

TRANSCRIPT OF PROCEEDINGS

INQUIRY INTO THE COVID-19 HOTEL QUARANTINE PROGRAM

BOARD: THE HONOURABLE JENNIFER COATE AO

DAY 19

10.00 AM, THURSDAY, 17 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, MR T. GOODWIN and
MR J. HARTLEY for the Chief Commissioner of Victoria Police, Shane Patton,
and the former Chief Commissioner of Victoria Police, Graham Ashton**

**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**

HOTEL QUARANTINE PROGRAM INQUIRY 17.09.2020
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MR R. ATTIWILL QC appears with MS C. MINTZ for the Department of Premier and Cabinet

MS S. McNICOL QC appears with MR E. NEKVAPIL and MR D. PORTEOUS for the Hon. Lisa Neville MP, Minister for Police and Emergency Services

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

MR A. WOODS appears for Rydges Hotels Ltd

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

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

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

CHAIR: Good morning, Mr Ihle.

MR IHLE: Good morning, Madam Chair.

5 CHAIR: Are we ready to proceed this morning?

MR IHLE: We are. The witnesses to be called first up this morning, contrary to my indication late yesterday, are Ms Spiteri and Mr Helps and I see that they are both with us already.

10

CHAIR: Good morning, Mr Helps, Ms Spiteri.

MR HELPS: Good morning.

15 MS SPITERI: Good morning.

CHAIR: We are ready to proceed.

MR IHLE: Yes.

20

CHAIR: Thank you. Mr Spiteri, perhaps I'll start with you. I understand that you wish to take the affirmation for the purposes of giving your evidence?

MS SPITERI: Yes, thank you, Madam Chair.

25

CHAIR: I'll hand you over to my Associate while that's being done. Thank you, Madam Associate.

30 **ANDREA CATHERINE SPITERI, AFFIRMED**

CHAIR: Thank you, Ms Spiteri. Mr Helps, I understand that you too wish to take the affirmation?

35

MR HELPS: That is correct.

CHAIR: Yes. Thank you, Madam Associate.

40

JASON STEPHEN HELPS, AFFIRMED

CHAIR: Thank you. Yes, Mr Ihle.

45

MR IHLE: Thank you, Madam Chair.

EXAMINATION BY MR IHLE

5 MR IHLE: Good morning, Ms Spiteri.

MS SPITERI: Good morning, Mr Ihle.

10 MR IHLE: You can see and hear me okay, I assume?

MS SPITERI: I can, thank you.

MR IHLE: And Mr Helps, good morning.

15 MR HELPS: Good morning, Mr Ihle.

MR IHLE: Are you also able to see and hear me?

20 MR HELPS: I can.

MR IHLE: I'll start with you, Ms Spiteri. Can you please give us your full name?

MS SPITERI: Andrea Catherine Spiteri.

25 MR IHLE: And your current role?

MS SPITERI: Executive Director for Emergency Management for the Department of Health and Human Services.

30 MR IHLE: Mr Helps, your full name, please?

MR HELPS: Jason Stephen Helps.

35 MR IHLE: Your current role?

MR HELPS: Deputy director of operations and capability, Emergency Management Branch, DHHS.

40 MR IHLE: Thank you. Ms Spiteri, turning to you first, you have provided a statement to the Inquiry, dated 9 September 2020?

MS SPITERI: I have.

45 MR IHLE: That statement is 27 pages long?

MS SPITERI: Yes.

MR IHLE: And provides in writing the answers to a number of questions that were posed to you by the Inquiry?

MS SPITERI: Yes, it does.

5

MR IHLE: Have you had an opportunity to read that statement recently?

MS SPITERI: I have.

10 MR IHLE: Are the contents of that statement both truthful and accurate?

MS SPITERI: Yes, they are.

15 MR IHLE: Yes, thank you, Madam Chair. I tender the statement of Ms Spiteri, dated 9 September 2020.

CHAIR: Exhibit 162.

20 **EXHIBIT #162 - STATEMENT OF ANDREA CATHERINE SPITERI**

MR IHLE: Ms Spiteri, in preparing those answers for the purposes of the statement did you have regard to and make reference in that statement to a number of documents that have been provided to the Inquiry?

25

MS SPITERI: Yes, I did.

MR IHLE: And those documents provide context for a number of the answers that you have given?

30

MS SPITERI: They do.

MR IHLE: I tender as a bundle, Madam Chair, the documents referred to in Ms Spiteri's statement of 9 September.

35

CHAIR: Exhibit 163.

40 **EXHIBIT #163 - ANNEXURES TO STATEMENT OF ANDREA CATHERINE SPITERI**

MR IHLE: Turning to you now, Mr Helps, you have also provided a statement to the Inquiry?

45

MR HELPS: Correct.

MR IHLE: That statement is dated 8 September 2020 and has 33 pages?

MR HELPS: That is correct.

5

MR IHLE: Have you also had an opportunity to read your statement recently?

MR HELPS: I have.

10 MR IHLE: And are the contents of that statement both truthful and accurate?

MR HELPS: They are.

15 MR IHLE: I tender the statement of Mr Helps, dated 8 September 2020, Madam Chair.

CHAIR: Exhibit 164.

20 **EXHIBIT #164 - STATEMENT OF JASON STEPHEN HELPS**

MR IHLE: As the Board pleases.

25 Similarly, Mr Helps, have you made reference to a number of documents within your statement and are you aware those documents have been provided to the Inquiry?

MR HELPS: I am and I did, yes.

30 MR IHLE: Thank you. I tender as a bundle the documents referred to in Mr Helps' statement.

CHAIR: Exhibit 165.

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EXHIBIT #165 - ANNEXURES TO STATEMENT OF JASON STEPHEN HELPS

40 MR IHLE: As the Board pleases.

Ms Spiteri, starting with you, I understand from your statement, specifically at paragraph 7, that you were appointed as a Class 2 State Controller on or about 1 February of this year.

45

MS SPITERI: That is correct.

MR IHLE: And you held that position until 3 July?

MS SPITERI: That's correct.

5 MR IHLE: And some time prior to February, indeed in November of last year, you had a general appointment as a State Controller?

MS SPITERI: Correct, on 1 November.

10 MR IHLE: Can you tell us the difference between the general appointment on 1 November and then the more specific appointment on 1 February?

MS SPITERI: So it is usual emergency management practice to have Controllers that are already accepted as having the requisite qualifications, skills and experience,
15 that already are subject to an instrument of appointment, so they can be appointed quickly in the event of a rapid onset emergency in particular. So we find that for other types of emergencies there are different levels of Controllers that are ready to go, so to speak.

20 On 1 November there was a high-risk forecast day for an epidemic thunderstorm asthma event and as you may be aware, the Department of Health and Human Services is the control agency for health emergencies, therefore we took the steps to make sure that we had an instrument of appointment that appointed State Controllers, so that they could be activated into those roles if that was needed.

25 MR IHLE: And then the 1 February appointment was a COVID-19 specific appointment?

MS SPITERI: So that instrument of appointment was carried on from 1 November
30 and it was notified --- my appointment as State Controller was notified to the Emergency Management Commissioner for that particular class 2 emergency, once it had been determined that we were now in a class 2 major emergency under the *Emergency Management Act*.

35 MR IHLE: Mr Helps, turning to you and your appointment, from your statement you identify that you were appointed as a State Controller - Health from 7 February 2020.

MR HELPS: Correct, yes.

40 MR IHLE: Do we infer from the contents of your statement that unlike Ms Spiteri you didn't already hold an appointment as a State Controller prior to that date?

