

TRANSCRIPT OF PROCEEDINGS

INQUIRY INTO THE COVID-19 HOTEL QUARANTINE PROGRAM

BOARD: THE HONOURABLE JENNIFER COATE AO

DAY 13

10.00 AM, FRIDAY, 4 SEPTEMBER 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**

**MR D. STAR QC appears with MS J. DAVIDSON appears for the Chief
Commissioner of Victoria Police**

**MS J. FIRKIN QC appears with MS S. KEATING for the Department of
Environment, Land, Water and Planning**

**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

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, Ms Ellyard.

MS ELLYARD: Good morning, Madam Chair. The first witness today is Mr Noel Cleaves, he appears and I formally call him to give evidence and I'll seek your associate to take him through the formulas.

CHAIR: Good morning, Mr Cleaves. Are you able to see and hear me? You just need to take yourself off mute now, Mr Cleaves.

10 MR CLEAVES: Yes.

CHAIR: Can you speak back to me so that I can test that we can see and hear you?

MR CLEAVES: Yes, Madam Chair, I can see and hear you now.

15 CHAIR: Mr Cleaves, you understand that you need to take a solemn promise for the purposes of giving evidence and for that I will hand you over to my associate to administer the affirmation to you. Thank you, Madam Associate.

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NOEL CLEAVES, AFFIRMED

CHAIR: Thank you, Mr Cleaves, I'll hand you back to Ms Ellyard now.

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EXAMINATION BY MS ELLYARD

30 MS ELLYARD: Thank you, Mr Cleaves. Could you tell the Board your full name, your occupation and where you work?

A. My name is Noel Ernest Cleaves, I work at the Department of Health and Human Services, and my role is the Manager of Environmental Health Regulation and Compliance.

35 Q. You have made a statement in response to a request made of you by the Board; is that correct?

40 A. That is correct.

Q. Have you got a copy of that statement with you?

A. I do.

45 Q. It's dated 27 August 2020?

A. That's correct.

Q. Are the contents of that statement true and correct?

5 A. They are.

MS ELLYARD: I tender that statement, Madam Chair.

CHAIR: Exhibit 75.

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EXHIBIT #075 - STATEMENT OF NOEL ERNEST CLEAVES

15 MS ELLYARD: Mr Cleaves, in your statement you refer to and attach a number of documents which have been numbered according to the numbering system used in the Inquiry. Is the Board right to understand that you would wish those documents to be taken together with your statement as part of the evidence that you are giving to the Board today?

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A. That's correct.

MS ELLYARD: Madam Chair, I tender the bundle of documents being marked as the exhibits to Mr Cleaves' statement in file B of the hearing book.

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CHAIR: Exhibit 76.

EXHIBIT #076 - ANNEXURES TO STATEMENT OF NOEL CLEAVES

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MS ELLYARD: Perhaps I might note, for completeness, there are redactions that are in the process of being applied to some of those documents, so the form in the hearing book may not always be the form that will ultimately be the Exhibit as tendered, just for the information of those who might be looking at the documents.

35 CHAIR: Thank you.

40 MS ELLYARD: Mr Cleaves, can I take you to your statement, please. You have mentioned what your role is within the Department of Health and Human Services. Can I ask you to summarise, perhaps by reference to paragraphs 4 and 5 of your statement, what the content of that usual role at the Department is.

45 A. Certainly. My current role is I manage a number of State-wide regulatory programs within the health protection space within the Department of Health and Human Services. Those programs include Radiation Safety, Legionella Risk Management and the Regulation of Commercial Pest Controllers.

Q. You mention at the bottom of paragraph 5 of your statement that you have for a number of years held an appointment as an authorised officer pursuant to the general powers provisions of the *Public Health and Wellbeing Act*. Could you tell the Board what that involved?

A. In my role at the Department of Health and Human Services and its predecessors, the Department of Health and the Department of Human Services, I have commonly been authorised under the prevailing health legislation of the time, so since the

10 commencement of the *Public Health and Wellbeing Act*, I think in early 2010 I was appointed or authorised under that Act. Primarily for my work in relation to Legionella Risk Management at the time but then also for general purposes, if required.

15 Q. The Board has heard reference to authorised officers for the purposes of the Hotel Quarantine Inquiry. As I understand it, that was authorising officers pursuant to a different provision of the *Public Health and Wellbeing Act* and in particular you refer at paragraph 11 of your statement to the process by which you became an authorised officer relevantly for the purposes of COVID matters. Can you tell the Board how

20 that came about?

A. Certainly. Several weeks before the commencement of the Hotel Quarantine Program, approximately the middle of March, I was --- I stepped in to assist colleagues who were supporting the Chief Health Officer, particularly in the area of providing support to Victoria Police in terms of a liaison role in relation to the compliance work that Victoria Police were providing to assist the overall COVID response. In that role it was determined that we needed to be authorised under the emergency powers to be able to use those powers, if required, particularly in relation to assisting the police in relation to gaining access to properties using the emergency powers; at that point the police did not have access to that power.

25 Q. This is at a time when there was a State of Emergency declared, as I understand it, under the *Public Health and Wellbeing Act*; yes?

30 A. That's correct.

35 Q. And Stage 1 and then Stage 2 restrictions were in place pursuant to directions made by the Chief Health Officer?

40 A. That's correct.

Q. An issue arose, as you saw it, about the extent to which police could of their own motion enforce those directives, given that they weren't authorised officers under the emergency powers?

45 A. Yes. The particular issue that emerged was that the police had the power to issue infringements at some point in that process and to use their general powers to enforce

many aspects of those directions, as they were at that point, but the key problem that existed was that, an example being a party that might have been happening in a residential property, the police could be invited into that property and to then use their powers but if the person did not open the door, the police did not have the power to force entry. Under the emergency powers an authorised officer may have the ability to use those powers and that's one thing that I did do with the police on one occasion.

Q. So prior to the establishment of the Hotel Quarantine Program there were already authorised officers who had been appointed for the purposes of exercising emergency powers to assist with compliance with directions that had been issued by the Chief Health Officer?

A. Yes, that's correct, yes.

Q. At paragraph 13 of your statement you detail how you became aware that there was going to be a Hotel Quarantine Program and you indicate that you had had an assumption about how that program was going to be structured and the powers under which it might be done. Can you tell the Board about that, please?

A. Yes, certainly. I --- I think I first heard about the hotel quarantine --- sorry, the quarantine program being established probably from mainstream media and because of my Public Health experience, I made what turned out to be an incorrect assumption that the quarantine would be enforced using Commonwealth biosecurity laws, so actually I was somewhat surprised to learn that it was going to be enforced using Victorian or State-based laws.

Q. Can I ask you just to explain a little bit more why it was, what was the knowledge or information you had that led you to form that assumption that a quarantine program might be enforced using biosecurity laws rather than, as it turned out, the *Public Health and Wellbeing Act*?

A. Again, based on experience in the Public Health space of the Department, I was aware of the biosecurity laws that existed in the Commonwealth, in Commonwealth law, I was aware that they are, you know, very powerful laws that can be used to enforce many aspects of quarantine processes and I think I just assumed, it wasn't based on any particular information but I did make an assumption that that would be the way that international passengers would be placed into quarantine, using Commonwealth laws. As it turned out, that was an incorrect assumption.

Q. As you say at paragraph 13, you became aware of 29 March that in fact there were going to be detentions --- Direction and Detention Notices under the *Public Health and Wellbeing Act*?

A. That's correct.

Q. Can I ask you some questions the role of authorised officers under the emergency

powers. You deal with this in your statement at paragraph 48. Perhaps by way of background, as I understand your statement, you played a role as an authorised officer in hotel quarantine but in fact there ended up being a structure of authorised officers and then senior authorised officers acting as supervisors and managers; is that correct?

A. That's correct. There was also over time a position of team leader authorised officer as well which reported to the senior authorised officers.

10 Q. If we start with paragraph 48 of your statement, which details the role of an authorised officer, a role that I take it in practice you didn't perform because you took on more senior functions, in the context of the Hotel Quarantine Program what were the functions and powers of the authorised officer?

15 A. The key function, the key role, is to manage the compliance aspects of the Hotel Quarantine Program, that is to ensure compliance with the Detention Notices that have been issued to all of the incoming international passengers. In specific terms, the authorised officers had a role of at the time of arrival of the international passengers into the hotels, to assist with the last stage of the processing of the
20 Detention Notice, which was to ensure that a room number was indicated on the Detention Notice. They also needed to liaise closely with nursing staff to assess whether there were any detainees who had urgent medical needs which might mean that they may need to be issued with a temporary leave permission to be transported to a hospital.

25 Their key role was monitoring compliance and dealing with any reports of noncompliance.

Q. When you say compliance --

30 A. There are --

Q. I'm sorry, please continue.

35 A. Sure. The noncompliance aspects in this case may have been a report that someone was opening the door regularly on their --- into the hallway of their room or threatening to leave, as an example.

40 Q. When we speak about noncompliance, we are speaking about noncompliance with the Direction and Detention Notices that had been served on them at the time of their arrival back in Australia; is that right?

A. Yes, that's correct.

45 Q. And that was a Direction and Detention Notice issued pursuant to powers under the *Public Health and Wellbeing Act*?

A. That's correct.

Q. And so the Board has heard evidence from a number of people working in the Hotel Quarantine Program that they understood that it was --- these are my words, 5 not theirs --- the authorised officers who were responsible for the detention of people in the sense that they were the people authorised under the legislation to require people to be detained and to that extent they were, relevantly, the authority in matters of quarantine at hotels. Was that your understanding of the role of authorised officers?

- 10 A. It's correct to say that the role of the authorised officers was to manage the detention process of the detainees in their hotel rooms and to manage any exceptions to that, that would occur, that is temporary leave, permissions to leave for particular reasons. So for that aspect of the quarantine process, yes, it is correct that the AOs 15 on the ground had the authority to exercise their authorised officer powers.

Q. But do I take it from your answer that there are some respects in which you would say no, the authorised officers weren't the people in charge, as it were, at hotels?

- 20 A. Yes, that's absolutely correct. I mean, the authorised officers had no power over - -- in terms of management or control over other aspects of the Hotel Quarantine Program. Their role was heavily focused on the compliance aspects with the Detention Notices as it applied to the people under detention.
- 25 Q. So there's been some evidence, and I gather there might be more evidence later today, of a perception that other Government Departments had --- that security companies had was that authorised officers did indeed have control or the power to direct other people at hotels in the performance of their duties, whether that was security guards or people from other Government Departments. Do I take it that that 30 wasn't your understanding of the function and role that authorised officers had?

A. Perhaps in my answer I could say that it's a distinction between having a power and exercising the power. The *Public Health and Wellbeing Act* does provide extraordinary powers under emergency situations, so the power is there for an 35 authorised officer to issue directions that are --- if they're reasonable, a person will have an obligation to comply. So a power exists. In practice, the operational mandate of the authorised officers was, as I've said previously, to focus on the detention of the international passengers once they came into the detention aspects of the Hotel Quarantine Program. There was no mandate to extend beyond that.

- 40 Q. And then at paragraph 47 of your statement you describe the role of the senior AO, which I understand to be the role that you performed. Can you just summarise, please, what the role of the senior authorised officers were?
- 45 A. The first task is oversight of the AOs who were working on that shift, that's the first, above and beyond any other task. That extended to providing instructions, advice, mentoring the AOs in the program through what were sometimes very

stressful situations. Aspects of staff management, in terms of trying to meet and brief new staff members, orient them to new processes as they emerged; and possibly the largest task was dealing with escalated situations, which inevitably related to reports of behavioural issues that were --- had the potential to lead to noncompliance with the Detention Notices and in other cases relating to escalations relating to decisions on whether temporary leave permissions should be issued to allow a detainee to leave the hotel for particular specified reasons.

10 Q. You mentioned that over time team leaders were also introduced. Was that a kind of mezzanine level of management between AOs and senior AOs or were the team leaders sitting higher in the hierarchy than that?

15 A. The mezzanine is a very good description. The AOs reported to a team leader who typically had responsibility for, say, three or four hotels at a time. The team leaders, and there would be multiple of them when we had 14 or 15 hotels going at the time, there would be three or four team leaders working on a shift, they reported to, usually, one senior AO.

Q. And then as a senior AO who did you report to?

20 A. A position that over time was known as the Deputy Commander in the authorised officer program of the compliance, the COVID compliance program.

25 Q. You mention that at paragraph 51 of your statement. You also --- there's been reference to the role of DHHS team leaders at hotels in some of the evidence that the Board has received. Are you familiar with that term "DHHS team leader" in the context of hotels?

A. I am.

30 Q. Is that a reference to team leaders in the AO context or is that a different line of work or accountability within DHHS, as you understood it?

35 A. No, it's a different --- a different role with different responsibilities to the AO team leader.

Q. I'm conscious it's not your area, but just so that we can understand the AO role in relation to other roles, can you tell us, in summary form, what was the role being played at hotels by a DHHS team leader as opposed to the role being played by AOs?

40 A. Again, to the extent that I'm aware of how it worked in practice, the DHHS team leaders filled a really important role of trying to coordinate the various activities that happened inside a hotel and there were a myriad of activities happening every day. So they didn't necessarily have full management control of everyone who worked in there, for example, they didn't have management control of the AO. They reported through a different stream. But they provided a vital point of coordination for the operations that happened on a day-to-day basis at a hotel, so for example there would

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often be a briefing meeting once or twice a day between representatives of the various teams, led by the team leader, which tried to ensure there was good communication.

- 5 Q. You also refer in your statement to the Public Health team as having a particular role in relation to passengers who had tested --- who were being tested or who might have COVID-19. What was the Public Health team and where did it sit in this DHHS structure?
- 10 A. My best answer to that --- I probably cannot describe the total relationship between the compliance aspect and the public, what I call the Public Health team, but in a practical sense, when I use that term I was talking about a team that was known as Public Health Operations, for example there was an email box with that name. Underneath that, the people that I would talk to when there were particular issues
- 15 relating to COVID status or other aspects that needed Public Health advice were our case and outbreak teams. The actual operation was much bigger than that in terms of the Public Health response.
- Q. Of course. But if I understand you correctly, in terms of the people who might be
- 20 playing a direct role, whether on site or on the end of the phone at hotels, one might contemplate people from the AO stream and people from DHHS, it sounds like you are describing a kind of logistics or coordination role stream, and then also potentially, advice coming from people, particularly within Public Health; is that right?
- 25 A. Broadly. The advice that was coming from Public Health was generally in relation to specific detainees. So, as an example, would be once we moved to day 3 and day 11 swabs, there were many situations where we needed to make a decision on day 14 as to whether a person was able to be released from detention and that
- 30 would often require discussion with the Public Health team as I described them, to provide a clearance.
- Q. And as I understand it, although the legal power to authorise release of detentions, sat with AOs, use AOs would in appropriate cases take that advice, as you have
- 35 described it, before exercising that power?
- A. Yes, certainly.
- Q. We have asked you some questions and you have answered them at paragraphs 20
- 40 and following of your statement about any particular training that you received in a number of areas. Having regard to the matters in your statement, I wanted to ask you about a couple.
- Firstly, at paragraph 22, you refer to training that you received in the area of
- 45 COVID-19 infection prevention practices and the use of PPE. You refer to a Commonwealth course, which I think the Board has heard about before. As far as you are aware, that was the online course that was provided by the Commonwealth

Department of Health; is that right?

A. That's my recollection, yes.

5 Q. Over the course of your work as a senior authorised officer in the program was there additional COVID infection practice specific training that was offered to you or materials that were made available?

10 A. Yes. At some stage, I can't recall the date, but a web-based course was developed, I think it was called Infection Prevention and Control for Frontline Staff, and that was provided by the Department, it was an online course. From memory, it focused heavily on the practices of donning and doffing or putting on and taking off face masks or gloves or gowns.

15 Q. At paragraph 23 you were asked about the extent to which you had had past training in the area of communicating with difficult people or people in distress and you said that you didn't --- hadn't had that training recently although you have had some in the context of previous work practices. Having regard to some of the material in your statement, it might be arguable that the role of AOs and senior AOs 20 was a role that was going to involve contact with people who were difficult or in distress; was that your experience?

25 A. Certainly the experience was that there was a small percentage, but given the numbers of international arrivals that was a significant number of people, who had, yes, a significant amount of distress because of the journey that they had been through and sometimes underlying mental health issues.

30 Q. You have answered, as you were asked to, just for yourself, but are you aware of whether any of the training provided to authorised officers who were brought on board for this program included any training or resources for them in that issue of dealing with people in distress?

35 A. I can't specifically answer that question. Towards the end of my time in the program, a new training program was rolled out but I didn't have a lot of involvement with that because of other duties. I can't answer that question specifically.

40 Q. You answer at paragraphs 26 and following, and I think you refer there to the course that you described a moment ago, some training that you received and then from paragraphs 29 onwards, written procedures and policy manuals. It appears from your statement that this was a bit of an iterative process, that processes were being put in writing and then refined over a period of time. Would that be a fair comment?

45 A. Yes, that's very fair. In the ideal world, you reach up to a dusty bookshelf and pull out a manual on how to run a detention program in a hotel situation, but none existed. So we were developing procedures and policies and then as situations changed we were developing updates or even specific instructions on how to deal

with quite specific situations.

Q. When you say "we", was that a role that you yourself were involved in, in your role in the Department?

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A. Yes, yes. So often there would be a need --- I would perceive a need or my team of AOs would perceive a need for a detailed instruction in a particular area. I would try to draft such an instruction and seek comment from people and then at some stage perhaps that would be endorsed and distributed as a final endorsed document.

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Q. You say that you or someone else would see a need. Would that be, for example, because requests were being made of AOs and there was no clear understanding across the program of how those requests should be responded to?

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A. That's a correct statement. Often it was about trying to achieve better consistency across a wide range of hotels.

Q. Yes. The Board has certainly received evidence from the perspective of those who were working in the system in other areas or who were detained under the

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system of an observation that there was often quite a variety of practices either across hotels or within hotels, depending on which authorised officer was on duty. Was that an observation that you made, that there was that level of variation in approach?

A. Yes, I'm not sure I would agree that it was related to the individual authorised

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officers. At times it may well have been. But each hotel evolved subtly differently, often, I thought, because of simple things like physical layouts, each hotel was different in its layout. The space available for what was known as a green room, where typically --- which would be typically located in a business lounge or a meeting room, it was different. That often led to subtly different mechanisms of

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communication, those things, I think, subtly impacted on the way the hotels tended to operate.

Certainly as new AOs came into a new hotel they would be faced with subtly different situations than they might have faced before so there was always a potential for slightly different experiences, but again, often I think it was because of the layout of the situation. Some of the hotels were significantly larger than others and so the experience of working in that hotel would be very different. The Crown Metropol was a very large hotel, relatively small foyer, compared to the Brady Hotel, very, very small hotel with an equally small foyer.

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Q. Some of the experiences that the Board has heard about, and the experiences of differing views, seem to relate to the different approaches that authorised officers had, for example, to when PPE should be used or the process that might be followed if people got fresh air walks and so forth. As I understand your evidence, there was a process over the months that you were involved to resource AOs with documentation and procedures that would help guide their decision-making in those kinds of areas?

A. Yes, that's correct.

Q. Thinking about AOs and the cohort of people whom they comprised, you were asked and you answered at paragraphs 14 and following, about the recruitment of authorised officers, and the Board has an understanding that although these officers were exercising emergency powers under an Act ordinarily administered by DHHS, in fact over time, and perhaps from the beginning they weren't all from DHHS. Could you explain to the Board --- in general terms, because I'm conscious you weren't directly involved --- the process by which authorised officers were identified and recruited into the program?

A. I'll try. Day 1, my recollection is that all of the people who worked as AOs in the hotels were normal full-time employees of the Department of Health and Human Services, they were drawn from experienced authorised officers working in a range of programs, I think as I mentioned I nominated some of my staff who normally work in the Legionella Program or the Radiation Safety Program or the Pest Control Program. They were duly authorised and stepped in. Over time, as the number of hotels increased, it was quickly realised we would need to supplement the numbers of authorised officers, which were far in excess of what normally exists in the Department of Health and Human Services. And at that point, my understanding is there was contact made with other Government Departments and over time I believe there were also representations made to the Department from other organisations seeking to potentially embed some of their staff in our Department for this purpose.

Q. You may be aware of some evidence that was given a couple of days ago by Mr Gupta, who was one of the security subcontractors working in the program, of an expectation that he had --- he said it was an expectation or an assumption --- that authorised officers would have a health background and would have health expertise. Are you aware that that evidence was given by him of his personal expectation?

A. I was made aware of it, yes.

Q. I take it from the answer that you have given that in fact a substantial percentage, perhaps, of the authorised officers didn't come from an infection control background or with a specialist health background, in the way that someone like Mr Gupta seems to have appreciated; they were either staff within DHHS performing over kinds of regulatory work or over time they came from other departments also perhaps with a regulatory background; is that correct?

A. That's absolutely correct. That's correct.

Q. Perhaps it's an obvious question but in circumstances where authorised officers were exercising powers relating to the detaining of people under the *Public Health and Wellbeing Act*, what would you say to the idea that perhaps they ought to have been people who had a health background and who had a closer appreciation of the purposes for which these people were being detained, that is the purpose of avoiding transmission of infection?

- A. The first thing that has to be said is that there just simply is not a stock of authorised officers with Public Health training in sufficient numbers to run a Hotel Quarantine Program. That just does not exist in Victoria and I would be surprised if it existed in too many places in the world. Many of our authorised officers were actually also working in other parts of the COVID response, you know, doing good work in other areas, so they were not available. They had other tasks they needed to support.
- 10 So I would say the role of the authorised officers in the hotels was heavily focused on the basics that exist in most legislative programs, that is, compliance with a law, the ability to read a law, in this case a Detention Notice typically, and to understand it and interpret it and to make reasonable judgments about the appropriate way to deal with a noncompliance scenario. That exists in most legislative frameworks that
- 15 I'm aware of. The people who came into the authorised officer program from other organisations and certainly diverse areas all had that core background and training.
- Q. You mention, I think, at one point in your statement there was at least in the early period of the program a shortfall --- for the reasons you have identified, the number
- 20 of hotels grew --- can I ask you to speak from your experience about the duration of shifts and the workload that existed for people who were authorised officers over the course of the program?
- A. Yes, certainly in the first week or two, possibly even a bit longer, we were
- 25 scrambling to keep filling shifts and so we were asking a lot of our departmental authorised officers to work extra hours to do night shifts and extend into extra hours. Typically they all worked a 76-hour fortnight but in reality they would often have to work a lot more hours than that over those first few weeks. That was inevitable. Once we were able to recruit more staff, the authorised officers worked typically that
- 30 76-hour fortnight with the potential for working extra hours sometimes to fill shortfalls or to assist with busy periods.
- Q. One of the observations that was made by a number of the witnesses we have heard from so far was the frequency with which the authorised officer at any given
- 35 hotel changed, that there wasn't consistency, in their observation, of the same person being rostered on every day. Is that right from your understanding that there wasn't a practice of rostering particular authorised officers week by week to particular hotels?
- A. I would say it wasn't necessarily the intention that that happened but the rostering
- 40 tasks for the team that had to try to make these rosters work often meant that it was extraordinarily difficult to keep people at the same hotel. Many of the AOs preferred to be at the same hotel and that would be the aspiration. But often, because of situations at --- with some AOs where, all of a sudden, they were not able to work on a shift at some time, we had to redirect staff to work on a different hotel. It wasn't
- 45 ideal but until we had a very large supply of AOs, it was often necessary to plug holes with AOs in different hotels.

Q. It sounds like it was also difficult from the perspective of people performing the role of senior AO. You were asked about your own work and you answered this at paragraphs 41 and following in your statement. As I understand it, from your answer to paragraph 41, there were initially only three senior authorised officers; is that right?

A. In practice there were two people who really were senior authorised officers and then the Deputy Commander. But the Deputy Commander would essentially step in and do some of the shifts as well.

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Q. Perhaps can I ask you to reflect to the Board on the workload of you and your colleagues performing that role in the quarantine program?

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A. I would have to say it was the most intense work experience I've ever had in my 35 years of work, that we worked very long hours in the first weeks, they declined a little bit after that but I would have to say they never declined substantially. But the first few weeks we were doing regularly 16- to 18-hour days regularly without breaks and then every two to three nights a senior AO would have the responsibility of being on call for the AOs in the hotels who were working night shift and also a secondary role of being on call for the Victoria Police Police Operations Centre, primarily that was around advice, but very occasionally required physical attendance.

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Q. From the final paragraph of your statement, I understand that by the time of you finishing your role in the program, which was in the middle of August, there were 17 senior authorised officers; is that right?

