquest came to take the shape it did. This chapter also contains a recommendation designed to allow for earlier debriefing of operational police officers without undermining the integrity of an inquest that follows.

The inquest's purpose: an eye to the future

2. The principal function of this inquest was to establish *what* happened, with a view to identifying any improvements required in the interest of greater public safety. The primary responsibility of a coroner is that of fact finding. The main purpose of both the investigation and hearings, therefore, was to determine the facts.
3. I am cognisant that for many individuals, having their conduct examined by the inquest was a source of distress, pain and anxiety—even when they carried out their duties unimpeachably and did what was asked of them with honour, bravery, skill and dedication. That is regrettable but unavoidable.
4. An inquest that properly interrogates all that occurred will also shine a light on those whose conduct deserves recognition and commendation. Forensic scrutiny and public vindication are often two sides of the same coronial coin.
5. There are no means for reconciling the need to explore the factual issues arising at an inquest, with the distress that may cause those whose conduct is being examined. But that is a factor that ought to be borne in mind by those involved in this jurisdiction.

Urgency

6. Coronial investigations sometimes take a long time to complete: an inquest commencing within a year of the death is prompt. This case was different.
7. It was not that the deaths of Katrina Dawson or Tori Johnson were inherently more significant than other premature deaths that come before this court. However, the circumstances in which Tori

and Katrina died raised crucial issues relevant to the actual security and sense of security of the Australian community. Such concerns demanded a speedy response to ensure that, if there were lessons to be learned, they could be identified before another similar event occurred.

8. I was mindful of the need to protect Tori's and Katrina's families, and the hostages, from the further pain that could arise from forcing them to revisit the tragic events too soon. It was also necessary to ensure that the quality of the evidence brought before the court was not degraded in the haste to reach conclusions that might prevent similar tragedies. The risk of inadvertent disclosure of sensitive and confidential material held by policing and security agencies also meant the inquest had to proceed cautiously at times. The desire for urgent answers had to be weighed against the time it took to ensure the evidence was the best and most reliable available, and that the inquest in itself caused no further distress to the individuals involved or to the community.
9. Against that backdrop, the work of the inquest commenced immediately. It was initially hoped that the entire inquest could be completed within a year of the siege, and all of those assisting me made concerted efforts to reach that goal. However, the wide-ranging and intricate nature of the issues that demanded the inquest's attention, coupled with the logistical challenges that arose, put that original deadline out of reach.
10. It is now nearly two and a half years since the siege in the Lindt Café. Throughout that time, however, this inquest has proceeded as expeditiously as possible, and I and those assisting me have done all in our power to ensure that it was comprehensive, rigorous, independent and searching.

Establishing the investigation

Assuming jurisdiction

11. By reason of this court's jurisdiction over deaths that occur in the course of a police operation, I was notified of the events that ended the siege at 2.22 a.m. on 16 December 2014. From that time onwards, I was required to conduct an inquest into the deaths and to make the findings set out in s. 81 of the *Coroners Act 2009* (**the Act**). For many months thereafter, the police assisting team and the legal team worked exclusively on the inquest, assisting me to reach this point.

The beginnings of an investigation

12. The lead detective on the matter, Detective Chief Inspector Angelo Memmolo of the Homicide Squad, was appointed as the senior critical incident investigator shortly after I was notified of the deaths. Det Chief Insp Memmolo and his team were on the ground at the Police Operations Centre within an hour and a half, and the investigation commenced immediately. The forensic medicine aspect commenced shortly afterwards. The beginnings of a legal team to assist me was assembled on 17 December 2014.
13. With a view to commencing the work of the inquest as soon as possible, I attended the Lindt Café with my Solicitor Assisting, Melissa Heris, in the afternoon of 17 December 2014 (shortly after the crime scene examiners had concluded their work, but before the site was cleaned or altered in any other way). We received a briefing on what was then known. The opportunity to see the interior of the café—largely as it was when the last hostage and Tactical Operations Unit (TOU) officer departed—was of great assistance as we later navigated through the voluminous evidence on the 17 hours Monis spent there with the hostages.

The Crown Solicitor and secondments

14. In all states and territories other than Tasmania and New South Wales, the coroner's courts have in-house lawyers to assist coroners.
15. Because no such resources exist in New South Wales, the usual arrangement is that the Coroner's Court engages the Crown Solicitor to provide legal services in matters that cannot be handled by police prosecutors either because of their complexity or because of a perceived conflict of interest.
16. Accordingly, on 17 December 2014, I sought the assistance of the then Crown Solicitor in relation to this inquest. He said he was unable to assume the usual role of Solicitor Assisting the Coroner and briefing Counsel Assisting because of a perceived conflict of interest—members of the Crown Solicitor's Office (CSO) Child Protection team had previously done work in relation to Monis. However, he offered to provide me with two of his staff on a secondment basis: a senior solicitor who would fulfil the role of Solicitor Assisting, and a junior solicitor. Subsequently, two further solicitors were seconded from the CSO.
17. Soon after this arrangement was put in place, difficulties arose because those solicitors did not have

the resources and support they would usually enjoy as part of the well-resourced CSO Inquiries Team. Given the scale and urgency of this inquest, their inability to draw on a dedicated pool of paralegals and on team lawyers who could assist on an as-needs basis at times of peak demand was a disadvantage.

18. Accordingly, I wrote to and met with the then Acting Crown Solicitor and attempted to persuade him that it would be preferable for him to accept his usual role as the solicitor for the inquest. I suggested that the Coroner's Court deserved some priority over other government agencies that might seek his assistance because unlike those agencies, the court had no in-house legal officers and was unable to retain a private firm of solicitors to act for it. The Acting Crown Solicitor declined to alter his predecessor's original position, principally because by that stage he had accepted a retainer to act for the NSW Director of Public Prosecutions.

The police assisting

19. Det Chief Insp Memmolo's appointment as the senior critical-incident investigator arose because he was the head of the team from the Homicide Squad that was on call on 16 December 2014. "Critical incidents" are defined by the *NSWPF Critical Incident Guidelines* to include an incident in which a person is killed as a result of a discharge of a firearm by police. Once appointed as senior critical-incident investigator, Det Chief Insp Memmolo also became the Officer in Charge of the coronial investigation, a role he has retained to this day.
20. Under s. 51(2) of the *Coroners Act 2009* (NSW), the coroner has power to direct a police officer regarding investigations to be carried out for the purposes of coronial proceedings.
21. As such, the Act provides for the expertise of police officers to be used in coronial investigations, including in matters in which the death involved police action. However, an inquest remains a civilian review of a death. It is for that reason that the investigation of a death connected with a police operation is overseen by the State Coroner or a Deputy State Coroner, with counsel and a solicitor to assist, together with such independent sources of evidence as the matter requires.
22. Accordingly, the police officers assigned to a coronial investigation perform that role as police assisting the coroner. In this instance, Det Chief Insp Memmolo and his police team formed part of my broader team. While they remained part of the NSWPF, they

worked out of a space dedicated exclusively to this investigation that separated them from other colleagues. I retained oversight of their work.

23. In the immediate aftermath of the siege, members of Det Chief Insp Memmolo's regular Homicide Squad team joined him to commence the investigation. In the days that followed, a large number of detectives from different squads and Local Area Commands around Sydney sought to join the team. Ultimately, around 30 were assigned to work full time on Strike Force Verum, as the investigation was titled within the NSWPF.
24. Det Chief Insp Memmolo also brought onto his team several technical experts from the NSWPF, such as ballisticians and forensic imaging specialists. These included Scientific Officer Lucas van der Walt, and Crime Scene Officer Dominic Raneri.

The scale and extent of the investigation

25. The investigation was the largest critical-incident investigation in Australia's history. It was also one of the most challenging.
26. Part of the challenge lay in the sheer quantity of material that had to be investigated, analysed and compiled. By way of illustration:
 - over 1200 witness statements were obtained;
 - approximately 200 hours of media footage were obtained from various outlets and then reviewed;
 - 20 NSWPF officers were formally deemed "involved officers" for the purposes of the investigation;
 - 14,690 individuals were canvassed (including through door-knocking enquiries);
 - the incident canvassing area comprised the entirety of the Sydney Central Business District;
 - Monis' known residences, and those of his associates, were also canvassed;
 - approximately 1000 hours of CCTV footage from business and other cameras around the Sydney CBD and elsewhere were reviewed and analysed;
 - 172 calls to 000 were listened to and analysed;
 - 1500 National Security Hotline reports were reviewed and analysed;
 - 1712 calls to the Public Information and Inquiry Centre were reviewed and analysed;
- approximately 10,000 running sheets, file notes and tasks were generated by the investigators (and that number continues to increase);
- multiple logs generated during the incident, which recorded thousands of decisions made by various officers, were reviewed and analysed; and
- 32 organisations were involved in the incident.

Analysing the crime scene

27. The analysis of the crime scene was especially challenging. Several factors contributed to that complexity:
 - the number of people in the Lindt Café during the siege;
 - the amount of ballistic material introduced into the crime scene from Monis' 12-gauge shotgun; the TOU's .223-calibre firearms; the 11 SF9 distraction devices used;¹ and police shotgun rounds released into window glass; and
 - the contamination of the crime scene that occurred upon the entry of the TOU and the subsequent rescue of hostages (such as the movement of furniture, blood and the body of Monis himself).
28. To address those difficulties, Det Chief Insp Memmolo enlisted an array of technical experts from a range of forensic disciplines to analyse the crime scene.
29. Video footage from a variety of sources (such as CCTV, media film, and police video) was also used to complement that analysis.
30. The ballistic testing was extensive. Testing on the rounds used by both the snipers and the TOU occurred over many days. It required the NSWPF to acquire specialised equipment including a Doppler radar (to measure the speed of a bullet throughout its trajectory), and two high-speed cameras. To complete those tests, identical replicas of the café's chairs and sheets of glass identical to those in the windows of the café and the Westpac building were also acquired.
31. A digital 3D reconstruction of the café and the surrounding area was compiled from laser scans and photographs. Among other things, this helped investigators establish the precise firing distances and angles required to produce the damage

¹ Eleven SF9s were thrown into the stronghold; one was thrown onto the street after the Emergency Action.

observed in the café after the siege. The 3D reconstruction work also represented a significant technical advance in the investigation of coronial incidents.

32. While each of the forensic disciplines has been used previously in the coronial and criminal jurisdictions, the extent to which they were used in this inquest—including in combination—is unprecedented.

The investigation's stages

33. Because of the segmented approach to the inquest (discussed in detail below), the police investigation had to follow a similarly structured path. While some areas of the investigation progressed continuously throughout the inquest and could not be concluded until the end (such as the ballistics analysis, which relied upon the results of earlier work and testing), other aspects were completed earlier (such as the biography of Monis, which was dealt with in Segment 1 of the inquest hearings).
34. The composition, order and timing of the various segments of hearings were primarily determined by what could be achieved in the investigation and when.

Working alongside the legal team

35. One of the unusual features of this coronial investigation—arising from the need to commence and complete it in the shortest time possible—was that a legal team was involved from the outset.
36. Ordinarily, the legal team assisting in an inquest is not appointed until the investigation by the police officer in charge has progressed substantially and, in some instances, until an initial brief of evidence has been compiled. In this matter, the legal team and the team of police assisting have worked closely together throughout.
37. An example of that collaborative approach was the simultaneous review of the entirety of ASIO's holdings relating to Monis at ASIO's Canberra headquarters. That review was conducted over three weeks by Sophie Callan, Ms Heris, Detective Sergeant Ricky Hennessy, and Detective Senior Constables Rosie Allen and Lucy Ede.
38. Members of the legal team were also present for ballistics testing conducted at the ANZAC Rifle Range at Malabar and the Sydney Police Centre, as well as for a reconstruction of the deployment of SF9 distraction devices. Throughout the inquest,

Det Chief Insp Memmolo and Ms Heris also attended various meetings together with representatives of the Commonwealth, including at Australian Federal Police (AFP) headquarters, to discuss matters such as the provision of statements, information and other evidence required for the inquest.

39. The collaborative working relationship between the legal and police assisting teams ensured that the investigation would be as thorough, comprehensive, forensic and independent as it needed to be.

The Joint Review

40. The Joint Commonwealth–New South Wales Review (**Joint Review**) was established in the wake of the siege, pursuant to terms of reference set on 17 December 2014. It comprised the first official government review of the incident. At the outset, those conducting the review were mindful of the inquiries and proceedings that this jurisdiction was involved in, and were careful not to prejudice that work.
41. In late December 2014, I had constructive meetings with representatives from the Department of Premier and Cabinet (**DPC**), the Department of Prime Minister and Cabinet (**PM&C**) and the Commonwealth Attorney-General's Department about the proposed scope of the Joint Review and the potential for overlap with the requirements of this jurisdiction. As the Joint Review noted in its report, it was agreed that it would not be appropriate for it to address the term of reference relating to any lessons learned by the NSWPF and the AFP about the handling of the siege, and it did not do so.
42. I am grateful to those officers for the approach they took.
43. The report of the Joint Review was released on 4 February 2015. It drew on extant records of agencies of the Commonwealth, NSW, and other states and territories. It confined itself to documents. No witnesses were interviewed, no experts were consulted and no investigation per se was conducted.
44. It was a high-level survey that sought to identify any existing vulnerability that could be remedied immediately.
45. In its report, the Joint Review acknowledged that security and law enforcement agencies had been particularly helpful in allowing the Joint Review to include as much operational information as possible. That support and cooperation in turn helped this inquiry.
46. It saved significant time in identifying the various

Commonwealth and state agencies that held material in relation to Monis. The Joint Review team's filtering and triaging of the vast quantity of material held by those agencies was also of assistance. For example, the AFP alone held approximately 25,000 records, and the irrelevant documents were sifted out through the Joint Review process.