MR HELPS: That's correct, I wasn't in this position until late December. Prior to that I was in a divisional role, which wouldn't normally be working as a State
45 Controller. I had regional obligations in that role. So yes, back in November I wasn't in this role.

MR IHLE: Okay. Ms Spiteri identifies in her statement that her appointment was as a Class 2 State Controller and in your statement you identify your appointment was as a State Controller - Health. Is there any difference between those two roles?

5 MR HELPS: They are essentially one and the same. You are a Class 2 Controller. When you operate that role you will be given a title relevant to that emergency, so that the State Controller - Health differentiates that we were specifying for that COVID-19 operation, if you like. But they are the same.

10 MR IHLE: Ms Spiteri, you don't refer in your statement to an appointment as State Controller - Health. Do you agree with Mr Helps that it's essentially the same role, even know there are slight differences in the titles insofar as they are used between your statements?

15 MS SPITERI: Yes, under the *Emergency Management Act* the appointment is just as a Controller. The appointment and the titling of it as State Controller - Health really differentiates if you have other class 2 State Controllers also appointed at that time. For example, during the bushfires there was a Class 2 Controller appointed who was the State Controller for wildlife during the bushfires. So it's that --- it just provides
20 that clarity within the State emergency management arrangements of exactly what that State Controller is responsible for.

MR IHLE: You were responsible for the health response because it was a class 2 health emergency. Is there any reason why your position is not described in your
25 statement as State Controller - Health, as Mr Helps describes his position in his statement?

MS SPITERI: No, there is no difference between the roles.

30 MR IHLE: Do you see the possibility that having different titles for essentially the same role might be apt to mislead people or confuse them?

MS SPITERI: I don't consider that that was an issue at the time. Sometimes people use titles that they are more comfortable with and familiar with, but that was the
35 reason why it did change to State Controller - Health, just to make sure that it was clear, in case we had another class 2 emergency occur during the time that we were in those roles.

MR IHLE: Mr Helps, what about you, do you see that the slightly different
40 nomenclature that applies to the same role might cause confusion, especially given the need to have clear lines of command and control in place in the context of an emergency?

MR HELPS: No, I don't. I think, as I said, the generic title is a Class 2 Controller.
45 Once we operate to a specific event then the State Controller in a class 2 environment, as Andrea said, is given an additional title, if you like, to differentiate what their area of responsibility is. As Andrea said, we have got --- we can have a

class 1 event and you could have multiple State Controllers, you could have a State Controller - Energy, a State Controller - Health, a State Controller - Wildlife. It's to clarify the role, not to confuse it.

- 5 MR IHLE: Nevertheless, you were both effectively State Controller - Health, because you were responding to a health emergency?

MR HELPS: Correct.

- 10 MR IHLE: Dealing firstly with your background, Mr Helps, you set that out in your statement. Just going through it, in paragraph 3, I suppose, in reverse order --- although perhaps they are not in any particular order --- you originally come from a policing background; is that right?

- 15 MR HELPS: That's correct.

MR IHLE: And then upon leaving the police, in general terms you have worked effectively in emergency management?

- 20 MR HELPS: Correct.

MR IHLE: And Ms Spiteri, as far as your background is concerned, you have a degree in applied science, environmental health?

- 25 MS SPITERI: Correct.

MR IHLE: Just for the rest of us, environmental health is essentially a degree in sustainability, isn't it?

- 30 MS SPITERI: No, it's actually more of a degree in public health, in a very generalist sense.

MR IHLE: So it's a public health bachelors degree that you have?

- 35 MS SPITERI: Correct.

MR IHLE: Since graduating with that degree, I understand you have worked initially as an environmental health officer with Local Government?

- 40 MS SPITERI: Correct.

MR IHLE: And then have worked within the Department of Health, initially as a Regional Public Health Officer?

- 45 MS SPITERI: Yes.

MR IHLE: And then in a not dissimilar but not identical way to Mr Helps, have

essentially been in emergency management roles since?

MS SPITERI: Yes, except for a short period where I was an area director and acting in a corporate services role, for about three years, but yes.

5

MR IHLE: Thank you. The role of State Controller --- Mr Helps, perhaps you first --- you describe the role in paragraph 34 of your statement --- just turning to that, you say:

10 *The typical role statement for the Class 2 Controller is described in the
Emergency Management Manual Victoria*

MR HELPS: Correct.

15 MR IHLE: We might just bring that up. That is document DHS.0001.0027.0108_R. If we can scroll through to page 35, please --- I may be on the wrong page. We might have to come back to that in a moment. If that can come down, my apologies.

20 Do you have the Emergency Management Manual Victoria there with you, Mr Helps?

MR HELPS: I don't but I've got the Class 2 State Controller responsibilities in front of me, if that's what you want to talk to.

25 MR IHLE: Yes, it is. I think we might be talking about the same document, where there's a heading "Class 2 State Controller" and then it says:

*The Class 2 State Controller must keep the Emergency Management
Commissioner informed about*

30

And then a number of dot points

MR HELPS: Yes, yes.

35 MR IHLE: And the first dot point is:

The effectiveness of the control arrangements.

MR HELPS: That's the one, yes.

40

MR IHLE: Let's go through that. If the document operator manages to find what we are talking about as we are talking, I will invite him to bring it up, otherwise we will do our best just discussing it. Where you say at paragraph 34 that the role typically --- "The typical role is described in the Emergency Management Manual Victoria", this is the part of the manual that you were referring to at paragraph 34?

45

MR HELPS: Yes, it is.

MR IHLE: And it says that the role of the State Controller is that you must keep the Emergency Management Commissioner informed about, one --- I'm putting a number, not a dot point, and they might not be in any particular order as far as
5 priority is concerned --- the effectiveness of the control arrangements is the first one?

MR HELPS: Yes.

MR IHLE: The consequence, management, planning, implementation and outcome.
10 And the third is the integration of recovery with the response arrangements.

MR HELPS: They are the three dot points, yes.

MR IHLE: And so they are, amongst the other matters that we are going to go to in a
15 moment, that appear in that same page, they are really the primary functions of the State Controller, are they not?

MR HELPS: They are the usual functions of a State Controller, yes.

20 MR IHLE: The next part of that role description says:

The Class 2 State Controller must consider and apply the State emergency management priorities.

25 There is a reference to 2.4, another part of the Emergency Management Manual?

MR HELPS: Yes.

MR IHLE: And then it goes on to describe the responsibilities of the Class 2 State
30 Controller, and there's a number of dot points there.

MR HELPS: Correct.

MR IHLE: By way of short compass, it provides that the State Controller's
35 responsibilities are to lead and manage the response to the emergency. Do you agree with that?

MR HELPS: Yes, I agree with that.

40 MR IHLE: To establish a control structure for the class 2 emergency as appropriate. Here we go, thank you very much, Mr Operator, and my apologies for the confusion. So we are at the second dot point in the second group of dot points. If we can hone in on those. We see those there. We don't need to go through them seriatim but essentially they are the responsibilities that you were referring to when you described
45 the typical role and responsibilities in paragraph 34?

MR HELPS: That is the typical role.

MR IHLE: Thank you. Before we move away from those, Ms Spiteri, in your statement you refer to the role of the Class 2 State Controller being identified in the SERP. The SERP is part of the Emergency Management Manual Victoria, is it not?

5

MS SPITERI: Yes, it is, it's Part 3.

MR IHLE: So when you're referring at paragraph 28 to the State Controller's specific responsibilities, are they in any way different to the responsibilities that we see here on the screen or are they identical?

