

**TRANSCRIPT OF PROCEEDINGS**

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**INQUIRY INTO THE COVID-19 HOTEL QUARANTINE PROGRAM**

**BOARD: THE HONOURABLE JENNIFER COATE AO**

**DAY 5**

**10.00 AM, THURSDAY, 20 AUGUST 2020**

**MELBOURNE, VICTORIA**

**MR A. NEAL QC appears with MS R. ELLYARD, MR B. IHLE,  
MR S. BRNOVIC and MS J. MOIR as Counsel Assisting the Board of Inquiry**

**MS K. O’GORMAN appears for Crown Melbourne Ltd**

**MS C. HARRIS QC appears with MS P. KNOWLES and MR M. McLAY for  
the Department of Health and Human Services**

**MS J. CONDON QC appears with MS R. PRESTON and MR R. CHAILE for  
the Department of Jobs, Precincts and Regions**

**DR K. HANSCOMBE QC appears with MS H. TIPLADY for the Department  
of Justice and Community Safety**

**MR R. ATTIWILL QC appears with MS C. MINTZ for the Department of  
Premier and Cabinet**

**MR S. PALMER appears with MR L. MOLESWORTH for Melbourne Hotel Group Pty Ltd trading as Holiday Inn Melbourne Airport**

**MS A. ROBERTSON appears with MS E. GOLSHTEIN for MSS Security Pty Ltd**

**MR A. WOODS appears for Rydges Hotels Ltd**

**MR A. MOSES SC appears with MS J. ALDERSON for Unified Security Group (Australia) Pty Ltd**

**MR R. CRAIG SC appears with MR D. OLDFIELD for Wilson Security Pty Ltd**

**MS D. SIEMENSMA appears for Your Nursing Agency (Victoria) Pty Ltd**

CHAIR: Good morning, Mr Ihle.

MR IHLE: Good morning, Madam Chair.

5 CHAIR: I understand before we start, Mr Ihle, there are some new appearances to be announced this morning.

10 MR IHLE: Yes, if the Board pleases, I appear today together with Ms Moir to assist you. We have a number of other new appearances for parties granted leave to appear since the last sitting of this Inquiry. I will refer to them in turn and ask that their respective counsel identifies themselves to you. The first is MSS Security.

15 MS ROBERTSON: If the Board pleases, I appear on behalf of MSS Security with my learned junior, Ms Golshtein.

MR IHLE: Your Nursing Agency, known as YNA.

20 MS SIEMENSMA: If the Board pleases, I appear on behalf of Your Nursing Agency, Ms Siemensma.

MR IHLE: Wilson Security, Madam Chair.

CHAIR: Is there someone here for Wilson Security? Apparently not, Mr Ihle.

25 MR IHLE: Crown Melbourne Ltd, Madam Chair.

MS HILL: If the Board pleases, I appear on behalf of Crown Melbourne Ltd.

30 CHAIR: Thank you. I have counsel appearing for Crown as Ms O'Gorman.

MS HILL: Ms O'Gorman is unable to make it, so I am appearing on behalf of Crown Melbourne Ltd, if the Board pleases.

35 CHAIR: Your name is?

MS HILL: Lucinda Hill.

CHAIR: Thank you, Ms Hill.

40 MR IHLE: They are the ones of which I'm aware. If there are any other interested parties who have not previously announced their appearance, I will ask them to now make themselves known to you.

45 MR OLDFIELD: If the Board pleases, if I may appear, David Oldfield for Wilson Security, being led by Mr Craig SC.

CHAIR: Thank you, Mr Oldfield.

MR IHLE: Madam Chair, would the Board be assisted by a brief summary of the evidence from the previous two days of hearing and an outline of the evidence that you are likely to hear over the coming days?

5 CHAIR: Yes, thanks, Mr Ihle. I think that was the course that we committed to at the outset for the benefit of all those parties with leave to appear. It was seen as appropriate to allow the parties to understand what, in the assessment of Counsel Assisting, were the issues that should be assessed as flowing out of the first group of witnesses before the Board. Then I understand that you are going to do a short  
10 opening with respect to this next group of witnesses.

MR IHLE: That's so.

CHAIR: Yes.  
15

### **OPENING STATEMENT BY MR IHLE**

20 MR IHLE: If the Board pleases, during the first two days of the evidential hearings of this Inquiry which were conducted on Monday and Tuesday of this week, the Board received evidence from expert witnesses who gave evidence of a scientific and technical nature. The evidence of those three expert witnesses was not relevantly contested nor relevantly was their respective areas of expertise. Their collective  
25 evidence regarding the nature of COVID-19 disease, infection control, quarantine, personal protective equipment, known as PPE, and epidemiology and genomic sequencing is relevant to the Board's Terms of Reference. Their statements which have been tendered and their oral evidence before you will likely lead to the making of uncontroversial findings. Their evidence is, relevantly, not in issue.

30 In summary, the evidence from Professor Grayson explained that which is known about the SARS-Cov-2, its nature, its transmission and the symptomology that it causes in humans. So too Professor Grayson gave evidence about the principles of quarantine, the importance of PPE, the importance of education and rigour around its proper use to be effective.  
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Professor Howden and Dr Alpren's evidence explained from the genomic and epidemiologic perspectives respectively, and in combination, that the virus entered Australia from overseas. Specifically, the virus entered into the Hotel Quarantine  
40 Program and it moved beyond that program and into the Victorian community. It was that movement, the movement of the virus through the barriers of quarantine, which the evidence suggests is now responsible for some 99 per cent of the recent COVID-19 infections in this State.

45 Turning to the evidence ahead of us: the next few days of evidence before this Inquiry are not matters of science, nor are they technical. They are the human stories. Evidence of the experiences of people who themselves have lived through

the Hotel Quarantine Program. Each of these witnesses had direct experience of what happened in the lobbies, in the corridors and in the rooms of those hotels. Some of the people from whom you will hear chose to be part of the program. They were employed as nurses, security guards, and we even have an authorised officer.

5 Others were returned travellers detained in the quarantine hotels.

Each witness's evidence contains a window into the operation of the Hotel Quarantine Program. They all have unique first-hand and personal experiences of the program, and the evidence they give to the Board is from those perspectives.

10 None of these witnesses was involved in the conceiving or planning of Operation Soteria. Those people will come later. But each of the witnesses you will hear from over the coming days was a person directly affected by the decisions of those who planned the program and those who were in charge its implementation.

15 The first witness you will hear from today is a registered nurse who will be referred to only as "Jen". She was engaged by an agency to work at three quarantine hotels. Her surname is the subject of a non-publication order which the Board has made under the *Inquiries Act*.

20 The second witness you will hear from is a returned traveller, detained in hotel quarantine with his wife and two young children. His full name and identifying information, including his image, are also protected by a non-publication order you have made. He will give his evidence by audio only and will be referred to as Returned Traveller 1.

25 The third witness you will hear from is another nurse, Michael Tait. Like Jen, he was engaged by a nursing agency to work at a quarantine hotel.

You will also hear today, time permitting, from three other witnesses who were returned travellers. The first is Hugh de Kretser. Mr de Kretser was detained in hotel quarantine with his wife and two children upon their return from the United States. He will give evidence about his personal experiences as a subject of the program. As the board is no doubt aware, Mr de Kretser is also a lawyer, a human rights advocate, and the executive director of the Human Rights Law Centre. He will

30 proffer insights to this Inquiry in the form of a submission, drawing upon his professional familiarity with human rights law.

35

You will also hear today from Kate Hyslop and Ricky Singh, a young couple who are were in quarantine at the Crown Metropol Hotel. They will give evidence about their experiences. They will appear before you and give evidence together.

40

Tomorrow, the Board will hear from another couple, Sue and Ron Erasmus who, along with their children, were detained at the Stamford Plaza Hotel after returning to Australia from overseas. Sue Erasmus is a mother, a wife, and an experienced nurse. She brings all of those perspectives to her observation as a returned traveller in the program. Following their evidence, you will hear from another witness, a physiotherapist who also holds a Masters of Public Health degree. She is a

45

humanitarian aid worker and brings that experience to her perspectives on hotel quarantine. She too was held at the Stamford Plaza Hotel, detained with her two children.

5 The next witness is a senior employee at Parks Victoria named Luke Ashford. He worked on secondment to the Department of Health and Human Services as an authorised officer in the Hotel Quarantine Program. Mr Ashford has been a professional soldier and firefighter. He's no stranger to dangerous work. Nevertheless, you will hear of the circumstances that led him to tender his  
10 resignation to DHHS effective immediately on 18 June when he considered that DHHS was not and could not provide him with a safe working environment.

15 Finally this week you will hear from an anonymous security guard, referred to as security 1. He worked at two hot quarantine hotels. He will give his evidence by audio only. His name, image and other identifying information are also the subject of a non-publication order. More witnesses will also give evidence about their direct experiences on Monday and their details will be published online in due course.

20 If the Board pleases, I propose to call the first witness, Jen.

CHAIR: Jen, are you there and can you hear us? I can hear you, Jen. Are you able to see and hear me?

25 JEN: Yes, that's correct, yes.

CHAIR: You understand that it is necessary for you to have the affirmation administered before giving your evidence, so I'll pass you over to my associate to do that and then I'll invite Mr Ihle to ask you some questions.

30 JEN: Okay.

**JEN, AFFIRMED**

35

**EXAMINATION BY MR IHLE**

40 MR IHLE: You understand that we are going to refer to you only as Jen today in your evidence?

A. Yes.

45 Q. At the risk of sounding overly informal, Jen, is it correct that you have provided a statement to this Inquiry?

A. Yes, that is correct.

Q. Is that a statement made by you and signed by you on 17 August 2020?

A. Yes, that's correct.

5

Q. That statement is some 17 pages long and has some annexures attached to it?

A. That's correct.

10 Q. And is 144 paragraphs in total?

A. That is correct.

Q. Is that statement true?

15

A. Yes, the statement is true.

Q. Are its contents correct, as far as you are concerned?

20 A. Yes, definitely.

MR IHLE: I tender the statement, Madam Chair.

CHAIR: That will be Exhibit 9.

25

**EXHIBIT #009 - STATEMENT OF JEN**

30 MR IHLE: If the Board pleases.

If at any stage, Jen, you have any difficulty in understanding my questions or if we have any internet dropouts, let us know, even if it means just putting up your hand. Okay?

35

A. Sure, no problem.

Q. Thank you. Can you tell us a little bit about your background and training as a nurse?

40

A. Yes, certainly. I studied a Masters of Nursing Science at Melbourne University, graduating, I think, three years ago. I have since then been working as a nurse in high-acuity settings in a public hospital in Melbourne.

45 Q. At some point earlier this year you joined a nursing agency called Your Nursing Agency; is that right?

A. Yes, that's correct.

Q. How and why did that come about?

5 A. At the time I was working casually for a hospital, and a weird effect of coronavirus was there was suddenly no work for casual nurses. So because of that I heard through a friend that YNA or Your Nursing Agency had the hotel quarantine contract and that they were essentially the only place that had work going for casual nurses at that time.

10

Q. Did you sign up with YNA?

A. Yes, I did.

15 Q. Can you just talk us through briefly the process of signing up with YNA?

A. Yes, sure. Essentially it was that you go online and you say that you want to apply and you put in your basic details. Someone contacted me --- you have to upload a resume, I believe. Someone contacted me immediately after and they started the on-boarding process which was an interview, they contacted my references that I provided and also I had to go through a whole lot of on-boarding and safety checks, such as police checks, working with children checks, and training such as providing my basic life support training and also, you know, fire and emergency situation trainings and things like that.

25

Q. As part of that on-boarding process, you have set out in your statement as annexure A to your statement a copy of induction and learning modules that appear to have been done online. I might ask if that be brought up. It is document ID WIT.0001.0003.0018\_R. I ask that that be brought up. Can you see that there?

30

A. Yes, I can.

Q. Is that a copy of the completed modules you had done, just a screen dump of that?

35 A. Yes, that's exactly what that is, yes.

Q. Going through those, you have got Nursing Worker Safety V5, that is the second one. Was there anything in that module that you can recall about infection control?

40 A. Nursing Worker Safety? I could say there potentially was but right now I can't say that there definitely was.

Q. In any event, you were required to do some COVID-specific training; is that right?

45

A. Yes, that's correct. YNA sent out a link to a Department of Health training module.



Q. We will move to that in a moment. If this is a true and accurate copy of the modules that you completed, I would ask that that be tendered, Madam Chair.

5 CHAIR: That will be marked as Exhibit 10.

**EXHIBIT #010 - COPY OF MODULES COMPLETED BY JEN**

10

MR IHLE: If that document can come down and instead be replaced with document ID WIT.0001.0003.0019. This is annexure B to your statement, Jen.

A. Yes.

15

Q. Is this a reference to that specific training that you did?

A. Yes, that's it.

20

Q. We see the second- and third-last lines on that page, "Australian Government Department of Health", "Please click here to register to participate." Is that the training that you were directed to that was COVID-specific?

A. Yes, that's it.

25

Q. This screenshot has a reference to it, if you see about two-thirds of the way up the page, 18 March 2020, version 1. Do you recall what date you did that training?

30

A. I do have a certificate of completion. Off the top of my head, it was in April, but I can't tell you the exact date right now.

Q. Was it before you started working in the Hotel Quarantine Program?

35

A. I can't --- I believe so. I believe that I did that as I was doing all of my on-boarding for YNA, so I believe I would have done that before I started in the hotel quarantine.

MR IHLE: If the Board pleases, I tender that document.

40

CHAIR: That will be marked as Exhibit 11.

**EXHIBIT #011 - ANNEXURE B TO JEN'S STATEMENT**

45

MR IHLE: Jen, if I can ask you to turn to paragraph 13 of your statement, you say:

*On 14 August 2020, I received an email from YNA outlining mandatory PPE competency training.*

5 First of all, at or around mid-August, so we are talking only a week ago, were you still working for YNA?

A. I'm still potentially working for YNA, I'm on their books, I could pick up a shift, but I have not worked for them recently, in the last week or two.

10 Q. When was the last time you did any work in the Hotel Quarantine Program?

A. The last time I did work for them, I believe that's in my statement, as I checked it before I submitted it.

15 Q. Around 3 June?

A. Yes. Yes, I did double-check that before I submitted my statement, so 3 June.

20 Q. Have you provided the Inquiry with a copy of that email that you have referred to there about the mandatory PPE competency training?

A. Yes, I have.

25 MR IHLE: I'll ask that the document WIT.0001.0003.0020\_R be brought up. We see that email bears the date Thursday, 13 August. In light of that, should we take the reference to 14 August in paragraph 13 to be 13 August?

A. Yes, that's correct.

30 Q. You will see, just at about point 6 --- first of all, that email is sent at 13 August at 3.40 in the afternoon. Underneath the heading "Step 1. Complete the online training. Please complete the training no later than 5 pm Friday, 14 August." Is that where 14 August came from?

35 A. Potentially, yes.

40 Q. This also seems to be sent by Torrens Health Department of Health and Human Services. Is this an email you received from Health and Human Services or from YNA?

A. It is from YNA. If you see the "From" at the top it says "noreply@yna.com.au". YNA started using Torrens Health Services as one of their names as well.

45 Q. We also see under step 2, about point 7 or 8 of the page:

*Once you have completed the training, please send a copy of the completion certificate to training@yna.com.au.*

I tender that document, Madam Chair.

CHAIR: Exhibit 12.

5

**EXHIBIT #012 - DOCUMENT WIT.0001.0003.0020\_R**

10 MR IHLE: Jen, did you undertake that training when you got the email last week?

A. No, I didn't because I don't particularly wish to work for YNA any more.

15 Q. Do you recall the training you did when you were doing the on-boarding phase of coming into YNA?

A. Yes.

20 Q. Can you be shown Exhibit 3 with document ID HQI.0003\_P. It's the slide that was tendered through Professor Grayson on the first day. I would ask that these be scrolled through slowly. There are a number of slides. If we could stop at about slide 24.

25 Jen, as we are scrolling through the slides, are these the slides of the training you did in April, before you commenced your shift?

A. They look similar but I believe they might be a later version of the same training.

30 Q. You believe the ones we are looking at are a later version?

A. Yes.

Q. But the content was the same: hand washing ---

35 A. Yes.

Q. --- not touching your face, things like that?

40 A. Yes, similar, yes.

Q. I'll ask that we go to the next slide. Do you remember the training slides in respect of masks?

45 A. I remember that masks were definitely mentioned in the training. If I look at this slide, it does look different from the training that I completed, specifically the dot point where it says:

*During an outbreak or where there is community transmission ....*

I don't remember there being any specific information about community transmission in my training, but I did this training that I did for the Department of Health.

5

Q. Can we go to the next slide, please.

You will see that this slide is marked in the bottom right-hand corner with the red letters spelling out "Original".

10

A. Yes.

Q. This is also a slide about masks. Is this a slide that you saw when you did your original training in April?

15

A. It does look familiar. I do remember it saying, wearing a mask in public won't help protect you from infection. Yes.

Q. If we can go to the next slide, please. Do you remember this slide as part of your original training?

20

A. Yes, I do.

Q. Thank you. That document can come down. So, Jen, when you were working in the Hotel Quarantine Program, according to your statement, most of your shifts were at the ParkRoyal at the airport. Do I understand that correctly?

25

A. Yes, that's correct.

Q. Your first shift was on about 27 April and your last shift was on 3 June?

30

A. That's correct.

Q. During that time you also did about three shifts at the Holiday Inn?

35

A. That's correct, at the airport, yes.

Q. You did a swabbing shift at the Grand Chancellor in the city?

40

A. That's correct.

Q. Are they the three locations in which you worked during that 27 April to 3 June window?

45

A. Yes, that's correct.

Q. Were they all shifts that were assigned to you by YNA?

A. That's correct.

5 Q. So if we go to 27 April, you have done that on-boarding training ---

A. Yes.

10 Q. --- and the modules that we have seen there. You have done the Department of Health COVID-19 infection control training as it was in April.

A. Yes.

15 Q. Did you have any other specific training about the job that you were undertaking in hotel quarantine beyond your general nursing background?

A. No. Essentially I showed up for the night shift, just a bit before I was meant to start at 9.00 pm, and another nurse gave me a walkaround of the hotel and told me what to expect and how things worked.

20 Q. As you were heading to work that day, what did you understand your duties would be?

25 A. I wasn't too sure. I'd heard from another nurse you didn't really have to do much. Sometimes you had to get cans of Coca-Cola from the vending machine for the guests.

Q. Did the agency tell you anything about your roles or responsibilities there?

30 A. No, not that I remember.

Q. Were you given any formal documentation as to what was expected of you?

A. Definitely not.

35 Q. Were you given any formal on-the-job training? Did anyone say, "This is the way we do things, this is our processes"?

40 A. Nothing formally from YNA. It was another nurse who had worked there who had done some shifts there and they just showed me how the process was run.

Q. In a general description, what was your role as a nurse there? What were you required to do?

45 A. The nurses working in the --- what I did, in the quarantine hotels, was every guest in the hotel was required to be called each day. We would do a call to check if they had any symptoms for coronavirus. It was also a welfare check, you know, "How are you doing?" Obviously being in a locked room for 14 days isn't --- or can be

stressful. Then also just inquiring if they had any other needs at that point in time that we could assist with.

5 Q. Other than the nursing staff that were working at --- I'll focus on the ParkRoyal because that's where you spent most of your time --- other than the nursing staff, were there other people there who were facilitating the Hotel Quarantine Program?

10 A. Yes, there were also people from DHHS that were either authorised officers or team leaders, there were the hotel staff themselves, and then there were security staff.

Q. Were you ever aware of anyone from a government department called DJPR being present at the site?

15 A. Yes, they were also there, yes.

Q. What did you understand their role to be?

20 A. I don't know. I met one guy who said that he was from that department and I don't know what his role was.

Q. As a nurse, if you had a problem or an issue in respect of a guest that you needed to raise or escalate, who would you raise it with?

25 A. We would go and escalate it to DHHS. It was always pretty unclear to me who was completing what role, so we would go into the boardroom that they utilised and raise the issue with them.

30 Q. How many guests were --- how many detainees were at the ParkRoyal Hotel on average?

A. It did definitely fluctuate, depending on how light the flight was that came in. I would say at the smallest they had probably 20 people there; at a max, they had roughly 300 when the place was full.

35 Q. If we look at when the place was full --- first of all, was the entire hotel used for hotel quarantine?

A. I believe three levels were used, and the top level was still open to the public.

40 Q. How would the public come in and out of the hotel? Was there a designated entry and exit for the fourth level?

A. No, there wasn't.

45 Q. So they had to use the stairs or the lifts?

A. They would use the same lifts that the quarantine guests would come through.

Q. When there was up to 300, not even necessarily 300, but what were the nursing staff ratios to guest ratios?

5 A. The ratio didn't change depending on how many guests were there. When I first started working those shifts there were four general nurses and one mental health nurse. As time went on, that ratio changed to three general nurses and one mental health nurse. But it wasn't dependent on how many people were in the hotel.

10 Q. As you went from four general nurses to three general nurses, was that reflective of the number of people in the hotel, were the numbers generally going down?