47. The very fact that all relevant documents held by NSW agencies had been gathered and provided to DPC was also of considerable assistance to this inquest, as it meant the court could obtain those documents via a single order for production. I am grateful to DPC for facilitating the provision of that material so quickly to the court. A similar opportunity was offered by Allan McKinnon of PM&C, but ultimately those assisting the inquest did not need to avail themselves of it, as the Commonwealth documents required were obtained directly from the relevant agencies.

The 29 January 2015 opening

Reasons for the opening

48. The inquest opened on Thursday, 29 January 2015. The event was broadcast live on television and radio via the Australian Broadcasting Corporation. It commenced with opening remarks by me, followed by an address by Counsel Assisting and applications for leave by various interested parties.
49. The opening took place some six weeks after the siege. That was very early compared with most other inquests. It was imperative that the public component of the inquest begin as soon as possible to reassure the community that the terrible events of 15 and 16 December 2014 were being given the attention and scrutiny they warranted. Broadcasting the opening was an opportunity to inform Australians about what had been done to date to investigate the matter and what they could expect in the coming months.
50. In the days and weeks following the siege, unhelpful and potentially damaging speculation was circulating about what took place in the Lindt Café. In the interests of the integrity of the inquest and the associated investigation, it was necessary for certain established evidentiary and procedural matters to be placed on the public record. That was done in the opening address by Counsel Assisting, Jeremy Gormly SC.
51. One such matter was the treatment of the hostages. By the time the inquest opened, some negative public commentary about the hostages had begun to emerge. In the interests of the inquest, for which the hostages would be the central witnesses, it was necessary to make some public remarks about that debate.
52. What was not publicly known at that stage was that all of the hostages had been interviewed at length and in detail by members of Det Chief Insp Memmolo's team. Any ensuing interviews by the media were unlikely to have any impact on the evidence the hostages would give when called to the inquest. Criticism of hostages who chose to participate in media interviews was misplaced, in my view. In any event, there was no basis on which they could have been prevented from doing so.
53. As Counsel Assisting noted at the time, all of us have tried to imagine what it would have been like to be in the hostages' place, and how we would have responded. It was never the business of this inquest to form moral judgements about such matters or to engage in philosophical hypotheticals. I exhort the community at large to take a similar course in the days, weeks and months following the release of this report.

The issues for determination

54. Because of the very public nature of the events with which this inquest was concerned, various issues that had caused disquiet in the community emerged almost immediately as demanding of attention. Unsurprisingly, many of the questions being publicly debated in the first days after the siege were questions that the inquest needed to examine. Examples included the timing of the entry by the TOU, whether snipers could have neutralised Monis, the role of the Australian Defence Force (ADF), the circumstances in which Monis came to be on bail, and why he had not been "picked up" by security agencies before the siege.
55. As the investigation progressed, some of those questions were refined and recalibrated, as context and nuance displaced preconceptions and knee-jerk opinions. The relevance of other issues, such as relationships and information sharing among the Commonwealth and states and their agencies, was identified for the first time.
56. Some of the issues vexing the public mind were outside the proper scope of this inquest. One was the circumstances of Monis's arrival in Australia almost 20 years earlier and his subsequent acceptance as a citizen. While at least one of the fami-

lies wanted the inquest to probe those events, they had occurred too long ago to warrant this. Another issue concerned the role and decisions of the judicial officers who had granted Monis bail. While the inquest could examine the conduct of those applying for Monis to be detained in custody—since they were police and government lawyers with duties to discharge to the public—its jurisdiction did not extend to the examination of judicial decisions.

57. Questions that were within the purview of the inquest had to be examined in sufficient detail to produce valid answers. However, there was a limit to the depth of such examinations. If every witness was called to give evidence and every detail exhaustively probed, the inquest would have continued for years, with exponentially diminishing returns. What was needed was an in-depth, forensic examination of all the factors that contributed to Monis' death and the deaths of Katrina Dawson and Tori Johnson. The size of the brief of evidence, the number of witnesses called and the length of the hearings are all testament to the rigour with which these tragic events have been considered and analysed.

Hearings in segments

58. The hearings of the inquest were conducted in separate segments defined by discrete but related issues. That approach was adopted as a means of starting the inquest as soon as possible, and identifying and addressing any systemic issues arising from earlier segments as early as possible. A more traditional approach would have been to wait until the entire investigation was completed and then hold a single block of hearings. Had that approach been adopted here, it is unlikely that the first hearing day would have occurred before 2016.
59. The inquest was broken into four main segments.
- Segment 1 dealt with Monis' biography in an attempt to understand who he was and how and why he came to be in the Lindt Café on 15 December 2014.
 - Segment 2 dealt with the issues of bail, Monis' acquisition of a firearm, his radicalisation, and his relations with the Muslim community.
 - Segment 3 examined ASIO and its interactions with and response to Monis.
 - Segment 4 dealt with the siege itself and the way in which the NSWPF and other law enforcement agencies responded to it.

60. Other issues that did not warrant a discrete segment or dedicated hearing days, such as the AFP's previous interactions with and response to Monis, were dealt with along the way through documentary evidence.

Segment 1: Biography

61. As noted in Chapter 1, Monis spent a period of time in Perth, Western Australia. Det Chief Insp Memmolo and his team endeavoured to obtain information about Monis' activities there, but they were able to uncover very few details.
62. Details of Monis's life in Iran also proved elusive. The inquest sought the assistance of the Iranian Embassy in Canberra. The Minister-Counsellor of the Embassy, Mohsen Chitsaz, informed those assisting that the Embassy had forwarded our request to the relevant authorities in Tehran, and that they hoped to be able to assist in this matter. However, no material was ultimately provided.

Segment 2

Bail

63. The DPP opposed consideration of the granting of bail to Monis, submitting that this topic was beyond the scope of the inquest. His application was unsuccessful. Bail was the only topic that any party or person sought to have excluded in its entirety from the inquest.
64. A notable feature of Segment 2 was the engagement of a panel of legal experts to advise the court on the appropriateness of the work done by the prosecuting authorities in relation to bail. The panel members were selected with a view to obtaining a representative cross-section of experienced and authoritative practitioners in relation to the bail law and practice.

The gun

65. The evidence disclosed that Monis acquired his shotgun through the "grey market"—the trade in unregistered firearms. Unfortunately, time constraints meant that the issues associated with the grey market were unable to be probed exhaustively.
66. Definitive conclusions as to how, when and from whom Monis acquired his firearm remain elusive.

Terrorism and radicalisation

67. Experts on terrorism and counterterrorism were consulted to help the inquest resolve whether the

siege was an act of terrorism.

68. Various specialists in the field who were also public commentators were approached and interviewed by the legal team. Those commentators helped the team identify experts in counterterrorism and de-radicalisation who deliberately maintain a low public profile because of the sensitive nature of their work. Those experts provided valuable evidence to the inquest.

Relations with the Islamic community

69. A number of prominent members of the Islamic community met with those assisting me with a view to contributing to the inquest.
70. Dr Bülent (Hass) Dellal AO, the executive director of the Australian Multicultural Foundation, met with Mr Gormly SC, Ms Heris and Geeti Faramarzi at the Foundation's Melbourne office. Mr Gormly SC and Ms Heris met with Keysar Trad, president of the Australian Federation of Islamic Councils, at his home (Mr Trad subsequently provided a witness statement to the police assisting in this matter), and Mr Gormly SC also met with Dr Jamal Rifi, a leader of the Lebanese Muslim community.
71. The then Police Deputy Commissioner, Nick Kaldas, was instrumental in arranging for Mr Gormly SC, Ms Heris, Det Chief Insp Memmolo and Det Sgt Hennessy to meet with the Grand Mufti of Australia, Dr Ibrahim Abu Mohammed. DC Kaldas also acted as Arabic interpreter during that meeting. The Grand Mufti subsequently provided a written statement to the court.
72. Sheikh Kamal Mousselmani, head of the Supreme Islamic Shi'ite Council of Australia, also provided a statement to the court.

Segment 3: ASIO

73. The third segment of hearings, on ASIO, proved to be one of the most challenging to prepare.
74. It is highly unusual for ASIO officers to be involved as witnesses in legal proceedings. That is due in part to the clandestine nature of their work and in part to the limited circumstances in which an ASIO officer would be validly required as a witness in an adversarial hearing. An outside examination of how ASIO conducts its work is exceptional.
75. As a precondition for ASIO participation in this segment, a very extensive and rigorous confidentiality regime was established. As a result, only limited details of the segment can be recounted here.

76. The process of formulating the segment's structure was complex. It commenced with a dialogue between the legal team and ASIO. Mr Gormly SC and Ms Heris first met with representatives of ASIO at its headquarters in Canberra in early March 2015 to begin discussions about the logistical challenges that needed to be overcome in order for ASIO to participate. Later that month, ASIO hosted Mr Gormly SC, Ms Callan, Ms Heris, Ms Faramarzi, Det Chief Insp Memmolo and Det Sgt Hennessy for a day-long briefing session (conducted subject to confidentiality undertakings) on how ASIO worked, and an overview on what it knew about Monis and what it had done in relation to him. Discussions were also held with ASIO's legal representatives about the possible format of the ASIO segment.
77. After further consultation, it was ultimately determined that the ASIO segment would be conducted in a fairly traditional manner. That is, evidence would be gathered by the team assisting me, statements would be prepared, and the relevant ASIO witnesses would be called to give evidence with no other parties present. That course was expressly endorsed by the Dawson and Johnson families in April 2015, even though it meant their participation would be confined to submitting lists of questions they wished to have addressed in the course of the segment.
78. A review of ASIO's records on Monis was conducted at ASIO's headquarters in Canberra over three weeks in the winter of 2015. Subject to strict undertakings, and under stringent access protocols, Ms Callan, Ms Heris, Det Sgt Hennessy and Det Sen Consts Allen and Ede each reviewed every page of those extensive records and were able to confer among themselves while doing so. The records comprised the entirety of ASIO's holdings in relation to Monis, including those concerning its interactions with Monis shortly after his arrival in Australia.
79. Arising out of that document review exercise, 10 ASIO witnesses were identified, and ASIO was provided with a list of topics the inquest wished them to address.
80. Ultimately, eight witnesses provided statements, six of whom gave oral evidence. The hearings were conducted in three parts: over three days in November and December 2015, one day in February 2016, and one day in September 2016. Documents identified by those assisting me as being relevant to the inquest were tendered into evidence during those hearings.

81. The Inspector-General of Intelligence and Security (**IGIS**)—an office which includes ASIO in its jurisdiction—was invited to attend the hearings in an observer capacity. Upon acceptance of the invitation, the office was supplied with documents and transcript. The Inspector-General, the Honourable Margaret Stone, attended the two 2016 hearings in an observer capacity.
82. The hearings were covered by very extensive (and pre-agreed) confidentiality and suppression orders. A copy of those orders appears as Appendix 7 to this report. None of the interested parties objected to the orders. A significant feature of the orders was the restriction of attendees at the hearings themselves to a very small number of specified people, including the subset of the legal and police assisting teams identified above, Mr Gormly, Det Chief Insp Memmolo, ASIO's legal team, a security-cleared court monitor, and three security-cleared transcript typists. The dates of the hearings have not been published until now to protect the security and safety of the witnesses; for the same reasons, extra security measures were implemented in the building where the hearings were held.
83. As a result of ASIO's failure to provide witness statements from all the officers sought, in early 2016 the court issued subpoenas to the remaining officers to attend and give evidence. In response, ASIO applied to the court for the subpoenas to be set aside and for the officers in question not to be called as witnesses. That application was made on what may be described as jurisdictional grounds, with reference to the proper scope of the inquest. I heard the application in February 2016 and subsequently dismissed it. Witness statements from the officers in question were eventually proffered by ASIO, and one officer was called to give evidence in September 2016 (that officer being the only one who was available during the set hearing period).
84. To facilitate this segment of hearings, ASIO loaned the court several secure containers for the storage of ASIO's classified material, and two secure laptops for use by me and those members of my team involved in the segment. The printing and copying of all documents was undertaken by an appointed ASIO officer. ASIO was also of assistance in collaborating with the Sheriff of NSW in relation to the design of a sufficiently secure space for the storage containers. ASIO also helped court staff make adjustments to the courtroom to ensure that the hearings could be recorded for transcription in a way that would not breach the strict confidentiality regime.
85. The closed version of the chapter relating to the ASIO segment (Chapter 18) and related submissions were distributed to the Commonwealth Attorney-General, the Commonwealth Minister for Justice, the IGIS, and a limited number of officials within ASIO and the Commonwealth Attorney-General's Department who were nominated by ASIO.