10

MS SPITERI: They are identical.

MR IHLE: Yes, thank you. That document can come down.

15

For the sake of clarity, I may tender that document, at least that page of the Emergency Management Manual Victoria.

CHAIR: Exhibit 166.

20

MS HARRIS QC: Madam Chair, it may be relevant to many witnesses' evidence to have the entirety of the Emergency Management Manual in evidence and for submissions, so if it's acceptable, it may be appropriate to tender the entire document.

25

MR IHLE: I'm not against that course at all, Madam Chair.

CHAIR: So I will make Exhibit 166 the entire manual, or would you prefer it to be a separate exhibit? Perhaps --

30

MR IHLE: I'm content for it to be the entire manual, which obviously includes that description. I'm just not confident that it hasn't already been tendered as part of the bundle of documents referred to in a number of the statements.

35

MS HARRIS QC: Madam Chair, Mr Ihle is right, it may well already be there and I don't wish to duplicate. I think it has been exhibited certainly to at least one other witness' statement.

CHAIR: All right. We will leave it as --- unless Ms Harris finds out that that's incorrect, I will make Exhibit 166 --- is it page 35 of the Emergency Management Manual?

40

MR IHLE: That was my note, but I might need to come back to you given the difficulties we experienced earlier. I'm not confident of my note-taking in that regard. A page of the Emergency Management Manual Victoria that refers to the role and responsibilities of the Class 2 State Controller, and I will provide you with the specific page sometime later.

45

CHAIR: Thank you. Have you got a page number that you are looking at, Mr Helps?

5 MR HELPS: I haven't, Madam Chair. But the page is referred to as the Emergency Management Manual Victoria Part 3, the State Emergency Response Plan, Appendix A.

CHAIR: Thank you.

10 MS HARRIS QC: Madam Chair, if I can assist, it is a slightly unusual page numbering, it says 3-35 as the page number, I think that means page 35 of part 3.

CHAIR: Thank you. That will be now Exhibit 166.

15

EXHIBIT #166 - PAGE 3-35 OF EMERGENCY MANAGEMENT MANUAL VICTORIA

20 MR IHLE: Thank you, Ms Harris, and as the Board pleases. We have identified from the Emergency Management Manual the specific roles and responsibilities of the State Controller in the usual sense. Mr Helps, in your statement at paragraph 34 you say:

25 *[Given] the complex National and State arrangements and the role of the Chief Health Officer and the Public Health Commander, I was not able to effectively meet many of the role functions described.*

First of all, what was the complexity at national level to which you refer?

30

MR HELPS: I think you have taken one part of my explanation in isolation and the broad context is important. What I describe in my statement is that control for elements of the emergency were effectively being controlled by decisions of either National or State Cabinet, informed by either --- and others as well, but specifically the Chief Health Officer or AHPPC, so they were key control decisions that are made, quite rightly, at that level, given the complexity and the scale of the emergency. So if we look at the emergency and talk about spending billions of dollars, they are quite rightly decisions of State and National Cabinet, informed by the relevant medical advice that they need to make those decisions.

40

And subsequent to that, the structure which --- I don't think we have touched on yet -- but the structure that we set up in Victoria meant that the Chief Health Officer and the Public Health Commander had absolute control of the public health emergency across the entire State, so they were the Incident Controllers for the emergency across the State.

45

The State Controller - Health role was to complement the public health response by

managing the consequences, the broader community consequence, of that emergency. So my role wasn't to effectively lead the decision-making in regards to public health or national or State policy in regards to the significant restrictions on civil liberties, on international trade, et cetera. So that's what I'm explaining insofar
5 as the limitations of this role and how they were set up for this specific emergency.

MR IHLE: You just said there, Mr Helps, "My role wasn't to effectively lead the decision-making in regards to public health or national or State policy."

10 MR HELPS: Correct.

MR IHLE: The role of the State Controller, at least insofar as it's envisaged and provided for in the Emergency Management Manual, is one of decision-making and leading, isn't it?

15

MR HELPS: Typically.

MR IHLE: Yes. And so it was to that degree, that's why the role was --- and I do not mean this in the pejorative colloquial sense but I mean this more I suppose in the
20 legal sense --- the role of State Controller as envisaged by the Emergency Management Manual Victoria was somewhat frustrated --- that's the legal word I want to use, that you weren't able to fulfil the full suite of responsibilities that usually fall to the State Controller because those decisions were being made elsewhere by other people?

25

MR HELPS: That's correct, but that was well known and well recognised. It was no surprise to me. And we worked within those arrangements.

MR IHLE: You include in those roles that were making decisions, and you say fairly
30 that those were appropriately made by other people, including the Chief Health Officer?

MR HELPS: Correct.

MR IHLE: Ms Spiteri, just over to you, did you experience that same contrast
35 between the roles as provided for in the Emergency Management Manual Victoria and the role that you were actually fulfilling?

MS SPITERI: Yes. And again, my experience wasn't unexpected. In something as
40 large and complex as a global pandemic, that is affecting not only every single person in Victoria but also every person in Australia, it was completely appropriate for some of those key decisions that might be made often, if it was a bushfire or another type of emergency, in a very localised way, within a part of Victoria for a certain community. But when those impacts were so far-reaching and the potential
45 effects and consequences of this emergency were so significant at that time, predicted to be that significant, then I think it was entirely material reasonable that there was clear decision-making under the *Public Health and Wellbeing Act* by the

Chief Health Officer, that was the legal framework that we were working to in Victoria, to be able to manage the public health response, and then there are clear links to the national --- and agreed governance in terms of national decisions as well, through the Chief Health Officer to the Australian Health Protection Principal
5 Committee and advising into the National Cabinet. So that was the complexity and the layers that were involved in this, you know, very significant emergency.

10 MR IHLE: I assume from that, and tell me if I'm wrong or if you disagree with the assumption that I'm making, that given the role that you were performing as State Controller and the difference in the practical application of that role to what is described in the Emergency Management Manual as the roles and responsibilities of a State Controller, that you would agree that the structure of the Emergency
15 Management Manual and specifically insofar as it provides for the State Controller, was really not directed to the type of situation that we were facing in this pandemic?

MS SPITERI: I would agree in part. I think there were --- quite a lot of the arrangement, the roles and responsibilities that were contained in the Emergency Management Manual that were utilised in this emergency and the State operational arrangements that were put in place were not unfamiliar to us. We had just been
20 through the significant bushfires and so we were quite familiar with what those arrangements needed to look like. I think the key difference here was that the powers to put in place the directions and make the decisions around the public health responses in this type of emergency were actually held in different legislation and not under the *Emergency Management Act*.

25 So when I look at the specific responsibilities of the State Controller as envisaged in the SERP, and I have those in front of me and I know they are in paragraph 28 of my statement, when I look at all of those roles and responsibilities, I would say that either completely or in part Mr Helps and I, as the State Controllers, were
30 undertaking those roles and responsibilities, it was just in a slightly different way to what might have been envisaged.

MR IHLE: What was envisaged, just to come back and not put too fine a point on it, is that under the ordinary structure we would see where a State Controller is
35 appointed under the Emergency Management Manual Victoria, that State Controller is vested with significant decision-making abilities but that was not the case here because those decisions, as described by Mr Helps, were made by other people in other places?

40 MS SPITERI: I think the significance of the decisions means that that is correct. A lot of those decisions were made in other places. But there was still an element of decision-making in the role, particularly in leading the State Control Team and the functions under the State Control Team that are outlined in my statement.