A. No, I don't think it had anything to do with how many people were in the hotel at the time.

15

Q. Given the roles and responsibilities that you had, did you have a view about whether four general nurses plus one mental health nurse, or three later on, was enough?

20 A. What exactly are you asking?

Q. Was there enough staff to do the work?

A. Yes. Specifically in the ParkRoyal I would say there was.

25

Q. What about the Holiday Inn where you did three shifts?

A. Yes, that was also adequately staffed.

30 Q. Can I ask you about PPE and infection control at the ParkRoyal. First of all, in your experience was there sufficient amount and adequate in nature PPE for the nursing staff?

A. Yes. I would say there was.

35

Q. Did you observe other members of staff --- when I say staff, other members facilitating the program, being DHHS, authorised officers or team leaders, DJPR, security, hotel staff --- did you witness them using PPE?

40 A. Yes, I did. They would --- when guests would arrive to the hotel, we would have to go down to meet them and everyone would be wearing masks and most people would be wearing gloves as well, because we would be touching paper.

45 Q. As far as you could observe, were there adequate stores of PPE for those tasks for the people that weren't nurses?

A. Yes, definitely.

Q. What about the way that it was used? Were people using PPE appropriately as far as you were concerned?

5 A. No, definitely not.

Q. Can you explain what you mean by that?

10 A. It was very obvious to me that training in PPE hadn't been widely available to everyone involved in the program. I saw a lot of mostly security guards, for example, constantly wearing the same gloves throughout their shifts, going and making themselves a coffee with gloves on, using their phone, things like that, always wearing the same gloves, wearing their masks so that their nose was hanging out or that it was underneath their chin. Yes, that was constantly seen.

15

Q. What about what they did --- first of all, whenever you used PPE, how would you use it? Let's say for example you were going to see a passenger in one of the rooms. Explain that process to us.

20 A. Yes. So we would --- I was explained by another nurse that the process was, generally speaking, we didn't go to the rooms but we would only go there when required. If we did need to go to the rooms, the protocol was to tell someone from DHHS, I believe they are from DHHS, that we needed to go to the rooms. We would also notify security. Sometimes security would come up in the lifts with us, other  
25 times they would just radio up to the security on that floor to notify them that we were coming. Once we notified everyone that we were going up, we would return to the PPE room, put on full PPE, so that's gowns, gloves, masks, goggles, and go up to see the guest. Then we also --- we never --- well, one occasion I entered the room, but generally speaking nurses didn't enter the rooms and we stood far back from the  
30 door to allow some physical distance between us and the guest.

Q. When you have the full PPE on, how do you go about taking that PPE off and where do you do it and where do you dispose of the PPE?

35 A. At the ParkRoyal, each level had a yellow clinical waste bin. So after we finished seeing the guest, we would remove our gown and gloves into that bin, and then you'd go down to the mezzanine level where the nurses were in, the boardroom, and outside that room there was another clinical waste bin where I would take off my mask and goggles.

40

Q. So you would do different things at different stages, and into the clinical waste bin?

A. Yes.

45

Q. What about the other staff, the non-nursing staff. Did you see other staff using the clinical waste bins or did they dispose of it in a different way?



A. I did see other staff using clinical waste bins, but I did also see --- you know, you would pop to the bathroom and you'd see a mask sitting in a waste bin in the bathroom and things like that. So they were also being disposed of in other bins.

5

Q. Do you see that as a problem?

A. Yes, definitely.

10 Q. For those of us who aren't nurses, explain to us why that's a problem?

A. Essentially any PPE, you always treat it as if it definitely is contaminated, therefore it would need to be disposed of adequately in a clinical waste bin, which is disposed of in a way that would not cause --- or not allow that thing to allow further infection. I guess if it's being disposed of in a general bin, I assume that the hotel staff are the ones that were probably dealing with that waste rather than people who are trained to deal with removing clinical waste.

15

Q. You said before in relation to security guards that you saw they would wear gloves for the entirety of their shift, including making a coffee and things like that. You say at paragraph 50 that there were shared facilities, a shared water cooler, a tea urn and a coffee machine on the first floor near the nurses' boardroom?

20

A. Yes.

25

Q. That water cooler, tea urn and coffee machine, would they all be used by security guards?

A. Yes, they were used by all --- the hotel staff themselves would not use it but the people from the Department of Health, the nurses and also security guards would use those facilities.

30

Q. Did you use those facilities?

35 A. Yes, I did.

Q. When you used them would you wear gloves?

A. No, I wouldn't.

40

Q. When others would use them would they wear gloves?

A. Some people would if they already had them on, others wouldn't if they didn't have them on.

45

Q. You said before that you observed security guards that wore gloves for their whole shift, including to make coffee. Did you observe security guards with their

gloves on using those shared facilities?

A. Yes, I did.

5 Q. What did you do about it, if anything?

A. I raised my concerns to someone who I believed work for DHHS. I suggested it would be pretty simple for a nurse to cover some training for security or whoever required it, we just needed security to kind of arrange a system where we could make  
10 sure everyone had been adequately trained, or I suggested that the Department of Health training I had done online seemed pretty adequate if they wanted to get them to do that. But I felt like it was never acted on, it was sort of just like, "Yeah, sure."

15 Q. In fairness, you weren't there the entire time though, you were only there the one shift. If there was training that occurred outside of your observation, that's not something you can comment on, I assume?

A. No, I can't say that they definitely did or didn't receive training elsewhere. However, looking at the way in which a lot of security guards in particular were  
20 wearing PPE, you would assume that they didn't have training and if they did, they weren't following the training they were given.

25 Q. Did you ever see, just from a general sense, an improvement in the way security guards were using PPE over the time you worked in the program, up until June, or was it fairly consistent throughout?

A. Yes, fairly consistent.

30 Q. And consistent in the way that you have just described it; is that right?

A. Yes, that's correct.

35 Q. Another thing that you touch upon in your statement is transit passengers that used to come through the hotel.

A. Yes.

40 Q. Indeed, you talk about an instance where a number of passengers that were transiting through Melbourne for a period of about eight hours used a boardroom.

A. Yes.

45 Q. Just describe where that boardroom was in relation to any work space that you were using or the authorised officers and the DJPR were using?

A. Yes, sure. So at the ParkRoyal, you walk up a level to the mezzanine and to the right you had, I'd say, six boardrooms which were used by nurses, the PPE

storeroom, the DHHS staff and also there was one for security guards I believe at the end. Then to the left-hand side there were other boardrooms. We used one of them as a general stock. Then I understand that the guests were held in one of those boardrooms to the left, far away from all the other staff.

5

Q. Were there toilet facilities made available to you?

A. No. To myself or to --?

10 Q. First of all, just generally to the nursing staff, were there toilets near where they were working that were available to them?

A. Yes, we were instructed to use one specific toilet that was for nursing staff.

15 Q. What about these transit passengers that were using that other boardroom, were they using a bathroom as well during the time they were there?

A. Yes, I feel that we were instructed to use that one specific toilet because of an incident with the transit passengers. A nurse on shift became aware that the transit  
20 passengers were using the general toilets that everyone else was using and this nurse in particular pushed really hard for those toilets to be closed until they had a deep clean, as would be required. I understand that the hotel pushed back really hard on providing that clean, around funding, they only wanted to do it once they got the go-ahead that DHHS would definitely pay for the deep clean to go ahead. It was  
25 after that incident the nurses were then given the one toilet and told specifically to only use this one toilet.

Q. Prior to that, the toilet you had been using, that is the toilet that was used by the transit passengers, did the security guards use that toilet as well?

30

A. I assume so. I can't definitively say but I think so.

Q. I just want to ask you about recordkeeping in nursing. Presumably clinical records are a fairly important part of what you do?

35

A. Definitely.

Q. Was there difficulty with records?

40 A. Most definitely. One of my biggest frustrations working at the ParkRoyal was it was very obvious that DHHS were having a hard time of keeping track of who was in the hotel and when.

Q. You speak in your statement at paragraph 96 of becoming aware of a family that had been in quarantine for a week without contact from anyone?

45

A. Yes, that's correct.

Q. How did that come about?

5 A. That came about, we essentially had two lists that we worked off. One was a list from the hotel that provided a list of all the guests related to the Hotel Quarantine Program. And another list was from DHHS. Generally speaking, we worked off the list from the hotel, but just through a cross-reference of the DHHS list and the hotel one, it was observed that there were people in a room, a family of four, who hadn't received a call the whole time, or for the first week that they had been there.

10

Q. When you say hadn't received a call, no nurse had called them to check on their welfare?

A. That's correct.

15

Q. Presumably they hadn't been offered a swab in that time either?

A. That's correct.

20

Q. Were there occasions when you went to a room to swab someone and found that as a result of recordkeeping, the room was empty?

25

A. Definitely. That occurred two days in a row. This led me to create --- on a Department of Health computer, I created my own Excel spreadsheet to try and have a better functioning system of how to actually keep track of the guests.

Q. Prior to that, prior to the Excel spreadsheet, were the records kept electronically or in paper?

30

A. On paper.

Q. There was an occasion, wasn't there, when you found some nursing notes that appeared to have been torn up and put in a bin?

35

A. Yes, definitely. One night I was trying to clarify what was happening with the situation and I was in the DHHS boardroom area. I can't specifically remember what I was trying to clarify but the person I was talking with was extremely uninterested in what I was saying. I was trying to find a document, I believe, and in trying to find that document, I observed --- I found some nursing notes that had been ripped into four and thrown into a cardboard box that had been marked "Confidential", which I assumed was in place of a confidential bin or a shredder.

40

Q. You don't know who tore up those notes, I assume?

45

A. No, I don't.

Q. From a nursing perspective, medical notes or nursing notes of someone's health

condition are important to maintain, I assume?

A. Yes, most definitely.

5 Q. One of the benefits, I suppose, of an electronic system is you can see when they are altered or removed?

A. Yes.

10 Q. Is that one of the reasons why you moved towards the spreadsheet system?

A. Yes. I initiated the spreadsheet system. It was used for a little while until one day a lot of guests left and a lot of guests came and it became too confusing for anyone to actually be able to keep track of what was going on. At that time also the  
15 Department of Health was trying to introduce an online system to keep track of notes and things as well.

Q. Did you raise the issue about the notes being torn up with anyone?

20 A. I raised it with my manager at YNA.

Q. Was it the case --- first of all, did you work out whether those notes that had been torn up were transposed somewhere else?

25 A. When I found them, I gathered the other nurses into our boardroom and I shut the door and told them what I'd found. One of the other nurses suggested to check that maybe they were a duplicate and they had been written down somewhere else so a copy had been made. So we went through that guest's file and we couldn't find any  
30 evidence that those notes had been copied or that a reference had been made to why they might be ripped up or thrown out or anything like that. When it was clear to us that the evidence was essentially --- these notes had essentially been destroyed, that's when we called the YNA manager.

35 Q. As far as the guests that were in the hotel, up to 300 at a time, I imagine they had a fairly broad range of physical and mental concerns. Is that a fair summary?

A. Yes, I think that's fair.

40 Q. You talked about there being mental health nurses that were rostered on?

A. Yes, that's correct.

45 Q. Either four general nurses and one mental health nurse or later three general health nurses and one mental health nurse?

A. Yes.

Q. You have raised in your statement some concerns about your views about the training the mental health nurses had received?

A. Yes.

5

Q. Can you tell us what those concerns were and how you formed them?

A. Yes. Essentially the very first shift I worked, I remember there was a group of nurses and someone said, "Who is the mental health nurse?" A nurse who was not a registered nurse but an enrolled nurse said, "I think it's me because I was the mental health nurse last time." I was new to the place so I wasn't too familiar with how that sort of process worked. I'm also not a mental health nurse, myself, so I was unfamiliar with how YNA was handling that situation. On another shift I had observed the person who had been assigned as a mental health nurse who was yet again an enrolled nurse, explain or state that a person was crazy because of the way that they were acting. It just didn't seem right to me that someone who would be trained in mental health would be referring to someone potentially who was experiencing a mental health condition, would refer to someone as crazy.

I also --- through conversations with this person it became a bit more obvious to me that they don't actually have any formal mental health training, they hadn't completed a graduate year in mental health, they hadn't done any specialised courses to become accredited in mental health; they were just assigned as the mental health nurse for that shift.

25

I'm also aware of one particular case where another enrolled nurse was very distressed when they found out they had been assigned the mental health nurse for the shift. Apparently they raised their concerns to YNA about this as it happened for a couple of days in a row. On one of the shifts they became aware that a guest had committed suicide in another hotel. They were extremely --- you know, they were aware of how inappropriate and unprofessional it was to have someone such as this nurse to be the mental health nurse when they didn't have training. They felt that their complaint to YNA had not been heard and nothing was being done because they continuously showed up and kept being assigned as the mental health nurse. They then raised their concern directly with DHHS, and their experience that they recounted to me was that YNA was very angry with them for making YNA look very unprofessional in front of DHHS.

30

35

Q. You talked about, through that explanation, of enrolled nurses on the one hand versus registered nurses on the other hand.

40

A. Yes.

Q. Can you just explain that distinction to us, please?

45

A. Yes. My understanding is --- I'm from New South Wales, so my understanding is enrolled nurses complete a TAFE course or a diploma, as I believe it is, whereas

registered nurses complete a degree. There's also, from what I understand, a lot more clinical hours required on placement to become a registered nurse.

5 Q. When you talk about a degree, just reflecting on your own experience, you yourself have a Masters of Nursing; is that right?

A. That's correct.

10 Q. As far as you are aware, to become a registered mental health nurse, what is required by way of education?

15 A. From my understanding of it, when you finish your nursing degree, nurses go and complete a graduate year. If you want to be a mental health nurse, you could go and work as a mental health nurse during the graduate year. During the graduate year, you receive a lot of training and that would be where you would undertake, whether it be with the institution that you work with, you would take on some courses and training specific to health mental, or potentially you could be doing some courses outside in a different organisation, relevant to your mental health training.

20 Q. What you are talking about there is a form of postgraduate training?

A. It could be a postgraduate training or it could just be a group of one-day courses, for example, throughout your graduate year.

25 Q. Okay. Just going through some of the examples of issues you were dealing with with the detainees in the hotel, you have outlined in your statement, for example, guests that had diabetes and difficulty in controlling that, given the food they were given?

30 A. Yes. At the ParkRoyal I would say it was quite a poor menu selection. There was definitely complaints from people who were receiving things that had nuts in them when they specifically said they had a nut allergy. I also remember a specific person who was a type 2 diet-controlled diabetes, so they don't require any medication, however the quality of food that they were receiving at the ParkRoyal had led them  
35 to continuously have high blood sugars, so they were trying to get this issue raised and to try and get a healthier diet, essentially.

40 Q. It may be an obvious question but from a nursing perspective, as someone who is there on the ground responsible for their wellbeing, why are they concerns to you?

45 A. I mean, elevated --- consistently elevated blood sugars is definitely not a good thing to have. People --- we act on that very quickly in a hospital. We administer insulin on a sliding scale as necessary normally. The fact that this person was aware, just by looking at the food that they were eating, that they knew their blood sugars would be high, so to therefore actually test them, it seemed obvious that the food they were constantly receiving was not the most nutritious.

Q. Did you raise your concerns about that with anyone?

A. With that particular incident or just generally the food?

5 Q. That particular incident, and specifically I'm looking at paragraph 74 and 75 of your statement.

A. Yes, definitely. The nursing team was aware, the doctor was aware, I believe DHHS were aware.

10

Q. You say at paragraph 74 in respect of someone with type 2 diet-controlled diabetes that they had made a request for a doctor to review their condition or for the food to be changed. In the next paragraph you say the Department staff member pushed back?

15

A. Yes.

Q. Was that a conversation that you were party to?

20

A. Yes. I got the impression from that conversation that the Department member was frustrated and felt like, you know, this wasn't really an important issue that they needed to deal with.

25 Q. You have got a direct quote in your statement there, you say they said "something like"?

A. "Something like", yes.

Q. Do you remember what was said?

30

A. I don't remember the specific words that were said but I definitely remember the idea that --- my impression was that the person from the Department of Health wasn't understanding the situation. I think I got the impression that because this particular person wasn't on medication then clearly the issue wasn't, you know, highly critical. They seemed to be quite dismissive of it.

35

Q. Turning to an occasion where there was a mental health issue, in your statement you outline a case where you started your shift and you read over some notes from the previous shift.

40

A. Yes.

Q. You saw there was a person who had said they were considering suicide or threatening suicide?

45

A. Yes, that's correct.



Q. Did you raise that to any doctor's attention?

5 A. Yes, I did. The note itself said that the matter had been followed up adequately  
sort of thing, that they had escalated it adequately, so obviously I assumed that the  
doctor would definitely be across the situation. He told me --- I think I started my  
shift at 2.00 pm that day, and the doctor told me he had started his shift at 8.00 am  
and he was not aware of the situation. I obviously found this concerning so I went  
over to the boardroom that was DHHS, and I asked them if they were across the  
10 situation and what follow-up had actually occurred. At that point a person who  
worked for DHHS told me they had specifically called this guest in the room and told  
them that they needed to stop threatening suicide just so they can get a cigarette.

Q. Did you leave it at that or was there some further action you took?

15 A. No, of course not. I came back into the nurses' room, the doctor was there as well,  
explained what I had just been told. We were clearly not happy with that outcome.  
Obviously we tried to contact the person so we called them. They didn't answer,  
which we were very concerned about. We waited, I believe, five minutes and we  
tried to contact them again --- potentially they were in the bathroom or something  
20 like that. We called them again and they didn't answer the second time. That's when  
the doctor and I put on full PPE and went up to knock on the guest's door.  
Thankfully the guest was completely unharmed. They were very distressed and  
anxious but they hadn't harmed themselves in my way.

25 Q. That event affected you, though, didn't it?

A. Yes, most definitely. I was very angry with everything that had been going on at  
the hotel at that point. I just didn't work at the ParkRoyal for a bit over a week.

30 Q. There's another incident you describe in your statement about a passenger who  
was in severe pain due to endometriosis?

A. Yes.

35 Q. You detailed that that woman was someone who had kept the pain at bay with the  
use of traditional Chinese medicine?

A. Yes, that's correct.

40 Q. But there was some difficulty in getting the sufficient medicine to her; is that  
right?

A. Yes. From my understanding of it, this person had effectively used traditional  
Chinese medicine, however to prepare the medicine she needed boiling water.  
45 However, there wasn't a kettle or a microwave or any facility in her room in which  
she could boil water.

Q. Did you try and arrange one for her?

5 A. Yes, most definitely. DHHS pushed back really hard, saying that anything that went into the room that was electrical needed to be tagged and tested and that they would not be doing that for this particular person, which we obviously all found very insufficient. This person was in a lot of pain. I went up to the room to actually see them because when I was on the phone to them, they were in so much pain it was affecting their speech. They couldn't speak in full sentences, they were sobbing. They were clearly --- I was concerned they weren't okay to be by themselves,  
10 especially not in that amount of pain. I went up to see them as per the protocol, and just by looking at them, you could tell they were in excruciating pain, they were hunched over, almost in foetal position, essentially, and sobbing and yet again unable to talk in full sentences.

15 I was really concerned. If I ever had a patient in my care like that in a hospital, it would definitely be a medical emergency just to get the pain under control straightaway. In this situation we unfortunately couldn't really do much. We could offer the guest some things like Panadol or a Nurofen or Naprogesic. They had had really bad experiences with Western pain relief in the past so they were really ---  
20 they didn't want to do that, they just essentially wanted what they knew would work for them, which was their Chinese medicine. And they were extremely frustrated that such a simple thing as a kettle couldn't be arranged for them in that situation.

25 Through talking with the person, I did kind of get them to agree to take some Naprogesic, as our only other option was we could get them taken to hospital, but they also didn't want this because they knew they would go there and be given more medicine they didn't want. In that situation they were agreeable to take some Naprogesic. We had a stock of over-the-counter things that nurses can initiate at the ParkRoyal, things like Panadol and Nurofen, things like that. Naprogesic wasn't one  
30 of them but I knew there was a pharmacy in the airport that was open quite late so I popped over to the airport pharmacy myself and went and bought her Naprogesic and she took that.

35 Q. I understand you subsequently arranged a telehealth consultation with a traditional Chinese medical practitioner?

40 A. Yes, she arranged the telehealth --- she found someone to arrange the telehealth, I called them to confirm or just to explain the situation, that the guest was in hotel quarantine and would they be okay with either sending a taxi or an Uber, or the medication in a taxi or an Uber because of the circumstances, and they were very happy to meet those demands.

45 Q. I want to take you to the concluding parts of your statement. You say at paragraph 141:

*I felt that the Department staff at the ParkRoyal Hotel treated guests who were vulnerable or had health needs as 'problematic'.*

Why do you say that?

5 A. The examples I spoke about before, about the person who had literally threatened  
suicide and was told by someone from DHHS to essentially stop being so dramatic  
because they want cigarettes. There was also a whiteboard in the DHHS boardroom,  
there weren't any notes but people's names would appear on that whiteboard, I don't  
know for what reason, but I feel like when little things would pop up that seemed  
10 quite manageable, like getting a kettle or changing someone's diet to help with the  
type 2 diabetes, rather than proactively fix this problem, the person was always ---  
somehow it was the guest's fault and they were being a problem and they were being  
annoying and they were constantly calling nursing staff and things like that.