Segment 4

The siege

86. Five policing experts from the U.K. were asked to provide a report and to give evidence to the court. Four of them came to Sydney for a week in January 2016. They reviewed the brief of evidence for the segment and attended a site visit led by Det Chief Insp Memmolo. Towards the end of the experts' time here, Chief Inspector Trevor Clark requested a second visit to the Seven Network building to consider the question of possible alternative sniper positions; this was duly arranged.
87. The U.K. experts were quarantined from contact with the interested parties. As a result, the parties' legal representatives did not have the opportunity to confer with them as expert witnesses (as they ordinarily would in other inquests). In addition, the NSWPF was unable to offer the customary hospitality to its visiting counterparts. Those steps were taken so the views and eventual evidence of the U.K. experts could not be impugned.
88. A formal night-time walk-through of the Lindt Café was held for the benefit of the parties' legal representatives shortly before the segment commenced.
89. The hearing of evidence in Segment 4 began in March 2016 and ended in August 2016. The court sat for the majority of that period. The length of this segment reflected the number of issues that arose for determination, the number of active parties, and the level of detail in which the siege was examined. During the segment, 60 witnesses were called.
90. The court sat at night (and adjourned after 10 p.m.) on one occasion so the two negotiation experts located in the U.K. could give evidence by video link. Special arrangements were also made to facilitate the attendance of media representatives at that after-hours sitting.

AFP

91. In the winter of 2015, a review of the AFP's documentary holdings in relation to Monis took place at the AFP's headquarters in Canberra. That review

was conducted by a small group from Det Chief Insp Memmolo's team), along with Ms Callan and Ms Heris. The review occurred over approximately four weeks, during which relevant documents were flagged and subsequently produced to the court. It also gave the group the opportunity to receive a briefing from senior AFP officers about what the AFP knew of Monis, and to commence a dialogue about potential areas for reform.

Preparation for hearings

92. As certain of the issues emerged and crystallised, those assisting me adopted a consultative approach towards the official agencies affected by the inquest. As part of that approach, they initiated exploratory meetings with a view to understanding how the inquest might best use the information holdings and knowledge of the agencies concerned. The meetings served to highlight any issues such bodies would have with providing assistance—such as the security of their information. In the case of most agencies, it also enabled a greater and more efficient understanding of the precise factual issues requiring examination.
93. Such meetings were held with the Department of Premier and Cabinet, the Department of Prime Minister and Cabinet, ASIO, the Commonwealth DPP, the legal representatives of the NSWPF, the AFP, and the NSW DPP.

Liaising with the families

94. As is usual in inquests, the police assisting and the legal team assisting liaised with the families of Katrina and Tori from an early stage. The families were consulted about various matters, including what issues they wished the inquest to consider. When their respective legal teams were retained, the liaison process continued.
95. No one from Monis' family in Australia sought to be involved in the inquest, including Amirah Droudis (although she initially sought leave to appear but withdrew the application before the first segment). Letters from the Solicitor Assisting were sent to Monis' family in Iran (via the Iranian Embassy in Canberra) to notify them of the inquest in their capacity as next of kin. No response was received, and no one from Iran sought to be involved.

Liaising with the hostages

96. A critical component of the hearing preparation was the liaison between those assisting me and

the hostages. Ultimately, none of the hostages participated in the inquest as an interested party with leave to appear. (One hostage did initially seek and was granted such leave, but the application was later withdrawn.)

97. However, the hostages were not treated as mere witnesses. They had a unique and special interest in the proceedings. Det Chief Insp Memmolo and Det Sen Const Allen were in constant contact with the hostages throughout these proceedings. They kept them updated with information about the inquest's progress, and were on hand to guide the hostages through the process.
98. From March 2015 and throughout the inquest, a series of information nights were hosted by the legal team for those hostages who wished to attend. These gatherings were also attended by Det Chief Insp Memmolo and members of his team; Jane Gladman, the manager of the Coronial Information Program; and key members of the court staff who were likely to interact with hostages when they attended the hearings. During those sessions information was provided about matters such as the coronial jurisdiction, my function, timing of the hearings, the direction of the inquest, the process of giving evidence, and the logistics of coming to court. The information nights were also a way for the hostages to meet the key individuals assisting me with a view to minimising the stresses of the inquest experience and any sense of alienation they may have had. The hostages also had the opportunity to ask questions and become familiar with the court building, courtroom and witness box.
99. The hostage information nights appeared to be well received and constructive.

Liaising with the parties

100. Another unusual feature of this inquest was that meetings were held that involved all of the legal practitioners jointly. Usually, the only time all the lawyers come together is in the courtroom.
101. The meetings were convened to apprise everyone of information such as the likely format of the inquest, the substantive issues that were emerging for my determination, and the possible composition of hearing segments. They also provided a forum for questions to be asked about process and procedural issues, and for parties' positions (where already formed) to be articulated.
102. A significant meeting was convened in January 2016, when the four U.K. experts arrived in Sydney

to start work on their review. All the legal practitioners gathered at the court and were introduced to the experts by Counsel Assisting. The experts provided an overview of their relevant experience and skills, and the regime for quarantining them from contact with anyone outside my team was explained and adopted.

103. Meetings with sub-groups of legal practitioners occurred with considerable frequency throughout the inquest with the aim of achieving consensus and overcoming hurdles on procedural issues through consultation and negotiation, rather than being contested in directions hearings (brief hearings in which the coroner gives orders about the next steps to be taken). Some directions hearings were still required, but given the size and length of this inquest, the number was small.

Security issues

104. It was apparent from the outset that issues of security and confidentiality would play a significant part in how the inquest was run. Such issues assumed ever greater importance as time went on.

The balancing exercise

105. Law enforcement and security agencies must, in some circumstances, operate in secrecy to discharge the duties required of them. In such cases, the methods they use to keep our community safe cannot be publicly divulged lest malefactors use that information to their own advantage—or turn it against the very people seeking to intercept them. It is a well-established principle that it is in the public interest for the methodology of law enforcement and intelligence services to remain confidential. However, particularly in the case of the NSWPF, that methodology was central to the issues the inquest needed to consider.
106. Another firmly established principle is that of open justice: proceedings are to be held in open court wherever possible, and any member of the community is free to attend and listen. The *Coroners Act 2009* reflects that principle, and the starting position is that inquests are to be open to the public unless it is displaced by a greater public interest in having the information suppressed.
107. The challenge for the inquest was to enable the actions of the police and ASIO to be examined in sufficient depth to reassure the public without also damaging future efforts to keep the public safe. A balance needed to be struck.

108. Those assisting me proceeded from the position that everything relevant to the questions under examination by the inquest needed to be put before me. They also accepted that as a matter of principle, some categories of information ought not enter the public domain. For the most part, the law enforcement and security agencies assisted the inquest. At the same time, they remained concerned about the public disclosure of sensitive methodology and other information that would undermine their ongoing ability to carry out their responsibilities. The families understandably wished to know as much of what contributed to the deaths of their loved ones as possible, but they also accepted that there would be times when they could not be made privy to certain material.

109. The outcome of the balancing exercise was also of interest to many of the hostages, who had a very natural desire to hear about what had been done to try and rescue them while they were in the information vacuum of the café stronghold. And of course the media had a keen interest in being able to access and report on as much as possible.

110. A dialogue between those assisting me and the agencies whose information and methods required protection commenced early in the inquest and continued throughout. Efforts were made by all to foresee public interest immunity (PII) issues and address them in advance so as to avoid later conflict.

111. The balancing exercise was ultimately managed in a variety of ways. Broadly speaking, the documentary evidence was dealt with as follows:

- The legal team assisting reviewed all material and evidence, sought to have it supplemented where required, and finalised the brief of evidence so it could be served on (that is, delivered to) the interested parties and tendered.
- Before each brief was served, the NSWPF and the Commonwealth were given the opportunity to review it in draft form and identify any material that they considered was covered by PII.
- Any PII claims were then reviewed by the legal team assisting. Where the information in question was considered sufficiently relevant to the inquest that it ought to be before me, and/or the claim was of uncertain merit, the legal team challenged the claim.
- In some cases, after the NSWPF and the Commonwealth had an opportunity to consider the various challenges, they did not press the PII

claim. The remaining claims were discussed with those assisting me. In some instances, after the affected agency provided additional context or information in support of a claim, the legal team assisting accepted it as valid and withdrew the challenge. In other instances, the claim itself was abandoned. On occasion, a “work-around” was developed whereby, for example, an agency would permit me and those assisting me to have access and reference to the contested material, but refuse such permission to the interested parties and their legal representatives owing to the sensitivity of the material in question.

- The remainder of the disputed claims were dealt with before me in court, in contested hearings in which all parties participated (even though they were not able to see the underlying information). Rulings were then made. The brief of evidence, in redacted form to reflect the accepted claims and rulings, was then served on the parties and tendered in court.
112. The Commonwealth and the NSWPF sought an extra layer of “protection” in relation to some information that was not covered by public interest immunity. In some of these instances, in return for not pressing a PII claim that would exclude information altogether, law enforcement agencies agreed to a lesser degree of protection. That protection came in three main forms—non-publication orders, access restriction orders, and the closing of the court. The impact of non-publication orders was that information could be revealed in open court but not be published by anyone. Information subject to such orders included the names of certain individuals called to give evidence, and various categories of methodology employed by the NSWPF. Access restriction orders generally meant that the information in question was available to all the parties and their legal representatives, but that the underlying document (or relevant part) was accessible only by them, and not by the public and media.

Closed court

113. One of the most contested procedural issues in the inquest was the request by the NSWPF to have certain topics relating to the siege response dealt with in closed court. Despite significant reservations, I ultimately accepted that in order for the inquest to probe the precise mechanics of what occurred during the siege, witness evidence touching on certain aspects of NSWPF methodology could be dealt

with only in that way. In some instances, the very identity of a witness had to be concealed throughout, meaning that for the “open court” parts of their evidence, only the audio component was available to those not permitted in the courtroom for that session.

114. A list of topics to be addressed in closed court was agreed upon. As each witness was called, all of their evidence relating to closed-court topics was deferred until the end of the session. This meant the court was closed only after all aspects of their evidence that could be ventilated in public had been heard. A regime was also adopted whereby the closed-court transcript was reviewed by the NSWPF and the Commonwealth each day; claims for non-publication and access restriction orders over the content were to be made within three business days. This regime enabled the media and public to access evidence given in closed-court sessions that did not ultimately require exclusionary protection, while allowing the hearing to proceed as efficiently as possible. Unfortunately, almost from the start the agreed regime was not fully adhered to: months later, the court was still waiting for some of the marked-up transcripts to be provided by the NSW Police Commissioner’s legal representatives.

Witness safety

115. Another security-related issue arose in respect of the safety of certain of the police witnesses. Not only were some of them—such as those working in counterterrorism units and the TOU—in roles that require a measure of confidentiality, but the security climate throughout the inquest was such that these officers faced potential danger in coming to court and giving evidence.
116. That was partly a result of Islamic State’s September 2014 call for individuals to independently attack law enforcement, security and intelligence officers in the group’s name. There was also an additional concern that any supporters of Monis who emerged in the wake of his death might seek retribution on the individual officers responsible for, or associated with, his demise. Security concerns were further heightened in the aftermath of the murder of the police accountant Curtis Cheng outside NSWPF headquarters in Parramatta on 2 October 2015.
117. It was identified early through a risk assessment that the State Coroner’s Court in Glebe would be unsuitable for the inquest and would provide insufficient security for many of the witnesses who

were likely to be called. An alternative venue was needed. The process of obtaining it is outlined below.

The brief

118. There was a separate brief of evidence for each of Segments 1, 2 and 4. Together they comprised approximately 90 lever-arch folders containing about 70,000 pages in total. Several other volumes of material, such as the documents obtained from the AFP's holdings, were also tendered into evidence. The ASIO segment (Segment 3) received several lever-arch folders of material into evidence as well.
119. Before this material could be shared with the parties, it had to be gathered, collated, reviewed and digested by the team assisting me. This was a huge task requiring much time and care, and its demands influenced the starting dates of the hearing segments.

The witnesses

120. A central component of the inquest was the calling of witnesses to give oral testimony and be cross-examined in court. However, not everyone who saw, heard or experienced something related to the siege, or was involved in it in some way, could be called as an oral witness. If they were, the inquest would have been lengthened by many months with little tangible benefit.
121. Statements had been taken from every witness and involved person. These were tendered into evidence. Only individuals who had something to contribute in a forensic sense that extended beyond the content of their statement, or whose account needed to be tested in some way, were called to give oral evidence. The parties were not unanimous about who fell into that category, and ultimately I was called upon to determine that some of the police witnesses the families wanted ought not to be called.
122. Almost all of the hostages were called to give evidence. As I have noted above, they were a unique and valuable part of this inquest. They were essential to piecing together what occurred during those 17 harrowing hours. I am aware that for some, even coming to the Sydney CBD, where the courtroom was located, so soon after the siege, was an uncomfortable and anxiety-inducing experience. I sincerely thank them all for their courage and generosity in assisting the inquest. This inquest would undoubtedly have suffered without their involvement.