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A. Yes. The --

Q. So --

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A. That's correct, yes.

Q. And so can I --- perhaps it's an expansion of your previous evidence, but was there in fact work for 17 people in managing compliance in the role of authorised officers in the Hotel Quarantine Program?

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A. It's also probably worth explaining that the role of the senior AO certainly at times was much wider than hotel programs. The hotel program was clearly the focus, that was the number 1 task, but there were also maritime quarantine issues where ships were wanting to offload crew and take on new crew and that presented challenges that required our work as well. I mentioned the role of liaising with the police and occasionally physically being on attendance with the police for things like protest demonstrations or to assist them to gain entry to particular properties. And that important role of starting to try to develop better procedures, better documented procedures. So towards the end of my time there had been a major recruitment task, not all of those 17 people were going to be working in hotels, they were going to be working in different aspects of the overall compliance program, including field

response to outbreaks in places like Colac and other areas, as happened in the last few months.

5 Q. Thank you. May I turn to ask you some questions about the information that was available to authorised officers about those being detained in hotels. You deal with this at paragraphs 53 and following in your statement. As I understand it, you had a role in seeking to establish the recording or recordkeeping systems that would be used. Could I ask you to tell us, please, what was the initial approach taken to the management of information about people being detained in hotels?

10 A. In the very first days it was talking --- we were using things like spreadsheets and paper to record --- record issues. Clearly that wasn't ideal but that was --- we were using hotel manifests as a way of trying to track who was in which room and fairly quickly there was an initiative to develop software, a software application called a
15 Compliance Application or Compliance App, as it was colloquially known, and that became a central part of the work of the AOs, was to ensure as best as possible that that app was up to date, that it reflected accurately in which room people were located and then gradually, as it was enhanced, it enabled us to record interactions with detainees and, importantly, to record whether any permissions had been issued
20 to leave the hotel for particular reasons.

We --- I initially established a very basic system of exercise books for handover notes, so that important process from an AO who had been working, for example, a night shift to hand over to the AO who was coming on at 7 o'clock in the morning, to enable them to document any noteworthy incidents that had happened and to flag anything that was likely to happen in the next shift. It also gave us the opportunity to record any changes in operational practices that had happened at the hotel for some reason, particularly in those early days. That was replaced, again, around about a month into the program, possibly less, with a Microsoft Teams system, which
30 enabled us to have electronic handover notes.

Q. The Board has heard some evidence, of which you may be aware, Mr Cleaves, of issues arising for particular detainees or for particular people within the program where it appeared that there weren't accurate records of the number of people in the room or the COVID status of people who might otherwise be ready to be released from detention. From your experience did issues like that arise where the information held by DHHS was inaccurate in some way?

40 A. Yes. I had a --- one of my roles as a senior AO was also to try to work with our software people on the enhancements to the compliance app but also to work with other colleagues and contractors on trying to improve data quality. From the very early days, we were relying on incoming passenger manifests, which I think are part of the airline processes. In those early days and weeks, and possibly even the first month or so, those manifests were not terribly accurate. It may have been related to
45 things like the number of these mercy flights that were flying into Australia at the last minute, the people on that plane may have changed and so often the data we had did not necessarily represent everyone who was on that plane, and so there would

need to be some manual data entry, and obviously manual data entry always introduces the possibility for errors.

5 The other complexity was that many of the people coming back had very long names, people from culturally and linguistically diverse backgrounds, that often the names they would give verbally to someone was not necessarily the name on their passport and that became a challenge for people to manage in a practical sense as well. And certainly in the early days, before the compliance app was fully implemented, there were situations sometimes where people needed to move rooms,
10 there might have been a malfunction in a toilet or a part of the infrastructure inside a hotel room, people needed to move rooms, and the systems were struggling to capture those room variations. That improved once the app was fully implemented.

15 Q. To what extent did that app contain information about whether or not people had been tested for COVID and then, in turn, whether or not they had been tested positive for COVID?

20 A. So the compliance app was part of an increasingly complex suite of applications that all shared a common data warehouse, as I understood it. The thing that we used as AOs was called a compliance app. That recorded details about name, passport, date of birth, and any interactions the AOs would have with the person. There was also an app related to medical records, so a nursing app, as it was known. That took a little bit longer to roll out, from memory. But that was the app that would record the details of whether someone had exhibited symptoms, whether someone had been tested and, eventually, the swab result. That information around swabbing and results did not transfer to the compliance app, they were --- for security reasons, quite distinct and separate.
25

30 Q. How, then, did an authorised officer come to understand, because it was obviously going to be relevant for their work when considering release, for example, whether or not someone was COVID-positive?

35 A. By having close working relationships between the nurses and the AOs, so if a person --- in the early days, if a person had exhibited symptoms, had been tested and been diagnosed with COVID-19 then they were normally moved to a different floor in the hotel, I think you have heard that information previously, so-called red floors often was the term that was used, and the AO would need to be advised about that diagnosis so that they could arrange the necessary changes in the Detention Notice to cater for the relocation to the separate floor and a new room.
40

So the process would be a nurse would advise the AO, often in a briefing with a team leader from the DHHS team leader, about the details, so that they could plan the process of relocation. Over time, the practice became --- of relocating people once they were diagnosed with COVID-19, relocating to a different hotel, also required the AO to be involved and so, again, a briefing process from the nurses to the AO to arrange that part of their work.
45

Q. As you say at paragraph 59 of your statement, it wasn't always --- information about the COVID status of people in quarantine wasn't always available to AOs and they might need to depend on it being brought to their attention by nurses; is that right?

- 5 A. Yes, I guess as all medical records, the approach is normally that only the people who need to know about it are told about it. Once a person was diagnosed with COVID-19, it had to trigger action and that's when the nurses would pass that information on to the AOs. I think I mentioned earlier, there were sometimes
10 situations where there was a delay in getting the result and that would be the situation where there would be some searching to try to track down that result, to enable the AO to make a decision.

- 15 Q. So just to understand it, the nurses presumably would have input or somehow or other the information would have been put into the medical records part of the suite of software applications that the Department held, but it would be held in a silo, as it were, not pejoratively, but a silo from the material that was available to authorised officers?

- 20 A. That's correct, yes.

- Q. And you might have heard evidence yesterday or the day before of a particular experience that was experienced by one security company who were asked to accompany a couple of people out of the hotel for release, only to have it determined
25 once they were in the foyer that in fact they were COVID-positive and they shouldn't have been on the relevant list and they had to be taken back to their hotel. It seems that issues like that might occur if authorised officers did not have, as a matter of course, access to people's COVID-19 status.

- 30 A. I can't comment in that particular scenario because I'm not aware of the details of it. But what I can say is prior to release, there was always a process of trying to double-check a list of those people who were eligible to be released, if I can use that word, that is, they were coming to the end of their 14th day, with any other information, such as, was anyone symptomatic, was anyone diagnosed with
35 COVID-19, but not yet cleared by our Public Health Operations Team? That process existed in some form, to my recollection, right through the Hotel Quarantine Program. It became more essential as we went down to, as I mentioned, the day 3 and day 11 testing fairly universally in the hotels.

- 40 Q. One of the issues that the Board has had drawn to its attention is the requirement under the *Public Health and Wellbeing Act* for daily reviews of a person's detention status, in terms when they are detained for 14 days but it is necessary under the legislation to review that every day.

- 45 As I understand your evidence, that task was done but it wasn't done by frontline authorised officers or senior authorised officers working in hotels; is that right?

A. That's correct.

Q. I appreciate you weren't directly involved but can you explain to the Board from your knowledge what was done by way of conducting those reviews and in particular 5 to what extent would information have been available to those conducting the reviews about such matters as a person's COVID-19 status?

A. I can't comment on the full details because it's not something I did. But broadly my understanding is that review examined all of the people who were under 10 detention at that moment in time, that is, you know, using databases to produce the records, and that was the starting point, that it was able to extract information from other sources of databases, as I mentioned earlier.

After that, I wasn't involved in the process and I can't really comment.

15 Q. I understand. Thank you. May I turn to the question of fresh air walks and other forms of discretionary powers that the authorised officers had to permit people to be released from detention. You cover this at paragraphs 102 and following. The Board has heard evidence that the initial idea when the quarantine program first 20 started and the first guests were admitted to quarantine was that they would literally not leave their rooms for 14 days but that then, perhaps within the first couple of weeks, it was identified that there would need to be a bit more discretion than that. Is that a fair comment?

25 A. What I can say from my experience and my memory is that I think we made it to about 24 hours, perhaps, before we had the first scenario where we thought we had to get a detainee out of her room. I can recall the scenario where a person had a panic attack, it was quite a significant panic attack, and the advice that came from the hotel AO, who was a very experienced AO in other matters, and the nursing team, was that 30 this person would get instant relief if they were able to have some fresh air. We had already been contemplating a walking program at that stage and we essentially trialled it with that person and it proved very successful, it dealt with her anxiety and, essentially, over that first week there was a lot of work happening around drafting of what would be an exercise --- supervised exercise fresh air break program to deal 35 with what was already an increasing number of people who were exhibiting difficulties in being in detention in a hotel room.

Q. And so at paragraph 104 and going on to paragraph 105, it appears that there was a series of protocols or a protocol that was developed over time to provide a structure 40 within which decisions about fresh air walks could be made?

A. That's correct.

Q. Would everyone ultimately in hotel quarantine, from your understanding, have 45 had access to fresh air walks or were there limitations imposed, perhaps by resourcing or otherwise, which meant that they couldn't all get them?

A. I think it would be fair to say it was highly unlikely everyone would be offered an exercise break in their 14 days, particularly when the hotels were full. The limitations that existed were many. For a start, just for basic reasons of safety, we would not normally offer people a supervised exercise break outside of daylight

5 hours, just for the basics of safety. When there were meals being delivered to people's rooms, so several times a day, we would suspend any walking programs because you didn't want the interaction between the detainees and hotel staff. If there was housekeeping work happening in hallways, et cetera, you would try to suspend the walks. If there was a medical emergency on a floor, which sadly did happen
10 fairly regularly, then you would have to suspend the walks. If there were arrivals or departures on that day, we would suspend the walks. So when all those things were taken into account, there was quite a constrained amount of time available to offer walks.

15 And then the last factor was that each hotel, because of its different physical location and different facilities, meant that the actual process of taking someone for a walk from their room via a lift to wherever the walking area was would take a variable amount of time, so in some cases it took quite a while to actually take someone from their room, to a lift, to the walking area and back, so in many cases it might only be
20 possible to offer 50 walks in a whole day in a hotel, so it was usually not possible to offer everyone a walk.

Q. At paragraphs 109 and following, you detail some of the matters that would be relevant to, perhaps, making an assessment of who would get one of those 50 walks.

25 Could I ask you to speak a little bit about that?

A. Yes, certainly. The first core task was normally, did the person have any symptoms, were they COVID-positive, had they been broadly compliant? What I mean from that is not necessarily someone with, you know, who had exhibited
30 anxiety and so on, but if someone had been, you know, threatening violence or had done something like that then perhaps we would not be offering them a walk, unless it was a considered decision that would help the situation. But the priorities were based on people who had mental health, poor mental health, in terms of a condition that had been observed by the nursing team and particularly the mental health nurses,
35 if they recommended that a particular person be offered a walk, that would be our top priority. The second priority was usually families with small children, particularly if they were struggling in the hotel contention. And the third category was broadly heavy smokers who had just not been able to give up their habits. We did offer nicotine patches and so on but there was definitely a group of people who were
40 unable to stop smoking and they were often people who would struggle in the detention program.

So they were the first core priorities that we would try to offer walks to. If we were able to offer all those people a walk on a particular day, and if there was more space available, the AOs would generally work on the basis of starting on one floor and working through that floor until they ran out of time.

Q. Some of the logistic are covered at paragraph 116 of your statement, Mr Cleaves. Allowing for local variations as it were because of the reasons you have described, can I ask you: was this --- it appears that there was a role for not only authorised officers and nurses but then ultimately security too in the facilitation of the fresh air walks; is that right?

5 A. That's correct.

Q. What was the role or the expectation, as you understood it, of security guards
10 where detainees were going to be taken out of their rooms for the purposes of a fresh air break?

A. Perhaps just to try to explain the process, typically the process would start the day before the walk. Today we might be planning the walks for tomorrow. The nurses
15 would, as I mentioned, do their triaging assessment of the people they considered should be offered walks. That would be communicated to the AO in some form of list, usually paper, sometimes verbally. The AO would then start to map out a program, they would talk to the people in those rooms and start to identify a particular time slot, 10.00 to 10.30, for example, when they would be offered the
20 walk. That would be documented in some way. They would then talk to a security team leader/manager, whoever was on site and request that they assisted with the escorting of those detainees to the walking area and back to their rooms.

Q. Thank you. One of the issues that has arisen in some of the evidence given by
25 security guards was a concern about whether or not they might have been escorting people on walks who were awaiting the results of COVID testing or who had displayed any symptoms. You may have already covered this but was there a process of ensuring that that didn't occur or that if it did occur, security guards were told that the person being escorted might be COVID-positive or be symptomatic?

30 A. To the best of my recollection, if any --- part of the walking process would be some confirmation the person didn't have any symptoms, whether that was done by the nurses or the AOs. But it was just a basic process of just ensuring they didn't have symptoms. So, broadly, I would be surprised if that happened very often.
35 Obviously people can develop symptoms quickly. But I would be surprised if that happened. In terms of waiting for a result, again, would be --- it would be possible, once we went to the mass testing of offering people day 3 and day 11 testing, regardless of whether they had symptoms, it is definitely possible that someone would be offered a walk in the period waiting for their results, because we are talking multiple days in some cases and they still had priority need for walks.

40 Q. There were also other kinds of leave or exemptions that authorised officers could give and you deal with this at paragraphs 119 and following of your statement. There were, as I understand it, four reasons why someone might be eligible to be given an exemption or permission. Could you just summarise what they were?

A. The first one was medical treatment and the two categories broadly of that one,

one was medical emergencies, which obviously, just with the population of people, people did have medical crises in the hotel system. So that was one level of permission to enable them to be taken to a hospital.

- 5 The second one in relation to medical treatment was people who had prearranged medical appointments. The classic example was a tranche of people who came from New Zealand to attend particular types of cancer therapy at Peter Mac, so that is the medical treatment.
- 10 The third one was in relation to permissions to enable people to, to the extent necessary for their physical or mental health, typically that's what we would call the group that we would regard as needing supervised exercise breaks.
- 15 The fourth category was much broader and that was compassionate grounds. And that would extend generally, most commonly, to people who needed to visit, who wished to visit a relative who was near end of life or, sadly, to also attend funerals.

And then the last category was emergency situations, if for some reason there was an issue where the hotel needed to be evacuated, for example.

- 20 Q. Thinking about the compassionate grounds area, you have mentioned some examples of perhaps people visiting family members at their end of life or attending funerals. What supervision was there of people if they were given leave, did someone accompany them while they were out or were they left to go into community and then come back again alone?
- A. There were examples where we did provide a supervision. But they were relatively rare and generally they happened at the start of the hotel program, but there were some isolated examples throughout the program where an authorised officer did attend with the detainee to a particular setting. But predominantly the person was issued with the temporary leave permission, they were advised about the terms of that permission and they were advised about the penalties that would apply if they did not comply with the terms of the temporary leave permission. They were issued with PPE and given advice to wear it. And my recollection is in most cases they were not supervised and they were placed in transport and obviously taken to wherever they needed to be with their relatives or the funeral.

- 30 Q. The Board heard evidence a couple of weeks ago from someone working as a nurse in the program of an observation that they made that there was a particular person who was being given several hours every day on consecutive days for what the witness understood to be the purposes of visiting a relative but as far as they could see no check whether that was actually where the person went. Firstly, were there examples of people receiving multiple or more extended periods on leave on compassionate grounds, do you know?

- 35 A. Yes, there were.

Q. And to what extent, if any, did authorised officers conduct any, I guess auditing or follow-up on whether or not people had actually done the things that they had been granted leave to do?

- 5 A. I'm not aware of every case, but I know there were examples where people did check with funeral directors, for example. There was always a check, usually at the start of the process, just to make sure the person, the funeral director as an example, was happy for the person to come to the funeral. There were some circumstances where --- or the hospital, for example --- was not willing to grant the permission for
10 the person to enter the facility, so that was the first level check.

But broadly it --- there was not close supervision of the person when they left the hotel. So there was not a random audit of people's activities broadly that I could describe.

- 15 Q. You mentioned just moments ago PPE. You were asked a question about use of PPE yourself, which you answer at paragraphs 74 and following of your statement. The Board has heard evidence of the perception of a number of witnesses that they received changing directions or guidance about what levels of PPE should be used in
20 the hotel setting. Can I ask you, from your perspective, was that your experience too, that the guidelines changed and, if so, what's your understanding of why they were changing?

- 25 A. My recollection is the guidelines changed, but generally relatively subtly. From my experience, the experience on day 1 to the experience at the end of four and a half months was relatively similar; that is, when I walked into a hotel, there was a security guard there with a supply of masks, gloves, alcohol hand rub, and a very stern direction that you needed to put on the mask, in the very early days to put on gloves. That was a change over time, the gloves became much more optional. But
30 the hand hygiene became a stronger push.

- 35 The expectation, the guidance, was you would wear the masks through the hotel until you entered or were about to enter the so-called green zones, the green zone was the area defined within each hotel where there was certainly, perhaps not on day 1 but very quickly after, there was clear signage advising you you were about to enter a green zone, you needed to remove any PPE and you were not to wear PPE in that green room. At the doors to that green room would be a clinical waste bin, you would be expected to take off your --- any PPE you were wearing and discard it and then you were expected to perform hand hygiene before you entered the green
40 rooms.

- 45 The subtle changes I think happened in relation to people visiting the rooms or the hallways outside the rooms where the detainees were staying. But again, broadly, it didn't change dramatically; that is, you were expected to wear masks predominantly, there was --- I think there were some moments when that may have been less clear, but from my experience and certainly from AOs' perspective we would wear masks any time we were moving into an area where the detainees may have been.

The recommendation on whether you wore disposable gowns and gloves and goggles was a little bit variable but generally our assessment was we would wear it if there was a perception --- a possibility of a detainee, for example, not staying in their room, if we were dealing with --- if the reason we were going was to deal with a noncompliance or a threatened noncompliance, then that might be the trigger for us to adopt a more conservative use of PPE, gowns, goggles, gloves.

5 Q. One of the issues that has been the subject of some evidence, and I think you
10 mentioned there was some variation about the extent to which people used gloves,
was the experience of security guards being given directives as they understood them
by authorised officers about whether they should or shouldn't use gloves at the
particular time. Firstly, I guess I'll ask you: are you aware in general terms that that
evidence has been given that people understood themselves to be getting directives
15 from AOs about PPE use?

A. I heard that evidence that was given, yes.

Q. So was the PPE use by security guards a matter in respect of which AOs were
20 able to, as you saw it, give direction?

25 A. Not broadly. It's not something we would have encouraged, but I think it is worth
saying that the operation of the hotels ran in a relatively collegiate circumstance, you
know, design, that is each of the teams would often make requests of other people in
other teams, that was something that was a commonplace activity, so whether it was
the case of an AO offering advice, whether that was interpreted as a direction or a
request, I can't say. But it would not normally be an activity we would encourage of
the AOs.

30 Q. And why not? Given the discussion we have had earlier about the perception that
certainly other people seemed to have had that AOs were the ones relatively in
charge, why would it have been your preference that AOs not issue directives or
requests about matters like that?

35 A. Well, as I mentioned earlier, our operational mandate was about maintaining the
detention process, to administer the detention process in the best way we could. The
issue of PPE use was not something that, as you yourself asked, that many of our
staff had extensive backgrounds in. So they may well have expressed opinions based
on their experience at the hotels but our operational mandate was focused heavily on
40 the detention process.

45 Q. I think you deal with this issue and this philosophical approach, perhaps, which is
my phrase, at paragraphs 66 and 67, and I think you have touched on this already in
your evidence, the extent to which there were powers, on the one hand, and the
extent to which there was a wish to use them on the other hand. You referred to a
reminder given by your Commander. Can you just explain to us what the approach
was that you and your colleagues were being asked to follow?

A. Yes. Look, broadly, and I will explain the context, the context in the hotels, particularly in the early days, it was that everyone who was working there was trying to help with the running of the hotels in some way or another, there were so many 5 issues that people from all sorts of background and different roles were helping others to do tasks. Over time it became clear that we needed to settle into what was described as our lane, and one of our Commanders would regularly use that phrase of "stay in our lane", which we clearly understood to be focusing on the things for which we were accountable, which was the legal detention process, as I've mentioned 10 a number of times.

So activities that existed outside that, we were discouraged from undertaking and in some cases there were specific operational instructions issued, for example, not to search bags as an example.

15 Q. Thank you.

CHAIR: Just before you move off that, Ms Ellyard, can I just ask Mr Cleaves on this issue: Mr Cleaves, as I think Ms Ellyard has drawn your attention to, there has been 20 considerable evidence so far in the Inquiry from a range of the various representatives on site in the Hotel Quarantine Program, and by that I mean the hotel staff themselves, the managers of the hotels, the security guards, indeed representatives from the Department of Jobs, Precincts and Regions, that when asked the question as to who they thought was the authority on site or in charge on site, 25 they identified the authorised officer. Now, you seem to reject that or resile from that identification of your role. So can I ask you the same question: who did you assess was the person with the ultimate authority on site?

A. The answer to that has to be in relation to which activity that we are talking about. 30 My observation is the hotels, for the time that I was involved in the program, did not run as a classic pyramid organisational structure, you know, it wasn't as clear as there was one person who had ultimate authority for everything that happened inside that hotel. That's not my understanding or observations. So as I mentioned, the DHHS team leaders had a coordination function and performed that well but they did not 35 have operational control over authorised officers. Authorised officers did not have operational control over security teams. The --- the nursing teams obviously, you know, were under the control of the medical focus. But in saying that, all of the people in the hotels worked closely together. I can understand, there were requests made of everyone in the --- who worked in the hotel at various times to help a person 40 in another team to perform a task, so perhaps that's at the heart of people's misunderstandings about organisational structures and authority.

CHAIR: Can you appreciate that, that being so, that created a level of confusion and at times distress or misunderstandings that you and your officers were identified as 45 the people in charge or in control but that you, as you say, reject that notion but there's no structure that identifies in fact who was in control of an extremely complex operation on site?

- A. The one thing I would say is that I don't recall examples of where that happened and was escalated to me at a --- as a real life situation during my experience in the hotel program. There would be examples about, we need --- security teams wanting 5 to talk about a particular issue, exercise breaks was often one of the most common issues. But it wasn't in the context of, you know, clarity on authority, it was often: let's work together on how we can make this work better. So I can't recall, sort of, practical examples of where that was a problem.
- 10 But the issue of day-to-day coordination was dealt with via the DHHS team leaders and their general use of briefing meetings once or twice a day, where issues of concern could be raised and escalated, if necessary, via referral from the DHHS team leader to Op Soteria or if it related to the authorised officers, by the authorised officer referring, for example --- escalating it to someone like me.
- 15 CHAIR: Ms Ellyard.
- MS ELLYARD: Thank you, Madam Chair. Mr Cleaves, perhaps just following up that point, the Board received evidence from a nurse of her involvement in the 20 program and a particular instance that she described which perhaps was partly why she had the sense that authorised officers were in charge. You may have had your attention drawn to this evidence of a nurse who was assisting a detainee in a room who had a need for Chinese medicine treatment that needed to be prepared with boiling water but she didn't have a kettle and the authorised officer, as the nurse 25 understood it, wouldn't permit a kettle to go into the room because of concerns about tagging and testing of any electrical devices. That was a case when presumably the hotel had a kettle and the nurse's view was that there should be a kettle but the authorised officer in that instance was the one with the power to decide the matter. Firstly, are you aware of that issue?
- 30 A. Look, I was aware of that evidence being given. I don't have a recollection of the actual example in real life when it happened. But all I could say is that to some extent maybe this does reflect where our authorised officers were drawn from, some came to us with a background in certain disciplines, some came with a background 35 perhaps in safety, and so that may well have guided some of their advice that they gave. But again, I can accept the confusion, but all I could say is that they were not necessarily exercising their powers under the *Public Health and Wellbeing Act* at that point, they were exercising what they thought was good judgment.
- 40 Q. Thank you. Perhaps by way of a final couple of topics, Mr Cleaves, you have referred at various points in your evidence to issues of noncompliance or potential noncompliance as being matters that perhaps might have come to your attention in your role as a senior authorised officer or which were relevant to such matter as whether people would get an exemption. You have also reflected in your evidence 45 on the difficulties that you observed or assumed people might be experiencing while they were in hotel quarantine.