15 Q. Was it those names that you saw on the whiteboard?

A. Yes, I definitely did see some of the names of the people who --- for example, the  
person who had threatened suicide, I definitely saw their name on that board. I don't  
know if it was in relation to something else, but I did get the impression that they  
were viewed as problematic guests rather than people who had issues that they  
20 needed assistance with.

Q. The issue of the patient with the severe pain that you managed to assist with, that  
led, didn't it, to a new policy coming in that DHHS advised you of?

25 A. Yes. I had a day off and when I came back on my following shift, the situation  
had escalated and DHHS had assumed that this person was quite problematic and  
causing lots of problems and had unreasonable demands. One of the things that the  
person was getting very frustrated with was constantly having to explain their  
situation. I think what might have been happening was a nurse was sort of clarifying  
30 a story just to get the information for themselves. I think the person was getting very  
frustrated at constantly having to explain themselves. So the person started asking  
for the names of the people who she was talking to. Because of this, DHHS started  
telling all the nursing staff that we are not allowed to give out our own names or say  
which company we worked for, we're not allowed to give the names of anyone  
35 working for DHHS at that time.

Q. Did you have a view about that new rule coming in?

40 A. Yes, I was extremely unhappy. It was the last shift I ever worked at the hotel  
quarantine. I pushed back, saying --- well, firstly I said to other nurses, "Hang on a  
second, what's happening here?" Like, "I'm not sure that that is correct information,  
I'm not sure we should be withholding our names from the people that we're working  
with." I also raised the concern of if you don't want to give information of who you  
are or who you work for then you definitely have to question what on earth you're  
45 doing and why you would be wanting to be hiding behind being anonymous and  
things like that. Also, a particular person from DHHS found out that I was saying  
these things to nurses and saying to be careful about just blatantly following what

they are telling you, like question whether or not you should or shouldn't be doing that. This person from DHHS became very angry with me and they called YNA and made a complaint about me.

5 Q. You say you didn't work there in hotel quarantine again. Was that out of your choice?

A. No. I believe that I --- I believe that YNA marked me down as someone not to offer the shifts to any more.

10

Q. In your statement, you talk about, at paragraph 101, being concerned at "directions [you] were given by Department staff conflicted with [your] duties as a nurse or might cause harm." What are you talking about there specifically?

15 A. I think that in that situation with the person who had endometriosis and we were trying to advocate for them and get them a kettle or get them something quite simple, to be able to boil the water, or help organise a taxi or Uber to come to the hotel to be able to manage the pain in the way they wished to be managed, in this situation  
20 DHHS was pushing back and they were not going to allow the person to receive a package and things like that. Also, just asking us not to give our names to people, I felt like --- I felt uncomfortable in what was happening. There were so many different instances where practices felt unsafe or just unconsidered. There were no --  
- in a couple of instances I said to DHHS staff members directly, "As a nurse I'm always happy to do what you request of me. However, I'm just going to need to see  
25 either a policy that you're referring to or I'm going to need you to document in writing that this is you making this decision, because I'm not comfortable with the decision that's been made."

30 MR IHLE: Madam Chair, they are all the questions I have for Jen.

I know that there are some other interested parties who have been in contact about seeking leave to ask some questions. The first that occurs to me, and it is in no particular order, is Ms Siemensma on behalf of Your Nursing Agency. I would invite her to make that application.

35

CHAIR: All right.

40 MS SIEMENSMA: Thank you, Madam Chairperson. I seek leave to raise a topic with the witness. I have foreshadowed that topic with Counsel Assisting. I should only be brief.

45 CHAIR: All right. Thank you, Ms Siemensma. Jen, I'm not sure if you could hear that, but counsel on behalf of Your Nursing Agency has a topic she wishes to raise with you. Are you okay about continuing now?

A. Yes, that's fine.

CHAIR: Yes, all right. Thank you. Ms Siemensma, you can proceed.

**CROSS-EXAMINATION BY MS SIEMENSMA**

5

MS SIEMENSMA: Thank you, Jen. I act for Your Nursing Agency.

10 I wanted to ask you about paragraph 136 of your statement. In that statement, you allege that some of the enrolled nurses provided by YNA to work as mental health nurses did not have any particular training or experience in mental health. The manager of YNA denies that allegation. She says that all of the mental health nurses provided by YNA had mental health experience or were mental health certificated. Do you accept you might be mistaken in your understanding in paragraph 136?

15

A. No, I don't.

20 Q. I understood from your evidence just now that you were from New South Wales. I suggest your views as to what is required to be a mental health nurse is based on the requirements in New South Wales; is that correct?

A. No, I have only ever nursed in Victoria.

25 Q. I'm sorry?

A. I've only ever been a nurse in Victoria.

30 Q. I see. You worked in the Hotel Quarantine Program for a short time, approximately four weeks, when you started your employment. Is that correct?

30

A. I believe it was roughly six weeks.

Q. It was from the end of April until the first few days of June, as I understand.

35

A. Yes, 27 April, yes.

40 Q. You were there for four weeks. The manager of YNA, I suggest, would have a better knowledge of what qualifications and experience her staff held than you do. Do you accept that proposition?

40

A. No, I don't believe that the manager in YNA was involved in the on-boarding process of staff members. So I can't definitively say that the manager had a hands-on knowledge of each individual staff member working for YNA. I expect that there are hundreds, if not thousands, of nurses working for YNA.

45

Q. It's not so much the on-boarding. What I'm asking is her knowledge of the qualifications and the experience of her staff. I suggest that she would know more

about that than you would.

A. I guess if you make that suggestion, I'm saying I'm not confident that that's correct.

5

MS SIEMENSMA: Thank you. I have no further questions.

CHAIR: Thank you, Ms Siemensma. Is there anyone else that you are aware of, Mr Ihle, that is seeking leave to put any matters to Jen?

10

MR IHLE: I think that I have covered the issues that counsel for the Department of Health and Human Services wanted me to cover. If I haven't, I would invite that application to be made.

15 MS HARRIS QC: The Department has no questions for this witness, if the Board pleases.

CHAIR: Thank you, Ms Harris.

20 MR IHLE: Save for a general application that again touched on this witness, that was made on behalf of Unified Security, I have had no further communication from either member of counsel representing Unified Security and I'm not sure whether they persist with any specific application either.

25 MS ALDERSON: I can inform Counsel Assisting, we do not have any application to cross-examine.

CHAIR: Thank you. That appears to be the answer. So that completes the evidence of this witness, Mr Ihle?

30

MR IHLE: Subject to one question that I would seek that arises from the questioning of Ms Siemensma.

35 **RE-EXAMINATION BY MR IHLE**

40 MR IHLE: Jen, a number of questions were just put to you on behalf of YNA about YNA being in a better position to understand the qualifications of those rostered as mental health nurses than you. On what information do you make the assessment that you have made about there being a lack of appropriate qualifications?

45 A. Having a nurse specifically tell me that she was assigned as a mental health nurse and she does not have adequate or any mental health training is enough information for me to understand that this practice was happening, yes.

MR IHLE: Thank you, Jen. I have no further questions, Madam Chair.

CHAIR: Jen, I will excuse you. You are able now to turn off your microphone and camera. You are excused. Thank you for your attendance today.

5 A. Thank you.

**THE WITNESS WITHDREW**

10

CHAIR: Mr Ihle, we will take a short break before I ask you to call the next witness. But I do understand there is an issue that you wish to address with respect to the communication as between counsel on the issue of the Practice Direction that requires parties to give notice of their intention to seek leave to cross-examine  
15 witnesses. Perhaps if I get you to address that issue now, before we take the break.

20

MR IHLE: Certainly. May I say, Madam Chair, that of course we appreciate that everyone --- and by everyone I mean everyone, that is, all of the staff of the Inquiry but also all of those acting on behalf of the parties for whom leave to appear has been  
20 granted --- are working very assiduously under pressing time circumstances. So even where the Practice Directions that have been made in this case envisage already tight time frames in respect of liaison between those representatives and Counsel Assisting in respect of any application to cross-examine, we are very cognisant of that.

25

I just seek to foreshadow that there will likely be an amendment to Practice Direction 3. That is a Practice Direction which deals with, amongst other things, the question of leave to cross-examine a witness and how, anterior to that application being made, there should be communication with Counsel Assisting.

30

The amendment which will be sought is an amendment to clause 19 of the Practice Direction, the effect of which will be that the consultation with Counsel Assisting in respect of the topics and/or questions that another party seeks to be canvassed with a witness be raised by email to Counsel Assisting, and Counsel Assisting's email addresses will be specifically inserted into the Practice Direction. The Inquiry will  
35 endeavour --- and I'm confident will achieve --- that when the timetable of witnesses is announced on its public website, the specific Counsel Assisting to whom those enquiries and consultations should be directed will be identified, so that that process can be as effective and as streamlined as possible.

40

In short, those parties who are seeking witnesses be asked questions should raise those questions and those issues with the Counsel Assisting with primary responsibility for leading evidence from that witness, and that will be identified.

45

There is one other matter, Madam Chair, which it might be appropriate to raise at this juncture, given some of the subject matter of the last witness's evidence and certainly evidence that we might expect to hear from others of the experiential witnesses that touches upon the issue of mental illness and those who might be considering harming

5 themselves. Others who are witnessing and observing these proceedings may find some of that evidence distressing or troubling and of course we, as the Inquiry, should be cognisant of that, as we are, and direct them to the appropriate resource, which include things like Lifeline, where counselling services are available, and I'm instructed that phone counselling is available on 13 11 14 and that is available 24 hours a day, seven days a week.

CHAIR: That is the number to Lifeline, Mr Ihle, that you have just read out?

10 MR IHLE: That's my understanding. Of course, we will endeavour to make those details available and obvious on the Inquiry's website.

CHAIR: All right. Perhaps after the break we will repeat that again and any other contact points that are available for people to make contact.

15 MR IHLE: Thank you.

CHAIR: We will take a 15-minute break now and return at 11.15. I should say, Mr Ihle, when I'm announcing the times, of course I'm announcing the actual time that we are working in but I know that can be a little bit frustrating also for those following us in this strange and unfamiliar cyberworld in which we are sitting, because what's actually happening, of course, is that there is a time delay between our exchanges with each other and the actual live transmission. But for our purposes, it is now 11.15 and we will resume at 11.30.

25 MR IHLE: As the Board pleases.

30 **ADJOURNED** [11.17 AM]

**RESUMED** [11.32 AM]

35 MR IHLE: The next witness is a witness over whose identity and image a suppression order has been granted. He will be referred to as Returned Traveller No. 1. Before he is called, it may be appropriate to reiterate that which was said just before the break in relation to some of the evidence which has been given and will be given today.

40 The Inquiry notes that the evidence from these witnesses may raise matters which could be distressing for people watching the hearing. Lifeline counselling services are available 24 hours a day, 7 days on a week on 13 11 14.

45 CHAIR: Thank you, Mr Ihle. I have also been advised in the break that that number has been placed on the Inquiry website as well.



MR IHLE: Thank you, Madam Chair. I call Returned Traveller 1.

CHAIR: Sir, if you just listen, I'm going to hand you over to my associate to assist in the administration of the oath.

5

**RETURNED TRAVELLER NO. 1, SWORN**

10 **EXAMINATION BY MR IHLE**

MR IHLE: Sir, you're aware that a suppression order has been made by the Board of Inquiry which prohibits any publication of your name, information that tends to identify you, and your image. Do you understand that?

15

A. Yes.

Q. However, your name and your contact details are known to the staff of the Inquiry.

20

A. Yes.

Q. For today's purposes, we will refer you to as Returned Traveller 1.

25

A. Okay.

Q. Sir, have you made a statement to the Inquiry which is signed and dated 16 August 2020?

30

A. Yes, I have.

Q. Do you have a copy of that statement there with you?

35

A. Yes, I do.

Q. That statement is 10 pages long?

40

A. Yes.

Q. And 81 paragraphs?

45

A. Yes.

Q. Are the contents of that statement true?

A. Yes.

Q. Are the contents of that statement correct, to the best of your knowledge?

A. Yes.

5

MR IHLE: I tender the statement, Madam Chair.

CHAIR: That will be Exhibit 13.

10

**EXHIBIT #013 - STATEMENT OF RETURNED TRAVELLER NO. 1**

MR IHLE: Sir, as I understand your evidence, you arrived in Melbourne on 16 June  
15 this year?

A. Yes.

20

Q. You arrived on a flight from Florida in the US?

A. Yes.

25

Q. And you remained in hotel quarantine for the required 14 days, taking you to  
about 30 June; is that right?

A. Correct.

30

Q. For the entirety of that period you were detained at the Crown Promenade Hotel?

A. Yes.

35

Q. And with you detained at the Crown Promenade Hotel in that same room were  
three members of your family?

A. Correct.

40

Q. Which included your wife, who was then 28 weeks' pregnant at the time she  
started quarantine?

A. Yes.

45

Q. And two children aged three and two years old; is that right?

A. Yes, correct.

Q. In your statement you detail a number of communications that you had with  
people who were running the program. Do you know what I mean by that?

A. Yes.

Q. How would you describe those communications?

5

A. They were frequent. There was no one person that was able to help me with one thing. Everyone sent me somewhere else. If I recall correctly, I never got anything I requested or any information I needed on the first call, it was always a call back, "I refer you to someone else, someone else will call you back, someone else will be in touch with you," et cetera.

10

Q. You described in your statement that when you landed you were provided some information?

15 A. Yes.

Q. That information included, amongst other things, a 1800 number?

A. Yes.

20

Q. Were you ever told who that 1800 number was to?

A. No, it was just listed as government support services. I originally thought it was the DHHS and I later learned that it wasn't, it was just a support service line that directed you to where you needed to go, or something like that.

25

Q. Paragraph 69 of your statement, you talk about calling that number early on in your stay ---

30 A. Yes.

Q. --- and there being no record of you?

A. Correct.

35

Q. Can you just describe, first of all, when that conversation occurred, to the best of your memory?

A. Yes, sure. It was in the first few hours. And I'll describe the conversation in a second. But this conversation happened the first day, the second day, to the best of my knowledge it might have even happened on the third day, but for sure for the first two days. I called, I said my name, they asked me what room number I am, I gave them the room number and they said, "Is there any other room? Do you have a joint room? Do you have any other rooms you are staying in?" I said, "Yes, we have a joint room next to it." I gave them that room number and they said, "Hold on a second, we don't have you on --- I can't find you listed here." They put me on hold for a second and came back and said, "Oh, fine, we sorted it out. How can I help

45

you?" That happened a few times in the first few days, and then it seems like they updated it and after that whenever I called back they knew who it was.

5 Q. For the first few days it appeared that when you called that number, there was no record at least for whoever was answering the phone at that end, that they had of you?

10 A. Yes. I believe they did know my kids' names, my kids' names were on the list, but my name was not.

Q. You also describe in paragraph 70 of your statement that at some point during the stay in quarantine you found out from your mother, who was not in quarantine, that the Department called looking for you at her house.

15 A. Correct.

Q. Can you describe to us when that happened and how that came to your attention?

20 A. It was quite late in our quarantine, within, I think it was the second week. My mum texted me, "I just got a call from the Department and they said they wanted to speak to you," and she told me, "I told them, 'He's not here, he's in hotel quarantine.'" They asked her, "What hotel is he in?" She said, "You put him there. Surely you should know." They seemed a bit confused and they hung up and I guess tried to reach me another way.

25 Q. In your statement you identify that upon arrival and entering into quarantine you advised the people who were processing you of some strict dietary requirements that you had; is that right?

30 A. Correct.

Q. They are religious dietary requirements?

35 A. Yes, they are.

Q. And they are ones that you strictly adhere to; is that right?

A. Yes, 1,000 per cent.

40 Q. That's information, as I understand it, that you had conveyed prior to your arrival in Australia; is that right?

A. Correct.

45 Q. When you spoke to the person upon arriving in Australia, reinforcing that dietary requirement, were you told anything about their records and what had been done about it?

A. No. I was just told, "We know about it and everything will be taken care of."

Q. And was it taken care of?

5

A. No, not to the fullest extent. There are different levels of any dietary requirements. The particular level of the dietary requirements that I adhere to are considered very strict. And I had requested a specific --- I had requested specifically for that level of dietary restriction, requirements, sorry. And that wasn't provided.

10 At one point I was told by --- I don't recall who it was, I'm assuming someone in the Department, that I should call the caterer who is supplying us the food and ask him to subcontract out the food to the caterer that could provide me with my requirements. I obviously never did that and I worked with the caterer and he went and purchased specific meat for me, et cetera, to fulfil my particular requirements, but that was  
15 something I did on my own and I didn't get any assistance from the Department.

Q. Notwithstanding that you had forewarned them prior to your arrival in Australia and reinforced it upon your arrival?

20 A. Correct.

Q. Your wife being pregnant, 28 weeks' pregnant, at the time she entered quarantine, that's something else you told the person who processed you had at the airport; is that right?

25

A. I had told them multiple times and it was quite visible. Yes.

Q. Were there issues that arose in respect of the food and your wife's pregnancy?

30 A. Yes. She was provided food that wasn't fit for her to eat, she couldn't eat, like smoked salmon, et cetera. And I had called the caterer and he had --- I had spoken to him about different things and he had told me --- I said, "So, you know my wife is pregnant, and the first day you sent us smoked salmon." He apologised profusely and he told me that he wasn't aware of it and no one had mentioned it to him and he  
35 was very, very sorry and he would put a note in and change it from now on.

Q. Again, it seems that information had not been passed down to the caterer?

40 A. Correct, he was not aware of it.

Q. Were there issues in relation to the food that was provided for your children as well?

45 A. There weren't any specific issues with the actual food. I mean, aside for one thing that I did notice on the children's food, that leads me to believe that the information was never correct. Our food was delivered --- the two adult meals were delivered as adults and with the children's names, and then the children's food just said "child", so

the adult food was listed as the children's names, my son and my daughter, and that leads me to believe that, from my previous conversation --- my first, when I called and they don't know who I was, that they had put my 2-year-old and my 3-year-old listed as the adults and everyone else listed as children.

5

Q. Is it correct too that you experienced phone calls to your room where the person calling asked to speak with your 2-year-old?

10 A. Yes, at least twice I had calls and they said, "Can I speak to" and they said my 2-year-old daughter's name, and I said, "I'm happy to give her the phone but she's 2-years-old," and they said, "Oh, sorry about that. So who's the" --- and then they asked who else is the adult.

15 Q. They didn't know who the adult was in the room?

A. No, not at all, not in the first two days at least, until they obviously had fixed it.

20 Q. As part of your religious observance you observe particular days where you don't engage with specific technology; is that a fair summary?

A. Correct, no phones, no TVs, no lights, no electricity at all.

25 Q. Did you make those observations that you strictly adhere to known to those that you were interacting with in the Hotel Quarantine Program?

A. Yes. The morning before that particular day, we called the phone number we were given and we let them know that we won't be answering the phone for the next 24 hours, for the next day, and they had taken note of it, it seemed. And we did that both weeks, both times that day.

30

Q. What happened with that information?

35 A. Absolutely nothing. The next morning, the phone rang at 7.00 am, 7.30, 8.00, 8.15, multiple times, I would say about eight times, on both weeks, until about 2.00 pm-ish, around that time, someone knocked on the door, nurses, mental health nurses or someone, and they said, "Just checking on you because you haven't answered your phones."

40 Q. Did that person seem to be aware prior to knocking on your door of what you had already told the staff?

A. No. I told them, "We let you know that we would not be answering the phone and we would be offline for 24 hours" and they didn't seem like they knew anything about it.

45

Q. In your statement at paragraph 32 you, in talking about the fresh air walks that you got --- that sometimes planned walks would be cancelled at the last minute, your

kids would have their coats and masks on waiting to go outside and the walk would be cancelled without any notice. Can you talk us through at least one occasion where that happened?

5 A. Yes, there was one particular occasion when we were scheduled to go on a walk, if I recall correctly that particular walk was at 4.00 pm, and my kids were wearing --- we got them dressed, they had their shoes on, their coats on, their masks ready and it came 4 o'clock, 4.05, 4.10 and we didn't hear any notice, and then I called the phone number and they had told me, "Oh, walk is cancelled today."

10

Q. Did they give any reason for that?

A. I don't recall. I don't recall the specific reason I was given. I'm sure I was given some sort of reason but I don't recall what it was.

15

Q. Just going to the walks that you did have, how frequently did you get fresh air breaks or walks?

20 A. For the first couple of days it was every other day, depending when we would call and finally get someone. Very often my wife would have to call and --- in tears, and then they would give us a walk. At a certain point, about five days in or so, we finally got the mental health nurse to get us on walks every day and we --- and I'd say the last week it was almost always twice a day, sometimes not.

25 Q. How long would those walks last for?

A. Anywhere from 10 minutes to 20 minutes.

Q. Would you go out as a family?

30

A. Yes, we would.

35 Q. Can you tell us about the PPE, that is personal protective equipment, during walks, gloves and masks and the like. First of all, were you required to wear PPE when you went out on walks?