123. Some other witnesses were reluctant to be involved at all. Most of these witnesses had known Monis in a personal or professional capacity before the siege. Some seemed apprehensive that giving evidence would draw undue attention or somehow taint them by association, even when there was no reason to think ill of them in any way. Ultimately, after listening to the reasons put forward by those assisting me, many of those witnesses put aside their personal misgivings for the greater public good of assisting the inquest. I thank those witnesses for doing so.
124. One crucial witness was not called: Monis's de facto partner, Amirah Droudis. At the time of the siege, Ms Droudis had been charged with the murder of Monis's former wife. After the siege, she was taken into custody pending trial. Her trial was held in August, September and October 2016, and she was convicted of the murder in November 2016. It was accepted by everyone involved in the inquest that nothing could be done to interfere with the prosecution in that case or prejudice Ms Droudis' right to a fair trial. Accordingly, she was not called to give evidence, and several non-publication orders were made relating to evidence arising in this inquest and in connection with her prosecution.

Parallel reviews and debriefs

125. In addition to the Commonwealth–New South Wales Joint Review, several other reviews were conducted in parallel with the inquest. These were confined to discrete aspects of the siege. Notable among them were internal police reviews of the police response.
126. It is a practice of the TOU to conduct debriefs after all incidents in order to assess the performance of the officers involved and to adapt practice in future deployments to improve public safety. Such debriefs usually occur very soon after the incident in question. In this instance, the need to preserve the integrity of the evidence and abide by the critical-incident protocols meant that the debrief did not occur until all officers had given accounts to Det Chief Insp Memmolo and his team (either via written statement or, in most cases, an electronically recorded interview during a walk-through of the café). In April 2015, after all TOU officers had been interviewed, the TOU conducted a debriefing session with my permission.
127. The Dawson and Johnson families sought access to the notes generated as a result of that session, but the Police Commissioner made a public interest

immunity claim over them. I upheld that claim. For completeness, I note that the Commissioner gave access to the debrief notes to me and those assisting me. As was also recorded in my ruling on that issue, I consider that post-incident debriefs are an important method for ensuring and enhancing public safety and should be encouraged and facilitated where possible.

128. Similarly, in December 2015, Deputy Commissioner Catherine Burn met with me and the Solicitor and Counsel Assisting to discuss the need for members of the Specialist Operations units, which included units of the Counter Terrorism and Special Tactics Command (for which she was then responsible as Deputy Commissioner), to be involved in a post-event debrief. In particular, DC Burn sought permission for the first responders and the commanders involved in the siege to participate in a limited debrief regarding what occurred, with a view to identifying any issues and implementing improvements. I indicated to DC Burn that I had no concerns with a debrief/internal review being conducted at that stage, as it was not likely to interfere with the inquest and it would help ensure greater public safety in future operations.

Minimising the impact of delay

129. This inquest has been completed as quickly as possible. There is no realistic likelihood that any other form of public inquiry would have proceeded more expeditiously. Judicial or special commissions of inquiry apply the same procedures as those adopted by this inquest.
130. Despite the best efforts of all involved, internal police reviews of whether officers involved in the siege response complied with existing policies and/or whether those policies could be improved were considerably delayed by the need to preserve the integrity of the evidence that was put before this inquest.
131. Operational officers should be able to speak freely and frankly to identify opportunities for improvements in practices, equipment, leadership and training. It is foreseeable that officers will be less likely to be candid if they believe what they say might be recorded and used to embarrass or attack their colleagues in a public hearing. That reticence could result in the loss of opportunities to improve police performance and public safety.
132. The preservation of untainted evidence and the benefits of timely debriefing can both be accommodated. An appropriate regime might be one sim-

ilar to that used to manage and protect root-cause analyses undertaken in relation to deaths in a public hospital setting.

133. Some improvements cannot be identified without more exhaustive and forensic examination of events. To expedite matters in future cases of this kind, consideration should perhaps be given to the holding of an additional, closed inquiry. Such an inquiry would not need to take steps to protect reputations or law-enforcement secrets. Were it in addition to, and not in substitution for, an inquest, the bereaved families and the general public would not be deprived of the benefits of a participatory, transparent public hearing.
134. The recently established Law Enforcement Conduct Commission (**LECC**) might be an appropriate body to undertake such closed inquiries. Its familiarity with many aspects of NSWPF policy and practice and the forensic capability it will no doubt develop would equip it to help the NSWPF identify opportunities for improvement. The LECC is given special responsibilities for the oversight of critical-incident investigations. Facilitating expeditious reviews of such incidents with a focus on prevention or practice improvement would not be inconsistent with the LECC's other roles, although it would be essential to quarantine this aspect of its operation from its responsibilities for investigating and preventing police misconduct.
135. Involving the LECC in such reviews would ensure probity while maintaining confidentiality. The success of such an approach would depend upon the LECC being able to develop a collaborative and constructive relationship with the NSWPF.

Conclusion: Delay of remedial action

136. Inquests into deaths that occur in the course of a police operation may delay the identification and implementation of improvements in police practices and procedures. An alternative mechanism to allow reforms to proceed expeditiously without undermining the integrity of the inquest is desirable.

Recommendation 44: The LECC to coordinate critical-incident debriefs

137. *I recommend that the Minister for Police undertake a review of the Law Enforcement Conduct Commission Act 2016 with a view to enabling*

the Law Enforcement Conduct Commission to facilitate urgent debriefs and confidential internal reviews of critical incidents focused on improving current practice.

Logistics and courtroom

138. One of the significant challenges for the inquest was finding a suitable location in which to prepare and conduct hearings. The security concerns have been described earlier. A courtroom with a bar table that could accommodate counsel and solicitors for up to 10 parties was required. In addition, there was a need for office space for the lawyers assisting and meeting rooms for the parties and sensitive witnesses.
139. The State Coroner's Court in Glebe could meet none of those needs. The inquest could not have been held there even were it safe to do so.
140. As a result, in the first part of 2015 those assisting me sought a suitable place to conduct the inquest. Ultimately, with the considerable assistance of the then Attorney-General, Brad Hazzard, the Secretary of the Department of Justice, Andrew Cappie-Wood, and the Department more generally, Level 8 of John Maddison Tower in Goulburn Street, Sydney, was made available. Under the leadership of Peter Ryan, Senior Registrar Metropolitan East, Court 8A was refurbished and installed with state-of-the-art technology. Offices for the legal team were installed adjacent to the court, and the practical resources required for the establishment of an in-house legal practice were acquired.
141. A purpose-built media room was established, complete with a live video and audio feed from the courtroom, and the necessary cabling and equipment to enable reporters to file stories from the court. Separate spaces for the families to retreat to—with screens for the live streaming of courtroom proceedings—were also created.
142. The premises at John Maddison Tower also allowed for the various security concerns to be managed, and a comprehensive regime was implemented to preserve the safety of those coming to the inquest and working on it.

The media

143. The siege received extensive media coverage from the start. The media also played a significant role in

the preparation and conduct of the inquest.

A source of evidence

144. One unusual aspect of the inquest was that a significant portion of primary evidence came from the media itself, in the form of the video and audio recordings made throughout the siege—over 200 hours of footage in all. Naturally, the investigation required copies of all of that material, and the various media outlets involved were very cooperative in making it available to the inquest quickly and without conditions.

The hostage interviews

145. One media-related issue that arose early was that of the well-publicised interviews with hostages by the Seven network and the Nine network, for which the participants were paid. Once the court learned of the interviews, it obtained a copy of all the raw footage created during the interviews (and before the programs went to air). On the understanding that a copy was being sought for evidentiary purposes—and not to undermine their commercial operations—both networks facilitated the speedy delivery of that raw material to those assisting me. I thank them for their cooperative attitude in that respect. The raw footage was then reviewed as part of the investigation.
146. Some commentators raised concerns about the interviews taking place and being broadcast, arguing that they could influence the evidence of other witnesses. Such concerns failed to take account of the fact that by the time the interviews went to air, the hostages and relevant eyewitnesses had already been interviewed by Strike Force Verum investigators. In any event, since the broadcasting of the hostage interviews did not amount to a contempt of court, there was no legal basis on which they could have been prevented.

Televising the inquest

147. In order to make the proceedings as accessible as possible, the public openings were broadcast live on ABC television, and streamed live via YouTube.
148. Due to the very complex confidentiality and security issues referred to above, it was not possible to broadcast the oral evidence of witnesses or other parts of the hearings.

Media presence in the court

149. The presence of the attending media corps in the

dedicated media room near the courtroom facilitated the efficient alternation between open and closed court sessions. Had the reporters been sitting in the courtroom, they would have had to leave each time the court went into closed session and wait until it reopened (often after an unpredictable period of time). Similarly, witnesses whose identity was suppressed would have been required to give evidence from behind a screen so the media could not see them, which would have disadvantaged the lawyers examining those witnesses.

150. The ability to stream the courtroom proceedings into a nearby room, with the options of removing vision or muting audio as required, made the logistics of the proceedings more complex but ultimately facilitated the principle of open justice.

Acknowledgements

151. The inquest, the investigation that underpinned it, and the preparation of this report involved a massive amount of work by many people. Det Chief Insp Angelo Memmolo, who led the police investigation, is a very experienced detective who has undertaken numerous difficult and high-profile investigations in the past. This case, however, was not only technically complex but vast in scale. Further, it required the police investigators to scrutinise the actions of superior officers. That required courage and an unstinting commitment to integrity and accountability. Det Chief Insp Memmolo and his team demonstrated those qualities consistently. The core members of the police assisting team, who remained with the inquest throughout, were Det Chief Insp Memmolo, Det Sgt Ricky Hennessy, Det Sen Const Rosie Allen, and Det Sen Const Hannah Packer. Det Sen Sgt Mark Dukes, Det Sgt Tim Attwood, Det Sen Const Lucy Ede, Det Sen Const Sean Ogilvy and Det Sen Const Darren Greaney were also senior members of the team. I am grateful to them for their high standard of service.
152. The demands of the inquest did not cause the delay of other inquests because the then Attorney-General, Brad Hazzard, made extra resources available to the court to offset my prolonged focus on this case. Mr Hazzard was also instrumental in ensuring that the inquest gained access to the space in John Maddison Tower, which was essential for security and other reasons. I am grateful for this assistance and for the efforts of Justice Department senior registrar Peter Ryan, who managed the courtroom fit-out and responded expeditiously to many requests for assistance throughout the inquest.
153. The court proceedings could not have run so smoothly without the technical skills of Ernest Harrington, Iain Watt and Tony Egan. Mr Watt also contributed very significantly to the management of the exhibits during the hearings, and Mr Harrington ensured the smooth flow of witnesses with minimal inconvenience to them and the court. I greatly appreciate their assistance.
154. Lindt and Sprüngli (Australia) Pty Ltd, the owners and operators of the Lindt Café; the Seven network; Westpac bank; the Reserve Bank of Australia; and the Council of the City of Sydney gave unfettered access to the relevant parts of their premises as needed for the investigation, in some cases on numerous occasions. I thank them for that.
155. Finally, I express my appreciation and gratitude to the lawyers who assisted me with this case. Melissa Heris came on board the day after the siege; Jeremy Gormly SC joined us within a month. Jason Downing and Sophie Callan of counsel and Anders Mykkeltvedt, Geeti Faramarzi and Natalie Savva of the Crown Solicitor's Office have also been part of the team for the duration. They liaised with various government agencies, identified expert witnesses, compiled a huge brief, managed the demands of the lawyers for the other parties, expertly led evidence in court, and assisted with the drafting of this report. They worked immensely long hours—late into many nights and over weekends. They all performed admirably. It is impossible to overstate the importance of the legal team's contribution to this inquest. I could not have completed this report without their assistance. I am very grateful and deeply indebted to each of them.