When you talk about noncompliance, what kind of cohort of people are we talking about? What are you including in that term "noncompliance"?

A. So broadly two categories: there were a very small group of people who were just
5 very unhappy at the whole concept of being in detention and they would threaten to leave the room or regularly open the room and talk to the security guards in terms of threatening to do something. That group often did not have any obvious mental health issues, they weren't assessed as having a mental health issue, but they were just, in plain language, difficult people. So that group was one. They were actually
10 quite a small group relatively, most people did not fit into that category.

The bigger category was the people who had exhibited to a layperson like myself some form of unusual behaviours which was often attributed by the mental health nurses to some underlying mental health condition. Some of those, some of that
15 category, particularly in the first perhaps month, maybe a little bit longer, were very extreme cases. They were the most extreme behavioural situations I've seen. They were of a scale where people may have thrown food in a corridor, you know, screamed loudly, threatened to do things, either to themselves or to someone else; and the process that we followed, obviously the nurses would lead in terms of their
20 skills and experience, but at times they would escalate it to the AO to say, this is above and beyond something they can deal with, the AOs would then often escalate that to me and we would have a three-way discussion about whether we needed to involve either the police or a specialist mental health crisis assessment team. In most cases it was the latter --- sorry, the former, the police were often the people who were
25 called and they would respond really quickly, and with substantial resources, and in a number of cases people were removed against their will and taken to a secure mental health facility at one of our major public hospitals for treatment as an involuntary patient for some period of time.

30 Q. Was there a need from your perspective --- and perhaps this is a question about the first cohort that you have described as, in layman's terms, "difficult" --- was there a role as you saw it for the police in managing the behaviour of that cohort of people, people who weren't unwell but who were perhaps being disruptive or creating difficulty?

35 A. My recollection is most of the people that I came into contact with that fitted into that category were often resolved by either the AO or myself going up to the hallway and giving the legal direction that I spoke about earlier, which you know, actually using the powers of actually saying, "I'm directing you to go back into your room and shut the door. If you persist then I'll have no alternative but to contact the police and ask they consider issuing you a fine." Most of those people would respond in that scenario. But in a small case, the police did help us with that category as well.

40 Q. Some of the evidence that the Board heard earlier on, again from one or other of the nurses who were involved in the program, was that there was a sense that they perceived that people who were making demands on the nurses or who were making demands on the authorised officers were perceived as difficult. There was some

evidence about a notice board or whiteboard where the names were on and the nurse had the perception that the authorised officers had formed a view that people were being difficult or unhelpful. My question is: what training or guidance was given to authorised officers about how --- the philosophical approach with which they should approach people who were being difficult, for whatever reason, given the extraordinary circumstances in which people had found themselves?

A. The first thing is my observations of our AOs were that they were and are, continue to be a very empathetic group of people. The group of people had good awareness of how difficult people's journeys had been back to Australia and the difficulties that they were experiencing being in detention. So I sort of dispute the idea that they were not empathetic to that. That said, every AO, as I said, came to us from different walks of life, different experiences and backgrounds, but certainly in that first few months they all came from backgrounds that gave them good experience in situations where they would come into contact with challenging situations. We had local laws officers from the City of Melbourne, for example, who were tremendously experienced in that. And they would use their skills to deal with that person. If that meant being quite assertive then they did but they would be basing that on conversations with the nurses. If the nurses gave any inclination that there was a medical reason behind the behaviours then obviously that would and should change the attitude of the authorised officer in dealing with the situation, because it was dealing with something that is perhaps much more complex than just a preference to not comply with the direction.

Q. Thank you, Mr Cleaves. The last question I want to ask you is --- perhaps you may feel you have answered it and you have given some reflections in your statement, including at the end --- about the reflections that you have when you look back on your work and the work of your colleagues in the program. Is there anything you would wish to say to the Board about how you think the program could or should work differently if it were to be re-enlivened or any other matter that you would wish her to take into account, perhaps, in assessing the perspective that you bring as a senior authorised officer to the work that was done by you and your colleagues?

A. Thank you. I think the major thing is the next time this happens, that we can reach up to a shelf and pull down the lever arch folder with some procedures that we tried for COVID-19. Those procedures have been developed, they are constantly being enhanced, with experience, and reflection, no doubt that will continue obviously as a result of the Inquiry. But --- so the first thing is the next iteration, the next response to a pandemic I think will be starting from a better position than we were for this one.

In terms of specifics, I heard some discussion yesterday around the idea that perhaps there should be --- it would have been better if there were more police on site, on a regular basis. No one would dispute that, everyone likes having the police around in terms of calming a situation down. But my own experience was that the police responded so quickly to extreme issues of noncompliance that having them on site

wouldn't have made much difference, they responded really quickly if we needed them to be there anyway.

5 I did make comment at some stage in the program that I thought the program would benefit from having people like hospital orderlies, if they were available, to perhaps assist with some of the movement of detainees to rooms and to assist with moving of bags and so on, because it is my understanding they tended to be better trained for that sort of task, it is something they might perform normally in the course of their normal duties.

10 But my reflection, I think, is that this is an extraordinarily difficult environment. If we had to do it again in hopefully 100 years' time, that it will still be an extraordinarily difficult environment but at least we would start from having some experience and some procedures that we could use as a starting point.

15 Q. Thank you, Mr Cleaves.
Madam Chair, those are my questions. I have had notice of a couple of potential applications which may or may not be pressed, given the evidence that Mr Cleaves
20 has given. I have had notice of an application on behalf of MSS Security and I might call on Ms Robertson if that is an application that she is still wishing to make.

CHAIR: Ms Robertson.

25 MS ROBERTSON: Madam Chair, there is still one area that has not been touched on by my learned friend which relates to cleaning. It seems that that arises out of some evidence that may be given later today. I just want to clarify with Mr Cleaves, first of all, who he understood had responsibility for that; and just to ask him a couple of very short questions about that.

30 CHAIR: Yes. I'll grant you that leave, Ms Robertson.

CROSS-EXAMINATION BY MS ROBERTSON

35 MS ROBERTSON: Mr Cleaves, you will perhaps be aware that later today there will be some evidence given in respect of responsibility for cleaning at the Hotel Quarantine Program. Are you aware of that?

40 A. Not specifically.

Q. All right. If I say to you that there is likely to be some evidence given, can I ask you this question: whose role was it in your understanding, which Department's role was it, to implement deep cleaning?

A. I actually have no knowledge of those things, I'm afraid. I don't have any

knowledge of the contractual arrangements or responsibilities.

Q. All right. And was it something that operationally you were aware of day to day, who was conducting that cleaning?

5

A. I could only offer the observations that I saw a range of people performing what would be called cleaning, you know, in terms of cleaning of a lift, buttons and inside of lift, I saw that done by hotel staff, I think at one hotel I did see it done by security guard in terms of after the movement of a detainee. But beyond that, I actually did

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not see a lot of the cleaning actually happening in a day-to-day sense.

Q. Do I take it from your answer that it wasn't an issue that really from the Department's perspective, the Department of Health and Human Services, was an issue that you were particularly concerned about?

15

A. I can't speak on behalf of the entire Department of Health and Human Services but as a senior AO it was not something that was specifically in the area of my responsibilities. If I saw something I thought was of concern then I would potentially talk to other colleagues about it. But I didn't see that.

20

Q. Do I take it from that that it wasn't an issue about which you gave instructions down the line, if I can call it that, in your chain of command down the line, to give the information, for instance, to security companies about?

25

A. Yes, certainly I can't recall giving any information, directions or requests in relation to cleaning specifically to security companies.

Q. You wouldn't have told them about what areas in the hotel were or were not being cleaned, would you?

30

A. No, I wouldn't have had any knowledge of it.

Q. So without that information being given to them, they would not have been aware of what areas were or were not being cleaned, would they?

35

A. I can't answer that question.

MS HARRIS QC: Madam Chair --- sorry.

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A. I can't answer that question because I can't speak on behalf of the other information they may have had available to them.

MS ROBERTSON: Madam Chair, I won't take the matter any further.

45

CHAIR: Thanks, Ms Robertson.

MS ELLYARD: Madam Chair, I have also had notice of an application on behalf of

Unified Security. I gather I may have covered some of the matters but there is at least one matter that I gather Mr Moses would wish to apply to ask questions about.

CHAIR: Yes, Mr Moses.

5

MR MOSES SC: Madam Chair, it relates to the briefing of contractors and staff at hotels by authorised officers.

10 CROSS-EXAMINATION BY MR MOSES SC

15 MR MOSES SC: Sir, can I ask you this question: were you aware that there was a proposal in March 2020 that authorised officers would twice daily brief staff and contractors on appropriate use of PPE and other safe working practices?

A. No, I wasn't.

Q. Madam Chair, could the witness be shown a document which is

20 DJP.102.002.0721. While the document is coming up on the screen, sir, I don't want to suggest to you that you were a recipient of this chain of emails but I want to point to you where this proposal is raised.

25 You will see in the second paragraph there seems to be a chain of emails which commence, if you want to satisfy yourself, on 31 March 2020 and ends on 31 March 2020. In the fourth paragraph this is a reference there that:

Authorised officers will twice daily brief staff and contractors on appropriate use of PPE and other safe working practices. This resolves a request that I have raised on past State control calls. I request that this commence tomorrow in time for staff supporting the first expected flight.

30 Just in relation to that issue, during your time as an authorised officer in the Hotel Quarantine Program, did you ever instruct or direct authorised officers to brief staff and contractors on appropriate use of PPE and other safe working practices?

35 A. The first comment is I actually can't read the document, but accepting the words that you have described.

40 Q. I will --

A. Thank you, that's great.

First, I can yes, I was unaware of that email. And no, I cannot recall instructing AOs 45 to brief security guards or anyone else on the appropriate use of PPE. It would be clearly outside of our operational mandate.

Q. Do you know who was briefing staff and contractors on the appropriate use of PPE and safe work practices from a Government Department? If you're not aware, say so.

5 A. I can't answer in a general sense. In a specific sense I can talk about my experience at a hotel where we would --- nurses would occasionally run short little impromptu sessions on how to take on --- how to put on or take off surgical masks and gloves and how to appropriately hand rub. But that's the only comment I can make on that.

10 Q. Would that occur, on your observation, not on a routine basis but, as you said, on an impromptu basis; correct?

A. That's my recollection and experience.

15 MR MOSES SC: Thank you. That document can be taken off the screen. Thank you, Madam Chair.

20 The second issue that I wanted to raise with this witness, Madam Chair, related to the question of authorised officers and the detention of the citizens using the *Public Health and Wellbeing Act* vis-a-vis the use of security guards. There was just a question that arose out of something that my learned friend asked. I just wanted to ask the witness a question about that issue.

25 CHAIR: Yes, Mr Moses. I will grant you that leave.

MR MOSES SC: Thank you, Madam Chair.

30 Sir, you have given evidence that authorised officers appointed under the *Public Health and Wellbeing Act* exercised powers in relation to managing people who were detained under the *Public Health and Wellbeing Act*; correct?

A. Yes.

35 Q. What use did you understand authorised officers were making of security guards in order to assist in dealing with that issue of managing people who were being detained under the *Public Health and Wellbeing Act*?

40 A. As I mentioned earlier, the AO's would routinely request assistance of security guards to assist with the escorting of people for supervised exercise breaks and assist with the elements of the arranging of that process. At times during the exits and arrivals, sometimes security guards would be asked to help out with particular tasks. But --- and if there was a particularly challenging situation in a particular room with behavioural issues then there may be some discussion between the AO or myself and security team leaders about what steps might be taken in the event of a person trying to leave the room, for example, calling the police instantly, as an example.

Q. Just arising out of the answer you have given, was it the role of authorised officers to supervise the security guards?

5 A. No. The --- I think I've mentioned previously that the AO's had a very clear role in relation to administering the legal aspects of the detention notice system that was in place in Victoria in the hotels. The AO's had no management or supervisory role in relation to anyone else in the hotel system.

10 Q. I'm not being critical of you, sir, at all, it's just that Madam Chair asked you a question in relation to the role of authorised officers and, if I may --- this is my understanding of your answer, and please reject it if you think it is inaccurate, but I just want to understand what you answered in response to Madam Chair. Is it your evidence that, sitting here today, during your time as the senior authorised officer involved in the Hotel Quarantine Program you do not know who had overall authority and management at a hotel in relation to the Hotel Quarantine Program? Is that your evidence?

15 A. If you're asking me about day-to-day operational control.

20 Q. Yes.

A. I think --- I've explained, I think, the DHHS team leaders had a coordination role. That did not follow a classic organisational pyramid where that person had 100 per cent control over all aspects of things that happened inside the hotel. In 25 terms of the organisational structure, it was definitely more complex than a classic pyramid. So, I --

Q. I think I --

30 A. Sorry.

Q. I think you have accepted the proposition, though, or you have said that the role of authorised officers was not to supervise the security guards; correct?

35 A. Absolutely, correct.

Q. Do you know who was meant to be supervising the security guards by way of Government officials?

40 A. Not precisely, no.

Q. Thank you. Do you accept this proposition, and I'll just put it directly if I can --- do you accept that there was what appeared to be the establishment in effect of, I think Counsel Assisting put it to you of silos, within the supervision structure at 45 hotels; correct?

A. I think I also described it essentially, for example, the AO's reported in a different

structural way than --- you know, they did not report, for example, to the DHHS team leader, they reported to senior AOs, as an example, yes.

5 Q. Can I ask you this question, then, in relation to the security guards, if I can. In your role as an authorised officer did you give any direction or instruction to authorised officers as to what their roles were in relation to interacting with security guards? That is, did you tell them it was not their job to supervise security guards or tell them what to do? I suppose that's --

10 A. No --

Q. I apologise. Please go ahead.

A. No, I can't recall making that specific direction to them.

15 Q. Okay. There's just two final questions. You mentioned in your evidence that you were told in effect, or reminded --- this is in paragraph 67 but you have repeated it in your evidence --- you were regularly reminded to stay in your lane, which you understood to mean that you were to focus on the direct management of the detention process at the hotels as well as any instances of noncompliance. Do you recall giving that evidence?

A. That's correct. I do.

25 Q. And in terms of staying --- I withdraw that --- "staying in our lane", did you ever see a document that indicated what the lane of authorised officers was, what the lane of the Department of Jobs was and what the lane of police was?

30 A. I have to break that down into more precise descriptions. In terms of the AOs, there was a document that's tendered in my witness statement, collectively known as the "AO Protocol", that described the broad ways that we would operate, that was supplemented with operational instructions, as I mentioned earlier, that sometimes provided more detail about specific situations. An example that was given in an operational instruction in one case was that we were not to search bags and that was quite specifically instructed, because that was something that was sometimes asked by security guards of us.

35 To the extent of did I see other structures --- I'm not sure of the word you used, is it "structures"?

40 Q. Let me put it this way: did you ever sight a document that set out what the roles and responsibilities were of authorised officers from the Department of Health and Human Services as opposed to what the role of officers of the Department of Jobs, Precincts and Regions was and Victoria Police were in relation to the Hotel Quarantine Program?

A. I believe I --- I was given a first version of an Operation Soteria plan that may

have answered those types of questions. I can't recall the detail of it. But I can't recall seeing another document, for example, that described all those aspects that you have described.

5 Q. Okay. One final question. Do you accept, sitting here today, that there was an element of confusion during the Hotel Quarantine Program as to which Government Department was taking the lead in respect of responsibility for the program?

A. Not totally. I can talk about --

10 Q. --- (overspeaking) --

A. Sorry?

15 Q. I interrupted you. I apologise. Please proceed.

A. I don't totally accept it. I understand that view, and there is some doubt, that clearly exists. But in terms of the running of the hotel as it related to the things that were in my responsibilities, I usually found it fairly clear about our scope of control, 20 our scope of work. And that scope of work was enough to keep me more than fully occupied, so I tended not to have a lot of time to turn my mind to other elements.

Q. That's your answer to the question?

25 A. Yes.

MR MOSES SC: Okay. Madam Chair, I did say that was my final question. There is one more question which arises out of the evidence of this witness.

30 Q. Do you think officials from the Department of Health and Human Services are best placed to manage the detention of individuals under the quarantine program or is that a skill set, do you think, that is better placed outside of the Department, with law enforcement such as police?

35 A. Based on my observations, I actually think the process of using authorised officers under our Act is still the preferred way to operate. The difficult scenarios that you have got with hotels is we are not dealing with prisons, you know, we are dealing with a quarantine system where the people coming in have not done --- have not committed crimes, have not done bad things to society. What we are dealing with is 40 an unusual situation of people who are at risk of contracting a disease and we are trying to run a quarantine system. The elements of the management of that, the legal process of that, I think can be done by authorised officers under the Department and I think by and large they have been done well.

45 MR MOSES SC: Thank you. I'll make some submissions about that evidence, Madam Chair, rather than taking it up further with the witness. That is his evidence and that will be dealt by us in our submissions, Madam Chair.

CHAIR: Thanks, Mr Moses. Ms Ellyard ---

MS ELLYARD: Madam Chair --

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CHAIR: I assume you were about to tell me about Ms Harris, Ms Ellyard?

MS ELLYARD: Yes.

10 MS HARRIS QC: My apology, Ms Ellyard.

Madam Chair, I wanted to ask one or two questions in response to some evidence given in response to some questions asked by Ms Ellyard and by yourself, Madam Chair, about the perception held by some people that AOs were in charge the site.

15

CHAIR: All right. Perhaps before you do that, Ms Harris, because I will allow you to have the last opportunity to ask questions --- there are just another couple of matters I will raise with Mr Cleaves and then come back to you in the event that something arises out of my questions or Mr Cleaves' answers for you.

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MS HARRIS QC: Thank you, Madam Chair.

CHAIR: Mr Cleaves, you have I think given answers now in response to various questions about the focus of the authorised officers being on compliance, a regulatory focus. You have also answered questions and given a description of your own personal experience, I think, being as one of the most intense experiences, if not the most intense experience, over your 35 years of work experience, your involvement in the Hotel Quarantine Program. In answer to some of those final questions, you described it as an extraordinarily difficult environment. Can I ask 25 you, do you extend that understanding or observation to the experience, an understanding of the experience of how that must have been also, at least for some of the people who were compelled into that 14 days of isolation in a hotel room upon their re-arrival into Australia?

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A. Yes, Madam Chair. I can base this on the fact I had conversations with detainees as they arrived, often, I would often be present for the large arrivals, and it was clear that particularly the early days, but again, I saw some towards the end of my time in the quarantine program that seemed to have similar experiences, where the flights that they had undertaken were horrendous, they were described as very long flights

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with long waiting periods, multiple flights in different directions to try to get a flight back to Australia. People often talk about being in extraordinarily difficult situations before they left the country in which they were living prior to coming back to Australia. I recall conversations with people who had been in India and described really difficult scenarios, that they had had to go through long periods of what we

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now call lockdowns before they were able to catch a flight. And then I had the distinct impression of seeing so many people arriving, and a particular one that sticks in my mind is the Crown Metropol, where I saw I think 450 people arrive from one

flight, very heavy percentage of families, very significant percentage of single parents or only one parent being there at the time with multiple children, children who were desperately keen to go to a toilet and we were trying to work out ways of trying to accommodate that in a quarantine situation in a hotel foyer. And coupled with that there were people who were just unwell, not necessarily with COVID but with the things that you often pick up from travel.

5 And I remember having conversations with my staff about, you almost could not imagine how difficult it was going to be for people going into a hotel quarantine arrangement, that --- and I think that drove a lot of the response from the Department and all the people who worked at the hotels, that --- I think you heard evidence yesterday about one of the teams from security I think going out to buy toys. I have strong recollections of seeing an amazing variety of goods that were purchased to try to help make this time in the hotel quarantine work for people with children and
10 others who were struggling. And then coupled with that, as I mentioned, there was a percentage of people who had underlying mental health problems that were no doubt exacerbated by the detention experience.
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20 CHAIR: Thanks, Mr Cleaves. Just one final matter before I invite Ms Harris to ask you questions.

25 Just to help me understand, I have understood from your statement and from the evidence that you have given this morning that there was a process of granting people temporary leave and you have set out thoroughly the basis upon which --- at least the headline criteria of guidance for authorised officers as to how that was done. But I'm not clear about whether or not there was a separate process for exemptions from going into the Hotel Quarantine Program and, if there was a separate process, who that process lay with, as in an identified agency or group of individuals?

30 A. Yes. So there was a process for --- the colloquial term was "exemption" but as I understood it, in a legal sense it was approval to continue the quarantine at an alternative location, which might be a home, a person's home. That wasn't a process I was directly involved with but I was definitely involved in aspects of it.

35 So there was a team, colloquially it was known early as the "COVID Quarantine Team" but eventually I think it changed its name at some point to an "Exemption Team" and that was located within the Department of Health and Human Services. People either in detention or people who were flying back to Australia were able to lodge applications to start that consideration process. And my involvement in that 40 process was that --- as I have detailed in my witness statement --- there would be times quite regularly where someone would draw to my attention the circumstances of a particular individual in detention, and either that there was a medical reason or other reasons why the nursing team, the AO, possibly the DHHS team leader, had formed a view that this person was possibly unsuited to hotel quarantine.

45 My role, when it was brought to my attention, was to escalate that to the COVID quarantine team, to firstly start the basic question of: had this person actually applied,

to make sure their application hadn't fallen through the cracks? Once we confirmed that, then I would try to make sure that that team had access to the best information I could help them with, to help make their recommendation to a decision maker. So that often involved, I'm thinking of one of the scenarios that I've described in the
5 witness statement, where we had discussions with a medical practitioner about a person's circumstances, there were other --- many discussions around trying to source documents to help their case for a so-called exemption. And that was put forward to the COVID quarantine team, who would assess the merits, or otherwise, against their criteria and then pass through a recommendation to a decision maker within the
10 Department.

CHAIR: So that was --- they weren't people on site in the Hotel Quarantine Program, if I understood that correctly. Yes.

15 A. Yes.

CHAIR: They were people back in head office.

A. That's absolutely correct.

20 CHAIR: And what particular --- inside the structures existing at the time, do you know where that structure existed?

25 A. My recollection is that it was broadly in the overall compliance team, broadly. But it wasn't actually an issue that I really followed closely, but broadly it was in the compliance team that I was part of, a large team.

30 CHAIR: Thank you. Sorry, just one final thing on that. When you say that people were applying for exemptions, do you understand how people who were arriving back in Australia, either prior to the commencement of their journey, or upon their arrival, understood that they had the capacity to make such an application?

35 A. My understanding --- and I don't know when it first appeared, but at some stage I believe there was information on our Department of Health and Human Services website, the COVID sub-site, that talked about that process of quarantine and that there was a process to apply for a --- again, colloquial term --- "exemption". At some point I know that transitioned to a web-based form but I don't know the precise details of when those things changed or appeared on the website.

40 CHAIR: Or how people's attention was drawn to the fact that there was material on the website?

45 A. I can only --- again, I can talk about from the hotel experience. Certainly the nurses in the hotel, the AOs, the team leaders, myself, if we felt that a person, you know, had made representations to us to say that they really thought they were not suited to the hotel quarantine arrangement, we would always make sure they understood that there was a process available, send them through a link, it was an

email link, I think, initially or a link to the web-based form, so people who came to our attention, we would make sure they knew there was a process of consideration about an exemption.

5 CHAIR: But that sounds like that was a reactive process rather than a proactive process of letting people know that they had that capacity to make that application. Is that a fair summary?

10 A. It is a fair summary of my knowledge. There may have been other communication efforts that I was unaware of.

CHAIR: Thank you, Mr Cleaves. Now, Ms Harris.

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

MS HARRIS QC: Thank you, Madam Chair.

20 Mr Cleaves, the question I had was in relation to the evidence that Madam Chair referred to of some witnesses having an understanding that AOs were in charge of the hotel quarantine site. Did you ever tell any other people participating in the hotel quarantine sites, for example, security guards or nurses or representatives from Global Victoria or other DJPR representatives, for example --- did you ever tell any 25 of those participants, "AOs are in charge of this site"?

A. Certainly not.

Q. And did you suggest to or direct any of your authorised officers who were 30 reporting up the chain to you that they should tell any other person on the ground that the AO was in charge of the site?

A. Again, certainly not. It was not something we would direct them to do.

35 MS HARRIS QC: Thank you, Madam Chair, those are my questions.

CHAIR: Thanks, Ms Harris.

40 MS ELLYARD: Nothing more from me with this witness, Madam Chair. I will invite you to excuse him with our thanks.

There is a second document that I have given notice that I'm going to tender, it being a statement of one of his colleagues, but perhaps he can be formally excused first.

45 CHAIR: Yes, thanks, Mr Cleaves, thank you for your attendance. You are now formally excused. You're able to turn your microphone and camera off now.