40 A. We were required to wear a mask from when we left to the room until we got to the deck. Once we were on the deck the rules changed depending on the day. Sometimes we were told we could take our mask off, a couple of days later we were told we can't take our mask off, and then a couple of days after that we were told we can again. So that was in reference to us. In reference to the guards, they were always wearing a mask and they seldomly wore gloves and that was it.

45 Q. When the rules were changed around wearing a mask on the deck and not wearing a mask on the deck, were you ever told why those rules were changed?

A. In the beginning we were told we could take them off. A couple of days in, when

we took our masks off on the walk, they said, "Oh, you've got to keep them on." We asked why and they said, someone in the hotel had complained that they were told they could take their masks off, so the rules changed and now you can't. A couple of days after that we were told that we could, and there was no explanation given.

5

Q. How about how you made your way to the deck for a walk? Did you have to use stairs or an elevator or anything like that?

10 A. We used an elevator. It was all of us, so the four of us and the two security guards in the one elevator. From time to time they would make us separate, one adult and one child into one elevator, and one adult and one child in another. There was no consistency in that. Sometimes on the way down to the walk they would have us all in the same elevator and on the way up they would make us separate and vice versa. We were never really given any reason why that happened.

15

Q. Were you allowed to receive care packages and things like that from family and friends?

A. Yes.

20

Q. Were there ever any issues with the care packages that were sent to you?

25 A. The only issue with the care package that I had was once --- since we have strict dietary requirements, my mum would send cookies and other things so we could have extra food. And there was always no issue from the few times that she did send, and one time they called and said --- it was like a good hour later, after the package had arrived, because I knew when it had come, and they said, "Oh, we have got your package here. We took out some of the stuff because there was food in there and you are not allowed to have food." And I said, "Just yesterday my mum sent food. My wife is pregnant and we have these dietary requirements." They said, "Oh, they let it in the other day? Okay, fine, we'll let it in now," and that was it.

30

Q. Beyond that, no further explanation as to why the different approaches?

35 A. No.

Q. You detail in your statement at paragraphs 56 and 57 a conversation or a couple of conversations that you had with an authorised officer.

40 A. Yes.

Q. Now, the authorised officer's name has been redacted, so there is no need to refer to that person by name. Can you detail that conversation, why you had it and what the contents of it were?

45

A. So that particular conversation was about a bath. My wife, as stated, was 28 weeks' pregnant and she suffers from severe back pain. The only thing that helps is a



hot bath. So we had requested it a number times and were always told, "Someone will get back to you on it someone will get back to you on it," until about day 5 when finally, you know, after again and again and again trying to get hold of someone, I finally got through to an authorised officer. He initially tried to tell me that there  
5 were no rooms with baths and that we couldn't get one, and I told him that I Googled the hotel and Google says that the top three levels are rooms with baths. He said, "Okay, we only have one room with a bath." I said, "If you only have one" --- initially he had told me there was none. Then he had told me, "Okay, we only have one." I said, "Why can't we go in that one? Is it being used?" He said, "No." I said,  
10 "Can we go there?" He said, "No, you are not going into there." He refused flat out to move us. That was basically the end of me trying to get a bath for my wife. I practically gave up, I never called specifically for that again.

15 Q. Was there an occasion too when you talked about whether you could have more walks because you could see the deck from your room?

A. Yes, that happened as well. I told them I want more walks, because at the time we were getting every other day and it was very inconsistent. And he had told me, "We are maxed out on the walks, we are giving everyone the most we can." I said,  
20 "I have nothing to do in my room aside from look out the window. My window looks out onto both decks and I can see from my vantage point that the decks are not being used for most of the day, so maybe you are understaffed." He said, "No, we are not understaffed, we are maxed out and the decks are being used to the fullest." From that conversation on, our walks became twice a day and I observed from my  
25 window that the decks were used most of the time.

Q. Moving to paragraph 61 in your statement, you say:

30 *We were often told by people from the Department that "you knew what you were getting into". We were told words to the effect that "you knew we were being locked in and wouldn't get certain things, like walks every day" and "no one promised you walks".*

35 And in respect of your wife, they said, "You are not the first pregnant woman to come here."

A. Correct.

40 Q. Can we just break those down. First of all, "You knew what you were getting into." You referred to that being said by someone from the Department. Which department are you referring to there?

A. The DHHS, either a nurse or an authorised officer, someone. I don't recall exactly who it was.

45 Q. Did you ever have any communications with anyone, as far as you knew, that was from a government department called DJPR, that's the Department of Jobs, Precincts

and Regions?

A. No.

5 Q. So when you were talking about "Department" you include in that description authorised officers and/or nurses?

A. Correct.

10 Q. Okay. Do you recall specifically being told, "You knew what you were getting into"?

A. Yes, 100 per cent.

15 Q. In what context was that said to you?

A. That was said in the context of, "You knew you were coming into hotel quarantine and that you will be here for 14 days and certain things that you are used to, you are not going to have, and live with it."

20

Q. Did you know what hotel quarantine was going to be like before you arrived back in Australia?

25 A. Not really, outside from what I had heard, you know, from my family, that had heard from someone else, that they knew someone who had come and stayed in hotel quarantine.

Q. The comment "No one promised you walks", do you recall that being said to you?

30 A. Yes.

Q. Do you recall who said that to you?

A. I believe it was an authorised officer.

35

Q. In what context was that said to you?

A. When I had asked for walks, I said, "My wife is pregnant, she needs fresh air, and we have little kids in the room," and they said, "No one promised you walks."

40

Q. Had you been given information upon your entry into hotel quarantine about getting walks?

45 A. I had mentioned that my wife is pregnant and we have little kids and we need those types of things and they said, "Yes, for sure, don't worry about it. Everything will be taken care of."

Q. The comment that was said, "You're not the first pregnant woman to come here," who said that?

5 A. I believe an authorised officer as well. It might have been a nurse. But one of those two.

Q. Did you hear that yourself or is that something your wife told you?

10 A. I heard that.

Q. In what context was that said?

15 A. I believe that was in reference to a bath and the different requirements she needed and they said, "Well, she's not the first pregnant woman to come here. We have dealt with this before."

20 Q. I just want to talk to you about the observations you made. You made some observations about PPE and use of elevators and things like that. In your observation, first of all, if we turn our minds to when you first arrived at the hotel, did you see whether the staff --- and by staff there I mean hotel staff, nurses, DHHS and/or security staff --- were wearing PPE?

25 A. Everyone was wearing masks. Beyond that, I don't recall anything. No, I don't believe anyone was wearing a gown, I mean, I don't recall that. It could be some people were but they weren't in my --- or I didn't interact with them. And I don't recall gloves. I do know that many of the times that we did interact with them, they weren't wearing gloves. But everyone was wearing a mask and that was pretty consistent, aside for the bus driver from the airport to the hotel.

30 Q. Specifically how did your bags get from the bus to your room?

A. I think the security staff or someone had taken them off the bus with us.

35 Q. You say at paragraph 15 of your statement that the security guards who took your luggage from the bus were not wearing gloves.

A. I don't recall them wearing gloves, correct.

40 Q. Sorry, let's just clarify that. When you say you don't recall them wearing gloves, do you recall that they were not wearing gloves or you are unable to say whether they were or whether they weren't?

A. Hold on a second, I'll just reference --- which paragraph are you referring to?

45 Q. Paragraph 15.

A. I don't --- it's been a while. I don't recall exactly the fact that they were not

wearing. I do have --- on my phone, I did go through my phone and see pictures of the security staff that we interacted with quite often and they, many of the times were not wearing gloves. They were definitely not wearing any other PPE or anything.

5 Q. What I'm asking you to turn your mind to, though, specifically is the handling of your luggage. Are you able to assist us as to whether the security guard were wearing gloves then?

A. I cannot recall exactly.

10

Q. Okay. There's an occasion you detail in your statement about a food delivery that wasn't intended for you arriving at your door.

A. Yes.

15

Q. Can you tell us what you recall about that?

A. So the doorbell rang. I opened it. There was a package, I brought it in and when I looked at it, it was from a pizza/pasta place that obviously I had not ordered because of my dietary requirements. And then I just double-checked it to see maybe someone had ordered it for me but the name on it wasn't mine. I then opened my door and one of the security staff, I called him over and he asked me what happened, I said, "This is food that wasn't meant for me." And I --- I handed it to him and he said, "I'll take it to the right place."

25

Q. When you gathered up that food delivery were you wearing gloves?

A. I wasn't wearing a mask, gloves, nothing. Just probably my pyjamas.

30

Q. When you handed it to the security guard, was he wearing gloves?

A. No, to the best of my knowledge he was not wearing gloves.

Q. He said that he was going to take it to another room; is that right?

35

A. He was going to take it where it was intended to go, yes.

Q. Just finally, sir, I just want to ask you about when you left hotel quarantine. Were you given any advice about PPE you should wear when leaving the hotel?

40

A. No, it was as if once we had walked out of the hotel we were just like anyone else and we could do our own thing. I walked into the taxi, I asked the driver if I could take my mask off, he seemed cool with it and that was it.

45

Q. The mask that you were using, is that a mask that had been provided to you or one that you had --

A. No, it was a mask that I brought from the United States.

Q. The same mask that you had worn on your arrival?

5 A. Yes, and every day whenever we had walks, correct.

MR IHLE: They are the questions that I have, Madam Chair.

10 There was communication by counsel and the solicitors for DHHS that they may wish to ask this witness some questions. I'm not sure whether they wish to persist with that application but I would ask that that be made clear.

MS HARRIS QC: If the Board pleases, we don't have any questions for the witness.

15 CHAIR: Thank you, Ms Harris. Is there any party with leave to appear who has any questions for this witness, who has put Mr Ihle on notice about that?

MR IHLE: I don't have any information from anyone else, save for the general application made on behalf of Unified Security.

20

CHAIR: Ms Hill?

MS HILL: Thank you, Tribunal. Madam Chairperson, I can confirm we don't have an application to cross-examination this witness.

25

CHAIR: Thank you.

Sir, that completes the evidence before the Inquiry. Thank you for your attendance and participation. You are now otherwise excused.

30

A. Thank you.

**THE WITNESS WITHDREW**

35

CHAIR: Mr Ihle, I'm not sure whether the next witness is indeed ready to attend.

MR IHLE: The next witness is Michael Tait. I'm told that he is logged in and online, if he can be brought into the hearing room.

40

CHAIR: We can proceed straight to the next witness. Thank you.

Mr Tait, are you able to see us and hear us?

45

MR TAIT: Yes, Madam Chair. Can you see me?

CHAIR: I can see you and hear you, Mr Tait. Before I hand you over to Mr Ihle for questions, it is necessary to have the affirmation administered to you for the purpose of you giving your evidence, so I will have my associate do that with you.

5

**MICHAEL TAIT, AFFIRMED**

10 A. And I would like to acknowledge the traditional owners of the land, the Boon Wurrung, the Wurundjeri and the Kulin Nation people.

CHAIR: Thank you, Mr Tait. I will hand you over to Mr Ihle now.

15 MR IHLE: Thank you, Madam Chair.

**EXAMINATION BY MR IHLE**

20 Q. Mr Tait, your name is Michael Tait; is that so?

A. That's correct.

25 Q. You are a registered nurse who worked in the Hotel Quarantine Program in Victoria?

A. Yes, sir.

30 Q. You have provided a signed statement to the Inquiry dated 16 August 2020?

A. Yes, sir.

Q. It is 12 pages long and has 97 paragraphs?

35 A. Yes, it does, yes.

Q. Are the contents of that statement true?

40 A. Yes.

Q. And to the best of your knowledge are they also accurate?

A. Yes.

45 MR IHLE: I tender the statement.

CHAIR: Exhibit 14.

**EXHIBIT #014 - STATEMENT OF MICHAEL TAIT**

5

MR IHLE: Mr Tait, can you just outline for us in a general way your formal training and work experience and qualifications as a nurse?

10 A. Yes. I became a registered nurse in 2001. I first worked in California for about a year. I completed my masters in 2002, Masters of Nursing and Adult Nurse Practitioner. I have worked in the emergency department in Royal Melbourne Hospital. I have worked 12 years in the homeless health care sector, working with marginalised folks. I worked --- then worked six years flying in-flying out as a remote area nurse in Aboriginal communities, and for the last eight months I have  
15 been working with Your Nursing Agency, YNA, working in different emergency departments, up until the point that I started working at hotel quarantine on 29 March.

20 Q. Thank you. All in all, you have been working as a nurse both here and abroad for nearly 20 years; is that right?

A. That's correct.

25 Q. That's involved emergency department nursing at different hospitals, including the Royal Melbourne Hospital, working with marginalised people through the homelessness clinic, and in remote Aboriginal communities?

A. Yes.

30 Q. Thank you. In your statement you detail receiving a group text message in late March 2020 in respect of the Hotel Quarantine Program. Who was that message from?

35 A. That message was from YNA. It was to all the agency nurses, asking for people interested in doing hotel quarantine.

Q. Did that message detail what specifically they would be required to do in hotel quarantine?

40 A. No, it did not. And I would --- I called up and asked what it entailed and I got differing answers. In the end I was told I would just be swabbing people, as in doing the SARS-Cov-2 swab.

45 Q. Were you required to do any extra or formal training in respect of COVID-19 or the SARS-Cov-2 virus?

A. No. I had --- I was researching it on my own. At that point we didn't know a

whole lot. At that point it was still droplet, not airborne. I had done swabs before but I had to research specifically how to do this new swab. And I prepared myself for hotel quarantine.

5 Q. Specifically did YNA direct you to any particular training?

A. I mean, they didn't even know what I would be doing. They said I would just be swabbing.

10 Q. Do you remember the first day that you worked in the Hotel Quarantine Program?

A. Yes, I do. It was very chaotic.

Q. Was that on Sunday 29 March?

15

A. Yes.

Q. To the best of your knowledge, that was the very first day on which hotel quarantine was being stood up?

20

A. I was pretty sure for where I was going at Crown Promenade, it was the first time visitors had arrived.

Q. Tell us about --- well, where did you go? You were sent to --

25

A. I was given a contact number for Tim Fry, a mobile number to call when I arrived there. I wasn't sure which hotel was which. There are three hotels as Crown --- Promenade, Metropol and Plaza. I couldn't get through to Tim right away so I was walking around a bit and walked up to one of the hotels, I think it was Metropol then, and I was directed by the police that Tim would probably be at Promenade, so I walked back to Promenade and ---

30

CHAIR: Mr Tait, can I stop you there for a moment. Mr Ihle, I'm not sure whether or not that name is the subject of a non-publication order?

35

MR IHLE: I don't believe it is and I don't believe any concerns have been raised. But if there is, we can move beyond naming that person, that's not too difficult.

A. So that was the DHHS contact name I was given. And I won't use it again.

40

CHAIR: Thank you.

MR IHLE: Were you able to locate that person?

45

A. Eventually, yes.

Q. Where were they?



A. I first met that person at Crown Promenade and at the same time guests were being --- they were going through intake. There was security everywhere. It was mayhem.

5

Q. I'm going to jump ahead, and we will come back to that first shift. But throughout the period in which you worked in the Hotel Quarantine Program, you worked at a number of hotels; is that right?

10 A. I did. I mainly --- in the end I mainly worked at Metropol for the majority of time and I set up a lot of the processes there. But I also worked at Rydges and, like I said, Promenade as well as I worked at Crowne Plaza one day. So one day at Plaza, one day at Rydges, I think two days at Promenade and the rest of the time, the three and a half weeks, at Metropol.

15

Q. Your time working in the Hotel Quarantine Program concluded on about 27 or 28 April; is that right?

A. Yes. It concluded on 29 April.

20

Q. That was because you were given no further shifts?

A. I had --- I was --- I had actually been scheduled to work for the next four or five days after that and the --- they were cancelled abruptly.

25

Q. You have provided the Inquiry with an email that was part of the chain of events which led to you getting no further shifts. I ask that the email be brought up. This has only recently been added to the court book, so I want to acknowledge that many of the parties might not have had access to this email, and that might need to be noted when it comes to leave to ask questions of this witness.

30

This is an email that is sent at 11.54 pm on the evening of 28/29 April; is that right

A. That's what it says, yes.

35

Q. Although the addressee of the email has been redacted, that was sent to your contact at YNA, wasn't it?

A. Correct. Jan Curtain. Or should I not use names?

40

Q. Let's not use names, Mr Tait. It was sent to her. The email speaks for itself. You say, "The Metropol is struggling, we need more staff," effectively?

A. Yes. I also asked for colleagues who had worked there before, who I'd become familiar with, who knew the ins and outs of Metropol to be rostered on as they were struggling to get shifts at that hotel and I felt that a consistency of care was very important because there were so many people to take care of.

45

Q. One of the other things you detail in this email, you will see in the middle paragraph:

5 *I'm doing a lot of extra work by living in the hotel where I work. I understand this is my choice. This is why my timesheets reflect the overtime that I do. I have been under-reporting these hours.*

10 You acknowledge in that email to YNA that you had been living at the hotel?

A. Correct.

Q. Just tell us a little bit about the circumstances how that arrangement came up?

15 A. After the first week, I realised the extreme risk of the amount of swabbing I was doing. I didn't feel that PPE was adequate enough. I had worn a face shield when I was shoving something up someone's nose that could make them cough. I felt I was a risk to my loved ones by going home and I also felt because I don't own a car that I was a risk to using public transport.

20

Q. Did you see something on the television about accommodation for nurses?

25 A. Yes, that's what actually gave me the idea is Daniel Andrews, he was saying that nurses could ask for a hotel room to keep their loved ones safe and to keep the public safe.

Q. Is that what you did?

30 A. That's --- I approached one of the DHHS team leaders and was given an okay, a go-ahead right away, and they said --- they got me keys I think that same day.

Q. How were the keys delivered to you?

35 A. The keys were delivered by security, I'm not sure if it was Crown or the hired security but it was in a Crown envelope with my new room number, which was right next to --- it was on the eighth floor, which did not have any residents but it was where the team leaders were located, the nurses' station was located, the PCA station, DNATA had a room next to me, where --

40 Q. Did you understand that some of their staff were staying there too?

A. Yes, and that's why it didn't seem like so unusual, seeing it on TV and also knowing that other people were living in the hotel.

45 Q. Living in the hotel, did that enable you to be an extra set of hands even when not on duty?

A. Yes, and just someone to consult with. There was a lot of junior staff who had not a lot of nursing experience and I made myself available always to be called.

Q. After you sent this email --- first of all, I'll ask that it be tendered, Madam Chair.

5

CHAIR: Exhibit 15.

**EXHIBIT #015 - ANNEXURE TO STATEMENT OF MICHAEL TAIT**

10

MR IHLE: After you received this email, you received a number of calls from YNA over the proceeding day or so; is that right?

15 A. Yes. The next day I was called by the YNA manager and told I should not be there.

Q. You should not be staying at the hotel?

20 A. No, and that I needed to leave right away.

Q. Did you do that?

25 A. I questioned why and was told that I didn't deserve it, there were people coming in from further out that weren't able to stay there. And I --- I said I would like to stay at least one night so I can arrange moving back to my apartment at Footscray, which was declined. But the manager at YNA said, "Well, you can call DHHS and work it out with them."

30 Q. And it is fair to say that you were unable to work out that accommodation situation with them?

35 A. I was not, and I was told that I was never approved for the room, even though I'd been there for two and a half weeks and everyone knew I was living there.

Q. You understood that to be the reason, the issue around the room, as to why you were provided no further shifts?

40 A. Yes, I wasn't actually kicked off the shifts at that point but that is what my belief. I also never received any further employment from YNA. I was blacklisted by them.

Q. Let's go now to that first shift. You have described that you didn't know specifically where to go and that you finally made your way to the business centre of one of the hotels?

45

A. Yes.

Q. In your statement, you detail a meeting that you had with a number of people there at the business centre?

A. Correct.

5

Q. Paragraph 17. There were representatives of the Department of Health and Human Services?

A. Yes, there was a fantastic infectious disease doctor, Dr Peter Archer.

10

Q. We won't mention names if we don't have to. So there was a doctor, DHHS representatives, representatives from DNATA?

A. I'm not exactly sure about that. It wasn't a formal meeting really, no one was really introduced, but there were representatives from Crown management, there were infectious disease doctor as well as an emergency room doctor, as well as the person I mentioned previously, the DHHS manager contact person.

15

Q. Was there a discussion during that meeting about what you were going to be required to do on your shift?

20

A. We were told that we had to take care of --- there already had been about 400 people taken into the hotel. We were told that we were going to take care of them and we had to create all the nurse processes as well as decide upon what infection control we would be doing, which --

25

Q. And was that description of what you were required to do, was that consistent with what you had expected when you signed up for this job?

30

A. Not at all. And I distinctly recall, 15 minutes into that meeting, thinking, "This is an impossible job."

Q. Why do you say it was an impossible job?

35

A. Because it was --- there were two nurses trying to create a documentation system for 400 residents and no one really had a clear-cut idea or procedures for how we were going to manage SARS-Cov-2-positive patients.

Q. You say you had to come up with a documentation system. Was there any instruction given as to whether that would be a digital system or a paper-based system?