Appendices

Appendix 1: Legal team assisting the State Coroner

Name	Chambers/Firm/Office
Counsel Assisting	
Jeremy Gormly SC	Denman Chambers, Sydney
Jason Downing	13 Wentworth Selborne Chambers, Sydney
Sophie Callan	12 Wentworth Selborne Chambers, Sydney
Solicitor Assisting	
Melissa Heris	Office of the State Coroner, Sydney
Legal Team Assisting	
Anders Mykkeltvedt	Office of the State Coroner, Sydney
Geeti Faramarzi	Office of the State Coroner, Sydney
Natalie Savva	Office of the State Coroner, Sydney

Appendix 2: Legal representatives for interested parties and other affected persons

Name	Chambers/Firm/Office
Family of Katrina Dawson	
Counsel	
1	Phillip Boulten SC Forbes Chambers, Sydney
2	Michael O'Connell SC William Crockett Chambers, Sydney
3	Murugan Thangaraj SC <i>From 21 August 2015 to 27 August 2015 and 1 September 2015</i> Forbes Chambers, Sydney
4	Alan Sullivan QC <i>On an application</i> Eleven Wentworth Chambers, Sydney
5	Julia Roy Sixth Floor Selborne Wentworth Chambers, Sydney
Solicitors	
6	Peter Hodges Mills Oakley Lawyers, Sydney
7	Sophie Jeliba Mills Oakley Lawyers, Sydney
Family of Tori Johnson	
Counsel	
8	Gabrielle Bashir SC Forbes Chambers, Sydney
9	Peggy Dwyer Forbes Chambers, Sydney
Solicitors	
10	William de Mars Legal Aid NSW, Sydney
11	Peerce McManus Legal Aid NSW, Sydney

Name	Chambers/Firm/Office
Commissioner of New South Wales Police (and all officers save for Officers A and B)	
Counsel	
12	Ian Freckelton QC William Crockett Chambers, Melbourne
13	David Jordan <i>Up to June 2015</i> 13th Floor St James' Hall Chambers, Sydney
14	Christine Melis <i>From June 2015</i> 3 St James' Hall Chambers, Sydney
Solicitors	
15	Michael Sullivan Henry Davis York, Sydney
16	Maria Panos Henry Davis York, Sydney
17	Ben Wilford Henry Davis York, Sydney
18	Jessica Bandiera Henry Davis York, Sydney
Commissioner of New South Wales Police—as to public interest immunity issues	
Counsel	
19	Noel Hutley SC <i>On applications</i> Fifth Floor St James' Hall Chambers, Sydney
20	Rob Bhalla 3 St James' Hall Chambers, Sydney
21	Miiko Kumar <i>On applications</i> Jack Shand Chambers, Sydney
22	Richard Lee 9 Wentworth Chambers, Sydney
23	Michael Rennie 6 St James' Hall Chambers, Sydney

Name	Chambers/Firm/Office
Commissioner of New South Wales Police—as to public interest immunity issues (cont'd)	
Solicitors	
24	The Crown Solicitor of New South Wales NSW Crown Solicitor's Office, Sydney
25	Anthea Tomlin NSW Crown Solicitor's Office, Sydney
26	Lisa Turner NSW Crown Solicitor's Office, Sydney
27	Lucy Cannon NSW Crown Solicitor's Office, Sydney
28	Emily Graham NSW Crown Solicitor's Office, Sydney
29	Rachel Quigley NSW Crown Solicitor's Office, Sydney
30	Jake Harris NSW Crown Solicitor's Office, Sydney
31	Leigh Plater NSW Crown Solicitor's Office, Sydney
32	Kyle Hudson NSW Crown Solicitor's Office, Sydney
33	Emma Moss NSW Crown Solicitor's Office, Sydney
"Officer A"	
Counsel	
34	Ray Hood <i>From 17 August 2015 to November 2015</i> Macquarie Chambers, Sydney
35	David Jordan <i>From December 2015</i> 13th Floor St James' Hall Chambers, Sydney
Solicitor	
36	Ken Madden Walter Madden Jenkins, Sydney
"Officer B"	
Counsel	
37	Tim Watts Samuel Griffith Chambers, Sydney
Solicitor	
38	Greg Willis Greg Willis Criminal Defence Lawyer, Sydney

Name		Chambers/Firm/Office
Commonwealth of Australia		
Counsel		
39	James Renwick SC	12 Wentworth Selborne Chambers, Sydney
40	Peter Singleton	3 St James' Hall Chambers, Sydney
Solicitors		
41	Andrew Berger	Australian Government Solicitor, Canberra
42	Kristy Alexander	Australian Government Solicitor, Sydney
43	Joe Edwards	Australian Government Solicitor, Sydney
44	Matthew Varley	Australian Government Solicitor, Sydney
Consultant Psychiatrist to the NSW Police Force		
Counsel		
45	Michael Fordham SC	12 Wentworth Selborne Chambers, Sydney
46	Callan O'Neill	12 Wentworth Selborne Chambers, Sydney
Solicitor		
47	Kerrie Chambers	HWL Ebsworth, Sydney
New South Wales Director of Public Prosecutions		
Counsel		
48	David Buchanan SC	Forbes Chambers, Sydney
49	Noel Hutley SC <i>On an application</i>	Fifth Floor St James' Hall Chambers, Sydney
50	Michelle England	3 St James' Hall Chambers, Sydney
Solicitors		
51	The Crown Solicitor of New South Wales	NSW Crown Solicitor's Office, Sydney

Name	Chambers/Firm/Office
Solicitors (cont'd)	
52	Naomi Malhotra NSW Crown Solicitor's Office, Sydney
Brian Royce, Office of the Director of Public Prosecutions	
Counsel	
53	Paul O'Donnell <i>For submissions only</i> Lachlan Macquarie Chambers, Parramatta
Andrew Chatterton, Office of the Director of Public Prosecutions	
Counsel	
54	April Francis Forbes Chambers, Sydney
55	Sian McGee Maurice Byers Chambers, Sydney
John O'Brien	
Solicitor	
56	Camille Dezarnaulds <i>From January 2015 to April 2015</i> Camille Dezarnaulds Lawyer, Bondi Junction
Stefan Balafoutis	
Counsel	
57	Jason Spinak Tenth Floor Chambers, Sydney
Julie Taylor	
Counsel	
59	Tim Game SC Forbes Chambers, Sydney
Solicitors	
60	Lynne Hughes Hughes & Taylor, Gladesville
61	Michael Taylor Hughes & Taylor, Gladesville
Independent Children's Lawyer, Segment 1	
Counsel	
62	Warwick Hunt Forbes Chambers, Sydney

Lisa Viney, Office of the Director of Public Prosecutions**Counsel**

63	Tim Gartelmann SC	Samuel Griffith Chambers, Sydney
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Various media organisations (collectively) – as to protective orders**Counsel**

64	Dauid Sibtain	Four St James Chambers, Sydney
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Solicitors

65	Justine Munsie	Addisons, Sydney
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66	Richard Keegan	Addisons, Sydney
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News Corp Australia – as to protective orders**Solicitor**

67	Larina Mullins	News Corp Australia, Surry Hills
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Amirah Droudis**Solicitor**

68	Angelo Biliias <i>From 29 January 2015 to 5 May 2015</i>	Biliias & Associates, Sydney
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Appendix 3: Police coronial investigation team

	Name	Squad/Local Area Command
1	Detective Chief Inspector Angelo Memmolo <i>Officer in charge of the critical incident investigation</i>	Homicide Squad
2	Detective Senior Sergeant Mark Dukes	Homicide Squad
3	Detective Sergeant Timothy Attwood	Homicide Squad
4	Detective Sergeant Ricky Hennessy	Homicide Squad
5	Detective Sergeant Justin Hallett	Counter Terrorism Investigation Squad
6	Detective Senior Constable Josephine (Rosie) Allen	Homicide Squad
7	Detective Senior Constable Hannah Packer	Sex Crimes Squad
8	Detective Senior Constable Lucy Ede	Homicide Squad
9	Detective Senior Constable Darren Greaney	Homicide Squad
10	Detective Senior Constable Sean Ogilvy	Homicide Squad
11	Detective Senior Constable Mark Nestorovic	Homicide Squad
12	Detective Senior Constable Murray Northey	Fraud Squad
13	Detective Senior Constable Scott Lister	Organised Crime Squad
14	Detective Senior Constable Douglas Battie	Robbery and Serious Crime Squad
15	Detective Senior Constable Luke Campton	Drug Squad
16	Detective Senior Constable Emma Wells	Property Squad
17	Detective Senior Constable Manelle Mouk	Middle Eastern Organised Crime Squad
18	Detective Senior Constable Krystal James	Fraud Squad
19	Detective Senior Constable Mark Berkovich	Child Abuse Squad
20	Detective Senior Constable Glen Reid	Firearms and Organised Crime Squad
21	Detective Senior Constable Jane Dale	Firearms and Organised Crime Squad
22	Detective Senior Constable Ian Simmons	Counter Terrorism Investigation Squad
23	Detective Senior Constable Matthew Dixon	Counter Terrorism Investigation Squad
24	Detective Senior Constable James Burrel	Counter Terrorism Investigation Squad
25	Detective Senior Constable Cameron Bignell	Surry Hills Local Area Command
26	Detective Senior Constable Shannon Raby	St George Local Area Command
27	Detective Senior Constable Paul Baglin	Sutherland Local Area Command
28	Detective Senior Constable Tiffany Graham	Redfern Local Area Command

	Name	Squad/Local Area Command
29	Detective Senior Constable Tara-Lee Janco	Harbourside Local Area Command
30	Detective Senior Constable Luke Lieschke	Sydney City Local Area Command
31	Detective Senior Constable Andrew Minney	Eastern Suburbs Local Area Command
32	Plain Clothes Senior Constable Dane Sadler	Rose Bay Local Area Command
33	Plain Clothes Constable James Pattman	Newtown Local Area Command
34	Plain Clothes Senior Constable Cheyne Burgess	Botany Bay Local Area Command
35	Sergeant Brad Dennett	Homicide Squad – Intelligence
36	Senior Constable Eric Burgess	Homicide Squad – Intelligence

Appendix 4: Inquest support officers

	Name	Department/Organisation
Logistics		
1	Peter Ryan	Senior Registrar, Department of Justice
2	Awhina Martin	Project manager, Office of the State Coroner, Sydney
Administrative officers		
3	Eden Cortes <i>21 January 2015 to 8 April 2016</i>	Office of the State Coroner, Sydney
4	Tiana Budd Quillaen <i>7 April 2016 to 14 October 2016</i>	Office of the State Coroner, Sydney
5	Maheshie Jayawickrama <i>14 October 2016 to 27 January 2017</i>	Office of the State Coroner, Sydney
6	Narelle Goold <i>From 31 January 2017</i>	Office of the State Coroner, Sydney
Report editing and design		
7	Elizabeth Keenan	Sydney, New South Wales
Media liaison		
8	Angus Huntsdale	Director of Media Liaison, Department of Justice
9	Georgie Loudon	Senior Media Advisor, Department of Justice
Coronial information and support		
10	Jane Gladman	Coordinator, Coronial Information and Support Program, Office of the State Coroner, Sydney
Court officers		
11	Ernest Harrington	Office of the State Coroner, Sydney
12	Iain Watt	Office of the State Coroner, Sydney
13	Tony Egan	Merrill Corp
14	Karen Saad	Downing Centre Local Court, Sydney
IT support staff		
15	Gavin White	Information Services Branch, Department of Justice
16	Dan Hampton	Information Services Branch, Department of Justice
17	Ben Phoon	Information Services Branch, Department of Justice

Sheriff's officers

18	Catherine Mulhall	Office of the Sheriff of New South Wales, Sydney
19	Laurie Haggerty	Office of the Sheriff of New South Wales, Sydney
20	Stephen Byrnes	Office of the Sheriff of New South Wales, Sydney
21	Scott Mayer	Office of the Sheriff of New South Wales, Sydney

Public reception desk staff

22	Joram Chavez	Downing Centre Local Court, Sydney
23	Sheba Sione	Downing Centre Local Court, Sydney

Victims and Witnesses of Crime Court Support Service

24	Numerous volunteers attached to the Downing Centre, Sydney	
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Appendix 5: Witness list¹

No.	Name	Description (and role during siege, if applicable)	Segment	Date witness called
1	Kasim Abaie	Psychologist; treated Monis in 2010	1	28 May 2015
2	Associate Professor Mohamad Abdalla	Head of Islamic Studies at Griffith University; expert witness on issues relating to the history and practice of Islam	2	24 August 2015
3	The witness referred to in this report as 'Afternoon Forward Commander'	Detective Superintendent, NSWPF; Forward Commander during the afternoon period of the siege	4	6 May 2016 and 9-10 May 2016
4	Hussein Al-Hakak	Visited by Monis while housed at Villawood Detention Centre	1	3 June 2015
5	Ahmad Alaei	Acquaintance of Monis	1	2 June 2015
6	Imran Ali	Owner of Allied Security where Monis obtained security accreditation in 2012	1	27 May 2015
7	The officer known by the pseudonym 'Alpha 2'	Senior Constable, Alpha Team, NSWPF; first entry officer, carried protective shield during entry into Lindt Café	4	13 July 2016
8	Hassan Ammar	Encountered and spoke to Monis during his protest outside Parliament House, NSW	1	3 June 2015
9	Franklin Arguedas	Lawyer; assisted Monis with his citizenship application and his complaint against the Australian Customs Service	1	26 May 2015
10	Sergeant James Asimacopoulos	Kings Cross Local Area Command, NSWPF; one of the first responders inside the inner perimeter	4	23 March 2016
11	The officer known by the pseudonym 'Darren B'	Detective Sergeant, NSWPF; night shift police negotiations team leader	4	2 June 2016
12	Stefan Balafoutis	Hostage; barrister at the NSW Bar, and friend of Katrina Dawson	4	31 March 2016
13	Linda Barnes	Lawyer, ODPP; had carriage of criminal proceedings against Monis for alleged sexual offending	2	31 August 2015

¹ Witnesses were also called and examined in Segment 3, which comprised closed hearings