THE WITNESS WITHDREW

- 5 MS ELLYARD: Madam Chair, notice was given to the leave to appear parties that I propose to tender the statement of a second authorised officer, consistent with current Practice Direction, their name is not on the statement but their name is known to the interested parties. The statement has document number
10 DHS.9999.0005.0001_R. It is the statement of a senior authorised officer whose name has been redacted and I tender that statement.

CHAIR: Thank you. I will mark the document as Exhibit 77.

- 15 **EXHIBIT #077 - STATEMENT OF UNNAMED SENIOR AUTHORISED OFFICER, MARKED DHS.9999.0005.0001_R**

- 20 MS ELLYARD: Thank you, Madam Chair. May I invite the Board to take a morning break before we resume with the evidence of the next witness?

CHAIR: Thank you, yes, I will take a 15-minute mid-morning break now.

MS ELLYARD: If the Board pleases.

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ADJOURNED

[12.03 PM]

- 30 **RESUMED** [12.15 PM]

CHAIR: Yes, Ms Ellyard.

- 35 MS ELLYARD: Thank you, Madam Chair. Madam Chair, before we started this morning, I was remiss in not acknowledging there is a new appearance to be made on behalf of Victoria Police. With my apologies, may I call on counsel to make that appearance now.

- 40 MR STAR QC: If the Board pleases, my name is Mr Star and I appear for the Chief Constable of Police.

CHAIR: I'm assuming --- do you mean the Chief Commissioner of Police or do you mean --

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MR STAR QC: Yes, my apologies to the Board, yes, the Board is correct, the Chief Commissioner of Police, of Victoria Police.

CHAIR: Thank you, Mr Star.

5 MS ELLYARD: Madam Chair, the next witness is Commander Tim Tully of Victoria Police. He appears. I formally call him so that he can be taken by your associate through the ordinary processes.

10 CHAIR: Thank you. Commander Tully, I'm sure it's been explained to you that you need to take the oath for the purpose of giving your evidence. So for that purpose I will hand you over to my associate.

COMMANDER TULLY: Thank you, Madam Chair.

15 **TIMOTHY AUSTIN TULLY, SWORN**

CHAIR: Thank, Commander Tully, I'll hand you back to Ms Ellyard now.

20 MS ELLYARD: Thank you, Madam Chair.

EXAMINATION BY MS ELLYARD

25 MS ELLYARD: Sir, could you tell the Board, please, your full name, your present rank and your present station within Victoria Police.

30 A. My full name is Timothy Austin Tully. I'm currently a Commander in Victoria Police. I'm currently performing a role within North West Metro Region and I'm responsible for Commander North.

Q. You have prepared a statement in response to a request made of you by the Board?

35 A. I have.

Q. Have you got a copy of that statement in front of you? It's dated 30 August 2020.

40 A. Yes, I do.

Q. Are the contents of that statement true and correct?

A. Yes, they are.

45 MS ELLYARD: I know there's a matter of clarification, but subject to the clarification that we will come to, it is true and correct, so I tender that statement,

Madam Chair.

CHAIR: Exhibit 78.

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EXHIBIT #078 - STATEMENT OF TIMOTHY AUSTIN TULLY

10 MS ELLYARD: Commander Tully, you refer in your statement to a number of documents by reference to numbers, am I right in understanding that you would wish those documents to be included and understood as part of the evidence you are giving to the Board today?

A. That is correct.

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MS ELLYARD: Madam Chair, I tender that bundle of documents, being the bundle referred to in the produced for tendering file B folder under this witness' name, noting as I did in respect of the earlier witness that there may be some delays while appropriate redactions are applied before those can be made available more broadly.

20

CHAIR: Thank you. Exhibit 79 for that bundle of documents.

EXHIBIT #079 - ANNEXURES TO STATEMENT OF TIMOTHY AUSTIN TULLY

MS ELLYARD: Thank you.

30 Commander Tully, you have already said that you hold the position of Commander in North West Metro Region. More specifically relating to matters relevant to the Board's Inquiry, are we right in understanding that you were the person tasked with a degree of operational control for the work done by Victoria Police as part of Operation Soteria in the Hotel Quarantine Program?

35

A. That is correct, on 28 March and also 29 March I was responsible as the Police Commander Strategic for Operation Soteria, which is the Victoria Police component of that operation.

40 Q. Thinking a little bit more about what the Victoria Police component was, may I take you to paragraph 6.2 of your statement, where as I understand it, you received your initial understanding of what the role of Victoria Police in Operation Soteria was going to be. As I understand from your evidence, you received an email from a person who had been present, although you were not, at a meeting in the State
45 Control Centre on 27 March; is that right?

A. That's correct.

Q. As I understand it, you were informed, based on the information in that statement, that Victoria Police was going to have an enforcement role in the program?

5 A. That was my understanding at the time, yes.

Q. And perhaps by reference to what's in that email, what did you understand to be the enforcement role that Victoria Police were going to play?

10 A. Well, in terms of the enforcement role, I took that and understood that at that point in time as actually enforcing any of the matters detailed within the Chief Health Officer's detention order, the public health order. So in terms of actually enforcing quarantine, that's what I took it to be at that point in time.

15 Q. So there's some dot points that you have extracted from the email that you received, at the bottom of paragraph 6.2. Are those elements of what you understood the response --- the responsibility of Victoria Police was going to be?

20 A. Some of those dots point actually refer to other agencies and other components of the operation but they --- basically --- that was the basic contents of that email, yes.

Q. The proposed enforcement role was going to be, firstly, maintaining a presence during transfer period for passengers coming and going from hotels?

25 A. Absolutely. So we were responsible for maintaining a presence during the transition of passengers from the airport into the accommodation facilities. We were tasked with the ongoing support of private security through patrolling of the hotels and also responding to requests for police assistance and providing support when necessary.

30 Q. As at the time you received this email and then, as you say in paragraph 7.1, when you were tasked the next morning, on the 28th, when the responsibility for generating Victoria Police's operational plan, did you have yourself a clear understanding of the nature of the powers that were going to be exercised to keep people in quarantine and to whom those powers belonged?

40 A. Not at that stage. My understanding is there was no detention order at that point in time. It was probably unclear to me at that point as to what Act that detention order or power would come from, so there was nothing in that email that alluded to what that power would be.

Q. Did you subsequently come to understand that a decision had been made about what the power would be?

45 A. There was discussion the following day, on 28 March, at the two State Control Centre meetings that I attended. It was quite clear that that power would be under the *Public Health and Wellbeing Act*. I recall that --- I don't think, prior to the end of

my shift that night, that the actual detention order itself had been finalised, I think there was still a legal process that was being worked through.

5 Q. Certainly during the work you were doing on the 28th, it became clear that there was going to be a regime established under the *Public Health and Wellbeing Act* pursuant to which people would be detained?

A. Absolutely. There was no doubt that there would be some form of detention order with respect to people returning from overseas.

10

Q. And what did you understand were the powers available to Victoria Police under that Act, if any, to enforce such Detention Notices?

15

A. With respect to the *Public Health and Wellbeing Act*, my understanding is that the powers are actually conferred on the authorised officers from DHHS. The other part of my understanding is that certainly the authorised officers had the ability to request assistance from the Chief Commissioner of Police to assist in enforcing that Act. So, yes, at that stage, Victoria Police --- my understanding is that they did have powers with respect to the detention order.

20

Q. May I direct your attention to where you answer question 8 in paragraphs 8.1 and following, where you detail how you became aware of what the Victoria Police role was. You have referred to your attendance at meetings in the State Control Centre and you have extracted the notes that you made for yourself as the first of those 25 meetings at paragraph 8.3. Can I direct your attention to the bottom couple of lines there:

VicPol not performing security at Quarantine locations - to assist with transition

30

Private security to take over at locations

I take it those were matter discussed at that meeting?

35

A. They were highlighted at that meeting, yes. There was no discussion as to decisions regarding the use of private security. That had already been, I suppose, confirmed that private security would be utilised at those locations.

40

Q. Is the Board right in understanding that by the time you became involved and tasked with any role, the decision about the respective roles of private security and police had been made? You were told what it was, but you weren't party to that decision-making process?

A. Absolutely.

45

Q. Thank you. Were you involved or did anyone working with you attend at what's been described variously as a walk-through at the Crown hotels where the first detainees were to be received on the afternoon of 28 March?

A. Members of my team did attend down at the Crown Casino hotels on that day. They were there undertaking a reconnaissance of that location in terms of, I suppose the ingress and egress points into those facilities. I think they had a presence there in preparation for an exercise in terms of going through the whole process from airport to the accommodation facility. Unfortunately, that exercise was cancelled prior to the buses actually arriving at the hotel. So the exercise component did occur out at the airport but was cancelled. So yes, my members were there.

5 10 Q. Through a variety of processes and sources of information, as I understand it, you set out at paragraph 9.1 and following of your statement the roles that were ultimately assigned to Victoria Police and the operational plan that came to be prepared at your request.

15 A. That is correct.

20 Q. And, as I understand it, the particular role of Victoria Police was in two of the four stages which the Operation Soteria plan envisaged; that is, during transport from the airport to the place of quarantine; and then when passengers were being received at the places of quarantine. Is that right?

A. That is correct.

25 Q. In respect of what you have referred to, I think, as egress --- into and out of the hotels, we have heard evidence from some security guards of the role of police there and the creation of, I think a ring of steel was the word that was used; what was the particular role Victoria Police were playing at hotels when guests were arriving?

30 A. Simply from the very outset, when guests were arriving, Victoria Police provided a cordon, if you will, to facilitate the safe transition of passengers from the bus into the accommodation facilities. That also allowed the various agencies the ability to move within that cordon freely and it also kept members of the public, the media and probably family members away from people transitioning from the bus into the accommodation facility. It actually also was inclusive of, quite clearly, traffic management at those various locations.

35 Q. Does that mean that police would cordon off what might have otherwise been public roads or public areas for the purposes of ensuring that there wouldn't be anyone entering the zone where quarantine guests were arriving?

40 A. That is correct.

45 Q. Perhaps it's an obvious question but why was this a job for police rather than, for example, private security? Is there a difference in the nature of the powers that could be exercised in that respect between police and private security agents?

A. Certainly with respect of keeping members of the public away from that location

and also managing traffic, yes, there are powers there for police, it's a role that police do regularly, and that was my understanding of what our role was to be as part of this operation.

- 5 Q. You then refer at subparagraph (5) of paragraph 9.3 to the establishment of a policing presence at what you have called the accommodation precinct. Can you explain to the Board what you mean by "policing presence" and what that was going to involve, as you understood it?
- 10 A. In terms of a policing presence at the precinct, that was to manage, I suppose, security during the ingress and subsequently egress of persons from that quarantine facility. As I mentioned, there was potential for members of the public, family members and media to be present at that location, so it was critical to maintain some form of public order in a safe and secure environment for people to actually perform their role as persons were transitioned from the transport, the buses, into the accommodation facilities. There was certainly ongoing support for the private security that was actually performing duties within the accommodation facility. And the other component to our presence was to respond to any potential breaches of the detention order by any of the passengers.
- 15
- 20 Q. When you use the words "policing presence", do I understand that that partly relates to the literal presence of police at locations and partly to the availability of resources to attend as required; is that fair?
- 25 A. Yes, that is fair. In terms of any operations that were being undertaken whereby people were ingressing or egressing from a quarantine facility, Victoria Police certainly had a presence during those times. When those operations were not occurring, Victoria Police, outside of responding to any requests for assistance, had the ability to respond, if required, as part of this operation.
- 30
- 35 Q. The Board has heard some evidence of an expectation and in some cases a preference that some of the representatives of other departments involved in establishing Operation Soteria had, for a 24/7 police presence at hotels. Were you aware, back in late March and perhaps early April, that there was a view being expressed in some quarters that it was desirable or appropriate to have police at hotels 24/7?
- 40 A. It has never been raised with me and I'm not aware of any request for a 24/7 policing presence at any of the hotel facilities as part of this program.
- 45 Q. Had such a request --- firstly, I will take it in stages. Given the role that you were performing as the Commander with responsibility for Operation Soteria, if a formal request had been made to Victoria Police for that level of support, would you anticipate having become aware of it?
- 45 A. As the Police Commander Strategic for this operation, absolutely I would be aware of it.

Q. Had any such request been made, Commander, what --- it's a hypothetical, I understand --- what matters would have been relevant to how that request was responded to and whether or not it was granted?

5

A. Well, I think on the basis of the request, what the defined need was for a 24/7 policing response from, hypothetically, the agency making the request, it then becomes a question of, I suppose, a risk assessment, based on that particular request, the need, the identified need for police to actually perform the role that was being requested and certainly the availability of policing resources to fulfil that hypothetical request.

10 Q. Thinking about the resources that were involved, you refer to at paragraphs 11 and following of your statement the resources that were applied to Operation Soteria, and as I understand your evidence, there were police officers at every shift within the North West Metro Region who were task to Operation Soteria to perform duties in accordance with Victoria Police's operational responsibilities.

15

A. Sorry, I actually don't understand the question. Sorry.

20

Q. As I understand, you talked about operational resources available. You set out at paragraph 11 the resources that were in fact directed by Victoria Police to Operation Soteria, which include, as I understand it, at paragraph 11.5, once things were refined, a certain number of resources made available every shift from your region?

25

A. That is correct.

30

Q. As I understand your evidence, the key role that those people in each shift would have been performing would have been attending at hotels where buses were arriving or people were leaving; is that right?

35

A. Yes, primarily the ingress and egress of passengers as part of this program, so when they were arriving at the hotel, certainly responding to any requests for assistance, certainly responding to any enforcement actions required for potential breaches of the Chief Health Officer's direction under the detention order; and also to undertake, I suppose, occasional patrols at each of those locations across the CBD.

40

Q. One of the security operator witnesses yesterday gave evidence of his experience of police sometimes attending hotels, particularly on night shift, to do what he described as a welfare check of the security guards. Is that something that you're familiar with as having occurred from time to time?

45

A. Certainly there was an expectation that when not undertaking those other duties that I've outlined, in those occasional patrols, to actually do vehicle-based patrols around those locations. It is quite possible that members actually took the opportunity to speak with security guards, I wouldn't have expected that they entered the hotels themselves, but it is possible that that has occurred. Certainly the only

times that I'm aware that police members would have been entered those hotels, those quarantine hotels, to any level of accommodation, was in response to an actual incident itself. So it certainly is possible that police members did engage with private security as part of those patrols, yes.

5

Q. You mentioned that you would only expect that police would go inside the hotel if there was a specific request for police attendance. How frequent was it, as you understand it, that police were requested, perhaps by way of 000, to attend at one or other of the hotel locations?

10

A. So my understanding is that for the entire duration of this quarantine program, so from 29 March through until 14 July, which is, I think, 109 days in totality, that there was a request for police assistance on 131 occasions, and that is across the entire program. Certainly there are --- there is a varying level of degree of requests for 15 police assistance out of that 131 and certainly there are occasions that police have attended in the vicinity of the hotel, not necessarily with respect to issues inside the hotel, and most certainly there are occasions where there have been repeat attendances for specific people within the Hotel Quarantine Program. But in totality, 131 incidents.

20

Q. And the most serious or significant of those incidents you have extracted in an annexure to your witness statement.

25

A. I have. I --- you know, I think the one thing that's actually not in there, from memory, is a significant incident and matter that I've been advised not to speak to. I think it's a matter before the Coroner's Court at the moment.

30

Q. Thank you. It would suggest from that annexure, Commander, that there weren't -- although every incident of course is serious and significant, there were not a large number of cases so far as you are aware where Victoria Police were called upon to attend to significant matters that were beyond the scope of the hotel or the security companies to manage?

35

A. Out of those 131 incidents there were five that I would class as priority 1 that required urgent police attendance. Of those five, two actually relate to the same incident, the calls were a very short time apart. So there wasn't a great --- actually, there was a very low number of significant incidents of those 131.

40

Q. Perhaps in that context, may I ask you about this: the Board has heard some evidence of the differing arrangements that are in place in hotel quarantine in New South Wales, where we understand legislative arrangements are different but where those arrangements do mean that there is a police presence at all times at hotel locations. I would be grateful if you could give the Board any opinion you have on the value that you see might have been added had there been police presence 45 permanently at each location, as it appears some of the architects of the system thought there should be?

A. So in terms of having a dedicated 24/7 police presence, I think I would --- look, undoubtedly there would have been a quicker response time to any need or any request for police assistance at those locations. I mean, it goes without saying that in any operational environment the more resources that we have, they are certainly going to make a difference. It probably becomes a question of the efficient use of police resources in this circumstance.

So in terms of the Hotel Quarantine Program, I would suggest that Victoria Police had an enhanced model with respect to their response capability, certainly as I've indicated, we had dedicated resources performing duties across a 24/7 period that were in a position to respond to any incidents, and certainly within that model we had the ability to significantly upscale and provide additional resources and there are a number of examples with respect to that, where specialist resources have been provided and also additional general duties resources have been provided.

In terms of, I suppose, whether it would have made a difference in the circumstances as I've outlined, yes, additional resources would have. I suppose my view would be that having a 24/7 presence --- sorry, police presence, at those locations ultimately means that that requires clearly a number of resources that come from the frontline policing responsibilities of Victoria Police. My view at the time was certainly that it was not required, it would have been an inefficient use of resources.

Certainly if we did it for one hotel then that would have to be replicated across the entire program. And certainly with the inception of this program, it was unclear as to what scale this may actually end up, whether it was going to be one, two, or three hotels, it could have been 20 hotels, it was unknown to us at that stage. Certainly what was put in place at one hotel would have to have been replicated, and this was at a time when police were required not only to undertake their normal role in protecting the community but in unprecedented circumstances with the pandemic and a number of operations that were inessentially, or essentially, competing demands for very finite police resources.

So I would accept that in any operation certainly more resources would make a difference, it really becomes a question of a risk assessment and a question of the efficient use of police resources. I suppose most certainly across the duration of the program, I certainly wasn't seeing any significant incident or increased risk with respect to security that required a policing presence that would suggest that we needed to have a 24/7 policing presence.

Q. Had you seen information suggesting to you that a more heightened presence was required, what process would have been available to you to seek to provide that increased presence?

A. I think I would have gone back and looked at --- firstly, undertaken a risk assessment as to what the need for policing resources were, certainly I would have gone back and looked at the available police resources and the need for those resources to be at that location. Certainly I would have looked at whether any role

could have been undertaken by another agency, or even private security, and certainly we did become aware of an incident, I think on about 14 April, where it was brought to our attention that perhaps persons in quarantine were out exercising under the supervision of security, we escalated that because we had no knowledge of that process at that stage. So I think it is fair to say we took appropriate steps when we became aware of matters and considered those dutifully.

Q. Can I take you to that question that you have just raised, Commander, about information coming to the attention of police about fresh air walks. I think the matters that you are referring to are referred to at paragraphs 14.9 and following of your statement. I am conscious that in some respects you are relying on material that was made available to you by those within your command. But what was the issue, as you understood it, that arose that gave police some degree of concern about detainees being outside of the hotel?

A. Certainly we weren't aware of that occurring. And I must say, under this program itself, this quarantine program, there are clearly a number of elements and clearly one is the ability for persons within quarantine to get fresh air and the mental health issues that could arise from being detained for 14 days straight within a hotel room itself. So we became aware, I had a conversation with the Police Forward Commander, and certainly he had become aware of some of our members highlighting that it was perceived that persons in quarantine were outside taking exercise breaks. At the same time, I received emails from a former employee of Victoria Police with photos attached of persons purporting or appearing to be or perceived to be out of quarantine. That was certainly escalated on my behalf because we had no vision at that stage of persons being allowed out of the actual quarantine facility itself. Certainly I would accept that each of the hotels themselves had different infrastructure and some of those mental health issues or exercise breaks that I referred to could be accommodated through due process within the facility itself, but it was --- it is, again, not something that I had vision of at the time.

Q. So had it been --- I take it then, whether through attendance at regular Operation Soteria meetings or otherwise, there had not been any formal notification to Victoria Police, as far as you are aware, that there was going to be a program of supervised breaks outside for those in quarantine?

A. Certainly there was a consideration for mental health breaks and exercise breaks. I wasn't aware that that was going to take place outside of the facility. Again, I appreciate that every facility was actually different in terms of the infrastructure that it actually provided. So on becoming aware of it, I actually raised it at the State Control Centre meeting on 14 April.

Q. Okay. And did you receive a satisfactory resolution of the concerns that you and your colleagues had?

A. What that actually led to in raising it and some discussion beforehand was engagement through the State Police Liaison Officer and also the Emergency

Response Coordinator with DHHS to obtain the details of the various security company representatives and essentially pull together a security forum to raise and address that particular issue. At that particular forum, amongst other things, it led to Victoria Police being provided with a spreadsheet that provided further details about each location and what mental health breaks or exercise opportunities were in place at those locations.

5 Q. You refer to that meeting at paragraphs 14.13 and following of your statement, Commander, and there is a reference to an email that you sent where you refer to
10 wanting to get line of sight of the arrangements. I take it that is the arrangements for fresh air or mental health breaks?

15 A. Absolutely. Like, as I've indicated, there's undoubtedly different infrastructure at different facilities. The opportunity for people to have --- to grab some fresh air or, you know, be provided the opportunity for exercise or perhaps even to have a cigarette is different in each of the facilities. There are certainly areas within some of those locations where that can be effectively managed with due process within the infrastructure itself but there are certainly some facilities that did not have that infrastructure.

20 Q. Was the concern that in fact some hotels, for example, could let people exercise in the rooftop gardens but other hotels had no such locations so people were outside, closely adjacent to where members of the public might be?

25 A. That is correct. And the line of sight I sought to achieve was actually understanding what those processes were. I thought it was important clearly for our own members that were actually undertaking patrols or actually at those locations during any ingress or egress, that they were aware what was occurring. And certainly from the perception from the public and the community, there needed to be
30 clear understanding of what was occurring at those locations. And at that stage, up until highlighting it on 14 April, I had no line of sight and I don't think Victoria Police had a line of sight.

35 Q. I take it from the decision to convene what I think has been called a security forum with security companies, Victoria Police had an understanding that security companies were playing a role in supervising or facilitating fresh air walks, where they were occurring near or adjacent to public areas?

40 A. Yes, certainly it was my understanding that security would or should be playing a role with respect to that. Quite clearly my understanding is that the actual detention order itself, the administration of the requirements in that order, is something that is administered by the authorised officer. So any support required by the authorised officer to facilitate that type of activity, I would expect that that would be performed by private security at those locations.

45 Q. And so was one purpose of the security forum to ensure or to try to achieve some sense of the way in which private security would be being invited to or required to

manage those arrangements?

- A. I think I was just trying to get an understanding of what was actually occurring. Quite clearly those processes were already in place, decisions had been made in that space. I had no line of sight as to what arrangements were in place, I was not part of that decision-making at all. So yes, the intent --- the initial purpose of suggesting that security forum was to absolutely gain line of sight as to what arrangements were in place at each facility.
- 10 Q. You refer at the end of paragraph 14.16 about the potential for a misapprehension that there would be police standing around at all times just in case. Was that something that you were concerned about because you thought people had that view or was it more for the avoidance of doubt you wanted to reinforce the nature of the role that Victoria Police had?
- 15 A. I think to clarify any doubt, quite clearly in any egress or potentially --- sorry, any ingress or egress operation, depending on the amount of time that it took to process people, most certainly on the ingress phase, the length of time that it took to process people, Victoria Police would perform those duties as I've previously outlined and
- 20 they would be standing there managing effectively outer cordons, if you will, for any change of shift across any of the agencies or any private security, there could very well be that perception that Victoria Police were there at all times when in fact that was not the case.
- 25 Q. Given that the role of Victoria Police at ingress and egress periods was a role which involved exercising powers that people had as police officers, to deal with traffic and to keep people away from public areas, was there ever any suggestion made to you that perhaps police could have a role in effectively cordon off what would otherwise be public areas so that fresh air walks could take place without the
- 30 potential for contact with members of the public?
- A. If I understand the question correctly, you're asking whether it was ever suggested that Victoria Police would actively undertake a supervision and security role for people participating in exercise breaks? Is that what I'm understanding?
- 35 Q. Yes. You have indicated that you had the role of creating effectively a sterile area or a secure perimeter in some circumstances where quarantine guests were coming in and out of the hotel. Was it ever suggested to you that Victoria Police could perform the same role of creating a cordoned area to facilitate fresh air breaks?
- 40 A. No, it wasn't.
- Q. And do you have a view about whether or not that would have been something that would have been --- was able to be done by Victoria Police or appropriate to be done, had a request been made of you?
- A. I think it would have been able to be done by Victoria Police. Certainly my

preference would have been for private security to undertake that role. It is probably something that could be managed by private security with proper processes being set up and in fact was actually being managed up until --- well, for the duration of the program by private security. Again, anything of that nature, if the request had have come through, it would have been subject to a risk assessment.