40

A. It was left up to us. I really wanted to do a computerised documentation system but I was told that that was actually more --- would be harder to implement than just writing it on a piece of paper.

45

Q. So did you just start by doing it by writing on a piece of paper?

5 A. Yes, we had to --- we had to get started, the residents were already there, we had no idea of the acuity of these folks and we didn't know if there were any positives. We had been told that they had been screened at the airport, which ended up not to be true, not everyone was screened. And so we just started doing it. We didn't have the --- we had three gowns, so there was no way we could visit rooms anyways. We didn't have any gloves and we didn't have --- I think we had a handful of just the surgical masks.

10 Q. Did you have any swab kits at that stage?

A. There were no swab kits at that stage.

15 Q. So you had attended this job expecting that you would be swabbing people. There were no swab kits, only three gowns and a small number of masks?

A. Correct.

20 Q. And it became clear to you that you were responsible for really setting up some kind of document management system as far as keeping track of these guests?

A. Yes.

25 Q. As things went on in the first few days, did the resources, that is by way of PPE, get any better?

A. It took a while before we got some medium gloves. We didn't get N-95s I think until day 8, as I said in my statement.

30 Q. N-95 is a specific type of mask, is it?

A. It's the mask that you want if anything is airborne.

35 Q. Did you have other resources like resuscitation bags and things like that, should someone have a serious health issue that needed resuscitation?

40 A. No, we didn't. I inquired about that. I think I took the next day off and then went back on day 3 and I asked about that and I was told that there was one at the front hotel reception, which ended up to be not true.

40 Q. What about other PPE? We see images of nurses conducting swabs where they have hoods and face shields. Did you have that PPE available to you?

45 A. We were promised around the time we got the N-95s but they never turned up.

45 Q. Not in the time that you were working in the system?

A. Yes, not at the time I was working which was four weeks, yes.

Q. There did come a time, though, when you were doing swabs, so presumably swab kits came in?

5

A. Yes, and they came in around day 3 also, the second shift that I worked.

Q. So you had the kits that arrived but there was still insufficient PPE, so face shields, hoods and firm-fitting gloves?

10

A. We had the gowns and oversized gloves and regular surgical masks and goggles. I think the goggles came in later, I'm not sure.

Q. Based on your experience of 20-odd years as a nurse and someone who has taken swabs of people in the past and someone who had educated themselves about what was known about COVID at the time, what do you say about the adequacy of PPE that was available to you to conduct those swabs?

15

A. I felt that at that point we still believed it was droplet, but I still was not comfortable again inducing --- invasively putting something into someone's nose which can cause sneezing, I wasn't comfortable doing that, but it had to be done. There was no testing going on. I had to really push it and I always put my hand up to do the swab. I thought it was very important.

20

Q. I want to ask you about your observations of other staff in the program, specifically security and their wearing of PPE. Did you make observations of security guards and their use of PPE?

25

A. Yes, and it was inadequate. The virus can be airborne for four hours. We kind of knew that in the beginning and we were told that and we told that "Whenever you are in the lobby, masks have to be worn, gloves have to be worn, hands have to be washed going in and out of the hotels." This didn't always happen, and I saw security guards with their masks down underneath their chin, eating their lunch with gloves on.

30

35

Q. What's the problem with doing that?

A. You can easily contaminate yourself. The gloves weren't changed. So a glove is just like a hand, it can hold the virus and if you touch your face then it can get on your face and then later on you can inoculate yourself.

40

Q. What about the need to dispose of PPE appropriately? Did you observe any disposal issues when it came to security guard and their PPE?

A. I saw a lot of PPE on the ground, just lying on the ground.

45

Q. When you say just lying on the ground, is that used or fresh?

A. Used masks and gloves.

5 Q. You detail in your statement, I think at paragraph 85, observations that you made of on that occasion one departmental authorised officer and PPE. First of all, did you have the opportunity to see authorised officers wearing PPE from time to time?

10 A. Yes. And most of the time, except for that one incident, it was --- it seemed adequate.

Q. Tell us about the incident that I have referred to. What happened then?

15 A. We were taking an intake I think of 300-plus folks from Pakistan and the intake paperwork was being collated and the specific AO was handling the contaminated paper that the residents had filled out, without gloves on, which I told him that those are contaminated, that he needs gloves. And the individual replied that he couldn't pick up the pieces of paper with gloves on. And he also --- his mask was below his nose. And during that time, as he was going through the paperwork --- he did say, "Oh, I'll wash my hands afterwards, so it will be okay." But during the course of the  
20 conversation I saw him touch his ungloved hands to his face a couple times.

Q. So he had no gloves on, he was wearing a mask but inappropriately, handling paper from inbound passengers and touching his face?

25 A. That's correct. We had --- us nurses had come up with a system of we keep all the contaminated paperwork in a cardboard box and at that intake when we kind of had a few intakes under our belt, we realised that we could actually do everything kind of down there on the --- actually during the intake, and it was more efficient and safer to do that.

30 Q. You also detail in your statement at paragraph 89 an occasion where one of the guests was leaving the hotel. This was someone who was a confirmed COVID positive case, and you made some observations of that person in the foyer of the hotel for a significant period. Can you tell us a bit about that?

35 A. The individual had tested positive, had completed her quarantine. There was an issue with getting a non-emergency ambulance to take her to her residence in rural Victoria and she ended up waiting a good --- I'm not sure how long, I left. I was off shift when I saw her standing there without gloves or mask on in the lobby filled  
40 with security guards and some of them had their masks on, some of them didn't, and was just blown away because this woman was supposed to leave at noon and didn't leave until 10.00 pm that night via MAS, Melbourne Ambulance Service. As soon as I saw her I instantly grabbed some of the guards' masks and gloves and handed them to her and said, "You have to put these on." And she was very distressed because she  
45 had been waiting so long, and she had actually figured out a way to get back, which seemed to me reasonable and safe, which was declined by the powers that be, so she really waited there needlessly.

Q. But she was in the lobby for a significant period at least?

A. Yes.

5

Q. As a known positive patient, no gloves, no mask?

A. Correct.

10 Q. Until you told her to put them on.

Can we talk about the workload that you endured whilst you were working within the Hotel Quarantine Program. Your duties, as I understand them, were to look after the guests to make sure that you could appropriately identify and triage those that had  
15 the highest needs. Is that a fair overall summary?

A. That's a fair overall summary, and also just to generally calm anxious and depressed people due to isolation.

20 Q. In your experience there, that was the nurse to guest ratio?

A. When there was --- in the very beginning we only had two nurses on and it may have been even higher than that, but on average it was between 100 and 150 individuals per one nurse, and that included our mental health nurse.

25

Q. In your experience in hospitals --- and I know it's not a perfect analogy --- what is the ratio on a general low-maintenance ward, if I can call it that, of nurse to patients?

A. About 8 to 1. It's not --- if anything, it's like remote Aboriginal communities, with  
30 the number of nurses to the number of clients. However, those individuals are in their own home, in their own environment, the --- not people being asked to live in an unfamiliar environment with differing levels of support or with no support really.

Q. If we go back to the start and how you fulfil your function as a nurse, looking out  
35 for them, comforting those people that are depressed and/or suffering from mental illness but identifying health concerns as well, what information were you given when the first passengers arrived?

A. "Take care of them. Call them. Give everyone a call and find out if they have  
40 COVID-19 symptoms." But we didn't get through --- we were always behind on the intake. It was always like maybe up to three to four days before some people were ever contacted at all. We really had to rely on people calling the support line and getting in contact with --- getting in contact with us with a complaint or a need,  
45 which --

Q. What information about the actual guests did you have, though? Did you have their name, their room number, date of birth?



A. We had their name, their room number, their date of birth and an intake form that was filled out by a non-medical purpose that said, "Do you have any health concerns?"

5

Q. In your statement --

A. Did you get all that, because I had an unstable internet.

10 CHAIR: Yes, I can still hear you and see you, Mr Tait.

MR IHLE: Thank you.

15 Q. In your statement you said the following, and I want you to expand on it, if you can, at paragraph 51:

*As a nurse, the scariest part of the whole job was when a new flight of passengers arrived at the hotel. This gave us a lot of anxiety.*

20

A. Yes, we --

Q. Can you expand on that?

25 A. We don't know the level of acuity. We had different demographics every flight we had. We were often told what country they would be coming from and then it would end up not being correct. Not that that would really have helped anyway. But we had just every flight was very different. Some had a lot of babies, some had a lot of children, some had a lot of elderly, some were happy couples. It was just --- you  
30 just never knew what you were going to get. And we --- we rushed around trying to call everyone trying to see if there were any acute needs and we never got through all of them in one day.

35 Q. You detail an occasion in your statement where you tried to change the approach to inbound passengers, where you talk about a flight that arrived from Pakistan. Can you tell us about that?

40 A. Yes, we had heard through --- that other hotels had actually done the medical part of the intake right when they were checking in to the hotel, which made a lot of sense to all of us. We discussed it, we decided, yes, we could go in full N-95 down and goggles, it would be in the big hotel lobby and we would quickly eyeball people, get their names, get their date of birth, get a mobile contact number, see if they are on any medicines and basically just do the two-minute nursing assessment to see if they looked well or not.

45

Q. How important is it to see a patient when you are doing an assessment, as opposed to over the phone?

A. It's very important, you can tell a lot of information very fast. But ....

Q. Did that process work, as far as you are concerned?

5

A. It worked very well. And we had some backlash from Crown management saying it was taking too long. But in the end they couldn't give them to us fast enough. As soon as we were done with someone, we would stand up and raise our hand up and say --- you know, to get the next person going, because the risk was keeping the people in there, coughing, aerosolising the virus. So we knew that --- we understood we had to keep people out. It didn't add much time and it saved us nurses a lot of time and we could assess everyone at least preliminarily on the spot that day. And we did, we picked up three chest pains and a child with an infected eye and got a jump on just getting people their medicines and knowing what we had to do.

10  
15

Q. You talked about earlier the alternative, which was playing catch-up on the phone. Those chest pains, that infected eye, they may have, had this process not been adopted, not been picked up or you say they would have been picked up?

20

A. I don't believe they would. Just getting the paperwork into folders took most of the rest of that shift and that evening shift.

25

Q. You detail in your statement, you talked about there being pushback, first of all, from the hotel staff, but you detail in your statement, and without using names, a department team leader coming down and saying that you couldn't do that, engage in that process. Can you just talk us through that, what happened?

30

A. So we had our own desk and we were intaking patients. This particular team leader came up to me and whispered in my ear, saying, "You can't do this, this is a violation of people's medical health rights." And I looked at her, flabbergasted, and just nodded and she walked off and I didn't --- I told my team that I would take the blame but we need to do this, it's important.

35

Q. Did you consider that you were violating anyone's medical health rights?

A. No, we weren't.

40

Q. You alluded to before, you mentioned those that were lonely or perhaps struggling mentally speaking. Talk to us about some of those experiences?

45

A. The first night was the toughest because these folks didn't know they were going into quarantine until they handed in Melbourne. They were unique cases, people with chronic illnesses, people escaping domestic violence, who had just given birth, who really were just losing it and breaking down. At that point we had one nurse for the night shift and I had grave concerns about this woman and it took a lot of --- a lot of stamping feet and liaising with DHHS to get someone to at least start the exemption process for her, which eventually she did get.

Q. You talk in your statement about people that were obviously struggling just out of sheer loneliness too.

5 A. Yes. As time went on, if there were elderly folks who had come in from a flight and they are on their own in their own room --- there are also younger people with acquired brain injuries who also didn't do that well. We would call them every day and we would visit them every day and that --- just to keep them going really.

10 Q. That sounded like it would be time-consuming. Did you have the time really to do that to the degree necessary?

A. No. There was never any time. And this is why my statement doesn't reflect a lot of names and the dates could be wrong, it was --- it is also reflected on my time  
15 sheets that I never took a break really for the first three weeks. And I did at least one to two hours of overtime every shift. There was just not enough time. There were too many people.

Q. At some point mental health nurses were deployed into the system. Do you know  
20 when that occurred?

A. It occurred after an incident happened at the Pan Pacific, where a resident had killed themselves and I think was in a room for a couple of days before being  
25 discovered.

Q. Prior to that, what information or tools were you given to assist people that were having mental health problems?

A. We were told to refer them to Lifeline and Beyond Blue, to call.  
30

Q. Were there others that called the government support 1800 number?

A. Yes, and all those calls would come back to us.

35 Q. Explain that to us for a moment.

A. We would get a ring from the helpline saying, "I'm really worried about room whatever because they are crying and they are anxious and they're depressed, and  
40 you are the nurse, do something about it."

Q. And you would be left to your own devices then to deal with it, would you?

A. Yes, and we would. We would always call and usually we would have to go  
45 down.

Q. I want to move to a different topic very briefly, and that's communication you received from government departments and government personnel that were there as

part of the system. Perhaps a convenient place to start is paragraph 83 of your statement, where you say:

5           *The interactions I had with the Department were shambolic. The policies and rules for guests seemed to change every day, if not every hour. If we did not like a rule or instruction, we just ignored it because an hour later someone else would tell you something different. I learned not to promise anything to guests, as policies changed so regularly, we ended up telling clients the wrong information or promising something that couldn't be delivered.*

10

Could you explain that paragraph, with reference to specific examples, if you can?

15           A. That was the hardest part of the job. There were a lot of people with dietary requirements and in the beginning we were told that people would be able to get care packages or have Uber Eats or food delivery service ordered in, which that policy flip-flopped at least a dozen times. And there were people with --- again, with serious illness, like celiac disease, who if they didn't have certain food they would get sick and their blood sugars would go through the roof because the food provided by Crown was very high sugar. Again, there would be people distressed, like the woman I referred to earlier had who escaped domestic violence, had just given birth to a neonate, had her young son in the room and we --- we had asked for her to be assessed for an exemption and we were eventually told that nothing had been done, when the woman said, "Oh, yeah, I talked to this person and I had been promised that the ball would get rolling," when it hadn't.

25

30           Q. Just finally, Mr Tait, I want to ask you about the circumstances you detail in paragraph 88 of your statement. Before I do that, you refer to the Department throughout your statement. You have referred to the Department of Health and Human Services. You know that there were also representatives from the Department of Jobs, Precincts and Regions there? Is that right? You knew that there were staff from that department involved in hotel quarantine?

A. Were they the AOs, the authorised officers?

35           Q. I should probably ask you the question rather than put it to you. Did you know of anyone that was there from DJPR, the Department of Jobs, Precincts and Regions?

40           A. No. I did know of them. They were supposed to organise discharge. But as far as that, I don't think they --- I don't think there was any representative there of the hotels, not that I knew of anyways, and they were a constant thorn in our sides because they would --- again, they wouldn't --- they would talk to a client, work on a discharge plan, the client would call us up and we had no knowledge of what had been spoken or said about, and so they would expect us to know that, "Oh, well, I'm trying to catch a flight later, and I need to know when I'm leaving." And so then it would just be a big waste of time of us calling. And we were never given a number for DJPR. We --

45

Q. I just wanted to clarify, where you refer in your statement to "the Department" and interactions you had with the Department being shambolic, is that the DHHS as far as you are concerned?

5 A. Yes, it was always DHHS as far as I knew, yes. It would be a different team leader every shift and each of them with --- they all had their heart in the right places, they all had differing capabilities, they all kind of had their own take on policies and some would promise a lot and deliver nothing and some would work really hard and get the job done. When I refer to them, sorry, it's DHHS.

10

Q. And that takes me to the last point, which is at paragraph 88. You say in your statement:

15 *In one instance a Department representative expressly told me not to swab a known positive patient so that the male patient could leave quarantine early."*

A. Yes.

Q. Can you describe that event to us?

20

A. We had --- I had actually done a swab and had found this positive gentleman, we had put him up into the hot zone, which was level 24, and during the very first meeting with the doctor I referred to earlier, the infectious disease doctor, he had mentioned that once people had two negative swabs they could go. I was going up to do that swab and I was told I was not to swab him, "He has not had symptoms for three days, he will be leaving quarantine early," which didn't make any sense at all.

25

Q. Thank you, Mr Tait.

30 That covers the questions that I have for Mr Tait, Madam Chair. I can indicate that there have been approaches to me on behalf of YNA in respect of asking Mr Tait some questions. Perhaps Ms Siemensma can advance that application.

35 MS SIEMENSMA: Thank you. Madam Chairperson, I have foreshadowed some topics with Counsel Assisting and I seek leave to ask a few questions of Mr Tait. I should indicate there are also two matters arising from his original evidence today that I seek to ask about, specifically the issue of training and the issue of his reference to being blacklisted. I seek leave to ask a few questions.

40 CHAIR: Yes. Leave is granted.

#### **CROSS-EXAMINATION BY MS SIEMENSMA**

45

MS SIEMENSMA: Mr Tait, I act for Your Nursing Agency.

In paragraph 68 of your statement, you say the average experience of the nurses who worked with you was two years.

A. That's approximate, yes.

5

Q. The manager of YNA says, by reference to the rosters, that you are mistaken, that the average level of nurses rostered with you was in fact in the order of about four to five years. Do you accept that you might be mistaken in your impression?

10 A. I can accept that.

Q. In paragraph 70 you say that there was no dedicated mental health nurse until this incident at Pan Pacific. I suggest that incident occurred on the night of Saturday 11 April. Do you agree with that?

15

A. I'm not sure. It happened at a different hotel and we heard about it through rumour.

20 Q. I see. The manager of YNA says that from 7 April 2020, DHHS arranged for dedicated mental health nurses to be rostered. Do you accept that proposition?

A. That's still day 8 or 9. But we --- I remember getting mental health nurses after the incident.

25 Q. Do you accept the possibility that they were rostered before the incident?

A. I mean, they may have been rostered but they weren't showing up to work.

30 Q. In fact, Mr Tait, I suggest to you that you worked with one of those dedicated rostered mental health nurses on Wednesday 8 April, Thursday 9 April, Friday 10 April and Saturday 11 April. Do you dispute that?

A. I'm not --- again, it was very busy. I could be wrong.

35 Q. You made a comment in your oral evidence today that you had been blacklisted by YNA. I suggest to you that that is incorrect and that YNA has even asked you to update your competencies and you have declined to do so. Do you dispute that?

40 A. I wasn't going to do competencies. I didn't get any shifts after the incident and I made myself --- I remember rostering myself on and making myself available every day and I did not get one shift.

45 Q. You understood when YNA asked you to update your competencies that they were willing to provide work to you? That was your understanding, wasn't it?

A. It was not my understanding. I asked them why I wasn't getting work and I wasn't told about competencies. I was receiving emails saying that my competencies were

due but they weren't due right away. And so going from working almost six days a week to not getting any shifts for two weeks and then I think the competencies had come up, it just --- it may be --- perhaps saying "blacklisting" is inaccurate. I was just not getting work.

5

Q. Do you dispute that they asked you to update your competencies, which is something they do of all of their nurses?

10 A. No one called me and me asked me to do that. I understand that competencies have to be done.

Q. They emailed you, I suggest?

15 A. The company they go through to do the competencies emailed me and then I did call up and I got the password and I looked at it and I did actually one of the competencies but I was feeling a bit disheartened that I had been getting work regularly, I knew that people weren't happy, and I decided that I wasn't going to get work so why should I do the competencies.

20 Q. When you were asked to do the competencies, you in fact replied, "Get screwed."

A. What?

25 Q. Did you put to them, "Get screwed"?

A. I do not recall that at all. It's not in my nature to do something like that. Was this through email or on the phone?

30 Q. You were emailed and that was your response?

A. I mean, I was very upset. It is possible that I did do that. There would be an email record if I did.

35 Q. You were asked some questions about training and I suggest you were asked by YNA to do an online COVID training. Do you dispute that?

A. I don't recall being asked to do an online COVID training.

40 Q. YNA asked that staff on the Hotel Quarantine Program and all of their staff to do a YNA online COVID learning manual. Do you recall that?

A. No, I don't.

45 Q. You were also asked to do the online COVID training from the Australian Government. Do you dispute that?

A. I don't recall that.

Q. Did you receive the written COVID staff updates from YNA?

A. I did and I would read them.

5

Q. Could the witness please be shown Exhibit 11, which has the code WIT.0001.0003.0019, which was an exhibit this morning. It was the second annexure to Nurse Jen. Thank you.

10 Mr Tait, do you see a copy of this COVID-19 staff update?

A. Yes, I do.

Q. That was a copy of a document you received?

15

A. I mean, I'm not --- I --- possibly. I'm not sure.

Q. You see there's a reference there about the training module for the Australian Government Department of Health?

20

A. Yes, and I see it's about registering for training. A copy of the certificate needs to be sent to your respective YNA officer.

Q. So you don't dispute that you were sent a copy of that document?

25

A. I mean, I'm not disputing that I did or I didn't. I did not read it or recall seeing it. Again, we were --- we were very busy and I didn't always check my emails. I didn't have time.

30 MS SIEMENSMA: Thank you. I have no further questions.

CHAIR: Thank you.

A. And so that's dated 18 March. So does it have a deadline when it had to be completed?

35

CHAIR: I think Ms Siemensma doesn't have any further questions for you, Mr Tait. Unless there was something arising out of that for you, Mr Ihle.