No.	Name	Description (and role during siege, if applicable)	Segment	Date witness called
14	Dr Kate Barrelle	Consultant Clinical and Forensic Psychologist; retained by the State Coroner to produce an expert report on radicalisation issues, recalled in Segment 4 for evidence relating to the events of the siege	2 and 4	25 August 2015 and 7 April 2016
15	Dr Kristen Barrett	Psychiatrist; treated Monis in 2010 and 2011	1	27 May 2015
16	Professor Greg Barton	Member of the panel of experts on terrorism issues; Chair of Global Islamic Politics at the Alfred Deakin Institute for Citizenship and Globalisation at Deakin University	2	26 August 2015
17	Rosemary Birt	Civilian; attempted to enter the Lindt Café on the morning of the siege	4	23 March 2016
18	Dr Andrew Brown	Hostage and negotiation expert from Edinburgh, Scotland; retained by the Dawson and Johnson families	4	21 July 2016
19	Deputy Commissioner Catherine Burn	Specialist Operations, NSWPF; advised and briefed the Crisis Policy Committee and performed the role of operational media spokesperson	4	15-17 August 2016
20	Andrew Chatterton	Lawyer, ODPP; had carriage of criminal proceedings against Monis for alleged sexual offending	2	27-28 August 2015
21	Elly Chen	Hostage; student and Lindt Café staff member	4	4 April 2016
22	Deputy Chief Constable Simon Chesterman	National Police Chiefs' Council Lead for Armed Policing, UK; lead investigator of the UK police expert review team	4	28-29 July 2016
23	David Cohen	Lawyer; represented Monis in 2012-2013 in custody proceedings before the Family Court	1	1 June 2015
24	The witness referred to in this report as 'Commander SPG'	Chief Superintendent, NSWPF, Commander, State Protection Group; provided strategic oversight from the Police Operations Centre as the High Risk Liaison Officer	4	4-5 May 2016
25	The officer known by the pseudonym 'Commander TIU'	Inspector, NSWPF; Commander of the Joint Intelligence Group	4	14 July 2016

No.	Name	Description (and role during siege, if applicable)	Segment	Date witness called
26	Emanuell Conditsis	Lawyer; represented Monis in 2013 against Commonwealth postal offending and bail application relating to accessory to murder charges	1	29 May 2015
27	The witness referred to in this report as 'Consultant Psychiatrist'	Psychiatrist; present during the siege to assist the NSWPF negotiators	4	14-16 June 2016
28	Rebecca Cundasamy	Administrator, Booth College; reviewed Monis' enrolment documents relating to theology courses offered by the College	1	26 May 2015
29	Nazir Daawar	Lawyer; represented Monis in 2010 against Commonwealth postal offending charges	1	29 May 2015
30	The officer known by the pseudonym 'Delta Alpha'	Sergeant, Charlie Team NSWPF; DA Commander	4	11-12 July 2016
31	Harriette Denny	Hostage; Lindt Café staff member	4	5 April 2016
32	The officer known by the pseudonym 'Deputy Tango Charlie'	Sergeant, NSWPF; assisted Tactical Commander at the Forward Command Post as Deputy Tactical Commander	4	1 July 2016 and 4-5 July 2016
33	Anastasia 'Sue' Droudis	Cousin of Monis' partner, Amirah Droudis, and acquaintance of Monis	1	3 June 2015
34	The witness referred to in this report as 'Mr FG'	Acquaintance of Monis from their time in Iran	2	4 September 2015
35	Assistant Commissioner Michael Fuller	Central Metropolitan Region, NSWPF; initial Police Commander	4	26-28 April 2016
36	Puspendu Ghosh	Hostage; contractor at Westpac	4	1 April 2016
37	Detective Chief Superintendent Wayne Gordon	Commander, Anti-Terrorism Security Group, NSWPF; Commander of Strike Force Eagle	4	11 May 2016
38	The officer known by the pseudonym 'Graeme'	Detective Chief Inspector, NSWPF, Commander of the Negotiation Unit; performed duties at the Police Operations Centre	4	6-8 June 2016
39	Phillip Green	Lawyer; represented Monis in 2014 in criminal proceedings for alleged accessory to murder and sexual offending charges, including bail applications	2	28 August 2015

No.	Name	Description (and role during siege, if applicable)	Segment	Date witness called
40	Anna Grigore	Registered Nurse, Justice Health NSW; conducted an initial screening of Monis in 2014	1	28 May 2015
41	Anthony Hancock	Acquaintance of Monis	1	3 June 2015
42	Victoria Havryliv	Lawyer; met Monis in 2001 while representing Monis' ex-wife in their custody dispute before the Family Court	1	29 May 2015
43	Joel Herat	Hostage; student and Lindt Café employee	4	4 April 2016
44	Professor Bruce Hoffman	Member of the panel of experts on terrorism issues; Professor and Director of the Centre for Security Studies at the Edmund A. Walsh School of Foreign Service at Georgetown University, Washington, D.C.	2	25 August 2015
45	Louisa Hope	Hostage; retired	4	7 April 2016
46	Tim Hutchinson	Civilian; exited the Lindt Café with a friend before the siege commenced by pressing the green exit button	4	23 March 2016
47	The witness referred to in this report as the 'Independent Children's Lawyer, Segment 1'	Independent Children's Lawyer appointed by the Family Court in 2013-2014 with respect to the custody proceedings between Monis and his ex-wife and her family	1	2 June 2015
48	Assistant Commissioner Mark Jenkins	Commander, State Crime Command, NSWPF; involved in discussions regarding possible review of Monis' successful bail application with respect to the alleged accessory to murder charges, recalled in Segment 4 regarding role as the night shift Police Commander	2 and 4	2 September 2015 and 23-25 May 2016
49	Dr Clarke Jones	Member of the panel of experts on terrorism issues; Co-Director of Australian Intervention Support Hub at the Australian National University	2	26 August 2015
50	Margaret Kedzierska	Community Corrections Officer; prepared a pre-sentence report at the direction of the District Court with respect to the Commonwealth postal offending proceedings	1	27 May 2015

No.	Name	Description (and role during siege, if applicable)	Segment	Date witness called
51	Inspector Nigel Kefford	Investigator on DCC Simon Chesterman's UK police expert review team, with experience in siege management	4	28-29 July 2016
52	Amin Khademi	Acquaintance of Monis	1	3 June 2015
53	Michael Klooster	Barrister; represented Monis in 2014 in custody proceedings before the Family Court and spoke to Monis at the Lindt Café on the morning of the siege	4	23 March 2016
54	Acting Deputy Commissioner Jeffrey Loy	Field Operations and State Emergency Operations Controller, NSWPF; present at State Crisis Centre	4	15 August 2016
55	Fiona Ma	Hostage; student and Lindt Café staff member	4	30-31 March 2016
56	Sylvia Martin	Family Consultant, Family Court; interviewed Monis in 2012 with respect to custody proceedings before the Family Court	1	1 June 2015
57	The officer known by the pseudonym 'Matt'	Detective Sergeant, NSWPF; night shift primary police negotiator	4	1 June 2016
58	Scott McIlvenna	Security Manager, Seven Network; encountered Monis in Martin Place on two occasions in 2008	1	2 June 2015
59	Detective Chief Inspector Angelo Memmolo	Officer in Charge of the critical incident investigation	1 and 4	25 May 2015 and 22 March 2016
60	Larisa Michalko	Lawyer, ODPP; had carriage of bail proceedings against Monis with respect to alleged sexual offending	2	18 August 2015
61	Marcia Mikhael	Hostage; Westpac employee	4	4-5 April 2015
62	Detective Inspector Craig Middleton	Crime Manager, Surry Hills Local Area Command, NSWPF; assisted with the initial response outside the inner perimeter	4	19 April 2016
63	The witness referred to in this report as 'migration agent'	Migration Agent; assisted Monis in 1997 with his citizenship application and interview	1	3 June 2015
64	John Miller	Lawyer; represented Monis in 2013-2014 in custody proceedings before the Family Court	1	1 June 2015

No.	Name	Description (and role during siege, if applicable)	Segment	Date witness called
65	Robert Mills	Administered the community service program at Booth College, where Monis undertook 300 hours of community service	1	26 May 2015
66	Amanda Morsy	Acquaintance of Monis	1	2 June 2015
67	Jarrold Morton-Hoffman	Hostage; student and Lindt Café staff member	4	29-30 March 2016
68	Assistant Commissioner Mark Murdoch	Commander, Counter Terrorism and Special Tactics Command, NSWPF; day shift Police Commander	4	11-13 May 2016
69	Christopher Murphy	Lawyer; represented Monis in 2009 in a bail application with respect to the Commonwealth postal offending	1	29 May 2015
70	Crime Scene Officer Walter Murphy	Forensic Ballistics Investigation Section, Forensic Services Group, NSWPF; gave expert evidence relating to the firearm used by Monis	2	2 September 2015
71	Dr Daniel Murray	Psychiatrist; treated Monis in 2005 and 2010	1	27 May 2015
72	The witness referred to in this report as 'Night Forward Commander'	Detective Chief Inspector, NSWPF; night shift Forward Commander	4	18-20 July 2016
73	Detective Senior Constable Murray Northey	Fraud and Cybercrime Squad, NSWPF; conducted an investigation into the content of Monis' website as well as his YouTube, Twitter and email accounts	1	28 May 2015
74	John O'Brien	Hostage; retired	4	31 March 2016
75	Rebecca O'Brien	Mental health worker; conducted a mental health assessment on Monis in 2010	1	28 May 2015
76	Paul O'Neill	Civilian; attempted to enter the Lindt Café on the morning of the siege	4	23 March 2016
77	The officer known by the pseudonym 'Officer A'	Alpha Team, NSWPF; discharged firearm at Monis during entry into Lindt Café	4	25 July 2016
78	The officer known by the pseudonym 'Officer B'	Alpha Team, NSWPF; discharged firearm at Monis during entry into Lindt Café, EA Commander and Team leader of Alpha Team	4	26-27 July 2016

No.	Name	Description (and role during siege, if applicable)	Segment	Date witness called
79	Clare Partington	Managing Lawyer, ODPP; supervised the lawyer who opposed Monis' bail application on 12 December 2013 for alleged accessory to murder offending	2	28 August 2016
80	The officer known by the pseudonym 'Peter'	Senior Sergeant, NSWPF; day shift primary police negotiator	4	30-31 May 2016
81	Dr Jonathan Phillips	Forensic psychiatrist; retained by the State Coroner to produce an expert report on the psychopathology of Monis	4	2 May 2016
82	Crime Scene Officer Domenic Raneri	Forensic Imaging Section, Forensic Services Group, NSWPF; conducted digital crime scene reconstruction	4	28 June 2016 to 1 July 2016
83	Marco Rec	Clinical Nurse Consultant, Justice Health NSW; conducted a mental health assessment of Monis in 2014	1	28 May 2015
84	The officer known by the pseudonym 'Reg'	Detective Senior Sergeant, NSWPF; day shift police negotiations team leader	4	26-27 May 2016
85	David Richardson	Senior Reporter, <i>Today Tonight</i> ; produced a report regarding Monis' Commonwealth postal offending, which aired in 2009 titled 'Fake Sheikh'	1	2 June 2015
86	Rebekah Rodger	Member of the expert panel on bail issues; barrister at the NSW Bar	2	1 September 2015
87	Brian Royce	Lawyer, ODPP; opposed Monis' bail application on 12 December 2013 with respect to alleged accessory to murder offending	2	21 August 2015 and 24-25 August 2015
88	Jane Sanders	Member of the expert panel on bail issues; Principal Solicitor at Shopfront Youth Legal Centre	2	1 September 2015
89	Cyrous Sarang	Director of the Refugee Action Collective in 2001, when he encountered Monis during a protest by Monis outside Parliament House, NSW	2	3 September 2015
90	The officer known by the pseudonym 'Sasha'	Detective Senior Constable, NSWPF; assisted day shift police negotiators	4	31 May 2016 to 1 June 2016
91	Commissioner Andrew Scipione	Commissioner of the NSWPF	4	17 August 2016
92	Gregory Scragg	Barrister; represented Monis in 2014 in a bail application with respect to alleged accessory to murder offending	1	29 May 2015

No.	Name	Description (and role during siege, if applicable)	Segment	Date witness called
93	The officer referred to in this report as 'Senior Investigating Officer (SIO)'	Detective Superintendent, NSWPF; was the Senior Investigating Officer from 10:12 am to 10:00pm on 15 December 2014 and from 6:30am to 3:00pm on 16 December 2014	4	6 May 2016
94	Associate Professor Rodger Shanahan	Member of the panel of experts on terrorism issues; Research Fellow at Lowy Institute	2	26 August 2015
95	Superintendent Allan Sicard	Harbourside Local Area Command, NSWPF; initial Forward Commander	4	18-19 April 2016
96	The officer known by the pseudonym 'Sierra Three (1)'	Sergeant, NSWPF; marksman team leader stationed at Westpac building	4	7 July 2016
97	The officer known by the pseudonym 'Sierra Three (3)'	Leading Senior Constable, NSWPF; marksman stationed at the Westpac building	4	6-7 July 2016
98	Temporary Chief Superintendent Kerrin Smith	Investigator on DCC Simon Chesterman's UK police expert review team, with experience in police negotiations	4	21 July 2016
99	Detective Senior Constable Melanie Staples	Homicide Squad, NSWPF; officer in charge of Strike Force Crocker investigation into alleged accessory to murder offending committed by Monis	2	19-21 August 2015
100	Inspector Richard Steinborn	Commander, Police Armoury, NSWPF	4	20 June 2016
101	Detective Sergeant Eugene Stek	Sex Crimes Squad, NSWPF; supervised officer in charge of Strike Force Yorkfield investigation into alleged sexual offending committed by Monis	2	18-19 August 2015
102	Detective Sergeant Richard Strawbridge	Central Metropolitan Region, Operations Support Group, NSWPF; assisted with the initial response outside the inner perimeter	4	19 April 2016
103	The officer known by the pseudonym 'Tactical Advisor'	Superintendent, NSWPF; provided strategic support from the Police Operations Centre	4	9-10 June 2016 and 14 June 2016
104	The officer known by the pseudonym 'Tactical Commander'	Inspector, NSWPF; performed the role of Tactical Commander within the Forward Command Post	4	20-24 June 2016
105	Julie Taylor	Hostage; barrister at the NSW Bar; friend of Katrina Dawson	4	6 April 2016
106	Ian Temby AO QC	Member of the expert panel on bail issues; barrister at NSW Bar	2	1 September 2015