5 Q. Thank you, Commander Tully.

Madam Chair, those are the questions that I have for Commander Tully. Again,
10 I have had notice of a couple of potential applications for cross-examination and I'm conscious that Mr Star himself may have some questions. But may I call first on Mr Moses, who I see on screen, to make his application.

15 MR STAR QC: Sorry to interrupt. It is Mr Star here. I just was aware that Counsel Assisting said that there would be a clarification to the statement. I just wanted to have that addressed, just so it's a relevant spot for all parties.

MS ELLYARD: Yes. Thank you, I'm grateful. Madam Chair, I did say that I would take Mr Tully to that matter.

20 Mr Tully, at paragraphs 13.1 and following of your statement you give a table outlining the people who were in attendance on behalf of Victoria Police at a range of meetings held in respect of Operation Soteria. As I understand it, there are a couple of names that you, on reflection, would have wished to include in that table.
25 Firstly, on the first date of 27 March.

A. On 27 March, whilst I wasn't at that meeting, I'm aware of correspondence that indicates that [Redacted] and [Redacted] were present at that meeting, in conjunction with Michael Grainger and [Redacted]. In relation to the meeting dated 28 March
30 2020 (1), in addition to the persons that are nominated there in the table, I'm aware that [Redacted] from Victoria Police was present at that meeting and, in fact, there were a number of other Victoria Police employees at that particular meeting.

35 Q. Thank you. I think the other matter by way of clarification was paragraph 9.3(7), you refer to the ongoing role that Victoria Police would have to provide an emergency response. As I understand it, the point of clarification is that the particular document that you refer to in that paragraph doesn't say that but it was always the position that Victoria Police would provide that emergency response and that was specifically included in later iterations of the plan. Is that fair?

40 A. That is correct.

MS ELLYARD: Thank you, Commander Tully. Those matters of clarification having been made, Madam Chair, I will call on Mr Moses and then after that
45 Ms Condon.

CHAIR: Mr Moses.

MR MOSES SC: Madam Chair, just in relation to the first issue I was going to raise with the Commander relating to his reference to a risk assessment having been undertaken at some point early in the process, I wanted to first ask some questions about matters of risk assessment in the Victoria Police's role in supporting security services in respect of the operation. That's the first issue.

CHAIR: Yes, I'll grant you leave on that issue, Mr Moses.

10 MR MOSES SC: Thank you, Madam Chair.

CROSS-EXAMINATION BY MR MOSES SC

15 MR MOSES SC: Commander, you made reference to a decision that you played no part in, I think, and that was that Victoria Police were to provide the role of supporting private security in relation to the Hotel Quarantine Program; is that correct?

20 A. That is correct.

Q. In relation to that decision, Commander, did you have access to any document that set out or explained why that decision had been taken?

25 MS ELLYARD: Madam Chair, I object to the question, if only because, and I'm conscious Mr Moses is not necessarily in a position to know this, there will be witnesses able to speak more directly to those considerations coming to later hearings.

30 MR MOSES SC: I thank my learned friend for that. I will move to the next question.

35 Were you told by any officer that you reported to as to why that decision had been taken?

A. No, I was not.

Q. Okay. And in relation to a risk assessment as the Commander of the operation, 40 was any risk assessment undertaken by Victoria Police as to work health and safety issues that may impact upon police officers providing a supporting role to security services at the hotels?

A. Most certainly safety issues were looked at in response to the Victoria Police 45 operation, so certainly our operational order makes reference to health and safety.

Q. Commander, just in relation to that risk assessment, was that a risk assessment, if

you know --- if you don't know, please say so --- that examined issues relating to COVID-19 and what precautions police officers needed to take in relation to working with security services in the Hotel Quarantine Program?

- 5 A. In terms of a risk assessment for COVID-19 with respect to safety, I think you will find that more broadly across this pandemic and across the Victoria Police response, not just within the Hotel Quarantine Program, there's a whole risk assessment that has been undertaken with respect to PPE and health and safety. It was constantly amended with the challenging issues that we find on a day-to-day
- 10 basis, particularly at the commencement of this pandemic and is constantly reinforced with our members. In terms of any reference to safety within the Victoria Police operational plan relating to Operation Soteria, that risk assessment and the safety of our members is based on the work we have undertaken across the organisation.
- 15 Q. Commander, just in relation to that risk assessment, was that risk assessment --- was any consideration given to sharing that risk assessment with security services that Victoria Police were providing support to in the Hotel Quarantine Program, so that they could have access to and consider what measures the Victoria Police were
- 20 taking in order to inform them as to what measures they should be undertaking, given in effect this was a joint undertaking?

A. I don't believe that it was. I certainly didn't, and the reason that I didn't was at no stage was I responsible for the management or supervision of security [indistinct].

25 CHAIR: Commander Tully, we are just having a bit of trouble with --- I don't think it is just me --- we are having a bit of trouble with your sound.

A. Is that any better?

30 CHAIR: That is much better, thank you.

A. I'll try and speak up.

35 CHAIR: Thank you.

MR MOSES SC: Madam Chair, can I put that last question again, if that is convenient to you, Madam Chair?

40 CHAIR: You missed the answer too, Mr Moses. Please put the question again. Thank you.

45 MR MOSES SC: Commander, just in relation to the risk assessment that was undertaken in relation to the Victoria Police, concerning their --- I'm looking at it now --- the issue of work being undertaken in relation to the Hotel Quarantine Program, was any consideration given to providing that or sharing it with the security services that were playing the primary role in relation to the security of the hotels in

this program, given the fact that it was a joint undertaking?

- A. I'm not aware whether anything was provided to the security companies on behalf of Victoria Police. I certainly didn't provide anything to the security companies as part of this. As I have indicated, the reason that I didn't do that is because at no stage was I responsible or was Victoria Police responsible --- my understanding --- for the management or the supervision of security companies' security guards within the Hotel Quarantine Program.
- 10 MR MOSES SC: In --- and this is now another question, Madam Chair, that goes to another topic. Is it a convenient time now for the luncheon adjournment, Madam Chair?
- 15 CHAIR: Thank you, it is, Mr Moses. I understand there are a couple of other parties with leave to appear who also have questions of Commander Tully, so I'm conscious of having to give everyone a break over the luncheon adjournment.
- So, Commander Tully, we will take the lunch break now and I'll require you back at 2.00. Thank you.
- 20 COMMANDER TULLY: Thank you, Madam Chair.

ADJOURNED

[1.02 PM]

25

RESUMED

[2.00 PM]

30 CHAIR: Yes, Mr Moses.

MR MOSES SC: Thank you, Madam Chair.

35 MS CONDON QC: Madam Chair, it is Ms Condon here from the Department of Jobs, Precincts and Regions. Just before Mr Moses continues, I would like to raise perhaps a belated objection to the premise that he put to Commander Tully before lunch. He suggested that it was a joint undertaking between Victoria Police and the security companies. There is simply no evidence of that so I object.

40 MR MOSES SC: I would have been surprised if my learned friend had not taken at least one objection to my questions. But how about I deal with it this way, Madam Chair, I'll put the question to Commander Tully.

45 Commander Tully, you heard the objection from the counsel for the Department of Jobs, Precincts and Regions. In relation to what you understood Victoria Police were doing in respect of the Hotel Quarantine Program, were they playing a role of supporting the security services in respect of the --- if I can call it the accommodation

phase of the Hotel Quarantine Program?

A. That is correct.

5 Q. And in relation to the security companies that were engaged for the Hotel Quarantine Program, it is the position, is it, that Victoria Police played no role in the selection of the security companies; that was done by the Department of Jobs, Precincts and Regions; correct?

10 A. That is correct.

Q. And that Victoria Police were not consulted by the Department as to which security companies would be used and how many security guards were required?

15 A. That's --- my understanding is that is correct.

Q. Thank you. Commander Tully, I just wanted to go to some evidence that you gave just prior to the adjournment, that is prior to me asking you questions, when Counsel Assisting asked you this question --- I will just read it out to you, our note of

20 it:

Perhaps in that context, may I ask you about this: the Board has heard some evidence of the differing arrangements that are in place in hotel quarantine in New South Wales, where we understand legislative arrangements are different but where those arrangements do mean that there is a police presence at all times at hotel locations. I would be grateful if you could give the Board any opinion you have on the value that you see might have been added had there been police presence permanently at each location, as it appears some of the architects of the system thought there should be?

30

The answer that you gave was this:

So in terms of having a dedicated 24/7 police presence, I think I would --- look, undoubtedly there would have been a quicker response time to any need or any request for police assistance at those locations. I mean, it goes without saying that in any operational environment the more resources that we have, they are certainly going to make a difference. It probably becomes a question of the efficient use of police resources in this circumstance.

40 Do you recall the question and your evidence to that effect?

A. Yes, I do.

45 Q. In relation to the role that security guards were providing during the Hotel Quarantine Program, do you agree that what in essence was occurring with the Hotel Quarantine Program, on your understanding, was that citizens were being detained at hotels in accordance with Public Health legislation in order to protect the public from

potential community transmission; correct?

A. That is correct.

5 Q. And you understood, did you not, that security guards do not actually have any legislative powers under which they can arrest or detain individuals that might seek to leave that accommodation; correct?

A. That is correct.

10 Q. And that if such a situation arose, they would need to contact police in order to enforce, in effect, the detention by reference to Public Health legislation; correct?

A. That is correct.

15 Q. And are you aware that there is evidence before the Board in which security guards were told that if people tried to leave their room they were not to attempt to have physical interaction with them but tell them to go back to the room? Are you aware of that?

20 A. I'm not aware of that, no.

Q. Okay. And just going back to the question that Counsel Assisting put to you, the question that I wanted to put to you is this: do you accept, sitting here today, that in 25 circumstances where citizens were being detained against --- I'm putting this as a matter of law --- that citizens who were being detained regardless of their wishes in these hotels by order of a Public Health order, that in your opinion do you accept that on reflection it would have been better if a law enforcement agency was carrying out the security services in respect of that issue in order to enforce a Public Health order?

30 A. As I've indicated previously, certainly sufficient or more resources would have made a difference in terms of providing a more immediate response to those types of incidents. In terms of the Hotel Quarantine Program itself, quite clearly, I think, we had an enhanced response model, as I've mentioned. I would point to the fact that 35 I'm certainly not aware of any instance where persons absconded from detention as part of this program under the model. But I would accept that certainly additional resources, as I've indicated, with any policing operation, would make a difference.

Q. At any time during the Hotel Quarantine Program did you seek any further 40 resources in relation to having police officers stationed at the hotels?

A. No, I didn't.

Q. Okay. The other question I wanted to ask you arises out of the evidence that is 45 given in this Inquiry in respect of a Ms Febey. She gave evidence in this Inquiry that she had advocated for Victoria Police to have a more permanent presence at the hotels and that she understood that Victoria Police would provide oversight and

on-site support to security contractors. That evidence, Madam Chair, is at pages 399-402 of the transcript of 27 August 2020.

5 Were you aware of any request being made by the office of the Department of Health and Human Services or the Department of Jobs, Precincts and Regions that the Victoria Police should provide --- that it should have a more permanent presence at the hotels?

10 A. I'm not aware of any such request whatsoever.

Q. And if such a request had been made, Commander, would it have been something that you would have taken into account in respect of what presence or otherwise Victoria Police should have been having at hotels?

15 A. I think, as I've indicated previously in my evidence, that if a request was put forward, that would have been considered in terms of the need and the availability of police resources to fulfil that request.

20 Q. And given the fact that in light of this particular issue, of course, at the core of any consideration would have been and the paramount concern would have been public safety and whether police were required to ensure public safety in respect of the program; correct?

A. That is correct.

25 Q. Because there is no other higher responsibility than that which is to ensure public safety; correct?

A. That is correct.

30 Q. Thank you.

I have no further questions of Commander Tully. Thank you, Commander.

35 A. Thank you.

CHAIR: Thank you, Mr Moses.

40 MS ELLYARD: I'm aware of Ms Condon, Madam Chair, and also Dr Hanscombe having some matter to raise. I'll call on Ms Condon.

CHAIR: Thanks, Ms Condon.

MS CONDON QC: Thank you, Madam Chair.

45

CROSS-EXAMINATION BY MS CONDON QC

MS CONDON QC: Commander Tully, I want to ask you about the matters at paragraph 6.2 of your statement. Do you have your statement before you?

5

A. I do.

Q. Thank you. As I understand it, your first involvement was at the SCC meeting at 10.00 am on 28 March. Is that correct?

10

A. That is correct.

Q. However, the evening before, on 27 March, at about 10.20, you received an email from [Redacted]; is that correct?

15

A. Yes.

Q. And she was in attendance at the SCC meeting at 4.30 on 27 March, wasn't she?

20

A. That's my understanding, yes.

Q. She was there with Assistant Commissioner Michael Grainger, was she not?

A. That is my understanding, yes.

25

Q. Now, in the course of that email that she sent to you on the evening of the 27th she outlined to you a number of matters that had transpired at the SCC meeting, didn't she?

30

A. That is correct, yes.

Q. She indicated to you that at that stage it had been indicated that the DJPR had overall responsibility to develop the end-to-end plan; is that right?

35

A. That is correct.

Q. And that she was to contact Mick Grainger as contact for further planning. That is what was noted in [Redacted] 's email; correct?

40

A. Correct.

Q. And security guards to be contracted to provide a level of security at the hotels. That was conveyed to you, was it not?

45

A. Yes.

Q. CCP recommendation that private security is to be the first line of security. Now,

CCP may be an obvious abbreviation to you, Commander Tully, but what does that abbreviation stand for?

A. Chief Commissioner of Police.

5

Q. So you were asked some questions about when the decision had been made to contract private security by Counsel Assisting, weren't you?

A. Yes, I was.

10

Q. And your understanding was, when you went into the meeting at 10.00 am, that that process was already in train; correct?

A. That is correct.

15

Q. But you were also apprised of the fact that it had been made clear on 27 March that it was a recommendation from the Chief Commissioner of Police that private security was to be the first line of security; correct?

20 A. That is correct.

Q. You were also asked some questions by Mr Moses on behalf of Unified Security about Victoria Police's role in the Hotel Quarantine Program generally. I want to just ask you one question about that.

25

It was suggested to you that Victoria Police's role was confined to supporting the security contractors. Do you recall those questions?

A. It wasn't confined to supporting the security contractors, but I recall the questions,
30 yes.

Q. Perhaps you've answered the questions for me. That's what I'm suggesting to you; that Victoria Police's role was a broad remit, wasn't it? It was to support the Hotel Quarantine Program generally; correct?

35

A. Yes, that is correct, yes.

Q. Yes, thank you, Commander Tully.

40 Thank you, Madam Chair.

CHAIR: Thanks, Ms Condon. And --

MS ELLYARD: Dr Hanscombe.

45

CHAIR: Dr Hanscombe.

DR HANSCOMBE QC: Thank you, Madam Chair, and thank you, Counsel Assisting, for accommodating this request at very short notice. I only have a couple of questions of Commander Tully. They concern his evidence that there has never been any request for a 24-hour policing presence at the health hotels.

5

CHAIR: All right. Perhaps if you indicate to Commander Tully what agency you represent, Dr Hanscombe.

10 DR HANSCOMBE QC: Of course.

CHAIR: Then I will invite you to ask your questions.

DR HANSCOMBE QC: Yes, of course. Thank you.

15

CHAIR: Please go ahead.

CROSS-EXAMINATION BY DR HANSCOMBE QC

20

DR HANSCOMBE QC: Commander Tully, my name is Hanscombe, I'm here for the Department of Justice and Community Safety which, as you know, encompasses Emergency Management Victoria as well. You're familiar with that agency?

25

A. Yes, I am.

Q. In answer to Counsel Assisting at [draft] transcript page 946 lines 24-26, you said you were not aware of any request for a 24-hour policing presence at any of the
30 hotels. Do you remember that evidence?

A. Yes, I do.

Q. And you gave a similar answer to Mr Moses at [draft transcript] page 962, line 12, in relation to a possible request from DHHS and DJPR. Do you remember that?
35

A. I do.

Q. As I say, I'm here for Emergency Management Victoria. My instructions are that
40 Commissioner Crisp --- you know who he is?

A. I do.

Q. Commissioner Crisp on 17 July made a request by email for 24-hour police
45 support at the health hotels. You were not aware of that?

A. No, I'm not.

Q. And I'm instructed that ever since that date there has in fact been such a presence. You're not in a position to controvert that at all, are you?

- 5 A. In relation to Operation Soteria, are you referring to what I'll call zone 2 for Soteria for the quarantine hotels for persons coming from the housing commission flats in North Melbourne?

Q. I'm referring to the so-called health hotels.

- 10 A. I understand that there has been Victoria Police presence for two hotels within the CBD after the Hotel Quarantine Program in terms of passengers coming in from international travel, that there has been a Victoria Police presence at those hotels, yes. But that is separate --- my understanding is that is separate to the Hotel
15 Quarantine Program in terms of internationally returned travellers.

Q. I understand.

A. Yes.

- 20 DR HANSCOMBE QC: If the Board please, those were the questions I had. We will look out the relevant correspondence and be in communication with Ms Ellyard to assist the Board, if that would happen.

- 25 CHAIR: Thank you, Dr Hanscombe.

DR HANSCOMBE QC: If the Board please.

CHAIR: Thank you.

- 30 MS ELLYARD: Madam Chair, I am aware of the potential for an application to question Commander Tully on behalf of the Department of Health and Human Services. I understand that application is pressed so I call on Mr McLay.

- 35 CHAIR: Yes, Mr McLay.

MR McLAY: Thank you, Madam Chair, and thank you, Counsel Assisting. I will be very brief. Madam Chair, it is one matter that arises from the discussion on compliance about fresh air breaks.

- 40 CHAIR: Yes, I will let you proceed, Mr McLay.

MR McLAY: Thank you, Madam Chair.

- 45 **CROSS-EXAMINATION BY MR McLAY**

MR McLAY: Commander Tully, you recall you referred to some complaints about fresh air breaks in your evidence?

5 A. Yes, I do.

Q. It is fair to say that on the limited information that was given to you, those persons could have been a number of different people, including hotel staff or people not on a quarantine order?

10 10 A. Sorry, you broke up with the question and I'm not too sure whether people can hear me but there must have been some interference in your question.

CHAIR: We can hear you, Commander Tully.

15 15 MR McLAY: I'm sorry, can you hear me now?

A. That's better. You did break up during the question, though.

20 20 Q. I apologise, Commander Tully, I'll repeat it. You referred to complaints about fresh air breaks. It is fair to say that on the limited information you had in the complaints that came to you, that you were unable to know whether those persons were in fact on quarantine orders. Do you agree with that?

25 25 A. I agree with that. It was certainly a perception, and I was unable to determine at that time, yes.

MR McLAY: Nothing further, Madam Chair.

30 30 Thank you, Commander Tully.

A. Thank you.

CHAIR: Thank you, Mr McLay.

35 35 MS ELLYARD: I don't have notice, as far as I'm aware, Madam Chair, of any further applications. I will pause for a moment in case Mr Star wishes to raise any matters with Mr Tully.

40 40 MR STAR QC: If the Board pleases, can I ask a question really by way of re-examination, just to try to clarify something asked by my learned friend Dr Hanscombe about Commander Tully's involvement at the time period?

CHAIR: Yes, Mr Star, I'll grant you that leave.

45 45 MR STAR QC: Thank you.

CROSS-EXAMINATION BY MR STAR QC

- 5 MR STAR QC: Commander Tully, you were asked some questions a moment ago by Dr Hanscombe in relation to the period of time in July, I think the date was 24 July 2020. What was your involvement at or around that time in the Hotel Quarantine Program or what you referred to as zone 2 or operation 2 at that time?
- 10 A. So, in terms of the Hotel Quarantine Program, my recollection is that the return of international travellers actually ceased on 14 July. So in terms of Operation Soteria, whilst there may still have been some people in hotel quarantine, effectively the return of those people actually ceased. The confusion may lay in the fact that there is --- under the policing response, there was an Operation Soteria what is referred to as 15 zone 2, and it relates to two hotels within the CBD, and my understanding of those hotels is that persons that have been provided accommodation from the housing commission residences in North Melbourne and also in Flemington and also from a backpackers location accommodation over in St Kilda are housed in those facilities. My understanding is that there are no international returned travellers in those 20 facilities.

Q. But what was your involvement in the zone 2 or did you have an involvement in zone 2?

- 25 A. No.

MR STAR QC: If the Board pleases.

CHAIR: Thanks, Mr Star.

- 30 MS ELLYARD: Thank you, Madam Chair. There being no other matters, I ask that the witness be excused with the Board's thanks.
- 35 CHAIR: Thank you, Commander Tully, thank you for your attendance. You're now excused.

A. Thank you, Madam Chair.

40 THE WITNESS WITHDREW

- 45 MS ELLYARD: Madam Chair, my learned leader will be calling the next witness, so I will turn off my screen, with the Board's leave, and hand over to him. I will wait for him to appear.

CHAIR: Yes. We might just take a break whilst the next witness is being organised

and Mr Neal is coming on board. I will take a short break whilst that's happening.

MS ELLYARD: If the Board pleases.

5

ADJOURNED

[2.22 PM]

10 **RESUMED**

[2.32 PM]

CHAIR: Yes, Mr Neal. I understand that we are ready to proceed and we have Ms May, as I understand it, in position. Hopefully, Ms May can both see us and hear us.

15

MS MAY: Yes.

MR NEAL QC: Thank you, Madam Chair. Apologies, there were some technical issues at my end that hopefully we have resolved.

20

CHAIR: Thank you.

MR NEAL QC: I think Ms May wishes to be affirmed, Madam Chair.

25

CHAIR: All right. Ms May, I'm sure you understand that you need to take the affirmation for the purposes of giving your evidence. So, to that end I'll hand you over to my associate to take you through that process. Thank you, Madam Associate.

30

RACHAELE ELIZABETH MAY, AFFIRMED

CHAIR: Thank you, Ms May. I'll hand you back to Mr Neal now.

35

MR NEAL QC: Thank you, Madam Chair.

EXAMINATION BY MR NEAL QC

40

MR NEAL QC: Ms May, would you state your full name and occupation, please.

A. Rachaele Elizabeth May and I'm the Executive Director, Emergency Coordination and Resilience at the Department of Jobs, Precincts and Regions.

45

Q. Ms May, you have provided two witness statements to this Inquiry. The first is 21 August 2020 and the second is 28 August 2020. Is that correct?

A. That's correct.

5 Q. In each case, your witness statement refers to a number of documents. Do you
wish those documents to be read in conjunction with your statement?

A. Yes.

10 MR NEAL QC: Madam Chair, I tender the witness statement of Ms May of 21
August 2020.

CHAIR: Exhibit 80.

15 **EXHIBIT #080 - STATEMENT OF RACHAELE ELIZABETH MAY DATED
21 AUGUST 2020**

20 MR NEAL QC: And the documents referred to in folder B in the hearing book in
respect of that witness statement.

CHAIR: That folder will be Exhibit 81.

25 **EXHIBIT #081 - ANNEXURES TO STATEMENT OF RACHAELE
ELIZABETH MAY DATED 21 AUGUST 2020**

30 MR NEAL QC: And then the witness statement of 28 August 2020 and similarly the
documents referred to in folder B for that statement.

CHAIR: Thank you. The statement will be Exhibit 82 and the folder of attached
documents Exhibit 83.

35 **EXHIBIT #082 - STATEMENT OF RACHAELE ELIZABETH MAY DATED
28 AUGUST 2020**

40 **EXHIBIT #083 - ANNEXURES TO STATEMENT OF RACHAELE
ELIZABETH MAY DATED 28 AUGUST 2020**

45 MR NEAL QC: Ms May, your current role is Executive Director, Emergency
Coordination and Resilience; is that correct?

A. That's correct.

Q. Prior to any involvement in Operation Soteria or the Hotel Quarantine Program did you have experience in the field of emergency operations?

5 A. I did.

Q. Could you state the nature of that previous experience that you had?

A. I have worked in emergency management a long time. My prior role in DJPR
10 was as the Director of Regions and Emergencies in Agriculture Victoria, and prior to
that I was the Assistant Chief Fire Officer with the Department of Land, Water and
Environment for the Grampians region, and prior to that I held various fire and forest
management roles. So I worked in emergency management every summer as it
comes with bushfires and other emergency management responsibilities associated
15 with those roles.