45 MR IHLE: Both of you, in slightly different ways, identify the roles that you actually fulfilled really being one of coordination rather than, say, control. First of all, going to you, Mr Helps, you say, in recognition of the coordination role rather

than control, you go on to say that the role is now reflected in the current State arrangement with control exercised across the Secretaries of the Department. I just want to seize upon that and perhaps unpick or tease out what you are trying to say there.

5

In essence, are you saying that as the State Controller your role was primarily one of coordination?

10 MR HELPS: There was a lot of coordination in the role. But as Andrea said, there was elements of their operation --- of various operations where we exercised control functions as well.

MR IHLE: Coming to you then, Ms Spiteri, at paragraph 31 you say:

15 *This meant the role of State Controller - Health role for this class 2 emergency became one of overall coordination.*

Was that by and large what you were doing, coordinating this large-scale emergency across the many vested departments?

20

MS SPITERI: In effect that was the role of the State Controller in leading the State Control Team, was coordinating across the different Government Departments, the agencies that are reflected in the State Emergency Management Team and ensuring that there was good coordination of public health information and advice into those other areas of Government and agencies, sectors and communities, to make sure that any of their planning and responses to what might be the effects of the emergency were well informed by the public health responses. So that was a key role.

30 I think the other thing I would say on that is that the Emergency Management Manual Victoria also envisages, for very large and complex emergencies, where there are multiple accountabilities by different Government Departments and agencies, that the control agency may see itself as a lead agency in coordinating as part of its control function. So it does envisage that for very large-scale and complex emergencies.

35

MR IHLE: Could we just seize upon that for a moment so that I understand it. We have been discussing thus far your roles and that of Mr Helps as State Controller, and you have just introduced the concept of the control agency. How does your role as the State Controller interact with or dependent on the fact that the Department to which you usually belong was the control agency?

40

MS SPITERI: I think it's fair to say --- I'll just pick you up on some wording there, sorry, Mr Ihle, that I still belong to the Department of Health and Human Services in this role. So the officer in charge, under the legislation, the officer in charge, our Secretary, appoints me as the State Controller to do those specific roles. But that's in the context of our whole Department being a control agency and having a number of roles and responsibilities to fulfil.

45

The reference that I'm making is in Part 7 of the Emergency Management Manual Victoria, where it is talking about the role of the control agency, and that there are complex emergencies where a shared accountability across a number of agencies occurs and in that case there is a need for a single agency to be responsible for the collaborative response of all of those agencies. I think that points to the parts in my statement, in page 31, where I'm talking about the overall coordination. It really is coordinating the very collaborative effort across Government and agencies.

MR IHLE: Yes. Did the role change --- I'm going to pick three relatively notional dates. One is 7 February, which of course was the date of Mr Helps' appointment as the State Controller; the second is 29 March, which is the date upon which Hotel Quarantine Program became operational; and the last is 1 May, just by way of picking a point in time. Seizing on those three dates, perhaps Mr Helps, I'll ask you first: did the role change, that is the role of State Controller, over time and if so how was it different between those three dates, 7 February, 29 March and 1 May?

MR HELPS: I'm not sure I can go into the minutiae detail of everything I did on those days. But the role essentially didn't change. The priorities on any given day may change, the focus of what support we needed to provide to the community or to public health. So without focusing on those specific dates, so our focus around hotel quarantine time, if I can take you to that day of, say, the 27th, we were focused on offers of assistance coming in from various sectors, we were focused on planning across critical infrastructure and essential services in regards to what was at that stage envisaged to be the peak of the pandemic in approximately 10 weeks. So we were preparing critical infrastructure, essential services, we were providing emergency food relief, emergency accommodation to people who were COVID-positive.

If I then move on, within several weeks after hotel quarantine, the next sort of priority that we focused on at a larger scale was the --- if you recollect, the 100,000 tests that needed to be done, so we --- you know, that was a large focus, the focus of that --- of the State Control Centre and the State Control Team, not just the State Controller, but the State Control Team has adapted to the various stages of this emergency. Each time a new restriction or a new stage of restrictions was brought in or eased off, that created a lot of activity around consequence planning. So what would be the consequences that we needed to work with, critical infrastructure, our resilience networks across the food industry, and the food industry is a classic when we first had restrictions, if you go back to --- you know, we were working very heavily across that sector to ensure food supply.

So the role, the focus of the role changed, I wouldn't say our priorities --- our priorities in the broader sense stay the same, and that is to protect life and property and those normal State priorities. But the day-to-day focus changed, if that makes sense. I know I haven't addressed those specific dates and there may be something relevant to those specific dates. But the daily focus of not just the Controller but those working in the State Control Team. So, you know, the intelligence section

would be focused on looking ahead and what might become an issue or doing an in-depth analysis of learnings of what we have been through. So the role changed from day to day.

5 MR IHLE: Ms Spiteri, is there anything that you would seek to add or differ from in respect of that description provided by Mr Helps?

MS SPITERI: I think, Mr Ihle, the only thing I would note about those dates is clearly 7 February was when Mr Helps was appointed as a State Controller and that
10 was significant because during the first seven days of February it was very clear to me that the State Controller role was not one that you could do with one person 24/7 for as long as this pandemic would go. So I was very appreciative of Mr Helps joining me on the roster for State Controller. And it's important to recognise that we did do the role in a rostered way, so there were days that we were rostered on into
15 that role and they were the days that we were accountable for that role.

I think 29 March sticks out for me because that was the day that Chris Eagle joined us as the Deputy State Controller for the Operation Soteria and it was very clear with such a large and complex operation that we were going to need someone who could -
20 -- who we could go to, who could undertake that coordination role for us across all of those agencies that were involved, specifically for that program and have that focus on that program. And the only other thing I will reflect on, 1 May is when the Deputy State Controller role was finished, was completed. And at that point the Hotel Quarantine Program itself, there were lots of other things that were happening
25 during those dates, but specifically for the Hotel Quarantine Program, that was really an indication of a move to a much more programmatic footing for that program. It was still under the emergency management arrangements at that point but it was transitioned, it was starting to transition. So that's probably my reflection on those dates in particular.

30 MR IHLE: Thank you. Mr Helps, I just want to pick up on something that you said. You referred to the 27th, I think I had indicated the 29th, but was your reference to the 27th the 27th of March?

35 MR HELPS: Yes, it was, yes. My apology, Mr Ihle, in my eagerness to assist the Board with some of the things we were doing, I didn't pick up the significance of those dates initially myself, but yes, as Andrea quite rightly ---

MR IHLE: No, I said they were relatively arbitrary. Sorry, I spoke over you.

40 MR HELPS: Yes, the 27th I was talking to was 27 March.

MR IHLE: Yes. In the context of the 27th, the first thing that you listed that you were dealing with was offers of assistance coming in from various sectors. What
45 were the offers of assistance that were coming in as at 27 March?

MR HELPS: Offers of welfare assistance, offers of accommodation, offers of

equipment. There was a range of offers from both public and private sector that were coming in reasonably early on in this emergency, and again, as I said, that was really because the focus of the time was about welfare and relief and preparing various sectors for what was going to be, at that stage we thought the peak of the pandemic in, you know, several weeks following. So there was a lot of offers of assistance coming in.

MR IHLE: Did that include offers of assistance from the Australian Defence Force personnel?

MR HELPS: No, it didn't.

MR IHLE: There were ADF personnel embedded within the State Control Centre at that time, though, were there not?

MR HELPS: There were.