40 MR IHLE: No, but I see that Ms Harris for DHHS is on the screen and she certainly has been in contact with me about some issues she seeks to raise with Mr Tait.

CHAIR: I'm just watching the time, Ms Harris. Can you give me an estimate of how long you think you are going to be?

45

MS HARRIS QC: It may be approximately 10 minutes, but given the nature of the matter I would like to raise with Mr Tait arises not from his statement but something



that he said for the first time today, I think it would benefit --- it does also relate to a sensitive matter and it would benefit from instructions over lunchtime, if the Board was willing to recommence after lunch.

5 CHAIR: All right. Perhaps that is exactly what we'll do. Mr Tait, I'm not sure if  
you could hear or follow that. I was just enquiring of Ms Harris, who is the counsel  
representing the Department of Health and Human Services, and she has indicated  
that there are a few questions she has for you but she wants to clarify with her client  
a couple of matters. What I propose to do is we are almost at the lunch break, which  
10 we would normally take between 1.00 and 2.00. Are you able to bear with us over  
that period and return at 2.00 for what sound like it's going to be perhaps another 10  
minutes?

15 A. Is there any way we can just do it now?

CHAIR: Over to you, Ms Harris, about that.

20 MS HARRIS QC: Would it be possible, given the sensitivity of this matter, to stand  
the matter down for perhaps five minutes and I could potentially resume in that  
period?

25 CHAIR: All right. Before we do that, can I just get an indication if there is anyone  
else who has matters arising out of anything that's come from Mr Tait's evidence  
today that they want to address as well?

MS HILL: No, thank you, Chairperson.

30 CHAIR: All right. Ms Harris, that being the only matter left, I will stand down now  
for just five minutes, to give you the opportunity to confer with your client and see if  
we can finalise with Mr Tait in the wake of that. Mr Tait, if you just stay where you  
are at the moment and I'm going to close down my camera and mute and perhaps if  
you at least mute yourself at the moment, we will just take a break for five minutes  
and see if we can complete your evidence by allowing Ms Harris that opportunity to  
confer with her client.

35 A. Yes, Madam Chair.

40 **ADJOURNED** [12.58 PM]

**RESUMED** [1.11 PM]

45 CHAIR: Are you ready to proceed, Mr Ihle?

MR IHLE: I am, Madam Chair. I have had the benefit of a brief discussion with Ms

Harris and I understand she has two matters that she wants to put to this witness, largely arising from the evidence he has given this morning and I wouldn't oppose that leave being granted.

5 CHAIR: Yes. Ms Harris.

### **CROSS-EXAMINATION BY MS HARRIS QC**

10

MS HARRIS QC: Mr Tait, in your evidence you suggested that there were no mental health nurses assigned to any of the quarantine hotels until an incident of an unexpected death, a suicide, in one of the quarantine hotels. That's actually not the case, is it? There were mental health nurses assigned to hotels before that time?

15

A. I don't recall exactly when they came in but it was --- I mean, I think, from what was stated previously, we didn't get mental health nurses, from what you're saying, until around day 8 or 9.

20

Q. The unexpected death took place on 11 April. What I'm saying to you is that there were mental health nurses in place at hotels for some days before that time, including at the Crown Metropol, where you worked?

25

A. As in an additional mental health nurse or nurses who also happened to be mental health nurses?

Q. A mental health nurse?

30

A. We did, at some point, did get an additional mental health nurse as staff, and I'm not exactly sure when that was. It did seem to me that it was around that time.

Q. My suggestion is that evidence will be given that it was before that time and you are not really in a position to remember whether that might or might not be correct; is that right?

35

A. That's right.

40

Q. The other matter, Mr Tait, that I wanted to raise was that, as I understood your evidence --- and I need to be a little bit careful here because it relates to a matter that is under investigation by the Coroner, your understanding was that the person who did commit suicide in hotel quarantine was not discovered for a couple of days. Is that what you gave as your evidence?

45

A. I mean, this is the rumour that I overheard. I don't know if that's true or not.

Q. In fact the situation is, as far as I'm able to say, given that it is the subject of confidential reports and a Coroner's inquest, is that there was a welfare check on that

person at 4.00 pm the preceding day and that person responded to that call. You're not in a position to say anything different about that matter?

A. No, I'm not.

5

Q. And that matter, that unexpected death, was referred by the Department promptly to Safer Care Victoria for a full investigation. Did you know that?

A. No, I did not know that.

10

MS HARRIS QC: Thank you. Those are my questions, if the Board pleases.

CHAIR: Thank you, Ms Harris. Anything arising out of that, Mr Ihle?

15 MR IHLE: No, there is not, Madam Chair.

CHAIR: No. Just one question for you, Mr Tait, just to understand you've talked about --- gave some evidence about the arrivals of passengers from international locations. Did you at any stage work with interpreters in the course of the weeks that you worked in hotel quarantine?

20

A. There was an interpreter telephone service and some --- we got lucky and one of our PCAs happened to be from --- I forget, was from India and was able to assist us with translation.

25

CHAIR: I see. So have I understood this correctly, that it was the telephone service that was being used to enable communications with passengers who were having difficulties with English?

30 A. That's correct.

CHAIR: Thank you.

Thank you, Mr Tait, thank you for your attendance. You are now excused from giving evidence.

35

#### **THE WITNESS WITHDREW**

40

CHAIR: Before we break for lunch, Mr Ihle, perhaps, given again the subject of the evidence that has just been heard, it is appropriate again to give that Lifeline number, which I have recorded as 13 11 14. Again, I urge anyone who has been listening to this live broadcast that crisis assistance is available through Lifeline and the number again is 13 11 14.

45

MR IHLE: Thank you, Madam Chair.

CHAIR: Otherwise we will adjourn now and be ready to start with the next witness at 2.00.

5 Again, I should remind everyone, we are --- am I correct we are on a five-minute delay, Mr Ihle, as far as the broadcast goes?

MR IHLE: That's my understanding.

10 CHAIR: Whilst we are following, obviously, in realtime, we will start at 2.00, the broadcast will start again, as I understand it, at 2.05 and I'm sure I will be corrected if I have misunderstood that we are on a five-minute delay.

MR IHLE: Madam Chair, I'm just told now that it is a two-minute delay.

15

CHAIR: All right. Thank you. So until 2.00. Thank you.

20

**ADJOURNED**

**[1.16 PM]**

**RESUMED**

**[2.00 PM]**

25

CHAIR: Yes, Mr Ihle.

MR IHLE: Thank you, Madam Chair. I call Hugh de Kretser.

30

CHAIR: Mr de Kretser, are you able to see and hear us?

MR DE KRETSE: Yes, I can.

35

CHAIR: As you will appreciate, you are required to take the affirmation for the purposes of giving your evidence, so I'll hand you over to my associate to administer the affirmation and then hand you back to Mr Ihle. Thank you, Madam Associate.

**HUGH WILLIAM DE KRETSE, AFFIRMED**

40

**EXAMINATION BY MR IHLE**

45

CHAIR: Thank you, Mr de Kretser, I'll hand you over to Mr Ihle now.

MR IHLE: Thank you, Madam Chair.

Mr de Kretser, your full name is Hugh William de Kretser?

A. That's correct.

5 Q. You provided material in the form of a statement and submission to the Inquiry?

A. I have.

10 Q. That's dated 18 August 2020 and comprises 93 paragraphs?

A. Yes.

Q. Are the contents of that document true?

15 A. They are.

Q. As far as you are concerned, are the contents of that document accurate?

20 A. As far as I'm aware.

MR IHLE: Thank you. I tender the witness statement and submission of Hugh William de Kretser, dated 18 August 2020.

25 CHAIR: Exhibit 16.

**EXHIBIT #016 - WITNESS STATEMENT OF HUGH WILLIAM DE KRETSE**

30

MR IHLE: As the Board pleases.

35 Mr de Kretser, you have provided that information which comprises three parts: a summary, a part which is a witness statement of your personal observations and experiences, and then a submission that you make as an experienced human rights lawyer and advocate?

A. That's correct.

40 Q. We will go through those in time.

If I can turn to your experiences and observations as a person detained in hotel quarantine. As I understand from your statement, you arrived back in Australia on 27 June this year?

45

A. That's right.

Q. You had spent a significant period of time in the United States whilst on long service leave?

A. That's correct.

5

Q. You were detained at the Rydges Hotel on Swanston Street?

A. Yes.

10 Q. And you left hotel quarantine detention on 11 July 2020?

A. Yes.

15 Q. In that 14-day period you were detained along with your wife and two children; is that right?

A. Yes.

20 Q. In that 14-day period, you have detailed in your statement that you were permitted to have two fresh air breaks.

A. That's right.

25 Q. Can you tell us when the first of those occurred?

A. So the first --- we left the hotel on Thursday the 11th and the first one happened on Thursday the 9th of July at about 12.30 in the afternoon; the second one happened I think a little bit later in the afternoon, around 2.00 pm on Friday the 10th.

30 Q. So if you finished your detention on 11 July, you had fresh air breaks on day 12 of detention and day 13 of detention?

A. Yes. They called the days on a 24-hour period, but yes, essentially days 12 and 13.

35

Q. The room that you were detained in, was that one that had windows that could open?

A. It did not.

40

Q. Had you asked for with a room when windows that could open?

45 A. Yes, my son gets asthma from dust and we were concerned about how being in a windowless room might impact on his health condition so we asked for that but we were told it was not possible to have a room with windows that opened.

Q. As far as fresh air was concerned, for the first 12 days you were just breathing the

air-conditioned air in the room?

A. That's correct. So we were confined in our room for essentially 12 days straight before receiving about 15 minutes on the top level, the open top level of the hotel.

5

Q. If I can go to the period when you were in the US before coming back to Australia. First of all, you ordinarily live in Melbourne; is that right?

A. That's correct.

10

Q. You were living at a --- staying in a part of the US whilst the COVID pandemic was unfolding in the first few months of the year. Can you explain to us what your plans at that stage had been and then how COVID interfered with those plans?

A. Sure. We went to the US for a period of four months. My wife is a dual Australian and US citizen and has family and friends in the US. We originally planned to travel to the US, to be based for some time in a town she used to live in in Utah and then travel to see family in Ohio and then travel to Central America and then come back to the US and then fly home. When COVID hit, all those plans changed. We were in that town in Utah at the time, so we carefully considered our options. We felt that the local government, the county government where we were, was handling the pandemic very well, with stricter restrictions than were happening in Melbourne at the time, so we essentially based ourselves there for almost the rest of the period until we came home at the end of June.

25

Q. Before you came home did you seek out information about what would be required of you when you did return home?

A. Yes. I mean, I was aware that there was a quarantine program and understood the public health rationale for that. I was concerned about, you know, the conditions of that program, what kind of facilities would be used and so I looked for information about those specific questions, couldn't find it on the Victorian or Australian Government website, it was unclear to me who was actually doing the detaining but it became clearer that the Department of Health and Human Services was involved in that program and so I looked for a contact email address, if you like, and couldn't find it and so I sent a message through the DHHS website, and they asked me to simply refer to the Australian Government Smartraveller website which I had already looked at and didn't answer the questions that I had.

35

Q. Were you able to find answers to the questions you did have?

40

A. Yes, I saw on social media that a friend of mine was detained at the Pan Pacific, so I contacted her and asked her those questions, particularly around fresh air breaks, and she said I think she'd had a 10-minute fresh air break, maybe one or two, in the two weeks she had, and I was shocked that that was the standard that was being used. I asked for more information and she referred me to these Facebook groups where Australians who are being detained or Australians who are planning to return to

45

Australia were sharing very helpful information about what to expect, the conditions, helpful tips about things to bring, and so she referred me to those sites. I joined them and she sent me a link to where someone had posted all of the information, photos of all the information she had been given from DHHS on arrival to hotel quarantine.

5 And it made no sense to me that someone --- that they would provide that information in hard copy to someone but not put that on the relevant websites, and I understand that has now been addressed and that information is now on the website. And that was exactly the information that I was looking for.

10 Q. So that information that you couldn't get through any informal channels you ended up getting through Facebook and contacts that you could make through social media?

15 A. Correct. And there are plenty of people on those groups asking questions about, you know, if you have a disability or mental health condition can you get an exemption, and so people are sharing information about that, people are sharing information about how to get flights back to Australia, people are sharing information about conditions, things to bring to make your life easier, like an HDMI cable so you can plug it into the TV so your kids can watch Netflix and things like that, so helpful hints and things like that.

20 Q. Were any of those Facebook groups that you were directed to, as far as you are aware, was any Government department feeding information into those groups or was it just people sharing their own experiences?

25 A. It was just people sharing their own experiences. I know there were journalists on that group who were interested, particularly obviously when the controversy broke about the Rydges and the Stamford Plaza, and journalists were contacting people in those groups, but it was an organic thing I think that developed to provide support and information for people in the quarantine situation or who were contemplating coming home.

30 Q. You describe in your statement during the period you were in quarantine trying to get hold of key policies. It seems, if I may say so, from reading your statement, that the fresh air breaks was pretty high on your list of priorities, perhaps because of your son's asthma condition. Is that right?

35 A. It's absolutely --- the two things that concerned me most were the cleanliness of the room and the infection control procedures and the safety issues for people being detained, and then the welfare issues around the fresh air and exercise breaks. You know, obviously we had a specific concern for our son but as a human rights lawyer I'm particularly concerned for those people in vulnerable situations, people particularly experiencing mental health issues or with backgrounds of trauma, family violence and sexual assault, people with disabilities and the like and their access to fresh air and exercise and the need for that to be provided as an essential part of any system of detention.



Q. So you sought out those policies. Can you just take us through what steps you took and the responses you got when you tried to get hold of those policies?

5 A. Well, for a start, it was speaking to staff. So every day there was a nurse who would call us to have a welfare check, and the nurses were very sympathetic about the lack of fresh air and exercise breaks, and my impression was that they were doing what they could to advocate for that to be provided. Sometimes we referred to people we were told were authorised officers, which I assumed to be DHHS officers, and we spoke to them about what the policy was and it is fair to say the information  
10 we got was wildly inconsistent. One day we would be told, "We are about to institute fresh air breaks," the next day someone else told us, "There's absolutely no fresh air breaks happening anywhere across Victoria," when we had someone else telling us at another hotel that they had a fresh air break that day.

15 So I was concerned to know what the actual policy was governing this important issue of welfare so I asked how I could find that policy and was referred to a couple of email addresses. I emailed those two email addresses while still detained, I think toward the end of the two-week period, didn't receive a reply I think until we left, which I was referred to someone else, and I think I followed it up, three or four  
20 emails over the next three and a half weeks. I also said I was giving evidence --- sorry, preparing a submission for this Inquiry, and that was the purpose, one of the reasons why I wanted the policy, and ultimately I was referred to the freedom of information department --- office or program in the Department of Health and Human Services. In my experience as a human rights lawyer, that kind of process is  
25 going to take something like three months. So for me, something as fundamental as providing fresh air and exercise, the policy around that should be completely available publicly but in particular to the people who are being detained, particularly so you can have some accountability and consistency around what that policy was.

30 Q. You were detained in late June and started asking those questions shortly after you entered detention. Just to go back to your statement and walk it through, I understand at paragraph 56 you say that after having a number of those conversations with the staff there on the ground, you wrote to a number of email addresses, asking for a copy of the policy.

35 A. Yes.

Q. Having not received any response to either of those emails, on 10 July, whilst you were still in quarantine, you wrote again; is that right?

40 A. Yes. So the first email was about fresh air and exercise breaks. The second email was about the policy around the statutory requirement to review detention every 24 hours. So I emailed about two separate issues on two separate days, first on 9 July and then on 10 July, and then I followed that up on 19 July and I followed that  
45 up again on 2 August. And in between those emails --- sorry, I did receive some replies but they weren't substantive replies. One of them said, "You have emailed the wrong address, you need to email this address." Another one, I was copied on an

5 email sent somewhere in the Department of Health and Human Services saying, "We  
can't deal with this request. Can you look at it?" So no substantive reply until 5  
August when the freedom of information team replied saying that freedom of  
information was the most appropriate way to process these requests, and from my  
10 experience as a lawyer there's no legal reason why those policies could not be made  
publicly available, and the freedom of information process is one that is, as I said,  
likely to take some months, when I wanted that information relevantly to the  
conditions of our detention but more importantly for the conditions of detention for  
everyone going through that program.

10 Q. So you are here now on 20 August. Have you had any joy in getting your hands  
on those policies that applied to you and so many under the program?

15 A. No, because I thought it was a waste of time to proceed with that freedom of  
information request when this Inquiry was happening now and presumably the  
powers of the Inquiry enable the Inquiry to actually get those policies or what those -  
-- whatever documents govern the fresh air and exercise breaks. So I thought that  
was a more fruitful avenue to pursue, based on my experience that a freedom of  
information request would likely take many months and potentially involve argument  
20 about refusal of documents or redaction of documents.

Q. We have talked largely about your request in respect of the fresh air breaks and  
the policies surrounding that. You did point to the one of the statutory requirements  
in respect of reviews. Can you just speak to that for a moment? You, as a lawyer,  
25 went and had a look at the *Public Health and Wellbeing Act*, I assume, when you  
were being detained pursuant to its terms; is that fair?

A. Yes, the Detention Notice we received said we were being detained under  
section 200 of the *Public Health and Wellbeing Act*. I actually looked at Detention  
30 Notice again this morning and it actually refers to the requirement under subsection  
(6) of section 200 to have that detention reviewed every 24 hours. So I was aware of  
that, I looked at the Act myself while I was being detained. I was concerned to  
understand how those reviews were happening, what information they took into  
account, what ability there was for people to participate in those reviews, and so  
35 I raised this on at least three occasions with people I was told were DHHS authorised  
officers or team leaders, and their responses led me to believe that they weren't aware  
of that requirement. I think one officer said that, "Oh, the nurses do that,"  
presumably referring to the daily nurse welfare check. Another one said, "No, you're  
in for the 14 days." And another one said, "Those reviews aren't really happening,"  
40 or words to that effect. Those daily reviews.

Q. It seems like you were having a number of conversations with authorised officers  
and team leaders. You were also having daily contact with the nursing staff, is that  
45 right, while you were in quarantine?

A. Yes, my wife --- so there's a daily welfare call from the nurse. That happened  
every day. As I said in the statement, the nurses seemed to be genuinely concerned

for people's welfare and doing what they could to look after people's welfare. And on occasion they would say, "It's best if you talk to the DHHS authorised officer if you want to talk about the policy around fresh air and exercise breaks," for example.

5 Q. Did you experience a level of frustration in respect of the turnover of staff that were working there, whether they be nurses, authorised officers, things like that?

A. I wouldn't call it frustration. I would call it surprise that every day it seemed to be someone different that you were speaking to who was the nurse, like I remember a  
10 few days we had the same nurse doing the check, might have been different nurses doing the check, but certainly when we arrived, the impression we got from the staff who were there doing that, that detention intake procedure, was that they hadn't been at that hotel before and some told us that, and then when you were having the phone calls with the DHHS authorised officers, yes, they seemed to change regularly and  
15 then you would speak to someone who would say, "We think the fresh air breaks will be happening again in --- we are just working on an issue about the safety around the pool on the roof deck" is one thing they told us, and then the next day, someone else would say, "No, there's no fresh air breaks happening." So inconsistent information, staff changing, and then from an infection control point of view it seemed to be poor  
20 practice to have staff moving between different facilities if --- which potentially spreads COVID if there is an outbreak in different facilities.

Q. During the time you were there, I take it there were occasions for people to come to your room.

25 A. Yes.

Q. And in your statement you say at paragraph 43 that nearly always those people were in PPE. But you detail two specific occasions when people came to your room  
30 without any PPE.

A. Yes.

Q. Can you tell us about those occasions?  
35

A. Sure. So, you know, normally I was impressed with the procedure for delivery of food. You would sort of --- there would be a knock, you would wait for some time, say thank you, you would open the door, the food was there, you got the food, you brought it inside your room. It seemed to be a relatively safe way to handle that. On  
40 two occasions during the two weeks, someone came to our door to deliver something. One was something ordered through Uber Eats that we hadn't ordered, and that staff member was not wearing any PPE, no mask. And something similar happened on another occasion, I think it could have been the same staff member, I think it was actually, came without --- and I don't know whether it was hotel staff or  
45 DHHS staff or staff from another agency, but there was those two occasions.

Then on the intake procedure, where everyone is in the basement car park, my wife

told me that, yes, there was absolutely one staff member who was not wearing any mask at all and that intake procedure was what I would describe as chaotic and poorly organised, with a lot of people in this sort of --- in the basement car park in --- and I felt uncomfortable about the lack of distance between all those people and the -  
5 -- as we were there, people were moving one of the tables to create a bit more distance.

10 Q. This is an arrival in late June at the Rydges Hotel in Carlton. Were you aware prior to your arrival about a previous outbreak that had occurred at the Rydges?

A. Yes. So I had read the media reports just before we left the US, around the outbreak at the Rydges.

15 Q. With that information in mind, when were you first told where you would be going?

A. When we arrived at the airport and we were handed the Detention Notice.

20 Q. And given what you had read about there being an outbreak at the Rydges Hotel, what did you think about being told that's where you were going?