Q. Was it by reason of that emergency background that you became involved in the Hotel Quarantine Program?

20 A. I was never explicitly told the reason that I became involved but I understand that my experience in emergency management certainly led me to take up the position of Agency Commander.

25 Q. And if I understood your statement correctly, after a working-in period, if I can call it that, you officially took over a position as the DJPR Agency Commander within Operation Soteria as of about 12 April?

A. That is correct.

30 Q. In your --- in that capacity, your witness statement makes plain you operated within --- under the auspices perhaps of Operation Soteria. Is that correct?

A. Yes.

35 Q. Could you explain to the Board, please, the nature of Operation Soteria?

A. It is my understanding that Operation Soteria was one operation in the broader COVID-19 response. Operation Soteria related directly to the quarantining of international travellers in hotels.

40 Q. And within that operation what were your particular duties?

A. DJPR was a support agency to the control agency. So as the Agency Commander of the DJPR, I was to provide the support functions that were mainly logistical in nature, to support DHHS in the quarantining of international travellers in hotels.

45 Q. And when you use the terminology of "control agency" and "support agency",

does that have a particular meaning?

A. Yes. The Emergency Management Manual outlines the definitions of control agencies and support agencies for a variety of emergencies. And it was my understanding that DHHS was the control agency for this emergency and DJPR was a support agency.

Q. At the start of your involvement, do I understand there was in place a command structure whereby the Deputy State Controller Health was the person who was in charge?

A. Of Operation Soteria?

Q. Yes.

A. Yes.

Q. Did that remain the case for some time into the period in which you were involved?

A. That remained the case for the first few weeks with which I was involved and the structure changed whereby the DHHS Accommodation Agency Commander was in charge of Operation Soteria --- certainly by the end of April.

Q. There is obviously a change in terminology there but did that involve changes of substance as you understood it?

A. My understanding was that the operation moved from being under the Deputy State Controller Health, run out of the State Control Centre, to a DHHS facility;

I think they called it the Emergency Operations Centre, where the DHHS Agency Commander was based. I saw the realignment of my role as support agency from working to the Deputy State Controller to now to the DHHS Agency Commander.

Q. Can I go a step back. The Emergency Operations Centre, that is a physical location?

A. I believe so.

Q. And the venue that you have just described, was that also a physical location?

A. I'm sorry, which venue are you talking about?

Q. When the regime changed to the DHHS control, are you talking about a physical location, an operations centre somewhere, or a virtual concept?

A. Both. So it is my understanding that the DHHS Emergency Operations Centre was a DHHS facility, I'm not entirely sure where, somewhere in the Melbourne

Greater CBD, but I know that some functions also worked virtually.

Q. In the course of the Hotel Quarantine Program named Operation Soteria, could you describe the functions of DJPR in concrete terms, if you could, please?

5

A. Certainly. DJPR as a support agency was providing logistical support to DHHS. That logistical support included the contracting of specialised cleaning, hotels and security. It also involved people and resources to facilitate the entry and exits of the travellers as they arrived and left the hotels. We also provided support such as the provision of essential items to assist travellers while they were quarantined, for example, sanitary items, nappies, we also provided a central call centre called the Government Support Service that enabled guests to call that number to request care packages to be delivered, to help answer any questions they may have or to escalate issues to DHHS on site.

10

Q. In terms of your Department's presence on site, what was the nature of that?

A. DJPR allocated a function notionally termed the DJPR Site Leader. Their role was mainly in a liaison capacity. We had a site leader allocated to each hotel consistently for the duration of our involvement in the program. Those site leaders were always present on days where flights were arriving and guests were entering the hotels and also on the exit days. In the 14-day period that guests were detained, they would attend sites on an as needs basis, apart from those entry and exit days.

25

Q. If I can ask you to reflect on the days on which persons in quarantine were being introduced to a hotel, what was the nature of the DJPR role on such days?

A. On days when travellers were arriving into hotels, it was to help facilitate their entry into the hotel. It's my understanding that the DJPR site leaders would assist in the movement of passengers off the SkyBuses, through the foyers to the check-in points, to check in, to get their room allocation, to hand across the paperwork required and also to pick up any essential items they may wish to take with them into their rooms. We had a supply available for them to collect on their way through to their rooms.

30

Q. And on exit occasions?

A. It was to help facilitate the exit of guests. So DHHS would advise us around which guests were ready for finishing, for release from their detention, and prior to that, DJPR, through our call centre, will have spoken to guests to understand any needs they had to assist them to leave, such as taxis to be booked to take them back to the airport, car parking, or to the nearest train station. Our DJPR site leader's role on those exit days was to help the authorised officers in the hotel with the list of guests and who was scheduled to leave at a particular time, in line with the taxis that had been booked for them.

Q. And once guests were delivered into the hotel, did DJPR, in your understanding of

it, have an ongoing role and what was that ongoing role?

A. The ongoing role was to ensure that there was a smooth stay for the guests in that 14-day period. So if there were any issues that needed resolution with the hotel, they would be brought to the attention of the DJPR site leader. For example, that might include issues with the provision of meals or a guest may request something extra for their room, such as extra, an extra blanket or a more frequent change of linen, and so sometimes that was raised with the DJPR site leader to discuss with the hotel.

5 10 Q. In terms of the selection of the hotels themselves, which was in your domain, as I understand it, were there any particular criteria for the purpose of choosing hotels?

A. So in choosing the hotels that the flights were allocated into, do you mean?

15 15 Q. No, I mean in choosing the suitability of hotels, what features they did or did not have, in terms of the suitability for the program.

A. For contracting the hotels?

20 20 Q. Yes, yes.

A. Thanks. So the DJPR team already had contact with a number of hotels and we would provide those hotels to DHHS for consideration. There was always a site visit by a number of agencies, including DJPR, DHHS and also Victoria Police, to a potential new hotel, to determine if that hotel was suitable for quarantining purposes. Once DHHS were comfortable with that site then the contracting would be done through DJPR.

25 30 Q. And at least at the outset of the program were there particular physical features of the hotel that they should or shouldn't have, in terms of their suitability?

A. I wasn't deployed at the beginning of the program. It's my understanding generally that the requirements were quite broad at the beginning, noting that I wasn't around at that point, around large-capacity hotels that could be stood up quite quickly, and that were really about quarantining people in their rooms for 14 days.

35 As the program evolved, the requirements from DHHS changed to suit the demographics of the travellers that were coming in, we started to see a lot more families, we started to see people with special needs, so we were looking for properties that had more family suites with small kitchenettes, so that guests could prepare their own food, and in some cases a preference for hotels with opening windows and balconies.

40 45 Q. Was that preference something that developed over time or was that always the case?

A. It was my experience that that developed over time.

Q. In terms of your role and the chain of command, how did that work for DJPR personnel?

- 5 A. As a support agency, I established a command structure. So I had a deputy and I had a number of functions underneath that with responsibilities for operations, logistics, communications and so forth. The people in the DJPR structure all ultimately reported up to me.
- 10 Q. Yes. Now, you have mentioned there were a number of other agencies involved in the program; obviously DHHS, VicPol. Were there other agencies as well with whom you had to liaise for the purposes of the program?
- A. Certainly. I also worked closely with Department of Transport as they oversaw the provision of the SkyBus transport taking the international travellers from the airport to the hotels. And we also worked closely with Department of Premier and Cabinet, who often represented Victoria in national forums, looking at the capacity for Victoria to continue to receive international travellers.
- 15 Q. And was there a standing arrangement in place for communication or liaison between the various agencies?
- A. DHHS chaired a regular interagency Operation Soteria meeting. When I first joined the program, that meeting was held daily and then the frequency went out to about three times a week and then to weekly. There was that standing forum. In addition, DJPR sent out a twice-daily communiqué to partner agencies; one was around the allocation of flights into particular hotels, so that the other agencies could arrange their resources accordingly; and the second was the daily report on the number of guests and the longer-term forecast around incoming flight entries and exits.
- 20 Q. In terms of your communication with DHHS, was that limited to those interagency fora or were there other arrangements?
- 25 A. There were other arrangements. There was, of course, ad hoc communications by email and phone calls on any matters that needed to be attended to on an as needs basis. There were also more formal arrangements in place between our aligned functions. I'm aware that our data analysts caught up with the DHHS data analysts on a daily basis, to ensure that the compilation of data and traveller records was aligned. There was also a regular liaison officer meeting that DHHS hosted, which some DJPR liaison officers participated in as well.
- 30 Q. Yes. That was a dedicated DHHS/DJPR meeting, do you mean?
- 35 A. I think there were other liaison officers involved in that meeting as well.
- 40 Q. Given the number of agencies that were involved in this program, did the

communications system work well over the period of time that you were involved?

A. The communication between agencies was always open. That worked well. A lot of us were working virtually and so I think had adjusted to that virtual environment of managing a large emergency quite well. And so I think in that sense, yes, that communication path worked well.

5 Q. In your statement you referred, I think on a couple of occasions, to pressing with daily briefings with DHHS as well. What was the cause for that?

10 A. I was hoping --- sorry, I'll say that again. I had asked DHHS, as the control agency, to host regular briefings in each of the hotels with all of the participating agencies and private companies that were operating in each hotel, to ensure that everyone understood the priority for the day, to understand any particular activities 15 that might be happening in the hotel on that day and to provide an opportunity to refresh on key information, such as the correct usage of PPE or the movement of particular guests through the hotel.

Q. And did those briefings occur?

20 A. I understand that those briefings occurred on an ad hoc manner in some locations.

Q. I don't wish to be unfair to you. I understood, you used the term "pressed" on, I think, at least one occasion for such briefings. Was it your view that you needed 25 more of such briefings?

A. I expected that the operation was quite variable day to day, with different flights coming in, guest movements, different issues at each hotel, and that the control agency might host a briefing to ensure that all of the support functions were 30 understood, the priorities for the day, the key information to ensure that the operation was being conducted in the manner that the control agency was looking for.

Q. At your level, with whom did you communicate in DHHS on a typical basis?

35 A. My primary point of contact was the DHHS Agency Commander.

Q. That was Ms Williams; is that correct?

A. It rotated between Ms Williams and Ms Bamert.

40 Q. Yes. You reference in your statement, amongst other things, a meeting that was conducted with VicPol about 16 April, in order to discuss a number of issues that had arisen. Can you just describe for the Inquiry what that meeting was about?

45 A. Are you referring to the meeting that was held in relation to the function of security officers?

Q. Yes.

A. Okay. So it's my understanding that Victoria Police asked the then Deputy State Controller Health to arrange a meeting to discuss the role of security officers at 5 hotels and that meeting was held in around 16 April. And my understanding is that it primarily came from some concern that had been raised at one of our interagency meetings by Victoria Police having observed guests taking fresh air breaks. The meeting was conducted and it ended up discussing fresh air breaks but also the role of security officers in checking bags and being able to pursue or restrain guests.

10

Q. What was the nature of the --- I'm assuming there were some concerns around those issues. What was the nature of the concerns? You instance the two separate, I think, ideas there: the fact of fresh air breaks; and, secondly, the control of, if we can call it contraband for the moment, into the hotel, so what were the issues?

15

A. So if I recall correctly, the issue was raised by Victoria Police at one of the interagency forums hosted by the Deputy State Controller Health at the time and at the time the initial purpose of the meeting was to discuss the concerns around fresh air breaks. But in the course of the meeting occurring, it also evolved to include the 20 powers of the security officers on site, regarding their ability to search bags and restrain and pursue guests.

25

Q. Was it the case that at the time of that meeting your Department had issued a directive that there would be, for example, no alcohol, cigarettes, et cetera, permitted and that that was not necessarily the way it was working?

30

A. So that was my first week of deployment, it was my understanding that that arrangement was already in place. I can't confirm if that was a directive issued by our Department or not, but it was certainly my understanding at that time that those products weren't allowed to be taken up to guests' rooms.

Q. And was there a concern around the question of power in terms of legal authority to search baggage, for example, and prevent the entering into the hotel of things that were not otherwise --- were not permitted?

35

A. I recall that we wanted clarity on how we could make sure those items didn't make it up into the guests' rooms. And so when those issues were raised at that meeting, it was certainly clarified by Victoria Police that the security guard only had the ability to do what I think was termed the "footy bag" search, where they open the bag and have a look inside and nothing further, they couldn't put their hands in or remove items as such. It was about getting clarity on what could actually be undertaken in that hotel quarantine environment.

40
45

Q. Is it the case, on your understanding, that security was looking to the authorised officer for guidance on that and the authorised officers were saying, "Well, we're not in a position to empower you to do it"?

A. That is my understanding.

Q. In terms of the fresh air breaks or outdoor breaks, what did you understand the issue to be there?

5

A. When I first started on the program, it was handed over to me that there was a policy in development to allow guests to have fresh air breaks, that DHHS had sought a policy to allow guests to take fresh air breaks. DJPR then worked to develop an implementation plan to enable fresh air breaks to be taken at each hotel.

10

That plan was specific to each hotel as each hotel was physically different around where the most suitable location would be for fresh air breaks to be undertaken. And it was my understanding when I started that fresh air breaks would not occur until the implementation plan for that hotel had been finalised.

15

Q. Was that the way it worked?

A. I recall in my first week that there were reports that some fresh air breaks were occurring at hotels where an implementation plan had not yet been developed and this was raised with DHHS at the time and those breaks were ceased unless the

20

authorised officer and nurse determined that there was particularly significant mental health needs for a particular guest at the hotel at that time.

Q. Did the question of taking fresh air breaks have implications in terms of the security with whom your Department had contracted?

25

A. It did. The fresh air breaks required extra security personnel to be rostered in order to escort the guests on their fresh air breaks.

Q. Just staying with the question of your contact with VicPol, if I can, for the moment, you stated in paragraph 53 of your statement --- do you have that?

A. I do.

Q. I should say, Ms May, there is a certain concern around the clarity of roles in the Inquiry more generally and in particular that of VicPol. You say in your paragraph 53:

35

I was informed by staff who were on site at the time [that is at the time of standing up a new hotel] that when a new site was stood up, the number of security guards and where they would be positioned would be agreed with the hotel, but ultimately decided by Victoria Police.

Now, can I ask you, what's the basis of your understanding of that?

45

A. That is how it was reported to me by my site leaders, by the DJPR site leaders.

Q. As I understand it, the Victoria Police saw their role as being one of determining

appropriate points of ingress and egress from the hotel and management of traffic around the hotel, as opposed to deciding or dictating internal arrangements within the hotel as to where security might be. What do you say as to that?

5 A. My statement is how it was referred to me at the time, that was my understanding at the time.

Q. Is it still your understanding?

10 A. It is still my understanding, yes.

Q. That paragraph refers to the time at which the hotels were being "stood up". Do you have any knowledge of the involvement of police in an ongoing capacity once a hotel was stood up and had security in place?

15 A. Victoria Police assisted usually with the entry and exit of guests and also when particular incidents occurred involving guests during their 14-day stay, where police were called to assist if a guest was exhibiting particularly violent behaviour or aggressive behaviour.

20 Q. Could I direct you to paragraph 79 of your witness statement, where you are talking about the specific functions the DJPR undertook. At paragraph 77 you go into, I think, the specific details of the sorts of actions that DJPR was responsible for. Do you see that?

25 A. I do.

Q. At paragraph 79 you say:

30 *DJPR then assisted with receiving arrivals at the hotel, by facilitating the movement of travellers off buses and through reception to check-in, under the direction of DHHS.*

35 If I can just stop there, what direction do you say DHHS was providing at that point in time?

40 A. As the control agency, they were ensuring that the overall operation ran smoothly. They weren't necessarily standing on site and pointing and directing our staff but as the overall control agency were ensuring that we were operating within their expectations.

Q. If I could ask you now about a separate matter, the question of DJPR safety managers. Who were they and what was their function in relation to the Hotel Quarantine Program?

45 A. DJPR appointed a safety adviser and they were rotated by a number of different people throughout the period that we were involved in the program. The safety

adviser's primary purpose was to provide advice on the safety of DJPR staff and often in doing their role they often provided advice to me on any observations they might have had regarding any safety matters that might have involved our contractors as well.

5

Q. By your contractors, you're including security staff?

A. Yes.

10 Q. In your statement you were also asked to consider in overview whether there were difficulties in the program that you experienced from the DJPR point of view. I think you spoke in one instance of the question of timing of release of people who had been in detention as an issue, if I can put it that way. Could you just explain what that was?

15

A. Certainly. At the beginning of the time that I joined the program and then again after DHHS introduced optional day 3 and day 11 COVID-19 testing for guests, there were some questions that I put to the DHHS Agency Commander regarding whether or not guests could be released if they knew that they were COVID-19

20 positive or if they were still awaiting the results of their test. It had been reported to me by the DJPR --- by site leaders but also through the Government Support Service, that guests were nearing their release day and they either knew they were positive or were still waiting for their test results and they were seeking clarity around whether or not those guests could be released.

25

Q. What was the practical function of DJPR in the event that a guest was entitled to be released?

30 A. DJPR hosted the Government Support Service, the call centre, that would ring guests ahead of their day 14 release to help them organise transport on their release day and it was often in these conversations with guests that the guest would put forward that they were either positive or awaiting a test result and they would ask our call centre operator if that meant they could still be released. So the question was always escalated to me to seek resolution about whether we should continue to arrange for the release of that guest on day 14, given that the guest had indicated that they were still waiting for their test results. Our DJPR site leaders, in having the schedule of guests to be released on the 14th day, on the day of release would often be assisting the hotel to ring the guests to tell them to have their bags ready because they will soon be ready to leave their rooms and it was often in these conversations 35 with the guests that that would come up, that the guest was awaiting their test results, so they were confirming if they would still be able to be released and hence it would be escalated to me to try and resolve.

40

Q. And how was it resolved?

45

A. To begin with, I would go through the DHHS Agency Commander and I'm not certain of the process they used to resolve it internally to get the advice from the

relevant parts of DHHS. In the early days the advice, if I recall correctly, was that with the appropriate PPE, guests could be released if they were going straight home to their own home. I understand that that advice changed towards the end of the program, whereby guests were unable to be released if they were still positive or still awaiting test results.

Q. And from a practical point of view, was DJPR responsible for providing transport and the like in the case of guests who were being released?

10 A. We were responsible for booking the taxis to take them to their next point of transport, whether that be public transport or to a waiting family member or to their car or to their home.

15 Q. I take it synchronising of knowing when they were leaving was an issue that you needed to attend to?

A. It was.

20 Q. One of the other issues that you raised as a matter of difficulty in your statement is the question of who was responsible for providing personal protective equipment; is that right?

A. That is correct.

25 Q. In particular, you instance a number of emails in your witness statement where you raised, I think with Ms Williams in the first instance, the question of whose responsibility that was. Is that correct?

A. That's correct.

30 Q. Did you --- we can go to the detail if you need --- but my understanding is you were concerned and raised with Ms Williams about 18 May the question of who had to be providing PPE: was it contractors such as security in hotels or was it DHHS or who was it? Am I capturing that correctly?

35 A. You are. I was clear that hotels and security companies needed to provide PPE to their own staff, that was clearly articulated in their contract. It had been reported to me that on some occasions at some locations security needed to supplement their own supply because they were providing some PPE to guests as they escorted them on their fresh air breaks. And it had been reported to me that sometimes this caused tension on site, where security personnel needed to top up their own supply from the supply that DHHS had on site. There was also --- I needed to clarify the provision of PPE to DJPR staff because it had been handed to me when I started on this program that DHHS was supplying PPE for both organisations.

45 Q. Both Departments, you are referring to?

A. Both Departments, sorry, yes.

Q. And in fact was that the case and did it remain the case throughout the course of the program?

5

A. In practice, on the ground, the PPE was provided on the ground for top-up, for security or hotel if they needed it, noting that they needed to supply their own, and it was available for our staff, although the matter was not resolved through the communications that I had initiated.

10

Q. Does that mean that there wasn't a resolution or you're not aware of the resolution?

A. There wasn't a resolution by the time DJPR had finished with the program.

15

Q. And that was as of 28 June; is that right?

A. We finished up on 30 June but we remained in place to hand over and to train some of the functions until the last quarantine guest finished on 14 July.

20

Q. Just staying at the moment with some of the issues you found caused some concern, you were receiving, as I understand it, certain information through flight manifests in order to understand incoming guests and their needs and that was also perhaps a cause of some complication, if I can put it that way.

25

A. That's correct. At the beginning of the program the flight manifest information often arrived with the flight. Towards the end of the program it was arriving in a more timely manner, although often the day before, and the flight manifest was important for us to be able to determine how many singles or families or children could be expected on a flight in order to be able to allocate the most appropriate hotel room.

Q. From whom were you receiving flight manifests?

35

A. Flight manifests came through from, I believe, the Australian Border Force, but also there was a difference between the repatriation flights and the commercial flights, and they would come through at different times.

40

Q. And, if I can put it to you this way, in a perfect world, would the information, the forward information through flight manifests, had it been more detailed, it would have assisted you in understanding the practical nature of the job of allocating people to accommodation?

A. Absolutely.

45

Q. One of the other topics you touched on in your first statement, which was then expanded into your second statement, was the question of cleaning protocols at the

hotels. That's something you took on as a job, if I can put it to you that way; is that correct?

A. That's [indistinct]. (Screen frozen).

5

MR NEAL QC: The witness appears to have been frozen.

A. That's correct.

10 CHAIR: Sorry, we just lost the connection to you for a moment, Ms May. I might get Mr Neal to put that question again, so we can get your answer.

MR NEAL QC: Ms May, are you hearing me properly now?

15 A. I can.

Q. I was asking you, as one of the jobs that you were responsible for or took on in your capacity, was the securing of cleaning contractors?

20 A. That's right.

Q. And that's a matter you deal with in some detail in the second statement?

A. That is correct.

25

Q. That is how your second statement came into being, to discuss that issue. Yes. You make it plain in your statement that, as far as hotels were concerned, there were two forms of cleaning, one of which might be called the standard hotel cleaning and that responsibility remained with the hotel.

30

A. That's correct.

Q. And then there is what you called commercial cleaning and that was something that DJPR contracted to supply.

35

A. Yes.

Q. In your statement, I think you identified three companies: IKON Services, AHS and AMC as the three companies who were engaged.

40

A. That's correct.

Q. In the first instance, IKON was providing services as of 13 April, early in the program?

45

A. That's correct.

Q. And the other two towards the end of May?

A. That's right.

5 Q. Now, in terms of the contract with IKON, is it correct to say that IKON was providing commercial cleaning services from about 13 April?

A. Yes, that's correct.

10 Q. And that IKON, however, didn't have a formal contract until about 20 May?

A. That's correct.

15 Q. Do you understand the reason for the delay between IKON being on board and IKON being formally contracted?

A. Yes, there were some delays in the contract negotiation with IKON.

20 Q. Now, when IKON was undertaking services, cleaning service, prior to the formal contract, what were the specifications that it was following in order to clean hotels?

25 A. We had provided IKON with the cleaning advice that DHHS had provided to the Department earlier, dated 20 March, if I recall, I think it was --- without the title directly in front of me, I think it was something like "Tips for cleaning in the non-health care setting".

Q. If the operator could call up that document, DJP.103.007.7332.

Ms May, is that the document to which you have just referred?

30 A. It is.

35 Q. That document is "Cleaning and Disinfecting to Reduce COVID-19 Transmission - Tips for non-health care settings, 20 March 2020"?

A. Yes.

Q. How did you come by that document?

40 A. When I first started on the program and was advised that DJPR needed to arrange the commercial cleaning, the DJPR support team who had been in place prior to my appointment provided me with a copy of this document saying that that is what they had been provided by DHHS. I then sought to confirm that with DHHS, that this was the cleaning standards by which the commercial cleaning should be undertaken and that was confirmed to me a number of times from DHHS in April.

45 Q. In the formal contract that was entered into with IKON was that document

referred to?

A. Not explicitly. If I recall correctly, the words were much broader than that, it stated "in line with the most recent cleaning advice from DHHS". We ensured it was broad enough that it could capture any particular title or date changes to any such document that may arise through the duration of the program.

5 Q. Is it correct to say that in terms of documented guidance, if I can put it that way, to IKON, this was the document that was provided?

10

A. Correct.

Q. Thank you. We can take that down.

15 15 Now, you reference in your statement the fact that there was at the Rydges Hotel an outbreak in late May. My question was whether that caused a change in the cleaning regimes and the cleaning companies with whom you contracted?

20 A. With the outbreak at Rydges, DHHS asked DJPR to arrange for some deep cleans of the common areas of the Rydges Hotel and some twice-daily touch-point cleans of the common areas. This was not a service that had previously been provided by DJPR. The cleaning of common areas and so forth was the responsibility of hotels in their contracts. But because this was an outbreak and DHHS asked us to arrange it, we then asked IKON if they would be available to undertake that type of cleaning.