No.	Name	Description (and role during siege, if applicable)	Segment	Date witness called
107	Keysar Trad	Community leader, founder of the Islamic Friendship Association of Australia; met Monis after having been sought out by Monis for advice	2	3 September 2015
108	John Valastro	Director of the Passengers' Branch at Sydney International Airport in 2004-2005; dealt with Monis' complaints against the Australian Customs Service	1	26 May 2015
109	Scientific Officer Lucas van der Walt	Forensic Ballistics Investigation Section, Forensic Services Group, NSWPF; provided expert evidence regarding cartridges discharged inside the Lindt Café and recalled in Segment 4 for expert ballistics evidence	2 and 4	2 September 2015 and 27-28 June 2016
110	Paolo Vassallo	Hostage; Lindt Café staff member	4	1 April 2016
111	Detective Senior Constable Denise Vavayis	Sex Crimes Squad, NSWPF; officer in charge of the Strike Force Yorkfield investigation into alleged sexual assault offending committed by Monis	2	17-18 August 2015
112	Lisa Viney	Managing Lawyer, Group Six, ODPP; involved with a possible review of Monis' successful bail application as to alleged accessory to murder charge	2	28 August 2015 and 31 August 2015
113	Olivia Wilkins	Lawyer; represented Monis in 2011 in Family Court custody proceedings	1	1 June 2015
114	Detective Chief Superintendent Michael Willing	Commander, Homicide Squad, NSWPF; involved in discussions regarding possible review of Monis' successful bail application with respect to the alleged accessory to murder offending	2	2 September 2015
115	Selina Win Pe	Hostage; Westpac employee	4	5-6 April 2016
116	Senior Constable Paul Withers	Motorcycle Response Team, NSWPF; one of the first responders inside the inner perimeter	4	23 March 2016
117	Catherine Wood	Legal and Governance Manager at Amnesty International; met Monis in 2010 when he attended an interview at Amnesty International's Sydney offices	1	26 May 2015
118	Hassan (Gary) Zoabi	Employed Monis as a security guard in 1997	1	26 May 2015

Appendix 6: Inquest statistics

Description	Notes
The investigation by police and legal team assisting the State Coroner	
Number of police officers comprising Strike Force Verum (the team of detectives and investigators assembled to assist the State Coroner in the coronial investigation)	36
Hours of CCTV footage reviewed by Strike Force Verum	Over 1000 hours
Hours of other media footage reviewed by Strike Force Verum	Over 200 hours
Investigative tasks completed by Strike Force Verum as at 8 May 2017	10,776
Number of statements taken by Strike Force Verum as at 8 May 2017 (not including interviews and associated transcripts)	1130
Formal views of the Lindt Café and surrounds (as attended by the State Coroner, Counsel Assisting, interested parties and/or experts)	7
Group meetings of legal practitioners attended by all interested parties with Counsel Assisting	3
Formal hostage information nights involving liaison between hostages and those assisting the Inquest	4
Number of inquest-related emails sent or received by the Solicitor Assisting the Inquest	Approximately 24,000
Court attendances	
First sitting day	29 January 2015
Total number of hearing segments	4
Number of public hearing segments	3
Dates of the public hearing segments Note: Excludes Segment 3 closed hearings concerning ASIO	Segment 1: 25 May 2015 to 5 June 2015 Segment 2: 17 August 2015 to 4 September 2015 Segment 4: 21 March 2016 to 17 August 2016
Number of sitting days per public hearing segment on which evidence was given	Segment 1: 8 days Segment 2: 15 days Segment 4: 74 days
Number of sitting days on which legal argument was heard and judgment delivered on the issue of scope	2

Number of sitting days on which legal argument was heard and judgment delivered on legal professional privilege	2
Number of directions hearings	8
Total number of sitting days in open court, including directions hearings <i>Note: Excluding date of findings</i>	110
Number of witnesses in each public hearing segment <i>Note: Excluding witnesses who gave evidence in Segment 3 closed hearings concerning ASIO</i>	Segment 1: 36 Segment 2: 26 Segment 4: 60
Total number of witnesses across all public hearing segments	118
Number of witnesses of fact who gave evidence	103
Number of expert witnesses who gave evidence	15
Number of witnesses who were recalled	4
Number of 'interested parties' granted leave to appear	12
Number of legal representatives who appeared for interests, witnesses or parties at the hearings	68
Number of non-party witnesses attending with legal representatives	4
Total number of recorded attendances by members of the public <i>Note: Some members of the public attended on multiple occasions</i>	691
Number of journalists registered to attend	118
Briefs of evidence and exhibits	
Number of statements in brief of evidence per public hearing segment	Segment 1: 143 Segment 2: 51 Segment 4: 780
Total number of statements across all briefs of evidence for all public hearing segments	974
Number of items contained in the briefs of evidence for each public hearing segment, and standalone exhibits	Segment 1: 464 Segment 2: 175 Segment 4: Over 1,500
Total number of items in the briefs of evidence tendered in public hearing segments, and standalone exhibits	Approximately 2,140
Number of lever arch folders per brief of evidence per public hearing segment <i>Note: Based on the tender version of each brief of evidence (excludes material tendered on or used in applications)</i>	Segment 1: 23 Segment 2: 10 Segment 4: 57
Total number of lever arch folders comprising the briefs of evidence across all public hearing segments <i>Note: Based on the tender version of each brief of evidence</i>	90
Number of pages comprising the brief of evidence per public hearing segment <i>Note: Based on the tender version of each brief of evidence</i>	Segment 1: 7,748 Segment 2: 3,295 Segment 4: 57,356

Approximate total number of pages in the briefs of evidence across all public hearing segments	68,399
<i>Note: Based on the tender version of each brief of evidence</i>	

Transcript

Total number of pages of transcript across all public sitting days	8,124
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Appendix 7: ASIO segment confidentiality/non-publication orders

Consolidated confidentiality/non-publication orders relating to the closed segment concerning the Australian Security Intelligence Organisation

IN THE STATE CORONER'S
COURT OF NEW SOUTH
WALES

INQUEST INTO THE DEATHS OF KATRINA DAWSON, TORI JOHNSON & ANOR
(THE 'PROCEEDINGS')

CONFIDENTIALITY/NON-PUBLICATION ORDERS

Preliminary

1. Notwithstanding these Orders, Counsel Assisting the Coroner or ASIO may apply to the State Coroner's Court (**'the Court'**) on notice at any time for such further or additional orders, including orders varying these Orders, as the Court deems appropriate. Any application to vary these Orders may only be made on the giving of 72 hours written notice to the Australian Government Solicitor (**'AGS'**) and any affected party or such shorter time as agreed.

2. In these Orders:

The singular includes the plural.

"ASIO" means the Australian Security Intelligence Organisation.

"the ASIO hearings" means the closed court hearings concerning ASIO's assessment of the risk posed by Mr Monis.

"national security" means "Australia's defence, security, international relations or law enforcement interests."

"national security information" means information:

- (a) that relates to national security; or
- (b) the disclosure of which may affect national security.

[see ss 7 and 8 of the *National Security Information (Criminal and Civil Proceedings) Act 2004* (Cth) (**'NSI Act'**).]

"Security Classified Document" means:

- (a) a document that has a security classification marked on it ("Protected", "Confidential", "Secret" or "Top Secret");
- (b) a document which AGS has advised a person in writing must be treated as a Security Classified Document, even if that document is not marked with a security classification, and whether the advice is provided by AGS before or after the person first received the document; and
- (c) any other document which by these Orders must be treated as a Security Classified Document.

For the avoidance of doubt, any copy of a Security Classified Document must be treated as a Security Classified Document under these orders.

“**Relevant Person**” means:

- (a) The State Coroner of New South Wales, Magistrate Michael Barnes;
- (b) Mr Jeremy Gormly SC;
- (c) Ms Sophie Callan;
- (d) Ms Melissa Heris;
- (e) Detective Chief Inspector Angelo Memmolo;
- (f) Detective Sergeant Ricky Hennessy;
- (g) Detective Senior Constable Lucy Ede;
- (h) Detective Senior Constable Josephine ('Rosie') Allen;
- (i) any officer or lawyer from, or who represents, ASIO (an ASIO representative);
- (j) Ms Anna Harmer, First Assistant Secretary, Intelligence and Identity Security Division, Commonwealth Attorney-General's Department; and
- (k) any court official or transcription official who is required to attend the ASIO hearings.

Permitted disclosures

3. Any information that relates to or may affect national security that is contained in any document that is provided to the Inquest by ASIO may, subject to the Orders made below, be disclosed in and for the purposes of the conduct of the proceedings, provided that any such disclosure occurs in accordance with these Orders.

Security Classified Documents

Confidentiality of Security Classified Documents

4. A Relevant Person must not publish, disclose or otherwise reveal any part of the content of any Security Classified Document to any other person, except to:
 - 4.1 another Relevant Person; or
 - 4.2 the extent that such disclosure is necessary for the conduct of the proceedings and takes place in accordance with these Orders or with the written consent of ASIO.

Declassification of Security Classified Documents

5. Subject to later written notification by AGS, if a person is notified in writing by AGS or ASIO that:
 - 5.1 the classification with which that document or group of documents is marked no longer applies to the document or group of documents; and
 - 5.2 no other classification applies to the document or group of documents;
 then from the date of that notification that document or group of documents is no longer subject to such of these Orders that apply only to Security Classified Documents.

Access to Security Classified Documents

6. Access to Security Classified Documents is limited to the Relevant Persons referred to in Order 2 above.

Copying and Handling of Security Classified Documents

7. With the exception of documents of the kind described in Order 8 below, Relevant Persons must not copy any Security Classified Document or part of such a document.
8. If any further copy of a Security Classified Document is required to be made by ASIO and provided to the Court:
 - 8.1 written notice must be given to ASIO, through AGS specifying the number of copies that are required and the full names of all persons to whom such copies are to be provided;
 - 8.2 ASIO must comply with any reasonable request for copies, and must provide the requested copies (each of which must be numbered) within a reasonable time of the receipt of the request, to the persons specified in the notice, subject to those persons being permitted to access Security Classified Documents and provided that receipt of the material is acknowledged in writing upon the copies being handed over.

Storage and transportation of Security Classified Documents

9. Security Classified Documents must be stored in a 'B' class security container as defined in the Commonwealth Protective Security Policy Framework ('**B class container**'). The B class container must be locked and kept in a room:
 - 9.1 that is locked whenever a Relevant Person who has access to the Security Classified Documents is not present; and
 - 9.2 that only persons authorised by a Relevant Person can access when locked.
10. The B class container may be kept other than in a room that can be locked as described in Order 9 above, where the person responsible for that safe obtains the written consent of ASIO on the basis that the room has an effective means of limiting entry to authorised persons at all times and that entry will be so limited at all times.
11. Submissions, notes or other documents (including any judgment, orders, findings or recommendations of the Coroner) that record or reveal any of the contents of a Security Classified Document (whether in hard copy or electronic or other form), made by any person who has been permitted to have access to Security Classified Documents:
 - 11.1 must be marked with the same classification as the most highly classified Security Classified Document to which those submissions, notes or documents relate and must be treated as a Security Classified Document;
 - 11.2 must not be made on any electronic device other than the computers referred to in Orders 35 and 36 below; and
 - 11.3 must be stored in a B class container at all times when they are not in use (meaning that, if such notes are made on a computer, the computer, or the hard-drive of the computer, must be stored in the safe when it is not in use).
12. When:
 - 12.1 any Security Classified Document,
 - 12.2 any submissions or notes or other documents (including any judgment, orders, findings or recommendations of the Coroner) that record or reveal

any of the contents of a Security Classified Document(s), or

- 12.3 any transcript of the ASIO hearings is transported by a Relevant Person (whether in hard copy or electronic or other form, including for the avoidance of doubt when contained on a laptop computer), it must be carried in a locked secure brief case (**‘the transportation’**). During the course of the transportation, the secure brief case is to remain with the Relevant Person at all times when it contains a Security Classified Document.