A. We were nervous for our safety.

25 Q. And so with those nerves, it is then that you arrive and there's that intake procedure that you have just described to us in the car park?

30 A. And the bus concerned me because there was an inability to physically distance, keep physical distance on the bus. We had people sitting behind us, in front of us, next to us. The intake procedure seemed disorganised and chaotic. We were put in the lift to go up to our rooms. No one came in the lift, which I think is the right procedure, but when the lift doors opened there was no one standing there on level 2 so we walked ourselves to our room and closed the door. And then we saw the state of the rooms, which we were shocked at how unclean they were.

35 Q. We will come back to that in a moment. Did anyone tell you anything about what had been happening at the Rydges since the outbreak had been detected before your arrival?

40 A. No.

Q. Did you understand there were guests at the Rydges before you arrived?

45 A. We subsequently learned --- sorry, you don't know because you are in your room and you have seen other people from your plane arrive, so we understood there were 60 or 70 people from our plane who were detained at the Rydges but we weren't aware whether there were other people who had been previously detained there. I saw the media that said no one had been detained there for some time which made

me relieved about lowering the risk of any surface transmission of COVID. But --- and I think staff told us that there had been --- yes, staff did tell us that there had been no one in the hotel for some time before we arrived and I think we learned that the day after we arrived.

5

Q. And did you also learn that apparently the hotel had undergone a deep clean?

A. Yes, someone who we had met at Auckland airport had --- we'd exchanged phone numbers with him and they had experienced bed bug infestation in their room and had woken up with --- you know, their face was swollen and they shared the photos with us. And so we were shocked to hear about that. And I did a quick online search and saw that there had been two public reports of bed bugs at that hotel, one in March and one in October the previous year, and I saw on Four Corners one of the --  
10 - a nurse who was detained at the Rydges in April, I think two members of her group had bed bugs, had reported bed bugs in their rooms as well. The deep clean was in  
15 response to the media report about the bed bugs. I saw the Chief Health Officer say the rooms had been empty and in accordance with infection control procedures, all the rooms had undergone a deep clean and, as I said in the statement, what more we saw completely undermined any confidence in the effectiveness of that deep clean.

20

Q. You did talk about that a moment ago and I diverted you away from it. Let's go to that. You have provided a number of photographs that you took when you entered your room. When were those photographs taken?

A. So some of them were taken at the time we arrived, so we saw the edge of one of the beds, we saw there was a glove and a children's toy.

25

Q. I'll stop you there, Mr de Kretser. We might go to the photos. That might be more convenient. If I ask that document ID WIT.0001.0009.0013 can be brought up.  
30 This is a group of a number of photos, Mr de Kretser. I understand there are nine in total. Are these photos that you yourself took?

30

A. Myself or my wife.

Q. We might go through them one by one. If you can just describe what the photo shows and if you can recall specifically when it was taken.

35

A. I think this was taken the day we arrived and it shows just the walls being filthy.

Q. It looks like there are some drips of some substance on the wall?

40

A. I'm not sure what it is. But yes, it is dirty.

Q. If we go to the next photo, please. What are we looking at here?

45

A. This is a rubber glove, PPE glove, and the underside of the children's toy, some rubbish, and there's some food on the ground as well. That's next to --- that was

taken when we arrived. So it's a room that you are in for --- two rooms, we had adjoining rooms. They were mainly taken up by furniture. So one of the things most people do is move the furniture to create as much space for exercise for the kids as possible. So we did that on arrival. This was at the edge of the bed. We moved it  
5 and there was other stuff underneath, the other part of the toy was underneath.

Q. Turning to the next photo, photo 3, what are we seeing here?

10 A. This is the other bit of the toy. This is the same glove, the other bit of the toy, and the food and rubbish.

Q. This was just under one of the beds that you had moved?

15 A. Correct. It was actually on the edge of the bed but when we moved the bed it fully came out, and that was taken on the first day.

Q. Turning to the next photo, photo 4, what's that?

20 A. That's someone's face mask, I think it was. There was a sort of a bedside table and it was under that, and the stained wall behind that as well.

Q. Is that a face mask that was in the room before you got there?

25 A. Correct, yes.

Q. To the next photo, please. What are we looking at here?

30 A. That's --- you know, another dirty wall, but I took that one just because of the level of dust in the room. There's just a layer of dust on everything. And I should say, I saw the Four Corners episode on Monday where another traveller that I have spoken to shared photos of her experience from April in the same hotel and you can compare the photos and they look very, very similar in terms of the lack of cleanliness in the rooms, so nothing had improved, and in fact it looked worse in our  
35 experience from April to the end of June.

Q. Just to clarify, the last two photos, that is, the one of the mask and the one of the dust, when were they taken?

40 A. They were taken on the first day or on the second day, I think on the first day.

Q. To the next photo, photo 6.

45 A. So this is a plastic glove. This photo was taken right at the end, so it was --- it certainly wasn't ours, it was behind one of the pieces of furniture that we moved when we were packing the room up, so it was another disposable, presumably PPE glove.

Q. Another than yourselves and the nurses who had attended the room, had anyone else come into the room for the 14 days that you were there?

5 A. Only for someone to do maintenance on the room but I was with him the whole time and it certainly wasn't something that he had dropped.

Q. So do you assume that that glove was there for the full 14 days?

10 A. Yes, it would have been.

Q. Turning to photo 7, what does this show?

15 A. Stains on the doonas. So the doonas were loosely wrapped in sheets, not under doona covers, if you like, and I think you get a change of sheets once in the two weeks, and when we removed those sheets, there were stains on the doonas. It looks like a blood stain.

Q. The next photo, are we looking at the same type of thing, Mr de Kretser?

20 A. Yes, I think that's a different doona, so I think this would have been taken about a week after when we did the change of linen. That's one of the other doonas with more stains, again looked like blood.

25 Q. Turning now to the final photo, Mr de Kretser, what's that?

A. This was taken on the first day. That just shows the mould in the bathroom. The bathroom was filthy, the exhaust fan was filthy, and there was mould through the bathroom.

30 Q. You may or may not be able to see it on that photo from your screen, but is there a long dark hair as well?

35 A. Yes, and I assume that was there when we got there. It may have been one of ours, I'm not sure.

Q. So all of those photos were taken by you or your wife, largely in the first day you got there but some towards the end; is that a fair summary?

40 A. The doona photos were taken about halfway through, the photo of that clear plastic glove was taken to the end, all the other photos were taken on day 1 on or day 2.

MR IHLE: I tender the nine photos, Madam Chair.

45 CHAIR: Exhibit 17.

**EXHIBIT #017 - NINE PHOTOS TAKEN BY MR DE KRETSEK AND HIS WIFE**

5 MR IHLE: You spoke before about some information that was given to you from a person you had met at the airport in Auckland about the bed bugs.

A. Yes.

10 Q. When did you --- when were you provided with that information, do you recall?

A. It was when we woke up after the first night that she messaged my wife about the bed bugs.

15 Q. Are you aware that her account of the bed bugs made its way into the media?

A. Yes. Yes, certainly.

20 Q. On 29 June there were stories about the bed bugs and the consequences that she had suffered?

A. Yes. So I think she told a family member about it and ultimately it ended with the media and obviously I saw those media reports in the Herald Sun and the like.

25 Q. And that report included those comments from the Chief Health Officer to which you referred earlier about there having been a deep clean at the hotel prior to your arrival?

A. Correct.

30 Q. I want to move now, Mr de Kretser, if I may, to the aspect of your evidence that is really in the nature of a submission. But before I do that, I think it is appropriate that we outline a little bit about your professional background. Can you take us through in short compass from a professional perspective who you are, what you do, what  
35 appointments you hold, things like that?

A. Sure. So I am a lawyer, I'm the executive director of the Human Rights Law Centre, a not-for-profit that uses legal action and advocacy to promote human rights and challenge injustice and inequality in Australia. I have held that role for seven  
40 years. I have been the director of the Victorian Sentencing Advisory Council since around 2010. I have been a commissioner of the Victorian Law Reform Commission for around four years from 2008. I was the executive officer of the Victorian Federation of Community Legal Centres for around six years. I managed the Brimbank Melton Community Legal Centre. And I started my career at the law firm  
45 now called King & Wood Mallesons, and I've had other board and advisory board appointments.



Q. It is a fair summary to say that you have spent the bulk of your professional life working as a human rights lawyer and a human rights advocate?

A. Correct.

5

Q. You detail in the submission part of your material that you appreciate the need to quarantine people may actually be something consistent with human rights. Can you explain that?

10 A. Sure, so in Victoria, the Victorian Charter of Human Rights and Responsibilities requires the Victorian Government, the Victorian departments and public servants to act compatibly to respect human rights and to properly consider human rights. The human rights protected in the Victorian Charter include the right to health. The right to health doesn't mean just that governments must not take people's lives; it means  
15 that the governments have positive obligations to protect life and health, and in the context of a pandemic, that means governments have obligations to do things like have a properly resourced health system, have proper contact tracing and testing programs and, I believe, have a proper quarantine program at a time when  
20 community transmission in Victoria and Australia is very low compared with most countries around the world.

Q. At paragraph 79 you say that the decisions around the quarantine program involve issues of balancing different human rights, the rights of people in the Victorian community to have their life and health protected against the rights of the people  
25 arriving in Victoria from overseas not to be detained unlawfully. Can you expand on that?

A. Sure. So quarantine is detention. When you detain someone it's a very serious limitation on their human rights. It carries all sorts of risks around safety, welfare  
30 and mistreatment, particularly for people from vulnerable groups. You know, I think the Inquiry has heard evidence around unaccompanied children, people with mental health concerns, people with serious health conditions, and I understand the Inquiry heard evidence this morning around a suspected suicide. So very serious issues to manage. And the Victorian Charter says you can only limit someone's human rights  
35 if you have a very good reason for doing so and you do so in a way which is the least restrictive means to achieve that purpose or that reason.

When you look at something like the quarantine program, the reason is obviously compelling: protecting the life and health of people in the Victorian community.  
40 And the Charter I guess provides a compass to achieve the right balance between the imposition on the rights of people being detained and their loss of liberty, and their protection of life and health in the Victorian community.

Q. It sounds like a very complicated and multifaceted task; is that a fair summary?  
45

A. I actually think it's quite simple. If you are going to restrict someone's human rights, you have to have a good reason for it and you need to use the lowest level of

restriction possible to get the job done. And so that very simple test is incredibly powerful when you apply it against any of the COVID restrictions that governments are imposing, particularly for our current context, the detention of people for quarantine purposes.

5

Q. Using that test, which I appreciate might be simple for some to look at and more complicated for others not as familiar with human rights as you, Mr de Kretser, but what would you say about the use of inner city hotels as a venue for quarantine detention, that is, holding people against their will?

10

A. And just to come back to your point, it's a simple test, it doesn't prescribe an outcome for government, there are many options for governments to comply with that test but what is important about it is going through the process of clarifying, are you restricting someone's human rights? If you are, what is the purpose for that restriction? Is it a justifiable purpose, and is there a less restrictive way to achieve that purpose? Coming to your question around hotels, I'm not aware of what other options were considered in Victoria. Obviously one option is allowing people to be detained at home, and I can talk about the experience of what went wrong with that, but certainly the decision to detain people in high-rise inner city hotels brings specific challenges around safety and welfare of people and particularly providing safe --- access to fresh air and exercise.

15

20

25

Q. What do you say about the need to take into account the particular circumstances of the individual that is being detained, notwithstanding the broad public benefit against which their interests are going to be measured or at least attracts that tension which would exist?

30

A. I think what you need is a tailored approach which looks at that particular form of detention on a particular person and that means you need an exemption procedure and you need very good welfare checks and triage processes to assess the welfare of people in those vulnerable groups; people with mental health concerns, children, people with disabilities, people who need particular medical treatment and the like.

35

And so you need that flexibility to be able to say if this particular form of detention is going to be excessively harsh on that person then it changes that balancing test. And obviously the other option is you provide an exemption and you allow that person to be detained at home. And of course we don't want people leaving their homes into the public without --- unless there is an emergency situation or to access medical treatment and the like, and so you need a good system of compliance around the risks that are inherent around the approach of allowing people with exemptions to be detained at home.

40

45

Q. Is the key to that a tailored approach looking at the needs of every individual that is being detained?

A. Correct.

Q. A matter that was of personal significance to you, given your son's asthma, and then really the first line of inquiry that led you to be asking about policies and fresh air breaks, can you talk to the need for fresh air really as a corollary of important human rights and being as restricted as little?

5

A. Yes. And I should say my interest and concern around this was, yes, absolutely about my son but broadly as a human rights lawyers particularly for people in those vulnerable categories. When you detain someone, you have obligations to look after their welfare. A key part of that is providing access to fresh air and exercise. These are things that are absolutely mandated when you are looking at prison contexts; it's something that should be an inherent part of any quarantine detention program.

10

I was shocked to see that the standard in the information given to us was a weekly fresh air break, and my friend had told me that that was 10 minutes, and again through those social media groups, people were reporting very inconsistent approaches across jurisdictions across Australia and New Zealand and within jurisdictions across different facilities. I'm aware that in New South Wales, in Queensland, they are using serviced apartments which have windows that open and balconies and they are trying to get families into those, to be detained in those serviced apartments.

15

20

So at a minimum I think the Victorian Government should look at facilities like that to be made available and --- but fundamentally you should not be detaining people unless you are able to provide proper access to fresh air and exercise.

25

Q. Perhaps not a completely analogous situation, but in the context of prisoners, there are minimum standards for access to fresh air and exercise, are there not?

A. Obviously it is a very different context, prisons, but those standards, the UN minimum rules, known as the Mandela rules, say people should have one hour outside for exercise every day, weather permitting, and those minimum standards have been built into the corrections legislation in Victoria which say that, at a minimum, people in prison should have at least one hour outside every day.

30

35

Q. In your experience in quarantine, just to recap where we started, you had two breaks on days 12 and 13 of your quarantine. How long were each of those?

A. Approximately 15 minutes.

40

MR IHLE: Madam Chair, that covers the questions I have for Mr de Kretser. I understand that senior counsel for DHHS may have some questions.

CHAIR: Yes, Ms Harris.

45

MS HARRIS QC: Thank you.

## CROSS-EXAMINATION BY MS HARRIS QC

5 MS HARRIS QC: Mr de Kretser, you have acknowledged in your statement and in the evidence that you have just given that some form of quarantine is justified as a response to the very serious risk to life and health posed by the COVID-19 pandemic.

10 A. Yes. Not only justified, I think it's required. I think governments in protecting life and health have an obligation to, in the current circumstances of low community transmission in Victoria compared to overseas, have an obligation to protect life and health by having a quarantine program.

15 Q. And you have made the observation that that quarantine program, having regard to Charter considerations, should be for the shortest period necessary to protect the risk to life and human health.

A. Yes.

20 Q. Do you agree that in determining that relevant period of quarantine it is a matter that should take into account expert medical opinion about features of the disease and the necessary quarantine period that might limit the spread of that disease?

25 A. Absolutely. And that medical evidence --- I'm not a medical expert but I have read the summaries of it --- is constantly being updated, so you need your quarantine program to adjust to any --- to the best available medical evidence.

30 Q. And you may have heard the evidence that Professor Grayson gave to the Board on Monday, that the rationale behind the 14-day quarantine period is that for those who had developed symptoms, those symptoms are highly likely to start within 14 days of exposure to the virus. That is fairly similar to what you have acknowledged in your statement, isn't it?

35 A. My understanding is that the medical advice is you want a 14-day quarantine program because of that incubation period around the onset, the time between exposure and the testability, if you like, of the symptoms.

40 Q. Another important matter you have acknowledged in your statement is that people who are positive or have in fact been infected with COVID-19 may not in fact show any symptoms of the virus?

A. Yes.

45 Q. In fact, what has happened in the case of the COVID-19 pandemic is that the National Cabinet imposed a requirement for all returning Australian travellers to quarantine in a hotel or in another appropriate facility when they return to Australia for 14 days. Is that your understanding?

5 A. I would --- yes, but I would put it as the individual governments rather than the National Cabinet. The National Cabinet is obviously a consultative process of a group or body, but it is individual governments that are responsible for implementing those decisions.

10 Q. So that pursuant to that requirement it was the Victorian Government, using powers under the *Public Health and Wellbeing Act*, officers with powers under that Act needed to make the decisions necessary to implement that quarantine detention period, is that your understanding?

A. Yes, my understanding is that Victoria implementing that decision used the powers in the *Public Health and Wellbeing Act* to detain people under section 200.

15 Q. When considering that decision to use powers to detain under section 200 of the *Public Health and Wellbeing Act* you had noted that it is related to the containment of a serious risk to public health and you would say obviously that needs to be a precondition of the exercise of that power of detention. Is that right?

20 A. Yes.

25 Q. And you have noted I think that one of the safeguards under that *Public Health and Wellbeing Act* is the safeguard under section 200(6) requiring that there be a daily review of whether the continued detention of the person is reasonably necessary to eliminate or reduce a serious risk to public health. As I understand it, your understanding from what you understood from discussions with authorised officers was that that review was not occurring?

30 A. That was the impression I got, yes.

35 Q. Now, in the perhaps unusual case of a serious risk to public health that's not posed by an individual who is then detained using that section 200 power but the detention of a very large group of people pursuant to a public quarantine arrangement, do you accept that there might be some different considerations about what that review might entail for that very large group of people than it may entail for individuals?

40 A. Absolutely. So it would naturally take into account the threat to public health and I completely accept that that threat was serious and that the medical evidence was 14 days. But it surprised me that, given that it was a very clear legislative requirement and was in the Detention Notice, that staff who I presumed were the ones responsible for doing that check, as the authorised officers, seemed not to be aware of the legal obligation in legislation to do that. And also my feeling --- my --- I think that check is also an important safeguard and through the evidence, through this Inquiry, around the vulnerability and the impact on particular groups, I think that safeguard is an  
45 important one to make sure that there are processes to ensure that individuals' circumstances are taken into account in that review.

5 Q. I will just come to the evidence that will be given about what in fact the review did entail, and it was done on a daily basis. But you very fairly acknowledged the genuine care that was given by nurses who were calling your family and other --- well, your family on a daily basis to ask about COVID-19 symptoms and welfare issues. Is that right?

10 A. Absolutely. So the nurses, yes, yes, they seemed to be very genuinely concerned about people's welfare and seemed to be advocating for people's welfare within the structures of the detention program.

Q. And did you feel comfortable in raising any issues that you had while in hotel or quarantine with those nurses?

15 A. I certainly did. But when I --- so I was communicating with other people being detained at the same time and some of them were health professionals and they expressed concern to me about the --- how cursory those phone checks were as a way of identifying risk to individuals, particularly with mental health concerns. And I was in touch with at least one person who was in a very poor mental health state and I provided advice to her about how to advocate through those channels to have her detention reviewed and the lack of availability of exercise and fresh air breaks.

20 Q. And you may have just --- you may not have heard, but evidence has been given and will be given about mental health nurses that were available through the course of the program. It may not be something that you have had cause to have personal experience of, but that was a feature of the program that was made available to detainees. Does that --- would the availability of mental health nurses assist in that assessment program in your view?

25 A. Yes. From our personal experience, we did not know whether the nurse was a mental health professional or not. They presented to us as a nurse doing a welfare check. But certainly, as part of the risk management, having mental health professionals available to do that triage and assessment would be very important.

30 Q. So moving away from the welfare services that might have been available --- and more evidence will be given about that in the future --- and back to the question that you have raised about authorised officers, the evidence that will be given is that a senior authorised officer undertook a daily review as against the criteria of the mandatory 14-day quarantine period and that review involved noting how many days the individuals had been in quarantine and of course whether that period of 14-day quarantine had expired. So that was a review done by, perhaps not an authorised officer that may have been in hotels, but a senior authorised officer undertaking that review for people in quarantine.

35  
40  
45 Given the nature of the very large scale quarantine program, what do you say about a process that ensures at the very minimum that the conditions of quarantine have been satisfied by individuals as a measure of whether the risk to public health is being met?

A. I'm not --- can you repeat the question? Sorry.

5 Q. Yes, certainly. So if the review is aimed at identifying whether people are still within their 14-day quarantine period and that they are ready to be released at the end of that period, noting that 14 days had been identified as the appropriate time for quarantine, is that review one method of assessing whether the continued detention was reasonably necessary to eliminate or reduce the serious risk to public health?

10 A. That review would presumably satisfy the legislative requirement in that final 24 hours that the detention is reviewed. And on the detention exit notice that we received, it specifically says, you know, that the authorised officer has reviewed our detention and I think the words are that, given that the 14 days has expired, the  
15 detention is now no longer reasonably necessary to protect public health. My concern was on the previous 13 or so 24-hour periods, how is the legislative requirement to review detention actually being carried out?

20 Q. And the evidence will be that on a daily basis people in quarantine were being checked as to what day of their quarantine they had come to and a senior authorised officer was looking at that question and ensuring that they were appropriately within the 14-day quarantine period. Is there something --- given that there is also a separate regime of welfare assistance made available to people in quarantine, is there something further that you say should have been done for that large population of at times thousands of people in quarantine for that section 200(6) requirement?