MR IHLE: And you were aware, weren't you, that when the announcement was made in relation to the Hotel Quarantine Program there was discussions around ADF personnel being made available, first of all, discussions in the announcement made by the Prime Minister?

MR HELPS: I wasn't aware of those at the time, no.

MR IHLE: Were you aware that the Premier, when he announced the Hotel Quarantine Program, indicated that there would be assistance from ADF personnel?

MR HELPS: Not at the time. If you appreciate, we were scrambling pretty quickly to start to put this plan together so I didn't have the benefit of watching the entire press conference of the Premier. I subsequently became aware of it but I wasn't aware of it at the time.

MR IHLE: Okay. Mr Helps, just going to another part of your statement, and I think we have already touched upon this, about the role of State Controller and the fact that decisions were being made elsewhere by other people, you say specifically at paragraph 34 that you had no vision of National Cabinet decisions.

MR HELPS: I had no vision at the time of those decisions until they were announced.

MR IHLE: So you became aware of the outcome of decisions made by National Cabinet at the same time as effectively the rest of us in the public?

MR HELPS: Correct.

MR IHLE: You go on in paragraph 34 to also say you had no vision of State Cabinet decisions?

MR HELPS: Yes, correct.

5 MR IHLE: And that's the same when it came to State Cabinet decisions: you became aware at the same time as members of the general public when they are announced?

10 MR HELPS: It's probably a bit too general. I mean, there were times that we were informed into decisions that Cabinet might need to make around certain aspects of the program or we contributed to those submissions. But not all --- no, not --- not regularly would I know of every decision that was going to come out prior to it coming out.

15 MR IHLE: So was it the case that decisions were made by these decision-making entities, whether they be National Cabinet, State Cabinet, Chief Health Officer and the like, and you effectively had to do what you could to implement those decisions once they were announced?

20 MR HELPS: Again, there was times where we informed in and there was times where --- for example, if the Chief Health Officer informed in in regards to a public health action that was necessary, we may or may not have been aware of that, depending on what was being discussed and whether our input was required for aspects of that program. And there was other things that were --- that we didn't --- that we weren't aware of until they came out.

25 MR IHLE: Ms Spiteri, going to you, I just want to ask about the governance structure. You deal with this at paragraph 35 of your statement. As I read it, you say, in essence, once Mr Eagle came on as the Deputy State Controller, he reported into you as the State Controller and then when he was effectively replaced in the Operation Soteria structure by the Ofirperation Commander of Operation Soteria, and we know that that was Ms Williams and Ms Bamert, that they then reported into you. Do I understand that correctly, that essentially first it was Mr Eagle and then replaced by that Operation Accommodation Commander?

35 MS SPITERI: In part that's correct. So when the Deputy State Controller was appointed, which was Chris Eagle and one other gentleman, they did report directly to the State Controller roles of myself and Mr Helps. Once the COVID-19 Accommodation Commander role was in place and the Deputy State Controller role was retired, effectively, that continued to be my avenue, my probably first direct avenue into the program, to be able to continue my role to oversight the program.

40 However, that was a position that was within the Department of Health and Human Services, so it was also reporting through to the Deputy Secretary that I reported to as well.

45 MR IHLE: So you had a common line of report?

MS SPITERI: Yes. It was more of a line management line through the Department.

But that role --- I saw that role was being the role that it was undertaking some of the overall coordination that the Deputy State Controller had been doing across agencies, as well as in command of the Department's role in the hotels for that program.

5 MR IHLE: Can I just ask, where were you actually fulfilling your role? When you went to work in the morning, would you go to 50 Lonsdale Street, to the Department of Health and Human Services, or the State Control Centre, or a combination of the two?

10 MS SPITERI: It started out being a combination of the two because we were still responding to bushfires when the novel coronavirus came to Australia. So initially I was in the State Emergency Management Centre here in 50 Lonsdale Street and working alongside my colleagues in health protection and other areas of the Department. Even once appointed as the State Controller for the first few days, as
15 that started to ramp up, but really after that I was at the State Control Centre. There are a couple of different reasons for that. One of the responsibilities of the State Controller is to run the State Control Centre, and to utilise the functions and the resources of the State Control Centre.

20 The other element is actually to do with this specific emergency. We were separating our teams geographically, as much as possible, to allow for that physical distancing, so our State Emergency Management Centre is configured for us to sit next to each other. During this pandemic, as the physical distancing directions and practice came in, we obviously applied that in our workplace. We also applied it to
25 our teams structure. So Mr Helps and I very rarely crossed over physically. The teams that we had that were working to our Agency Commander very rarely crossed over physically and we tried to maintain that separation because we were very conscious of the important roles that we had and the fact that we needed to make sure that if we did get a case or have a close contact in one of our staff, that we could
30 quarantine, so to speak, our staff as much as possible. So it did change the way we might normally do this role and how we might work together in team structures as well.

MR IHLE: We know from other evidence, Ms Spiteri, that in a period in early May
35 the Operation Soteria part of the team moved to an Emergency Operations Centre out of the State Control Centre. Is that your recollection?

MS SPITERI: It was actually from 16 to 17 April that occurred.

40 MR IHLE: Okay.

MS SPITERI: And it moved to one of our other locations, one of our other offices where we had the space to be able to set up a dedicated Emergency Operations Centre for the Department's roles and responsibilities in the management of the Hotel
45 Quarantine Program.

MR IHLE: And when that Emergency Operations Centre was stood up at that period

in mid-April --- and thank you for clarifying --- did you and Mr Helps then move your responsibilities over to the EOC or did you still operate out of the SCC?

5 MS SPITERI: No, we still operated out of the State Control Centre. Our roles were much broader than the Hotel Quarantine Program. So that was a dedicated facility just for the Hotel Quarantine Program. Up until that point, our Agency Commander and our team, our Incident Management Team, were operating out of the State Control Centre to undertake the functions that were required for the hotel quarantine operations and logistics. From that point and from the appointment of Ms Williams
10 as the Commander, we started working up a structure and a plan to move to a dedicated facility with a dedicated command structure in place.

MR IHLE: Yes. As to command structure --

15 MR HELPS: Mr Ihle, it is probably important to say --- and it was quite coincidental that Ms Williams needed a break, but those first two days that the Emergency Operations Centre took over the operation formally, I actually went those two days as Operations Commander to ensure that things were handed over and were operating properly. So I was actually in that role for those two days, working in that
20 position to Andrea, so we made sure that everything went across properly.

MR IHLE: From a transition perspective?

25 MR HELPS: Yes.

MR IHLE: I first want to come to this issue about command structure and operational arrangements. Mr Helps, you say in your statement that the structure was complex.

30 MR HELPS: The State structure?

MR IHLE: Yes.

35 MR HELPS: Yes, it was. Well, it was insofar as the complexity of the emergency we were dealing with.

MR IHLE: And you say specifically that the State governance structure was complex?

40 MR HELPS: Yes.

MR IHLE: And that the complexity of the structure itself raised challenges for you as the State Controller.

45 MR HELPS: I don't think they were my words.

MR IHLE: Well, paragraph 41 of your statement:

5 *The complex structure did at times raise challenges as State Controller with navigating the various governance structures and establishing if a response activity was tasked through the emergency management arrangements, Public Health Command or through other National and State Government departments 'business as usual' arrangements.*

Have I misrepresented that or oversimplified that?

10 MR HELPS: The complex structure I'm talking about is not just the State structure. If you look at the State structure, I'm talking about the complex structure of the National and State Cabinets that sit over the top of that structure. It was at times difficult to navigate whether a decision or whether a task was tasked under the emergency management arrangements or for us to activate or whether it was tasked
15 in a Government business as usual sense. So there were times where we needed to clarify that.