25 25 The cleaning needed to be done urgently in order to meet the requirements of the DHHS outbreak management. IKON had no availability, no staff available to undertake the cleaning with that short notice and so I directed my team to seek quotes and availability from other companies and that is how we identified the other two cleaning companies that you cited earlier.

30

This outbreak cleaning was different to the arrangements we had in place with IKON, which was previously just about cleaning the rooms of COVID-positive guests who had left their rooms.

35 35 Q. So at the end of a 14-day quarantine period the original arrangement was that IKON needed to do the commercial cleaning in accordance with the protocol that you have mentioned up to this point in time? That is to the --

A. So --

40

Q. Please go ahead.

45 A. So hotels were --- at the end of a 14-day quarantining period, for any guests that had not tested positive the hotel would undertake the clean of that guest's room. If the guest had tested positive to COVID-19 then IKON or the commercial cleaners that DJPR had engaged would be deployed to clean those rooms. The outbreak at Rydges, the request was to clean common areas and to do twice-daily touch-point

cleans which we had previously not engaged IKON to do before, so that was a change in service request.

5 Q. And did that have implications in terms of the time that was spent in doing the job?

A. Well, the clean for that particular outbreak needed to be undertaken quickly, to enable new staff to come in and work on the clean environment as part of the outbreak management strategy that DHHS had. My team captured the request for the 10 outbreak clean as new information and added it to the requirements we already had through that 20 March document, noting that these requirements were different to what we had previously engaged IKON for and tried to pull it together into a document that was more specific for the hotel quarantine environment and provided it to DHHS for their consideration.

15 Q. Did that result in a further document being issued?

A. After DHHS had reviewed the documentation and they eventually approved it, it did result in the issuing of a new cleaning protocol around 16 June.

20 Q. Could we call up, please, DJP.001.008.0162. Actually, my apologies, that's not the document I was after. Could I correct that request. Could we call up DJP.103.008.0649, please. Perhaps we can't.

25 Are you familiar with the document, what I'm calling the second --- I think you call it the second protocol.

A. Dated 16 June?

30 Q. Yes.

A. Yes, I am.

35 Q. In general terms, can you describe what, if any, the differences were between the two protocols?

A. If it's okay, I might turn to my hard copy and refer to that, if that's okay.

Q. Of course.

40 I'm told, Madam Chair, the hunt for the document is still on.

CHAIR: All right. Here it is.

45 A. Yes.

MR NEAL QC: This is the document to which you were referring, Ms May?

A. It is.

Q. Perhaps if we could scroll down to the second page of that document. You're
5 familiar with this now?

A. I am.

Q. It is fairly described as a far more detailed document in terms of the cleaning
10 regime?

A. It is.

Q. And if we can scroll down further, please, dealing amongst other things with the
15 use of personal protective equipment?

A. Yes.

Q. In relation to that document, and your engagement with AHS, what were the
20 contractual provisions required of AHS in terms of a cleaning regime or
specification?

A. So while we sought a quote from AHS in late May, associated with the Rydges
outbreak, we did not actually engage their services until a little bit later, in which
25 time this protocol had come to be. And so when we developed the contract with
AHS, we cited this new cleaning protocol.

Q. Is it the case that AHS had done cleaning without this protocol?

30 A. I'll have to refer --- refresh my memory. I can't recall, the acronyms are similar
for AHS and AMC, which one went into the Rydges Hotel. I'm sorry, I would have
to double-check.

35 Q. I think you make it plain in your statement that AHS was engaged for deep cleans
in COVID-positive rooms and common areas at the Novotel South Wharf?

A. Yes, Novotel South Wharf was used by DHHS to move the guests from Rydges
over to Novotel South Wharf in the wake of the outbreak when the Rydges Hotel
needed to be closed due to the quarantining of all the staff. And so when the guests
40 left Novotel South Wharf and were moved into the hotel that DHHS contracted, the
Brady Hotel, we were asked to engage in a deep clean of the common areas and, of
course, the COVID exit clean, I asked AHS. I can't recall the specific date. If it was
prior to the 16th then they would have used the previous cleaning protocol.

45 Q. I understand your evidence to be once the formal contract was finalised, the
second, the 16 June protocol, was then in place, albeit that the contract, at least on
the copy that I think you have annexed to your statement, wasn't signed until some

time in August?

A. That's correct. We referenced this cleaning protocol in the contract because the contract was executed after the 16th, and it was finalised late because at that stage we were in a transition process of handing over the functions that DJPR had been overseeing across to DHHS and it was understood that DHHS would actually enact the contracts with AHS and AMC. But with the change in arrangements from 1 July, that didn't happen, so we went and retrospectively contracted those two companies for the services they provided for us in that time.

10

Q. Did you actually provide this --- I'm calling it the second protocol --- to the companies?

A. We did.

15

Q. That is prior to the formal --- and do you say whether or not you made it plain that that was the applicable protocol?

A. We did. We made it very clear that for any cleaning undertaken from the 16th onward, or perhaps the 17th when we distributed it, that it needed to be in line with this protocol.

20 Q. At paragraph 54 of your statement you're referring to --- I'm misleading you as to paragraph numbers. You mentioned I think a moment ago that towards the end of June, DJPR's involvement in the Hotel Quarantine Program came to an end?

25 A. That's correct.

Q. Can you explain for the Board the circumstances in which that occurred?

30

A. When DHHS were looking to contract, were looking to find a new hotel as an alternative to Rydges, given that Rydges was closed because the staff needed to quarantine, we put to DHHS that they could take the lead on having the contracts for that new COVID-positive hotel in its entirety and all the services that go with it and that prompted a broader discussion around the general transition of all of the contracts that sat with DJPR, to move across to DHHS. And the timeframe was agreed that the end of June was a good natural point, given that the contracts were sitting with DJPR until the end of June, and after that they would transfer across to DHHS. DJPR would continue to provide resources, if needed, to support DHHS, so people to perform functions if DHHS required, but that from 1 July DHHS would hold all of the contracts.

35 Q. Bearing in mind the experience that you had prior to this undertaking, the Hotel Quarantine Program, can I ask you this question: the system that was in place in the time that you were involved might be characterised this way: as one where DJPR was providing hotels, security guards and cleaners into a venue but was not actually the Department on site receiving and --- receiving the services that had been

contracted for. Is that a fair analysis of it?

A. I think that is a fair analysis.

5 Q. I'm not asking you to accept or attribute blame to anyone but in retrospect, at least, would the system have been better had that not been compartmentalised like that?

10 A. I think in the initial setup, DJPR were looking to support DHHS in a program that had never been done before and to provide extra capacity to support the Hotel Quarantine Program. I think towards the end it was clear that it may have been more efficient had the contracts at some point transferred across to DHHS sooner, to enable them to have clear line of sight for control of the whole operation.

15 Q. Accepting that it was done in the first instance in a hurry, it is the case, is it not, that the way the system worked there were a lot of handover points between different parties and a lot of compartmentalised duties between a whole range of parties, which ideally would not have been the case?

20 A. Sorry, could you rephrase that question?

Q. Yes. It seems from the statement that you described and perhaps the idea, the simple example you gave, of one party, DHHS, deciding when someone would be released, and your Department needing to actually have transport ready for them 25 when they were released, I'm suggesting to you that there were a lot of handover points in the system and if we could design it again we'd probably try not to have so many handover points because there were a lot of compartmentalised duties that needed to cooperate and if you did compartmentalise them then you created a logistical problem. That's what I'm suggesting to you.

30 A. It was my experience that there were a lot of handover points, yes.

Q. If the Board needs to make recommendations, as it does eventually at the end of this process, might it be a recommendation that an integrated service with perhaps 35 one department would be a better system than the one we adopted?

A. It could be.

Q. I'm wanting to be clear with you, I'm not suggesting that that was the case at the 40 outset under the exigencies of the moment, but if we had the opportunity to design the system again we might do it differently?

A. Of course, with the benefit of hindsight we might do it differently.

45 MR NEAL QC: Madam Chair, those are the questions that I have for this witness. I have been notified by a number of parties that they may seek to ask questions. I'm not sure to what extent the present examination has pre-empted any of those.

Ms Robertson was one party who sought that leave.

CHAIR: Ms Robertson?

- 5 MS ROBERTSON: Thank you, Madam Chair. I apologise, I had a momentary technical glitch. I had some questions, they are more matters I think now of clarification. I have some clarification around dates with respect to the cleaning contracts and the issuing of the cleaning protocol that Ms May has talked about. And I also wanted just to seek some clarification about a matter which appeared in --- the
- 10 DJPR officer who is referred to in paragraph 114 and paragraph 89 of Ms May's statement, I just wanted to confirm that the site register that he refers to there was the site register that Ms May understands to be the register of complaints. And there was a third issue just in relation to the information provided to the security guards by the DJPR. That is, I think, largely resolved but there may be just one or two matters in
- 15 relation to that.

CHAIR: All right, I'll grant you that leave, Ms Robertson.

MS ROBERTSON: Thank you.

20

CROSS-EXAMINATION BY MS ROBERTSON

- 25 MS ROBERTSON: Ms May, you gave some evidence today about the IKON cleaning contract having been executed on 20 May, I believe, and that is also referred to in your witness statement. Can I ask, prior to that contract being executed, do I take it that this was no deep cleaning or infection cleaning in the hotel rooms?
- 30 A. IKON were undertaking the --- what you might call the deep cleans of the guest rooms where guests had been diagnosed as COVID-positive. Guests who had not been diagnosed as COVID-positives, their rooms were cleaned by the hotels.
- Q. Yes, so IKON were in place before 20 May, cleaning COVID-positive rooms
35 only?
- A. Correct.
- Q. Were they cleaning common areas?
- 40 A. No, they were not.
- Q. So I take it then that after they commenced on site, did they then start to clean common areas?
- 45 A. IKON were only engaged to clean the guest rooms until such time as the Rydges outbreak occurred and then we were tasked to clean common areas on the direction

of DHHS in relation to the outbreaks only.

5 Q. Yes. All right. And do I take it then that when you referred to the second cleaning protocol, and in your witness statement you say, I believe, at paragraph 50, you make a reference to this and you say that there was going to be then increased time to undertake cleaning; is that correct?

A. That's correct.

10 10 Q. And at that stage the cleaning staff were then going to be required to wear full length PPE; is that right?

A. That's correct.

15 15 Q. Just to short-circuit it, I'll quickly ask this question: masks, gowns, eye protection and gloves; is that right?

A. I believe that's what the protocol says.

20 20 Q. Yes, and in fact that protocol wasn't actually issued until 28 June; is that correct?

A. That's not correct.

25 25 Q. No? Can I perhaps just take you then to paragraph 54 of your statement. I just want to clarify this because there were two dates referred to and you do refer to the date with respect to 16 June and then you refer to the date of 28 June and I just want to understand what was happening on each date.

A. Certainly. I can try to explain, if you wish.

30

Q. Yes, please.

35 A. The second cleaning protocol that you referred to earlier was released on 16 June. It did have different requirements to that that was previously issued and so I sought to clarify that with DHHS and we had had comments back from the hotels that this was quite different. DHHS sought clarification internally and reissued the cleaning protocols on the 28th.

40 40 Q. Thank you. In relation to the complaints that you received, there has been some evidence given already by one of the officers who I believe worked with you and he's referred to in paragraph 114 and paragraph 89 of your statement --- I won't refer to him by name --- but in his evidence he referred to having completed what he called a register of incidents on site. Do you recall seeing that document?

45 A. I do.

Q. Do I take it from your evidence that that document reflects the incidents that were

escalated to the DJPR; is that right, to your Department?

A. Incidents that were escalated to that officer and to myself.

5 Q. Certainly they were the incidents that, if he was going to report matters to the security companies, would be the matters that he reported?

A. I can't speak on his behalf, I'm sorry.

10 Q. No, and I think that's right because in your statement you said you relied on him to deal with the contractual management; is that right?

A. I did.

15 Q. Yes. All right. So for present purposes, if he's created that incident register, and noting that he's not coming along to give evidence, you would accept, wouldn't you, that those are the incidents that he considered relevant to report to the security companies?

20 A. No, they would be the incidents that were raised with him.

Q. Yes. And they are raised with him by someone on site, I understand they come up through the chain, through the site leader on site to yourself and then you pass on the information to him; is that correct?

25 A. In addition to that process that you have outlined, sometimes those issues would also be raised with me by hotel management or through DHHS.

30 Q. Yes. And so once he receives that information, that's the information that then gets entered into the incident register; is that correct?

A. That's the initial information.

35 Q. Yes. Thank you. And you have also given some evidence, haven't you, about the fact that you were not necessarily aware of all the guests in the hotel who had tested positive for COVID-19?

A. That is correct.

40 Q. And so with that in mind, you sought to seek some additional clarification about that from DHHS, didn't you?

A. I did.

45 Q. You did that, didn't you, because you held concerns within your own Department about the fact that there might be COVID-positive patients residing in the hotel that you weren't aware of?

A. The clarification I sought most often was around the release of these guests, given that we were assisting with the release through the booking of their taxis and so forth.

5

Q. Yes. And that was the context in which you became aware of it but you were also --- at that stage presumably you wanted to make sure that you weren't allowing a person who was COVID-positive to be released back into the community?

10 A. I wanted to be clear that the actions we were undertaking were absolutely in line with the directions from DHHS, given that they knew which guests were COVID-positive and we did not.

15 Q. Yes, exactly. And it would be fair to say, wouldn't it, that you also weren't aware of which guests were perhaps refusing to take a COVID test; would that be fair?

A. We did not know.

20 Q. And you also wouldn't have known which guests had been tested and were waiting on results; is that fair?

A. Only if the guests informed us.

25 Q. If the guest did not inform you, you wouldn't have been aware of that information, would you?

A. No.

30 Q. Given that it was Department's role to pass on relevant information to the security contractors, you would agree with me, wouldn't you, that if you weren't aware of that information you couldn't pass it on to the security contractors?

A. That's correct.

35 Q. And so, therefore, they couldn't take steps to ensure that their staff weren't coming into contact with COVID-positive patients because they didn't know where they were?

A. Yes.

40

Q. Thank you, Ms May, I have no further questions.

CHAIR: Thanks, Ms Robertson.

45 MR NEAL QC: Madam Chair, my learned friend Ms Harris earlier indicated that she may have some questions.

CHAIR: Ms Harris.

MS HARRIS QC: Thank you, Madam Chair. I wanted to ask some questions just to clarify the timeframe and the timeline with respect to both provision of cleaning information and with respect to the protocols where there remains, in my respectful submission, a little bit of uncertainty that can be resolved. I would also like to ask some questions about the evidence that has been given in Ms May's statement, for example, about the site managers not really managing anything and just test that a little bit with some of the other evidence that has been given, very briefly, and I also wanted to ask some questions about the control agency and DJPR's role with respect to its position as a support agency, that Ms May has described in her evidence.

CHAIR: Yes, I'll grant you that leave, Ms Harris.

MS HARRIS QC: Thank you, Madam Chair.

CROSS-EXAMINATION BY MS HARRIS QC

MS HARRIS QC: Ms Febey, I will perhaps start with the cleaning issue, just to make it very clear on the evidence before the Board on the sequence of events.

CHAIR: I just remind you, Ms Harris, the witness that you have is Ms May, not Ms Febey.

MS HARRIS QC: My apologies, I have just read from a document. I apologise, Ms May. I am thinking of your colleague.

I think you noted in your evidence that you had by the time you took on your role, you had received or your team had received and passed on to you the 20 March 2020 "Tips on cleaning" document that became the cleaning protocol that you refer to in your evidence?

A. That's correct.

Q. Now, do you know how that document came to be provided to your team by DHHS?

A. I was advised at the time that they had received it from DHHS when they asked for the cleaning standard.

Q. I asked Ms Febey when she gave evidence whether she recalled receiving an email from an officer of DHHS on 8 April, which attached that document, and she said that she did recall that. If possible, I would like to bring that email up. It's been provided to Solicitors Assisting, Madam Chair, if I can read out the number.

CHAIR: It's not in this tender bundle; is that right, Ms Harris?

MS HARRIS QC: It's not in this tender bundle. It's not a document from DJPR although it will have been received within that Department. The document number is DHS.001.0015.0287.

I'll just ask the question while that is coming up. The document that will come up is an email and there will be reference in the email to two attachments; one "Cleaning and Disinfection to Reduce COVID-19 Transmission", which is the 20 March 2020 document; and the second, "COVID-19 Case and Contract Management Guidelines for Health Services and General Practitioners". Does that second document sound familiar, to you, Ms May? There may be no reason why it would.

A. No, it does not.

MR NEAL QC: I note, Madam Chair, that the emails which my learned friend wishes to call up, these documents have been provided iteratively in the course of today, but it doesn't particularly seem to involve this witness.

MS HARRIS QC: Madam Chair, now that the document is here, it is a document that's been referred to and now that Ms May has referred at some length in her statement to the cleaning protocol, I would like, if possible, just to show this document to identify what in fact was provided to Ms Febey on 8 April.

Ms May, do you know if you were ever provided with that email that's now on the screen?

A. I don't believe I was.

Q. And if I can just point out, it says in the email "Cleaning requirements":

See attached the current guide for GPs (page 25 has the detail on cleaning for COVID) and the general cleaning advice which would work for every space aside from those with COVID-positive people in rooms.

Now, is that something you would have expected your team to be aware of by the time you took on the role?

A. I can't see everybody in that --- who that is CCed to, only Ms Febey.

Q. Do you recall whether she mentioned that in your handover?

A. I don't recall this being mentioned in my handover.

Q. I don't need to take that document any further, thank you. Other than to say --- and I don't wish this to delay matters --- but it may be appropriate to record --- to bring up the number of the document that was in fact attached to that email, so that it

is quite clear that that is the protocol that we are talking about. It is DHS.001.0015.0333.

5 MR NEAL QC: Madam Chair, it's always a matter for you, but whether this witness can add anything to what appears on the face of the emails or what might have been put to Ms Febey or what could be put in submission as to the effect of the document is the question you might wish to consider.

10 MS HARRIS QC: Madam Chair, it does seem to be uncontroversial that it is the same document that is later referred to. Yes, that is the document.

15 Now, there were some questions a bit later about changes to that protocol and perhaps a suggestion in a question that the protocol that followed this one, the second cleaning protocol that you referred to in your statement, which was, as I understand it, the one that was dated 16 June; is that the one you refer to as the second cleaning protocol?

A. It is.

20 Q. I'm sorry, we have just lost that document. But the 20 March document in fact, if one goes to the next page, please, Operator, does refer to use of PPE. It may be on the following page, my apologies. On the fourth paragraph down, that refers, for example, although not under the same --- in the same format as the following one, it does refer to use of PPE, so that is not something that was new in the second protocol, is it?

25 A. No, that's very similar; though, without having the two documents side by side, that is very similar to the second protocol.

30 Q. Thank you. That document can now be taken down, thank you.

In your second statement you refer at paragraph 23 to a request to the DHHS Program Commander, Pam Williams, in which you sought further confirmation that the cleaning protocol that we have just discussed apply to specialised cleaning of COVID-positive rooms.

35 A. That's correct.

40 Q. And you have explained then that Ms Williams sent an email, forwarding an email that she had received, to confirm the cleaning protocol was the operative standard and "please direct the cleaning contractors to that document". That's your evidence in paragraph 24 and that is your recollection?

45 A. That's correct. I was checking with Ms Williams that the general advice provided in that document "Tips for cleaning" was in fact suitable for the hotel quarantine environment and appropriate for the COVID-positive rooms.

Q. And Ms Williams confirmed that in fact it did apply, didn't she, on that same --- on the next day, 28 April?

5 A. Ms Williams forwarded me an email on 27 April, where somebody else in DHHS confirms that that is the correct cleaning protocol. On 28 April I had also asked my liaison officer to follow up with DHHS, who confirmed through their liaison officer that it was the correct protocol.

10 Q. Thank you. So that was --- I'm not sure that that date is in your email of when the confirmation --- sorry, in your witness statement you refer at paragraph 27 to an answer coming back from DHHS that really answered the question you had asked. That was provided on 28 April also, wasn't it?

15 A. I'm sorry, could you say that again, so that I can understand which paragraph you're referring to?

20 Q. Paragraph 27 of your statement notes that you had sought some confirmation about the cleaning protocol and the advice that had then been given that it was suitable for used in rooms subject to certain matters, including whether an aerosol-generating procedure, for example, a nebuliser on a confirmed case was undertaken.

25 CHAIR: That is your second statement, Ms May. Paragraph 27 of your second statement.

A. Yes, thank you.

MS HARRIS QC: That was the question you had on 28 April. And you say in your following paragraph:

30 *I then sought confirmation as to whether a nebuliser had been used so they would know whether a period of settling was required or whether cleaning could start immediately. The answer came back from DHHS that no nebuliser had been used so we could then deploy commercial cleaning to Rydges and another hotel that required commercial cleaning following an outbreak in late May 2020.*

40 Now, my question is, you don't in that paragraph refer to a date when that answer came back from DHHS but it is the case that the answer came back on 28 April, isn't it?

A. I believe so. I think it's attached into one of the emails in there, yes.

45 Q. I am not sure that it's in an email in your statement but that's one of the documents we have provided to the Solicitors Assisting, if I can ask for that to be brought up. It's DHS.5000.0002.1028. That's an email of 28 April to the DJPR COVID accommodation support. Is that an email address associated with your team at the

DJPR?

A. Our support team had that email address, yes.

5 Q. And in that one there's a statement responding to the question that's in the second email in the chain, "Please confirm that no nebulisers were used in any of the hotels that require cleaning" and the answer is, "To my knowledge, no nebulisers were used."

10 So while your statement in paragraph 27 doesn't contain the date of that response, the date was 28 April that the response was given. That's correct, isn't it?

A. That's correct.

15 Q. That document can be taken down.

So by that time you had all the information that you needed for a cleaning protocol for IKON, who was then the contractor providing the cleaning services for COVID-19-positive rooms?

20 A. We did.

Q. Subsequently you have referred also in paragraph 27 to the Rydges Hotel that required commercial cleaning following an outbreak in late May 2020 and I just wanted to clarify the date on which you were first --- the Department was first notified, your Department, the DJPR, was first notified that some cleaning of the Rydges would be required following notice of an outbreak. Is it your understanding that that was 26 May, late in the day, very late in the day?

30 A. Quite possibly. So the first day that we were advised that a positive result had been detected in one of the staff.

Q. In fact, it was part of an email to your Department from Pam Williams, to you in fact, where Ms Williams forwards an email identifying what will need to occur, given that notice of the outbreak. Do you recall that email?

A. I do.

Q. And one of the items that was forwarded in that email --- if I can bring it up, in fairness --- it's very hard to talk about documents in the abstract --- it's document DHS.5000.001.9597. As you can see, it's an email from Pam Williams to yourself and it is in the evening, after 9 o'clock in the evening, and Ms Williams is forwarding an email to you, asking to discuss. And in the forwarded email there's a highlight of the queries below that DHHS will respond to but there's an item at paragraph 4:

45 *What's the cleaning regime like at the hotel? A cleaning of all common areas and the cases' direct work areas will need to occur.*

Do you recall that part of the email?

A. I don't recall it in detail but it does look familiar, here in front of me.

5

Q. Thank you. That document can be taken down.

Thereafter, did your Department take steps to try and arrange that clean that was identified as being needed?

10

A. So once we had confirmed the requirements from DHHS, as I said in my statement, we took steps to engage IKON to undertake the cleaning of the common areas and IKON were unavailable, hence we reached out to a number of other suppliers to find someone available. However, in the end Rydges ended up being closed and so the original cleaning regime didn't occur because the hotel was closed when the staff needed to quarantine.

15 Q. IKON was originally unavailable and is it the case that no other agency was immediately available to step in to do that cleaning?

20

A. So my recollection --- sorry, the acronyms are similar so I always have to refer to my notes --- my recollection is that we reached out to about seven different companies, some of whom declined, most of whom were unavailable. And we identified two companies that could undertake that type of cleaning and we deployed AHS, I believe.

25 Q. During that period do you recall that there was any communication, any further communication, with the Department of Health and Human Services about the timing of the cleaning, that it needed to take place very quickly?

30

A. That's correct, yes, I recall that.

35 Q. And that the Deputy Commander Hotels Operation Soteria at the time on 27 May contacted the DJPR to say it must take place tonight --- "It's needed tonight," sorry.

A. I recall that.

40 Q. Thank you. And then in fact it took place the very following morning, when IKON was able to undertake the clean?

45

A. I do recall that it happened the next morning, yes, with permission from DHHS.

Q. Thank you. When you say permission, you're not saying that they needed --- there needed to be permission to engage cleaning contractors but you are talking about --- what's your position on the permission?