25 A. Yes. Sorry, my concern was the policy --- I asked for the policy and it was not available so there was no way of knowing how that was being conducted. The staff who were told to us were authorised officers --- whether that's the same authorised officers as under the category of the Act, I don't know --- but I assumed they were  
30 the authorised officers responsible for reviewing our detention every 24 hours. It concerned me that they seemed not to know about that legislative requirement.

35 And one of the things that I said in the statement that concerned me specifically in this context was the fact that we were --- the group of people, Australians and others, returning to the country, were apparently statistically 1 per cent likely to have COVID, we were detained in a hotel with little or no exercise or fresh air breaks. But someone who was close to 100 per cent likely to have COVID because they tested positive in the community could isolate at home and leave their home to exercise whenever they wanted, provided they maintained social distance.

40 When I looked at this issue of was our detention reasonably necessary to protect public safety, it struck me as very inconsistent to have a far stricter approach to people who were very low chance of having COVID compared to people who had tested positive to COVID. And that was particularly in the second week, when we  
45 had no symptoms, when we had tested negative to COVID. And so on day 12 I think it was important that there was a daily review to look at whether or not this person, this individual, looking at their individual circumstances, should be detained. Of

course, that's within the context of the medical evidence saying 14 days detention is the recommended standard and I agree with that standard from what I've read. And, as I've said, a quarantine program with some form of detention across that 14 days is necessary and I would say required from a human rights perspective.

5

Q. Just to be clear, because my question --- what I had said preceding the question may not have been clear, the senior authorised officers were not the people who were attending hotel rooms each day, who were the senior authorised officers conducting those reviews. But I understand what you say about whether you think that's an adequate form of review.

10

But noting your evidence in your statement that people who are asymptomatic may still in fact be COVID positive, absence of symptoms would not be a sufficient basis, would it, to make a decision to release someone from quarantine?

15

A. Certainly not.

MS HARRIS QC: Thank you very much. If the Board pleases, those are my questions.

20

CHAIR: Thank you, Ms Harris.

MR IHLE: Thank you, Madam Chair. I don't have any other information about interested parties who might seek to ask questions. But I'm not sure if there are matters that have arisen throughout the course of Mr de Kretser's evidence which might excite such concern.

25

CHAIR: No, it doesn't look like anyone is responding, Mr Ihle. So on that basis I will thank you, Mr de Kretser, for your attendance and otherwise excuse you.

30

A. Thank you, Madam Chair.

**THE WITNESS WITHDREW**

35

CHAIR: Mr Ihle, are you ready to proceed with the next witness for the day?

MR IHLE: I am. The next witness is a couple comprising two witnesses.

40

I understand that they are online and can be brought into the virtual hearing room.

CHAIR: And will in fact give evidence together, Mr Ihle, is that correct?

MR IHLE: Yes, that's the intention.

45

MS HARRIS QC: If the Board pleases, I'm very reluctant to interfere with the witnesses. There is a matter of evidence given this morning and a very sensitive



matter of public reporting of matters on the record. We did want to make an application for an order suppressing certain information. Given that there have been publications of that material already, we would wish to raise that with the Board at the earliest opportunity.

5

CHAIR: Perhaps we will deal with that after these witnesses have finished, Ms Harris. Hopefully you will be in a position, perhaps through your instructors, to articulate exactly what the concerns are.

10 MS HARRIS QC: Yes, your Honour.

MR IHLE: Thank you, Madam Chair. We have Ms Kate Hyslop and Mr Ricky Singh.

15 CHAIR: Ms Hyslop and Mr Singh, are you able to both see and hear me now?

MS HYSLOP: Yes.

MR SINGH: Yes.

20

CHAIR: I assume you have had explained to you for the purposes of giving your evidence that you will be required first to make an affirmation.

MS HYSLOP: Yes.

25

CHAIR: If you will bear with me, I will hand you over to my associate who will take you through the procedure.

30 **KATE HYSLOP, AFFIRMED**

**RICKY SINGH, AFFIRMED**

35

CHAIR: Thank you. I will pass you over to Mr Ihle now, who will take you through the questions he wants to ask you. Thanks, Mr Ihle.

40 **EXAMINATION BY MR IHLE**

MR IHLE: Thank you, Madam Chair.

45 Ms Hyslop and Mr Singh, thank you for making yourselves available to give evidence today. You have provided a joint statement; is that right?

MS HYSLOP: Yes.

MR SINGH: Yes.

5 MR IHLE: Perhaps for the sake of transcription, I might pose the question to Ms Hyslop first and then to Mr Singh, so we are not talking over one another and so that is clear who is speaking because these proceedings, you will appreciate, are being transcribed.

10 MS HYSLOP: Yes.

MR IHLE: Ms Hyslop, your statement, which you provided jointly with Mr Singh, is signed by you on 13 August 2020; is that right?

15 MS HYSLOP: Yes.

MR IHLE: That is a statement of some four pages and 18 paragraphs of material?

MS HYSLOP: Yes.

20

MR IHLE: Insofar as you are concerned, is that statement correct?

MS HYSLOP: Yes.

25 MR IHLE: And are the contents accurate?

MS HYSLOP: Yes.

30 MR IHLE: Mr Singh, your signature also appears on that statement on the final page?

MR SINGH: Yes.

35 MR IHLE: As far as you are concerned, are the contents of that statement true and accurate?

MR SINGH: Yes.

40 MR IHLE: I tender the statement, Madam Chair.

CHAIR: The statement will be Exhibit 018.

45 **EXHIBIT #018 JOINT STATEMENT OF KATE HYSLOP AND RICKY SINGH**

MR IHLE: If the Board pleases.

Ms Hyslop, going from the joint statement that you and Mr Singh have provided, you arrived in Melbourne on 11 April 2020?

5

MS HYSLOP: Yes.

MR IHLE: You went into mandatory quarantine detention at the Crown Metropol in Melbourne?

10

MS HYSLOP: That's correct.

MR IHLE: And you left quarantine on 25 April 2020?

15

MS HYSLOP: Yes.

MR IHLE: In respect of those questions, Mr Singh, do you have anything to add? Do you agree that you arrived on 11 April, stayed at Crown Metropol and left quarantine on 25 April 2020?

20

MR SINGH: Yes, that's all correct, yes.

MR IHLE: Now, do I understand from your statement correctly that in the 14 days that you were held in quarantine detention you did not leave your room at all?

25

MS HYSLOP: No.

MR IHLE: When you say no, you agree you did not leave your room at all?

30

MS HYSLOP: Yes, I agree, yes, we didn't leave our room at all.

MR IHLE: And is that because no one offered you any air breaks?

35

MS HYSLOP: Correct.

MR IHLE: Equally --- and perhaps I'll put this to Mr Singh --- whilst you were in quarantine, Mr Singh, do you agree that you were provided with no air breaks?

40

MR SINGH: I agree, yes. No air breaks.

MR IHLE: Can I ask you about your observations of security guards at the Crown Metropol. To your observation, how many of them were wearing personal protective equipment? Ms Hyslop?

45

MS HYSLOP: Roughly 50/50, from what I --- from what we could both see, so about half of the security were wearing masks and half weren't.

MR IHLE: What about gloves, did you see any of them wearing gloves?

MS HYSLOP: It was about half/half as well.

5 MR IHLE: Mr Singh, is that consistent with the observations that you made?

MR SINGH: Yes, it is.

10 MR IHLE: When you arrived at the hotel do you recall how you got to your room and how your baggage got to your room? I'll ask this of Mr Singh first.

15 MR SINGH: Yes, so we arrived at the hotel, there were --- I spoke to someone who asked about the needs during the stay at the hotel and Kate was talking to, I believe, from memory, the nurse, at the time. And after our details were taken down we were escorted up to our room. We were in the elevator, just us two on our own, but the guy who was bringing up our bags with us was pretty close to us and he sort of just turned --- kept 1.5m distance away from us. Yes, we were just put in our rooms and that was that, door was shut, and yeah.

20 MR IHLE: The person that was taking you to your room and carrying your bags, do you know whether they were a security guard or a hotel employee or someone else?

MR SINGH: It was a hotel employee.

25 MR IHLE: And was he wearing any PPE when he was in the lift with you?

MR SINGH: None at all. Sorry, he was not in the lift with us.

30 MR IHLE: He was not in the lift. Sorry, my mistake.

MR SINGH: No, but he was on the same floor and he walked us to our room and he had no PPE at all. But he was a hotel employee.

35 MR IHLE: And he was the one actually physically carrying your bags, was he?

MR SINGH: Correct.

40 MR IHLE: Ms Hyslop, can I ask you, do you agree with that description just given by Mr Singh?

MS HYSLOP: Yes, yes.

45 MR IHLE: I'll ask you, Ms Hyslop, in your statement, the joint statement that you have provided, you talked about Facebook becoming a key source of information for you. Can you explain how that occurred some?

MS HYSLOP: Well, before our decision of coming back to Australia, I wanted just

to see what it was all going to be like if we decided to come back to Australia. So I decided --- there are many Facebook groups created these days, I decided to jump on Facebook to see if there were any Facebook groups, just so I could kind of see people posting photos or any information, just to give me a bit more insight into what we would be expecting in hotel quarantine. So I found, from what I can remember, four Facebook groups and I joined all of them. I think they were just Australia based and Melbourne based, so a broad ambit of Melbourne, just to see how the quarantine thing was run.

10 MR IHLE: Did you continue using those Facebook groups or getting information from them after you arrived back in Australia?

MS HYSLOP: Yes, yes. While we were in hotel quarantine we were both posting any questions that we might have. There was also a Facebook page for ---

15 CHAIR: Can I just interrupt you for a moment, Mr Hyslop. Mr Ihle, I think the quality of the sound is not good at the moment. I don't know whether there is a problem at our end or at the end for Ms Hyslop and Mr Singh. I'm not sure whether or not you are hearing that but I'm hearing quite a lot of feedback at the moment.

20 MR IHLE: I think there is some feedback and I think there was a motor vehicle outside the house where Ms Hyslop and Mr Singh are. Was there some background noise?

25 MS HYSLOP: Yes. We live on a main road so it's quite hard to get peace and quiet.

MR IHLE: Are you content for us to proceed, Madam Chair, or should we try to make some alternative arrangements?

30 CHAIR: No, I'm happy to proceed. I was just concerned that there was a problem on our side. But if it's the circumstances that Ms Hyslop and Mr Singh are in, we will persevere.

MR IHLE: As the Board pleases.

35 I was asking you about Facebook and that being a source of information before you returned to Australia and you were just describing I think how it continued to be a source of your information when you were in quarantine. Is that fair?

40 MS HYSLOP: Yes, yes.

MR IHLE: Were you able to get information that was relevant to your circumstances and things that you were concerned about out of the staff that were managing the quarantine program?

45 MS HYSLOP: Yes, we quite often, as kind of a last resort we would call the hotel staff for our questions to be asked. It is just because there was a community on

Facebook for our specific hotel that we were put in, that was kind of our go-to, just so we didn't have to bother the staff and what they were doing. The questions we had weren't serious, it was just roughly getting to know what times our meals would be delivered. And the people that were in our quarantine facility on the Facebook page just let us know what times kind of roughly each door. If there were any questions we had to ask, we just asked the Facebook community here.

5  
10 Q. Were there, during the period in which you were in quarantine, times where there were changes to the way things were done, changes in policies?

MS HYSLOP: Only near the end of our stay, there was only one change that we found out about, which was the option to order food through Uber Eats. We once again didn't find out through the hotel, we found out through the Facebook community. We had seen a post on Facebook through the Crown Metropol, just saying you're not allowed to order Uber Eats. So we made a phone call down to the staff to confirm that and they said, "Yes, you're now able to order." So that was the only change we found out about.

MR IHLE: That was a change that you found out about through Facebook?

20 MS HYSLOP: Yes.

MR IHLE: I just want to take you to the circumstances when you left hotel quarantine. I understand from your statement that you left the Crown Metropol in a cab to go to a car hire place; is that right?

MS HYSLOP: We did --- no, we had bought a car in Melbourne, in the northern suburbs, so we were taken in a taxi to the address of where we picked up the car we had just purchased.

30 MR IHLE: And it was your intention then to drive to Queensland straight away; is that right?

MS HYSLOP: Yes.

35 MR IHLE: Did that drive involve staying somewhere overnight?

MS HYSLOP: Yes, we stayed at Ricky's parents' place, just 20 minutes out from the New South Wales border, we stayed there the night and then travelled through to Queensland the next day.

MR IHLE: I want to ask you about any instruction you received about wearing PPE, specifically when you left hotel quarantine. Did anyone tell you whether you should be wearing PPE when you left?

45 MS HYSLOP: No.

MR IHLE: Did you wear any PPE when you left?

MS HYSLOP: Not from memory, no.

5 MR IHLE: Do you agree with that, Mr Singh?

MR SINGH: Yes, no PPE was worn.

10 MR IHLE: And at the time that you left and went to where you had purchased this car in the northern suburbs and then drove to Ricky's parents in New South Wales, I assume you didn't wear PPE through that whole journey?

MS HYSLOP: No.

15 MR SINGH: No.

MR IHLE: During the time you were in quarantine were you ever tested for COVID-19?

20 MR SINGH: No.

MS HYSLOP: No.

25 MR IHLE: Were you ever offered a test?

MR SINGH: No.

MR IHLE: Ms Hyslop, were you offered a test?

30 MS HYSLOP: Not verbally, no. I can't remember exactly, from memory it might have been written. I saw it somewhere, I can't remember if it was through a Facebook page or written.

35 MR SINGH: I think we were allowed to ask to be tested ---

MS HYSLOP: Yes.

40 MR SINGH: --- if you were showing symptoms. But otherwise they did not --- they did not come to you to ask or they did not write to you personally, you had to reach out to them to ask for a test.

MR IHLE: If I understand this correctly, you went into quarantine on 11 April?

45 MR SINGH: Yes.

MR IHLE: You spent 14 days at the Crown Metropol?

MR SINGH: Yes.

MR IHLE: No one ever offered you a test?

5 MR SINGH: No.

MS HYSLOP: No.

10 MR IHLE: No one ever offered you an air break?

MS HYSLOP: No.

MR SINGH: No.

15 MR IHLE: And no one said anything to you about wearing PPE when you left?

MR SINGH: No.

20 MS HYSLOP: No.

MR IHLE: When you left, you left in a taxi?

MS HYSLOP: Yes.

25 MR SINGH: Yes.

MR IHLE: And you went to go and pick up a car that you had bought and then you drove interstate?

30 MS HYSLOP: Yes.

MR SINGH: Yes.

35 MR IHLE: I have no further questions, Madam Chair. Thank you very much.

MS HYSLOP: Thank you.

40 CHAIR: Yes, Mr Ihle. Is there anyone who --- did you get any indication from any of the other parties, Mr Ihle, as to whether there were any questions of Ms Hyslop or Mr Singh?

MR IHLE: I did not.

45 CHAIR: Given that I can't see any indication from anyone that they have questions of Ms Hyslop or Mr Singh, thank you for your attendance at the inquiry and you are otherwise now excused.



MS HYSLOP: Thank you very much.

**THE WITNESSES WITHDREW**

5

CHAIR: Mr Ihle, given that we have a little bit of time before the end of the day, I might stand down for the time being and give you the opportunity to have a discussion with Ms Harris, to assist me to understand exactly what the concern is that Ms Harris wants to raise, and see whether or not it can be resolved. If not, I will deal with it. Perhaps I will now go off screen for 15 minutes. My time is indicating 3.20 at the moment so I will be ready to return in 15 minutes.

15 MR IHLE: As the Board pleases.

**ADJOURNED** [3.22 PM]

20 **RESUMED** [3.42 PM]

CHAIR: Mr Ihle, are we ready to proceed with this matter?

25 MR IHLE: We are, Madam Chair. Related to the issues Ms Harris raised, it has come to our attention that by technical issue, there has been an incomplete broadcast of the evidence, particularly the evidence of Mr Tait and the issue around the person who took their own life or apparently took their own life at the Pan Pacific Hotel. The Board will recall the evidence from earlier in the day where Mr Tait had said in answer to a question that I had posed to him that he understood that that person, being the resident of the Pan Pacific, was in their room for a couple of days before being discovered. The transcript when published will show that was at approximately page 187.

35 Ms Harris, in cross-examination of Mr Tait on behalf of her client, the Department of Health and Human Services, at approximately page 191, clarified the basis of Mr Tait's understanding. I will read, for the sake of accuracy and completeness, the questions that were posed to him and the answers that were given. Ms Harris, at page 191, posed this question:

40

*The other matter, Mr Tait, that I wanted to raise was that, as I understood your evidence --- and I need to be a little bit careful here because it relates to a matter that is under investigation by the Coroner --- your understanding was that the person who did commit suicide in hotel quarantine was not discovered for a couple of days. Is that what you gave as your evidence?*

45

Mr Tait's answer to that question is:

*I mean, this is the rumour that I overheard. I don't know if that's true or not.*

The next question Ms Harris posed is:

5

*In fact the situation is, as far as I'm able to say, given that it is the subject of confidential reports and a Coroner's inquest, is that there was a welfare check on that person at 4.00 pm the preceding day and that person responded to that call. You're not in a position to say anything different about that matter?*

10

Mr Tait said:

*No, I'm not.*

15 I raise this because that part --- that is Ms Harris' questions and Mr Tait's answers --- do not seem to have been broadcast over the livestream and it is unfortunate that certain aspects of his evidence have been picked up and reported and, not due to anyone's fault, but it has been represented essentially as fact that someone was not found for a couple of days after taking their own life and this Inquiry knows that not  
20 to be the case.

CHAIR: That is so, Mr Ihle. Yes. In fact, it is probably timely to indicate that with respect to that particular tragic loss of life, that the Inquiry has communicated with the State Coroner to ensure that indeed the State Coroner is using his authority and  
25 powers quite properly to conduct that investigation and for that reason, consistent with the requirements of both this Act and the *Coroner's Act*, that is a matter that this Inquiry will not investigate the circumstances of and allow the coronial investigation to proceed.

30 As I said, the Coroner is now seized of the matter. I hope that that satisfies Ms Harris that the record has been appropriately corrected. It is unfortunate that the transmission interrupted the way in which the evidence was given. And I certainly understood Mr Tait to make it clear that he did not have facts, he only had rumour; and indeed, as you have correctly said, Mr Ihle, the Inquiry has evidence before it to  
35 establish that indeed what Ms Harris had said is correct.

MR IHLE: Yes. Can I also indicate, Madam Chair, that it is the intention of those assisting you to use the resources available to us to make contact with those that have published this incompletely and to make sure that that record, that is the public  
40 record, is also corrected.

CHAIR: Thank you, Mr Ihle.

45 Is there anything more you want to say, Ms Harris, now with respect to that matter?

MS HARRIS QC: If the Board pleases, we did wish to make an application for restriction on the republication of that information. I understand from what Mr Ihle

has said that there may also be some information --- a request for a correction of the record by the media outlets who have already published that information. But in our respectful submission the continued publication of that information in any way that could be misunderstood by the public is not in the public interest; it has been

5 established to be false, incorrect, not based on anything other than a rumour; and we would like to press that application. And if it needs to be done in the context of an understanding of what media outlets may intend to do to correct the record, we are willing to come back to the Board on that question. But we are very concerned that it is a matter that would be highly distressing for family members ---

10

CHAIR: Of course.

MS HARRIS QC: --- and there is no public interest in the publication of something that has no bearing in fact.

15

CHAIR: I'm not all that clear now, Ms Harris, are you indicating that you want to formalise an application in some way now with respect to some particular aspect of what has been published?

20

MS HARRIS QC: Yes, your Honour. We may need --- now there has been an assurance, we have been made aware by Mr Ihle's submissions that there will be a communication with the media outlets, it may be inappropriate to try and formulate the terms of that order right now. We also probably need to understand exactly what has been published and what corrections of the public record might be proposed. But

25 if the Board was willing to hear from us again after I have had further instructions and have obtained further information this afternoon, we would refresh that application.

25

CHAIR: All right. So the position at the moment, as I understand it, is that you are reserving your position with respect to any further application that may be made, subject to --- obviously I'm not aware of what has or hasn't been published. So can I correctly describe your position as being reserved at the moment, subject to media outlets that may have made some incorrect publication withdrawing that publication? Is that the situation?

30

MS HARRIS QC: Yes, your Honour, yes. Thank you.

CHAIR: All right. If there is nothing further, Mr Ihle, we have finished the evidence for the day.

35

MR IHLE: We have.

CHAIR: Otherwise we will then adjourn and resume with the next witness, or the next witnesses, Mr and Mrs Erasmus, at 10.00 in the morning. Is that correct?

40

MR IHLE: Yes, Madam Chair. The intention is to hear from Mr and Mrs Erasmus at 10.00 am, to then hear from the witness Ratcliff at 11.00 am, to hear from

Mr Ashford, the authorised officer, at midday. And then we have one other witness for tomorrow afternoon so it may an early rising for the end of the week.

CHAIR: Thank you, Mr Ihle, we will adjourn.

5

MR IHLE: If the Board pleases.

10 **HEARING ADJOURNED AT 3.51 PM UNTIL 10.00 AM on FRIDAY,  
21 AUGUST 2020**

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