MR IHLE: And you say that that complexity, at least insofar as you have clarified there, is because of the overlay of the National Cabinet decisions. Because of Public
20 Health Command's feed-in, they all sat alongside or above, in the case of National Cabinet, and its decision, the State Government structure that was already in place?

MR HELPS: Yes. So yes, as I said, there was times where it was initially difficult to understand whether something was running in the emergency arrangements or not.
25

MR IHLE: If I suggested to you that the State governance structure itself, leaving aside the National Cabinet, that State governance structure, the Victorian structure, was itself a complex structure which threw up difficulties. Would you agree with that?
30

MR HELPS: It was a complex structure because it was a complex emergency.

MR IHLE: Let's go to a diagrammatic representation of that structure.
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35

If we can roll to page 13 of that document, if we can highlight that diagram or move in on it, this is a governance structure diagram, Mr Helps, that you have actually set out at paragraph 40 of your statement.

40 MR HELPS: Yes.

MR IHLE: This is just the State governance structure. Do you agree with that?

MR HELPS: This is the State emergency structure, yes.
45

MR IHLE: And you say that this structure, as represented on this page, was complicated further by those other aspects of the decision-making that were made

elsewhere by other people?

MR HELPS: I'd say in practice there was complications. I don't know whether one's physical structure on a piece of paper complements or makes something more
5 complicated. I mean, that structure to me is --- whilst it's complicated, it's quite a normal structure and understood by me. But in practice there was complications, yes.

MR IHLE: So we start with ---
10

MR HELPS: If that makes sense.

MR IHLE: It does. I just want to unpack that and understand that a bit further.

15 MR HELPS: Yes.

MR IHLE: We start with this structure as provided by the State operational environment. This is the off-the-shelf structure, if I can call it that, this is what is envisaged before the emergency even unfolds?
20

MR HELPS: No. This was a structure fit for this emergency.

MR IHLE: So you have got this structure fit for this emergency and then you have overlaying this structure the National Cabinet decisions and the other decisions that
25 are being made elsewhere?

MR HELPS: Yes.

MR IHLE: I tender that document, Madam Chair. It is called the State Operational
30 Environment COVID-19.

CHAIR: Exhibit 167.

35 **EXHIBIT #167 - DOCUMENT ENTITLED STATE OPERATIONAL ENVIRONMENT COVID-19**

MR IHLE: Mr Helps, in relation to the governance structure, you have described at
40 paragraph 153 that at least in your opinion, that structure requires some review. You say:

45 *The complex governance previously described in my statement, in my view, also requires review, specifically in relation to how emergency management arrangements, particularly in a significant class 2 emergency, intersect with the role of Government.*

That is the concluding statement in your statement.

MR HELPS: Yes, that's right.

5 MR IHLE: We have heard from the Emergency Management Commissioner
Mr Crisp, who himself on Tuesday, at transcript page 1397, talked about the need for
review, not only in relation to the policies and structures but specifically the
legislation. Would you agree that your experience perhaps led you to a similar view:
10 we need to look at both the legislation and the policy around emergency management
of significant class 2 emergencies?

MR HELPS: I think that's fair. I think an emergency of this scale, and I gave
reference to that as I say in my statement, it would be right and proper that we would
15 review how we would manage an emergency, with Government playing such a lead
role and how those two intersect.

MR IHLE: Ms Spiteri, coming back to you, in your role as the Executive Director of
Emergency Management at the Department of Health and Human Services, I assume
20 that you would have a not insignificant role in any such review. Is that a fair
assumption for me to make?

MS SPITERI: That's correct, I would be involved, yes.

MR IHLE: Do you know whether any work has already been commenced in relation
25 to undertaking those reviews?

MS SPITERI: Not that I'm aware at that point.

MR IHLE: Ms Spiteri, whilst we are with you, I just want to take you to paragraph
30 39 of your statement. You make the following comment:

*At its simplest, as State Controller - Health, I had operational accountability
for the quarantine accommodation of returned travellers.*

35 I just want to spend a few moments unpacking what you mean in that paragraph.
When it comes to --- first of all, what do you mean by "operational accountability"?

MS SPITERI: So operational accountability reflects the structures that were put in
40 place and the fact that the command structures for the quarantine accommodation
itself, its operations and its logistics, were things that in the structure I was
operationally accountable for as the State Controller, because this was an operation
that was under the emergency management arrangements.

45 What it practically meant, though, is outlined further at paragraph 40, and that is that
the effect of that was that I was responsible for ensuring that we had an appropriate
operations plan in place with clear roles and responsibilities allocated for the
program and also that we had appropriate governance arrangements in place for the

program, for the operations and logistics, and that includes the escalation and resolution of issues and then the resourcing support that would be needed through the State Control Centre.

5 So at the level of State Controller, that is the responsibility of the State Controller for the program.

MR IHLE: Does that mean that you, in your role as State Controller, considered you were accountable to ensure that what was done in respect of the Hotel Quarantine
10 Program was reasonable?

MS SPITERI: Yes, I think that's fair, under the guidance of the experts that were involved in providing their --- playing their part in terms of their roles and responsibilities.
15

MR IHLE: Does it mean that you, as the State Controller, were accountable for ensuring that the accommodation environment was safe?

MS SPITERI: Again, the accountability for the hotel environment was --- it was a
20 complex space. You had a hotel that was owned and managed by the hotel company. We were effectively --- and I think Ms Williams went to this the other day in her statement --- renting space in it, through the Department of Jobs, Precincts and Regions, DJPR. We had our own staff in that --- the Department of Health and Human Services had their own staff in that environment, so did DJPR, so did
25 Victoria Police and so did a number of contracted companies as well. So overall the contribution to the safety of the environment was to ensure that there was guidance and instructions provided specifically to this emergency. And what I mean by that is that the instructions around the public health aspects were provided into that environment. So that people had the PPE they needed and they were instructed on
30 how to use it, that they understood the physical distancing that was required in that environment, they understood the behaviour that was required in that environment from a health and welfare perspective. So that was the part that was in our control, in our direct control, in my view, to make sure that that information was provided. But every person working in that environment, from an occ health and safety perspective,
35 was responsible both for themselves and for complying with those instructions, and also their own organisations as a workplace were responsible as well.

MR IHLE: I just want to keep going on that for a moment, if we may. I understand your answer there is that your responsibility, your overall contribution to the safety
40 of the environment was to ensure that there was guidance and instruction provided, specifically to this emergency. Did you have any accountability or responsibility to ensure that that guidance and instruction made its way to the people that were actually on the ground working, as far as you're concerned?

45 MS SPITERI: The information was sought by our commanders from our Public Health Incident Management Team and was provided in into that environment to all parties that were involved in that environment, including the people that were staying

there. It was my responsibility to make sure that we had a plan that reflected that and that we had arrangements in place in terms of the governance structure to be able to raise any issues or queries and get those resolved, so that everyone in that environment understood what they needed to do to maintain a safe environment.

5

MR IHLE: In answer to that question, you have identified that that information was provided to all parties that were involved in that environment. By "all parties" do you include the people that were actually doing the work or are you just saying the entities to which they --- for whom they work?

10

MS SPITERI: Both. So I would expect that the entities that Government Departments are directly contracting or employing are provided that information and also our staff directly in that environment were provided that information.