The destruction of Security Classified Documents

13. Subject to order 14, if any Relevant Person who has been permitted to have access to Security Classified Documents has in their possession, custody or control:

- 13.1 a Security Classified Document;
- 13.2 transcript of the ASIO closed court hearings;
- 13.3 notes taken during any closed court hearing;
- 13.4 submissions, notes or any other document (whether in hard copy or electronic form), or copies thereof, which record or reveal any part of the content of a Security Classified Document or which contain extracts from a Security Classified Document;
- 13.5 any computer hard drive on which any of the documents described in 13.1 to 13.4 is or has been stored;

other than a document that has become an exhibit, that person must provide those documents and computers (if any) to AGS so that it can arrange for the destruction or sanitation (which, if the owner of the documents so desires, can take place at a time arranged between the owner and AGS so that the owner can witness their destruction or sanitation), within 28 days of the earlier of:

- 13.6 the conclusion of the proceedings (defined as being once findings are delivered by the State Coroner of New South Wales pursuant to s. 81 of the *Coroners Act 2009* (NSW)); or
- 13.7 the person ceasing to act in the proceedings (unless the documents are provided to a Relevant Person who is bound by these Orders).

Retention of Security Classified Documents forming part of the Court file

14. Following the conclusion of the proceedings, the following items are to be placed in envelopes or other suitable storage containers provided by ASIO, and sealed by one or more of the Relevant Persons referred to at (a)-(d) of the definition of ‘Relevant Person’ in Order 2, and provided to ASIO for safe storage:

- (a) the exhibits from the ASIO hearings;
- (b) one hard copy of any judgment, orders, findings or recommendations of the Coroner that record or reveal any of the contents of a Security Classified Document(s);
- (c) one electronic copy of any judgment, orders, findings or recommendations of the Coroner that record or reveal any of the contents of a Security Classified Document(s);
- (d) one hard copy of the documents provided by ASIO to the Court for the ASIO hearings;

- (e) one electronic copy of the documents provided by ASIO to the Court for the ASIO hearings;
- (f) one hard copy of the transcript of the ASIO hearings;
- (g) one electronic copy of the transcript of the ASIO hearings;
- (h) one copy of the audio recording of the ASIO hearings;
- (i) one hard copy of any notes taken during the ASIO hearings and made by any of the Relevant Persons identified at (a)-(h) of the definition of 'Relevant Person' in Order 2;
- (j) one hard copy of any written submissions that record or reveal any of the contents of a Security Classified Document;
- (k) any original notes made by any of the Relevant Persons identified at (a)-(h) of the definition of 'Relevant Person' in Order 2; and
- (l) one hard copy of any other document that records or reveals any of the contents of a Security Classified Document, prepared by any of the Relevant Persons identified at (a)-(h) of the definition of 'Relevant Person' in Order 2;

(collectively, the '**sealed material**').

15. ASIO undertakes to the Court to:

- (a) store the sealed material on behalf of the Court;
- (b) not access or unseal the sealed material; and
- (c) produce the sealed material to the Court within seven days of it being requested by the State Coroner of New South Wales (whomever may occupy that position at the relevant time).

Closed court hearings

16. Any person who intends to make any reference to the content of a Security Classified Document when:

- 16.1 asking any question of any witness (whether in examination or cross-examination); or
- 16.2 making any submission;

must inform the Court before any such use or reference is made so as to enable the Court to be closed, and must not make any reference to the content of that document until the Court is closed.

17. For the purpose of these Orders, only:

- (a) a Relevant Person identified in Order 2 above; and
 - (b) the Inspector-General of Intelligence and Security, the Honourable Margaret Stone;
- are allowed to be present when the Court is closed.

18. Any person who tenders a Security Classified Document must tender that document as a confidential exhibit. If the Court admits the document as a confidential exhibit, the Court will store all confidential exhibits in accordance with the requirements of Order 9 above.

19. Subject to further order, there shall be no publication other than to a Relevant Person, of:

- 19.1 any evidence given, or any submission made during the ASIO hearings;

- 19.2 the content of any Security Classified Document; or
 - 19.3 any transcript of the ASIO hearings.
20. All notes taken by any person, including for the avoidance of doubt any court official or transcription official, during any part of the ASIO hearings (whether handwritten or electronic or in other form) must:
- 20.1 be marked and treated as classified 'Secret';
 - 20.2 not be made on any electronic device other than the computers referred to in Orders 35 and 36 below; and
 - 20.3 be stored in a B class container at all times when they are not in use (meaning that, if such notes are made on a computer, the computer, or the hard-drive of the computer, must be stored in the safe when it is not in use).

Access to mobile phones, laptop or notebook computers, and other electronic devices in closed court

21. Mobile phones, laptop or notebook computers, and any other electronic devices capable of recording or transmitting sound or images, must not be in the Court during the ASIO hearings, save for:
- 21.1 the laptop or notebook computers approved for use with security classified material provided by ASIO pursuant to Order 35;
 - 21.2 the laptop or notebook computers approved for use with security classified material used by an ASIO representative; and
 - 21.3 the electronic devices (including a laptop or notebook computer) required for the recording of the ASIO hearings for transcription purposes
22. Save for the electronic devices identified in Order 21 above, a Relevant Person may surrender any mobile phones, laptop or notebook computers or other electronic devices to a Court Officer, who will not bring it into the hearing room where the ASIO hearings are occurring, so that it can be returned to the Relevant Person after such person leaves the hearing room.

Closed Court Transcript

23. Transcript of the ASIO hearings in accordance with these Orders must be marked by the transcription service providers as classified 'Secret', handled as a Security Classified Document pursuant to these orders and is to be available for collection by a Relevant Person from the transcription service in hard copy form.
24. Any person who has access to the ASIO hearings transcript electronically or otherwise, must not:
- 24.1 send by electronic means the ASIO hearing transcript to any person or any internet site; or
 - 24.2 load the ASIO hearing transcript onto any computer other than the computers referred to in Orders 21.1, 21.2 and 21.3 above.
25. Any transcript of the ASIO hearings must be stored in accordance with the requirements of Order 9 above.

Witnesses from the Australian Security Intelligence Organisation

26. Subject to any further Order of the Court, ASIO witnesses, including current or former ASIO employees or affiliates who give evidence in any part of these proceedings must give evidence and be referred to by use of an assumed identity.

27. A person shall not disclose or publish the identity of any ASIO witness, including:
- 27.1 a description;
 - 27.2 a visual representation; or
 - 27.3 any other identifying feature other than the cipher or assumed name referred to in Order 26 above;
- that could identify that witness as an ASIO employee or affiliate.
28. A list of the names of all ASIO witnesses, which includes the details of their respective ciphers and assumed names,:
- (a) shall be created by ASIO;
 - (b) shall be retained by ASIO in a manner that ASIO sees fit; and
 - (c) need not be produced to the Court absent an order of the State Coroner, which shall not be made without ASIO first having an opportunity to be heard on the question of whether the order ought be made and production ought occur.
29. The Court is to be closed while ASIO witnesses give evidence. For the purpose of these Orders, only a Relevant Person is to be present when the Court is closed under this Order.
30. ASIO witnesses are permitted to enter and leave Court and the court building by means that enable them to avoid being identified as persons connected with ASIO by any person who is not a Relevant Person.
31. A person shall not disclose or publish, other than to a:
- 31.1 Relevant Person,
 - 31.2 a member of the staff team assisting the State Coroner in the Proceedings;
 - 31.3 a court official assisting the State Coroner with the practical arrangements for the ASIO hearings;
 - 31.4 a Sheriff's officer assisting the State Coroner with the practical arrangements for the ASIO hearings; and
 - 31.5 a non ASIO witness called to give evidence during the ASIO hearings
- the date or time that any ASIO witness is to give evidence, or any information from which a reliable inference could be drawn about the date or time an ASIO witness is to give evidence.

Confidential affidavits

32. No affidavit marked as a confidential affidavit that is provided to the Court in support of any application to:
- 32.1 vary these Orders; or obtain additional Orders that relate to national security; shall be disclosed;
 - 32.2 to any person (other than the Relevant Persons identified at paragraphs (a)-(h) of the definition of 'Relevant Person' in Order 2) without the consent of ASIO; or
 - 32.3 otherwise than by order of the Court, any such application for such order to be made by the giving of 24 hours written notice to the AGS and any affected party or such shorter time as agreed.
33. There shall be no publication of the content of any confidential affidavit referred to in Order 32 other than by order of the Court.

34. Subject to any Order of the Court, all confidential affidavits will be either:
- 34.1 stored as a Security Classified Document in accordance with the above Orders;
 - 34.2 returned to the deponent of the confidential affidavit at the conclusion of the hearing in which the affidavit is read; or
 - 34.3 otherwise handled in accordance with the requirements specified in the affidavit.

ASIO Property

35. ASIO will provide the State Coroner, Counsel Assisting the Coroner and Ms Heris with laptop or notebook computers, safes and secure briefcases (**'ASIO Property'**) referred to in these Orders. ASIO will provide such further equipment as might be necessary pursuant to these Orders.
36. Any laptop or notebook computer provided by ASIO, as referred to at Order 35, above is to be approved for use with security classified material, being a computer that cannot be connected (whether by physical or wireless means) to the internet or any local area network and must be stored in a B class container when not in use, regardless of whether the computer contains a Security Classified Document or not. Laptop or notebook computers approved for the sole purpose of providing transcription purposes (per Order 21.3) are also subject to the same usage and storage conditions.
37. ASIO Property must be returned to ASIO, or to the AGS, on behalf of ASIO within 42 days of the conclusion of the Proceedings (being within 42 days of findings being delivered by the State Coroner of New South Wales pursuant to s. 81 of the *Coroners Act 2009* (NSW)).

The Coroner's findings relating to Security Classified Documents

38. Nothing in these Orders shall prevent the Coroner from providing, securely, a confidential annexure to his judgment, orders, findings or recommendations which records or reveals any part of the content of a Security Classified Document (**'Classified Findings'**) or the evidence given during the ASIO hearings to:
- (a) the Director-General of ASIO;
 - (b) the Inspector-General of Intelligence and Security;
 - (c) the Commonwealth Attorney-General;
 - (d) the Commonwealth Minister for Justice;
 - (e) Mr Chris Moraitis (Secretary of the Commonwealth Attorney-General's Department);
 - (f) Ms Katherine Jones (Deputy Secretary of the Commonwealth Attorney-General's Department);
 - (g) Ms Sarah Chidgey (First Assistant Secretary, Cyber and Infrastructure Security Division, Commonwealth Attorney-General's Department);
 - (h) Ms Anna Harmer (First Assistant Secretary, Intelligence and Identity Security Division, Commonwealth Attorney-General's Department);
 - (i) Mr Pablo Carpay (First Assistant Secretary, Countering Violent Extremism Centre, Commonwealth Attorney-General's Department);
 - (j) Mr Anthony Coles (Assistant Secretary, Counter Terrorist Unit, Commonwealth Attorney-General's Department), and

- (k) Ms Tara Inverarity (Director, Intelligence and Identity Security Division, Commonwealth Attorney-General's Department).

39. For the purposes of Order 38, any such Classified Finding can be provided securely to any of the persons referred to in (a)–(k) of Order 38 by any of the following means:

- (a) transportation by a Relevant Person in accordance with Order 12 above;
- (b) with the prior written approval of ASIO, transportation by a courier authorised to transport Security Classified Documents; or
- (c) providing it to an ASIO representative who has undertaken to deliver the Classified Finding to the person.

Notification of breach of orders

40. Any possible breach of these conditions or any third party attempt to access Security Classified Material (except as authorised by ASIO) must be brought to the attention of AGS and ASIO immediately.

Access to written submissions by other persons

41. Notwithstanding Order 19.1, nothing shall prevent the following persons from receiving securely a copy of the submissions of Counsel Assisting and the submissions of ASIO regarding the ASIO hearings and the evidence given in the ASIO hearings (**'Classified Submissions'**):

- (a) the Commonwealth Attorney-General;
- (b) the Minister for Justice;
- (c) Chris Moraitis (Secretary of the Attorney-General's Department);
- (d) Katherine Jones (Deputy Secretary of the Attorney-General's Department);
- (e) Sarah Chidgey (First Assistant Secretary, Cyber and Infrastructure Security Division, Attorney-General's Department);
- (f) Anna Harmer (First Assistant Secretary, Intelligence and Identity Security Division, Attorney-General's Department);
- (g) Pablo Carpay (First Assistant Secretary, Countering Violent Extremism Centre, Attorney-General's Department);
- (h) Anthony Coles (Assistant Secretary, Counter Terrorist Unit, Attorney-General's Department), and
- (i) Tara Inverarity (Director, Intelligence and Identity Security Division, Attorney-General's Department).

42. For the purposes of Order 41, Classified Submissions can be provided securely to any of the persons referred to in (a)–(i) of Order 41 by any of the following means:

- (a) transportation by a Relevant Person in accordance with Order 12 above;
- (b) with the prior written approval of ASIO, transportation by a courier authorised to transport Security Classified Documents; or
- (c) providing them to an ASIO representative who has undertaken to deliver the Classified Submissions to the person.'

Note: Consolidated as at 21 April 2017