A. If I recall correctly, there was a discussion around needing to have the clean occur

as soon as possible but we were unable to arrange for a clean to occur that night and so we sought, I guess, approval from DHHS that the earliest time we could arrange for someone to come in was the next day.

- 5 Q. Thank you. I think that's probably as far as I need to take the question of cleaning.

If I can just now move to the issue that I mentioned about site management and the DJPR site managers' roles on the ground, it's raised, Ms May, by your evidence that
10 the DHHS team leader was in fact in charge for supervising operations within the hotel as a whole, including in relation to security on a day-to-day basis. That's said in your paragraph 15 of your first statement. But I think as the evidence unfolded today, it became clear that you were talking about the role of DJPR, I think you called them site leaders, but other witnesses have called them site managers, in the
15 course of the program. Is it the case that there was a DJPR site manager on site at each hotel throughout the course of the program, other than the Rydges for a certain period, where there wasn't a DJPR representative?

A. DJPR allocated a site leader or a site manager, however you wish to call it, to
20 each of the hotels. They were only ever present on days of entry and days of exit and on an ad hoc basis in the days in between.

Q. So would Ms Serbest's evidence that she gave, that there was a DJPR manager on site at each hotel other than the Rydges, is it the case that they might have been just
25 either on site or on call?

A. That's correct.

Q. And there's a statement from another person, who won't be identified for the
30 Board, but as I understand it, his statement will be tendered, who describes himself as a site manager for DJPR at the Stamford. He says he was on site from 29 April to late June at that hotel and then later at another hotel, the Marriott, from 28 May to 15 July. Does that sound correct for the role of DJPR site managers?

35 A. Correct that they might work across two hotels?

Q. I'm sorry, correct that that might have been the period of engagement that DJPR site managers had the role of being on site or on call for the site?

40 A. Some DJPR site managers were with the program from the beginning all the way through to the end and others came in at different times.

Q. So in paragraph 54 of your statement, when you said that DJPR ceased involvement in the program other than handover, the handover period included, did it, still the continuing role of site managers?
45

A. For the two-week period in July, yes.

Q. You have also said in some part of your statement that DJPR had a limited site presence. That was at paragraph 62 of your second statement and there are suggestions to that effect in the first statement. Is what you mean by that that the
5 DJPR might not have been on site but they still had DJPR site managers performing those roles, whether on site or remotely?

CHAIR: Ms Harris, I think that question has been put and answered twice already now.

10 MS HARRIS QC: I was wishing to clarify the written part of Ms May's statement but I wont' take that any further.

15 Then did you attend sites yourself, Ms May, or was your work mainly remote work as well?

A. My work was remote.

20 Q. When there was a discussion of daily briefings on site, is that something that your staff or you would have had an opportunity to observe every day or was it a matter of what might be reported back about that?

A. I think I lost connection. Sorry, I think I lost you there.

25 Q. No problem. You gave some evidence about daily briefings and that they did occur, but perhaps you weren't aware of exactly the frequency. Is it the case that perhaps daily briefings might have been occurring when site managers weren't actually present on site but they were there on call?

30 A. That is a possibility.

35 Q. And the nature of the site manager role, you have said in paragraph 96 of your first statement that the site manager doesn't actually reflect the nature of their role because it was more of a liaison role. Now, the evidence of the site manager who won't be identified but whose statement may be tendered suggests that he --- for example, this is at paragraph 9(a) of the statement and I think it will be understood by the Board later who the person is --- that he managed the arrival and departures of returned travellers from the hotels, he addressed issues raised with him by the hotels concerning the provision of their services and acted as the liaison point of contact
40 between hotels and the DJPR.

Does that sound like an accurate description of what the site managers for the DJPR would have done?

45 A. It does.

Q. And that site manager also says it was his preference that complaints relating to

the hotels, security companies or other contractors be raised with him as the DJPR site manager, not others, and that was because he felt he could address and resolve the complaints by reason of the fact he was on site. Does that also accord with your understanding of what that role might have involved?

5

A. It does.

Q. Now, I want to just briefly ask about your understanding of the relationship with security services. It is the case, isn't it, that security issues could be raised with

10 DJPR site managers on site by the security companies?

A. Yes.

Q. And that was perhaps the practice that did occur, for example, Mr Nagi, the
15 Victorian Operations Manager of Unified Security, gave evidence that DHHS didn't provide specific direction regarding the way security services should be performed but he describes dealing with officers of the DJPR primarily in relation to security. Does that sound consistent with your understanding?

20 A. It does.

Q. Moving from that to the more general picture of what DHHS's role was as control agency and the DJPR's role as support agency was, you have already noted in your
evidence that the operations were an operation to which the Emergency Management
25 Manual Victoria applies. It is your understanding that this was a class 2 emergency under the *Emergency Management Act*?

A. It is.

30 Q. And the Emergency Management Manual provides some guidance in respect of class 2 emergencies and it describes roles for coordination, control and command. If I can just refer to part 3.3 of the operational roles and responsibilities part of that manual, it describes them in a way that I'm sure you will probably be familiar with, given your experience, but:

35

Coordination is bringing together agencies and resources to ensure effective response to and recovery from emergencies;

Control is the overall direction of response activities in an emergency operating horizontally across agencies; and

40

Command is the internal direction of personnel and resources operating vertically within an agency.

Is that how you understand those principles to operate within the context of emergency management for a class 2 emergency?

45

A. It is.

Q. Part 7 of the Emergency Management Manual refers to some emergency management agency roles. That's where it's found that the DHHS would be control agency for an emergency in the class of a plague, epidemic or contamination of the nature of human disease. That's correct, isn't it?

5

A. That's correct.

Q. Another observation made in the Emergency Management Manual is that there are complex emergencies where a shared accountability across a number of agencies

10 occurs:

In these cases there is a need for a single agency to be responsible for the collaborative response of all the agencies. For the purposes of consistency the term 'control agency' will be used to describe this lead agency role.

15

Does that sound familiar?

MR NEAL QC: Madam Chair, if I may intervene, the witness has never suggested that the manual was not something that was adhered to and at the moment we were 20 hearing a series of questions about whether what is plainly stated in the manual is what is stated in the manual.

CHAIR: That's correct, Ms Harris.

25 MS HARRIS QC: Well, I don't wish to labour a point that can be made by way of submission, but there are some suggestions, including in paragraph 60 of Ms May's second statement, that the ultimate responsibility for the program, including all hotels and operations and including the cleaning function, sat with the DHHS. And I did wish to give the opportunity to make the observation about the shared accountability 30 that is envisaged in the Emergency Management Manual.

MR NEAL QC: With respect, it is sharing the observation, it is not asking the witness a question.

35 MS HARRIS QC: Through asking Ms May that question.

CHAIR: Ms May, I will invite you to give your response to that if you have understood the exchange.

40 A. If I could please be clear about which question it is I'm answering.

MS HARRIS QC: I read out a quote from the Emergency Management Manual that refers to situations of a complex emergency. Would you accept that the pandemic response to COVID-19 and the Hotel Quarantine Program involved a complex 45 emergency?

A. It is certainly a complex emergency.

Q. And what's observed there is that:

5 *There is a shared accountability across a number of agencies and in these cases there is a need for a single agency to be responsible for the collaborative response of all agencies, but for the purposes of consistency the term "control agency" will be used to describe this lead agency role.*

10 First, is it your understanding that in a complex emergency like this the control agency and the other support agencies would be having been shared accountability for this collaborative response?

15 A. I haven't worked in a pandemic before but I would say that the control agency has overall responsibility for the direction of the response.

15 Q. Let me put it another way. Ms Febey gave evidence, when asked about the roles of DJPR in activating hotels, contract management roles, that the DJPR staff absolutely had responsibility for what they were doing in those roles as part of the operation. Would you agree with that evidence of Ms Febey?

20 A. I do.

MS HARRIS QC: Thank you. Madam Chair, I don't need to take that further.

25 CHAIR: Thank you. Is there anyone else, Mr Neal, who --- has any other matters?

MR NEAL QC: Madam Chair, I received a number of documents on behalf of Unified but the purport of them was not plain to me. Perhaps if Mr Moses is there he will make them plain.

30 MR MOSES SC: Thank you, Madam Chair, I will be very brief. There are only four very quick issues that I will take the witness to, very quick questions. The first --- I'll just identify the first, and that relates to the question of the cleaning procedure that came in in June. There is a document which I want to take the witness to in respect of that document having been something that was being asked for since March and only was provided in June by the Department of Health and Human Services. I just want to ask a question arising out of that issue. It is the document DJP.1038.008.1083.

40 CHAIR: Is this a document that hasn't yet been displayed, Mr Moses?

MR MOSES SC: That's correct. The Operator has been informed of this document.

45 **CROSS-EXAMINATION BY MR MOSES SC**

MR MOSES SC: Ms May, do you have that document on the screen?

A. I do.

5 Q. You will see that it's an email dated 17 June from you. You were informing a number of individuals that "The Department had developed and approved the attached cleaning procedure for hotels, the document we have been asking for since March." Do you see that?

10 A. I do.

Q. Do you know why it took --- did anybody from the Department of Health and Human Services explain to you or anybody else within the Department of Jobs, Precincts and Regions as to why it took so long for this document to be prepared?

15 MS HARRIS QC: Can I make an objection to Mr Moses' statement. I think there needs to be a bit more clarity about exactly what we are talking about with "the attached cleaning procedure".

20 MR MOSES SC: Thank you. I accept that. The document that I'm referring to, Ms May --

CHAIR: It's the second cleaning protocol, is it?

25 MR MOSES SC: That is correct, Madam Chair, that's correct.

CHAIR: It is the 16 June document, Ms May.

MR MOSES SC: That is correct, Madam Chair.

30 A. Thank you.

Q. Ms May, did anybody from the Department of Health and Human Services explain to you or to your knowledge any other representative of the Department as to why it had taken that long to produce this document, given the fact that the Department of Jobs, Precincts and Regions had been asking for it since March?

A. No.

40 Q. And the reason --

MS HARRIS QC: I object, Madam Chair. This line of questioning just completely overlooks the evidence that has just been given and it is a misrepresentation to say that this document --- the fact that there was a request for this document means that 45 there was no cleaning procedure for hotels provided since March. The evidence establishes quite to the contrary, that on the 8th --

CHAIR: Yes, it does, Ms Harris.

5 MR MOSES SC: I press the question, with all due respect to my learned friend, the evidence --- I'm not going to get into submissions because that's not going to be helpful to you, Madam Chair.

CHAIR: No.

10 MR MOSES SC: But I think it makes pretty clear sense, given my friend's submissions, that the documents that existed prior to this were not specific in relation to hotels which were accommodating quarantine guests --

MS HARRIS QC: Again --

15 CHAIR: You are right, Mr Moses, it will be a matter of submissions.

20 MR MOSES SC: Thank you, Madam Chair. The second issue I want to raise with the witness related to this issue, and that is concerns being raised in an email in May 2020 in respect of what appeared to be confusion in relation to matters occurring at hotels and there being a requirement for briefings, to ask whether there was any response from the Department of Health and Human Services about matters that were being raised by the Department about those issues because there doesn't appear to be anything in the briefing. It is document DJP.119.003.1939.

25 Ms May, bearing in mind your role as the Agency Commander for this operation, are you able to recall, if you look to the bottom of this email dated 2 May 2020, whether this was something that had been drawn to your attention, that "there was intelligence filtering through about personnel at the hotels not receiving adequate briefings and 30 there was a lack of clarity on roles and responsibilities, lack of knowledge about the procedures", and if you go over to page 1940, where there was a request that "at the commencement of each shift all personnel at each hotel receive information about the incident situation, the incident objective, their tasks, communication arrangements and safety considerations and preferably this briefing would be run by 35 the DHHS team leader on site and include all agencies and organisations on site".

Do you recall this being drawn to your attention in May 2020?

A. I do.

40 Q. And you will see that there is then at the top of this, there is a reference to the Department liaison officer speaking to DHHS about shift commencement briefings at hotels and the email being sent to them:

45 *Fingers crossed we can get the briefings happening regularly.*

Are you able to inform us whether to your knowledge the Department of Health and

Human Services actually started providing those briefings in May 2020?

MS HARRIS QC: Can I make an objection again, Madam Chair. This seems to be -
-- I've lost the top of this email on my screen, but all addressees are at DJPR and
5 there has been nothing established that this has been provided to the DHHS.

MR MOSES SC: I would say, Madam Chair, with all due respect to my learned friend, that is not a proper objection. This email is a reference --- it said, "I spoke to DHHS about shift commencement briefings at hotels and sent them the email below
10 about it."

What I wanted to know from the witness is whether the DHHS started briefings after this time and if she says they did not or she doesn't know, then I'll ask the next
question. But I'm entitled to ask, because there is certainly evidence that DHHS

15 were being asked to do things and things wasn't happenings. It was a bit like waiting for Godot at that time.

CHAIR: All right, Mr Moses.

20 Ms May, are you familiar with the document that you can see on the screen? Does it jog your memory at all of that communication?

A. It does.

25 MR MOSES SC: Ms May, are you able to tell us whether to your knowledge the DHHS started briefings at hotels in line with what the Department of Jobs, Precincts and Regions were requesting happen in May 2020?

30 A. To the best of my knowledge, I don't believe the briefings occurred in line with that email.

MR MOSES SC: Thank you. I have no further questions, Madam Chair. Thank you for your patience, Madam Chair, at this hour.

35 CHAIR: Thank you.

I can see Ms Davidson on the screen for Victoria Police. Was there something you wanted to raise, Ms Davidson?

40 MS DAVIDSON: Yes, Madam Chair. I did give Mr Neal some notice of this and he has dealt with one aspect, I think, in Ms May's evidence. But the matters that I wish to seek leave to ask some questions about relate to paragraphs 53 and 54 of her statement. But in relation to paragraph 54, it is the evidence that she says that in formulating implementation plans at each site for exercise, Victoria Police would
45 assess the suitability of safe areas for this purpose. I would seek to ask some questions in relation to that matter. And also a couple of follow-up questions in relation to paragraph 53 and the evidence that she gave in relation to the numbers of

security guards and where they would be positioned being ultimately determined by Victoria Police.

5 CHAIR: Yes, I'll grant you that leave. I'm sure Ms May would rather finish today, rather than have to come back at a later time, even though it is starting to get very late for everyone.

MS DAVIDSON: I'll endeavour to deal with them as briefly as I can.

10 CHAIR: As expeditiously as possible, thank you.

CROSS-EXAMINATION BY MS DAVIDSON

15 MS DAVIDSON: Ms May, in relation to the question of exercise, I think you gave evidence that there was an intention to develop exercise plans but that exercise and fresh air breaks were being given without necessarily having all been developed; is that correct?

20 A. That was the case in my first few weeks but then implementation plans were developed for the hotels after that.

25 Q. And you --- I understand you were present at a meeting of Operation Soteria on 14 April when police raised the concern where they had been made aware that exercise or fresh air breaks were happening at the Pan Pacific Hotel and they were concerned about that and that they were at that time unaware that that was happening and it was happening in a public area. Do you recall that issue being raised?

30 A. I do recall that.

Q. And at that time, at least the notes of the Operation Soteria meetings record that the representative from Health advised that there was an exercise policy and they would send it through to Victoria Police about how it would be operationalised. Is it 35 your understanding that there was a policy at that time in relation to the Pan Pacific Hotel?

A. It is my understanding there was a policy in place for all of the hotels.

40 Q. Would it be fair to say that Police had not been involved in the development of that policy at that time --- in relation to the Pan Pacific at that time?

A. I can't comment on how DHHS developed their policy.

45 Q. You are aware of the security forum that happened as a consequence of the concerns that police had raised in relation to public areas being used for exercise?

A. I am.

Q. Are you aware that subsequent to that, in mid-May there was another request made to Police and a number of other stakeholders in relation to looking at the use of sort of public areas in three other hotels, the Stamford, the Mercure and the Novotel, are you aware of an issue arising in relation to those hotels where they didn't have adequate exercise areas in the hotels?

A. I broadly recall something along those lines. I can't recall specifically which

10 hotels, though.

Q. And are you aware that Police in response to that request attended a site meeting of all of the stakeholders at those hotels and looked at what might be necessary and appropriate to put in place to ensure that there was some safe --- a safe area where 15 hotel guests could exercise, socially distancing from each other and in a way that was separate from the public; are you aware of those matters?

A. I broadly recall that.

20 Q. That relates to three additional hotels. Is that what you're referring to when you understood that Police would assess the suitability of safe areas for exercise and fresh air?

A. Correct.

25 Q. And it appears that these are the only ones that Police were actually expressly asked to do an assessment of, so the three hotels post that security forum, but obviously the Pan Pacific Hotel as well. Would you accept that that was quite likely the case that it was only those areas that Police were specifically asked to have an 30 assessment of?

CHAIR: I don't know how this witness can answer that, Ms Davidson. You are asking Ms May to tell you what was communicated to Victoria Police.

35 MS DAVIDSON: It is really a follow-up from her --- her witness statement says that in formulating implementations at each site for exercise, it is her understanding that Police would assess the suitability of safe site areas for this purpose. I would like to ask her some questions about whether or not it was in fact at each site, and if her understanding is that there were other sites that were used for fresh air breaks that 40 were assessed by Victoria Police, I would ask whether she could identify those.

CHAIR: Do you know the answer to that, Ms May?

A. That would have been determined from input with Victoria Police. I don't have a 45 list of hotels with me here, though.

MS DAVIDSON: Who informed you of that?

A. That came from my site leaders and also our safety adviser.

5 Q. And was that in relation to --- is your understanding that it was in relation to exercise areas outside the hotel, that that assessment would have been done?

A. I think it depended on the hotel because some hotels had areas inside the hotel.

10 Q. In terms of exercise areas outside of the hotel, some of the action plans, are you aware, included installation of bollards and those sorts of things?

A. Yes.

15 Q. Now, if I can just ask you in relation to the issue of determination of numbers of security guards, I think your evidence was that you understood that this assessment occurred, that there was a site meeting at the time of a Hotel being stood up; is that correct?

A. That's correct.

20 Q. With a number of agencies attending in order to determine various matters that were within their scope of operations?

A. Yes.

25 Q. And at the time that that site visit occurred, did you know the number of passengers arriving?

A. No, we didn't.

30 Q. So would it be fair to say, I think your evidence is that you understood that Police would determine --- would have the final say on the number of security guards and their placement. Would it be fair to say that in the absence of knowing the numbers of guests in the hotel, that it would be an impossible task for anyone to assess how many security guards would be required?

A. It's my understanding that the assessment on the number of security personnel was determined by the layout of the hotel and the number of rooms, rather than the number of guests.

40 Q. And it does not --- can I suggest to you that there is no correspondence really between Victoria Police and DJPR providing their assessment of the number of security guards that would be required, would you accept that?

45 A. I can't comment on all of the emails that Victoria Police may have received, I'm sorry.

Q. But in relation to an email from --- presumably in order to enter into the contract with the private security, if you're specifying on the basis of --- sorry. Are you saying that Victoria Police provided advice on the number of security guards in order for you to then enter into the contract with the private security company and for that 5 number of security guards?

MS CONDON QC: I object, Madam Chair. Ms May is simply not in a position to give any meaningful answer that could assist the Board to that question.

10 CHAIR: I don't know on what basis you are suggesting that this witness can answer that question, Ms Davidson.

15 MS DAVIDSON: My understanding is that she had a role that --- she says that she has been --- she says that she understands from being told by other people that Police would make the final determination on the number of security guards, and this happens in the context of a proposal to have a hotel stood up prior to engagement of actually deciding to stand up the hotel, this is how I understood her evidence, and prior to the contracts really being put in place to do that.

20 MS CONDON QC: Madam Chair --

CHAIR: No ---

25 MS CONDON QC: Sorry, Madam Chair, I don't mean to speak over you but I maintain the objection. Ms May is simply not somebody who can meaningfully answer questions in the context of the contractual arrangements that were made with the security companies so I maintain my objection.

30 MS DAVIDSON: Madam Chair, I withdraw that. As long as it's not an issue that we can't make submissions about.

CHAIR: You can make submissions about it, Ms Davidson.

35 MS DAVIDSON: That then concludes my questions.

CHAIR: Thank you.

40 MS HARRIS QC: Madam Chair, I have to apologise but I forgot to tender the four documents that I referred to and put up on the screen. I could either give those numbers now or if it's better not to delay, we could tender them subject to objection in the same way that some of the witness statements have been tendered, off the live hearing. I don't wish to delay matters.

CHAIR: They are not documents that are already in tender bundles; is that right?

45 MS HARRIS QC: That's the case. They are obviously with the online Operator but not in the tender bundle.

CHAIR: All right. In that case I think it's a better procedure that you have that discussion with Mr Neal and if appropriate they can be tendered at a later date.

5 MS HARRIS QC: Thank you, Madam Chair.

CHAIR: Now, Mr Neal ---

10 MR NEAL QC: I'm not aware of any other applications, Madam Chair. In which case I don't seek to ask any questions of the witness.

CHAIR: Thank you.

MR NEAL QC: If she may be excused with our thanks.

15 CHAIR: Yes. Thank you, Ms May, thank you for your attendance. You are now excused so you can turn off your camera and microphone now, thank you.

A. Thank you, Madam Chair.

20

THE WITNESS WITHDREW

25 CHAIR: Now, Mr Neal ---

MR NEAL QC: Madam Chair, that's the evidence for today. The Board is to resit again next Tuesday and there will be a range of witnesses, basically around health issues, from DHHS. I understand those with leave to appear have been given a list at 30 least of Tuesday's witnesses and I understand the Board proposes to sit Tuesday, Thursday and Friday of next week. Otherwise there's no further business, Madam Chair.

35 CHAIR: All right. I also assume, Mr Neal, that Counsel Assisting will be in a position to place the relevant topics and, where relevant, witness names on to the website as they become available.

MR NEAL QC: Absolutely, Madam Chair, yes.

40 CHAIR: So I will adjourn now until Tuesday. Thank you.

MR NEAL QC: If the Board pleases.

45 **HEARING ADJOURNED AT 4.44 PM UNTIL 10.00 AM ON TUESDAY,
8 SEPTEMBER 2020**

Index of Witness Events

NOEL CLEAVES, AFFIRMED	P-893
EXAMINATION BY MS ELLYARD	P-893
CROSS-EXAMINATION BY MS ROBERTSON	P-919
CROSS-EXAMINATION BY MR MOSES SC	P-921
CROSS-EXAMINATION BY MS HARRIS QC	P-929
THE WITNESS WITHDREW	P-930
TIMOTHY AUSTIN TULLY, SWORN	P-931
EXAMINATION BY MS ELLYARD	P-931
CROSS-EXAMINATION BY MR MOSES SC	P-944
CROSS-EXAMINATION BY MS CONDON QC	P-949
CROSS-EXAMINATION BY DR HANSCOMBE QC	P-952
CROSS-EXAMINATION BY MR McLAY	P-953
CROSS-EXAMINATION BY MR STAR QC	P-955
THE WITNESS WITHDREW	P-955
RACHAELE ELIZABETH MAY, AFFIRMED	P-956
EXAMINATION BY MR NEAL QC	P-956
CROSS-EXAMINATION BY MS ROBERTSON	P-977
CROSS-EXAMINATION BY MS HARRIS QC	P-981
CROSS-EXAMINATION BY MR MOSES SC	P-991
CROSS-EXAMINATION BY MS DAVIDSON	P-995
THE WITNESS WITHDREW	P-999

Index of Exhibits and MFIs

EXHIBIT #075 - STATEMENT OF NOEL ERNEST CLEAVES	P-894
EXHIBIT #076 - ANNEXURES TO STATEMENT OF NOEL CLEAVES	P-894
EXHIBIT #077 - STATEMENT OF UNNAMED SENIOR AUTHORISED OFFICER, MARKED DHS.9999.0005.0001_R	P-930
EXHIBIT #078 - STATEMENT OF TIMOTHY AUSTIN TULLY	P-932
EXHIBIT #079 - ANNEXURES TO STATEMENT OF TIMOTHY AUSTIN TULLY	P-932
EXHIBIT #080 - STATEMENT OF RACHAELE ELIZABETH MAY DATED 21 AUGUST 2020	P-957
EXHIBIT #081 - ANNEXURES TO STATEMENT OF RACHAELE ELIZABETH MAY DATED 21 AUGUST 2020	P-957
EXHIBIT #082 - STATEMENT OF RACHAELE ELIZABETH MAY DATED 28 AUGUST 2020	P-957
EXHIBIT #083 - ANNEXURES TO STATEMENT OF RACHAELE ELIZABETH MAY DATED 28 AUGUST 2020	P-957