15

MR IHLE: Did you see it as any part of your role as the State Controller with operational accountability for the quarantine accommodation of returned travellers, to ensure that those instructions and guidance that were being given were being complied with or adhered to?

20

MS SPITERI: I was comfortable that we had senior expertise in the command roles, that were directly accountable for the operations in the hotels. And that means also that that's not just the Department's Commanders, that's also DJPR, Agency Commander, the State Police Commander and the Commanders that were in charge of Victoria Police. So I felt there was a structure and arrangements that were in place that meant --- and I could see through the email traffic responses being provided and discussions that were occurring in the interagency meetings that meant that I saw that that advice was being provided through to those that needed it on the ground.

25

MR IHLE: Just coming back to my question for a moment, and perhaps --- I just want to understand what your answer is. The question that I asked was: did you see it as any part of your role as the State Controller with operational accountability for the quarantine accommodation of returned travellers, to ensure that those instructions and guidance that were being given were being complied with or adhered to? Are you saying that you were satisfied that the instructions and guidance were being adhered to because (a) you ensured that the right people with the right experience were in the roles and you observed that there were discussions around that guidance and instruction between those people?

30

35

MS SPITERI: Yes. So there was a governance structure, an arrangement in place, there were daily interagency meetings where queries, requests for advice, were brought up and resolved. And from my position in my role, through the Deputy State Controller and through the Commander, I was satisfied that I had the right structure in place that would enable that information to go to the people that needed it. Particularly when we had a strong connection across to the Public Health Incident Management Team from which that information and that advice was sought, and then be able to provide that on the ground. That was continually, that was a continual improvement process and that was continually reviewed and updated.

40

45

Certainly as more information was known about the virus, I was of the clear understanding that updated information was provided to those on the ground that needed it.

5 MR IHLE: I just want to pick up on that --- just finally on this topic --- you say that you, from your position, through the Deputy State Controller and through the Commander, that you were satisfied that you had the right structures in place that would enable the information to go to the people that needed it. Did you have any information that in fact it was going to the people that needed it?

10 MS SPITERI: Yes. I saw emails, I was CC'd on them on occasions and I had discussed with some of the Commanders, the Deputy Commanders, about what the processes were in place. I know Ms Bamert spoke the other day about personally driving to the hotels to deliver those instructions and make sure that people had that information. I was satisfied that we had the arrangements in place to be able to do that and we had the people that were providing that information, there were --- my understanding and I even sat on one when I visited the EOC one time, was there were morning and nightly briefings of all of our team leaders that were occurring through the Emergency Operations Centre. So that was the time to provide them with any updated information and make sure that they could disseminate that to those that were working in those hotel environments. So I was comfortable that there were systems in place to do that.

25 MR IHLE: When the outbreaks at the Rydges and the Stamford occurred, Ms Spiteri, did you become aware, first of all, of the fact of the outbreak?

MS SPITERI: Yes, I did.

30 MR IHLE: And did you become aware shortly after the outbreaks of the findings that were being made by the outbreak management squads in respect of their observations of infection prevention and control measures, the use of PPE, social distancing and the like?

35 MS SPITERI: I was aware of the findings of some of the applications of those measures and the inadequacies of that. I was not aware that there were particular issues with the actual IPC measures themselves, it was more about how they were being applied.

40 MR IHLE: I assume, given that you have now said on a couple of occasions how satisfied you were that that information was getting down to the people that needed it, that being the people that were on the ground, that that information came as some surprise to you?

45 MS SPITERI: I think we had been aware that there had been issues with compliance with some of those IPC measures along the way. I was aware, not of every small detail, but on occasions there were issues that were escalated to me for my visibility, around the application of those infection prevention and control measures, and that

was the issue. So I felt that there were --- the information was getting to the ground and into the hotels but there appeared, on a number of occasions, to be either a lack of willingness or a lack of understanding by some that were working in that environment and then they ended up using inadequate cleaning chemicals,
5 inadequate PPE, and inadequate physical distancing practices as well. It was my understanding of what came out of those two outbreaks.

MR IHLE: So coming back to the question of whether it was a surprise to you, is your evidence to this Board that you were not surprised then when you found out
10 about the circumstances of the outbreak?

MS SPITERI: I was --- I was surprised that it had led to a transmission event. Clearly we had at least two transmission events that resulted in those outbreaks. It was a continuous improvement process. There was --- there was ongoing reminders,
15 there was ongoing training that was required, the staff that were in the hotels were occasionally refreshed with new staff and I understand that that happened in the Rydges Hotel only a couple of weeks before. So the infection prevention and control consultant had spent quite a bit of time in the Rydges Hotel retraining new security staff in particular, that had come into that environment.

20 So while I was satisfied that the appropriate and most up-to-date infection prevention and control measures were in place, it was a constant education process. We have seen that in hospitals and in other settings as well, that you need to continually refresh that education and training to keep it at the forefront of people's minds,
25 particularly when they are working in environments for a long period of time.

MR IHLE: Yes. Mr Helps, I want to come to paragraph 148 of your statement, specifically in relation to those people that were quarantined or detained in the hotels. You say at paragraph 148:

30 *We anticipated compliance in most cases, and this proved to be the case throughout the Hotel Quarantine Program.*

35 First of all, in respect of when you say "We anticipated compliance", is that before you had received any passengers into the program, you expected that in most cases there would be compliance?

MR HELPS: I think the answer to that is that, yes, in planning we anticipated compliance and along the way I continued to anticipate compliance because by and
40 large that was the evidence that we were seeing.

MR IHLE: That people were adhering to the conditions of their detention?

45 MR HELPS: The large percentage, yes.

MR IHLE: Ms Spiteri, do you agree that that's what tended to be the case as the program unfolded over the weeks and months, that by and large people were

complying with the program?

MS SPITERI: Can I just ask you to repeat the question? Just determine for me who you mean by "people", do you mean the guests themselves or the staff?

5

MR IHLE: No, sorry. I should have made that clear. I apologise. The people that were detained in hotels by and large were compliant with the directions in respect of quarantine.

10 MS SPITERI: That is my understanding, yes.

MR IHLE: And do you agree with Mr Helps that that was what you were anticipating before you even received passengers into the system?

15 MS SPITERI: I wasn't sure what to expect, to be honest. We had never run a program like this in Victoria or Australia before, so I expected that people would be relieved to be home in some cases, I expected that some people would not be happy about having to spend two weeks in a hotel, as luxurious as that sounds, and I expected a range of emotions, to be honest. But I think it's difficult to say that, by
20 and large --- Australians and Victorians have shown themselves to be by and large quite compliant when it comes to issues of their public health and safety. So if you asked me at the time, I would have said, I'm not sure what to expect. But I think in hindsight I did have an expectation that we wouldn't have, you know, too many issues; there would be some, but not too many. By and large, most people would
25 accept it and do the time that they needed to do.

MR IHLE: Mr Helps, in the next paragraph you make --- well, it includes the following sentence:

30 *Whether a detention or enforcement-led response rather than a health-led response was more appropriate is a fundamental question of approach.*

I just want to ask you: you distinguish then, I think, and tell me if I'm wrong, two responses: an enforcement or detention-led response on the one hand and a health-led
35 response on the other hand. Is that right?

MR HELPS: Yes, yes.

40 MR IHLE: Which do you say ---

MR HELPS: Sorry, I was waiting for a question.

MR IHLE: Which do you say this was?

45 MR HELPS: I would say that our intention was to have a compassionate program. Enforcement was absolutely crucial to making sure that we had compliance with the public health directions. But if I were to say we steered one way more than the other

potentially --- and I say this in the fact that a lot of decisions that were made weren't our decision, but when putting this program together we aimed for a compassionate program that represented the hardship that some of the returned travellers had been through and some of the distressing stories that they told, just trying to get back to Australia, and some of the normal --- I mean, from my experience within Victoria Police, I certainly understood that when you take people's liberties away, it has a profound effect on some people in regard to mental health. So that was front and centre of our thinking, or my thinking.

10 MR IHLE: I just want to come back to the dichotomy that you yourself make in your statement --- and I appreciate your answer was "Our intention was a compassionate program" --- but if we looked at whether it was a detention or enforcement-led response or a health-led response, are you able to say where in those two categories this response, this hotel quarantine fitted?

15 MR HELPS: I don't think it fitted in one or another, I think we were trying to balance both. Quite obviously when there is a direction under the *Public Health and Wellbeing Act*, we have to enforce that direction. But we tried to do so with as much focus on the people, the people's issues and their health and welfare as we could reasonably incorporate into the program at its inception, and we continued to build that.

20 MR IHLE: Yes. Ms Spiteri, I just want to come to you about one of the observations you make in your statement at paragraph 50. You say that the Hotel Quarantine Program is an alternative to home quarantine, not hospital care. Can you just speak to that for a moment and explain what you mean by that in your statement?

30 MS SPITERI: Thank you. So what I mean by that is that when people were initially returning to Australia, before the mandatory Hotel Quarantine Program, they were directed to quarantine in their own home. And so I saw this as being an alternative to that initial home quarantine approach because the majority of people who came into this program were not unwell and did not become unwell during that time.

35 So for me it was an alternative to that home setting, rather than considering that people who were in that setting required a hospital level of care and treatment. Where people did need hospital care, they were certainly --- they were certainly transported to hospital.

40 MR IHLE: Is it the case, though, that as an alternative to home quarantine the program actually evolved over time to become one that was much closer to the hospital care model? We have heard evidence, for example, in respect of the clinical leadership and the clinical responsibilities taken by Alfred Health over the Brady Hotel in mid-May, and then more broadly to all of the hotels in the program. Did it
45 move more to that hospital model than the home alternative or do you say it's always been the home alternative?

MS SPITERI: I think in principle it is a home alternative. I think, just to put it into context, the Alfred initially started with what I phrased as a COVID-positive hotel, where the people that were staying there were all positive for COVID-19. Some of those were asymptomatic, they were not unwell, some of those were mildly unwell.
5 But we do understand from that, from the --- from what we know about the virus now, that people can become ill quite quickly. So it was recognised that in that setting in particular it would be preferable to have a health service that could provide also a more holistic and comprehensive suite of services through one contract in that environment. So they could pick up the health checks and have the nurses on site,
10 they could have medical practitioners, they could have, you know, security services that are currently contracted to provide services in hospitals and in health service settings, so that they would understand the environment and potentially the compliance around infection prevention and control better.

15 We were looking at potentially even catering and certainly then having the expertise in that environment from an IPC perspective, being able to provide the training and education that would be needed in that setting. So it was originally --- it was looked at for Rydges initially, and then that moved to the Brady Hotel and that commenced on or around 17 June. But in the meantime, Alfred was also engaged to do a
20 walk-through in a couple of the other hotels that were housing people who had --- were not showing signs of COVID-19 or had tested negative for COVID-19 and were waiting out their 14-day period, because it was important that we moved to a model that was, I guess, at the very heart of it had a clear understanding by the organisation that was providing the services of the environment that they would be
25 working in.

One of the things that I would like to point out at this time, though, is that when the program initially started, we very much --- and I say "we" collectively, all of the Department of Health and Human Services staff --- very much had a focus on the
30 health and wellbeing of the people who were going to be in the hotels. From our very first involvement in planning, it was all about the health services that were going to be needed, some of the connections through to mental health services, to social workers, to others. It was also at a time where health services themselves were gearing up for a potential influx of patients that might need intensive care. So at that
35 time it was a very different environment, when the program started, to where we were a couple of months later, with the lifting of restrictions in Victoria, with the easing of the potential pressure on health services, and their ability to be able to potentially support into that environment.

40 But there were up to 17 hotels at any one time, so that was something that we needed to work through with health services in terms of the capacity to be able to provide that sort of level of service to all hotels. But it certainly started with the Brady Hotel as the COVID-positive hotel.

45 MR IHLE: Just seizing upon that and coming back to the question that I was asking Mr Helps before about whether this was a detention or enforcement-led response or a health-led response --- Mr Helps, at paragraph 144 of your statement you say:

If I had to do it again, I think I would push harder to embed a Public Health Liaison officer into the [State Control Centre]

5 Was that something that upon reflection was missing when it comes to the health focus of this response?

MR HELPS: I think a liaison officer would have made communication back to those really busy people within our Public Health Command at times easier. We may have
10 got --- we got a lot of queries from other Departments working, and I'm talking initially, into --- that were working in the program, around things like PPE, et cetera. If we had had --- and there was one built into the structure but as Ms van Diemen articulated yesterday, the number of doctors we had available at the time at times prohibited that being a full-time position. So yes, I probably would have pushed
15 harder to have that. I think we would have got some more timely responses. But I don't want that to sound like a criticism. Our public health colleagues, they were busy. An additional resource would have potentially assisted.

MR IHLE: Can I come to the question of ADF personnel. We touched upon that
20 very briefly before. Mr Helps, in your statement at paragraphs 104 through to 106, you identify that there were regular discussions with ADF throughout, including those ADF personnel embedded in the State Control Centre.

MR HELPS: Yes, there was.

25 MR IHLE: When you say "throughout", that includes the planning phase of Operation Soteria?

MR HELPS: So the ADF were embedded in the State Control Centre throughout the
30 bushfires over the summer, and we worked alongside those in the various roles that we had during the summer, and then they maintained a presence and that presence fluctuated. But they maintained a presence in the State Control Centre. One of the roles that we had was to continually work with them in regard to requests for assistance, for extensions of requests for assistance. As I said, they were
35 instrumental in assisting us with a number of plans that we put together, hotel quarantine being one of them, the mobile testing sites being another. So I had, yes, daily conversations with the ADF.

MR IHLE: And you say in respect of the ADF but also Victoria Police, at paragraph
40 147 you make the following observation:

Those returning [to Australia] had committed no crime and we did not intend to treat them as if crimes had been committed.

45 What are you trying to convey by that sentence?

MR HELPS: I think there's been a lot of --- there's been a lot of discussion about the

use of Victoria Police and ADF. And whilst I didn't make those decisions, I'm not sure that we can be certain that having them in the program wouldn't have contributed to other issues that we experienced. So these were returning Australians, they were by and large compliant, and from my view the --- the program that we had set up at the time was, as I said, a balance of an enforcement and a compliance, and with uniforms comes a visual impact to people. So I think we tried to balance that. And I'm not sure that, as I said, that they would have made a difference or that they would have not had a subsequent consequential impact in another way. We will never know that.

10

MR IHLE: You say that in respect of the uniforms. Of course, there would have been nothing legally or practically prohibiting the use of ADF or VicPol in plain clothes though, would there?

15 MR HELPS: Not practically, no.

MR IHLE: Ms Spiteri, coming back to you, at paragraph 102, in respect of Victoria Police members, you say:

20 *.... it is also my personal view that a 24/7 police presence at [the] hotels may have been helpful in setting an example for security staff.*

You have made that observation and you go on in the same paragraph to say:

25 *I recollect expressing this view verbally on several occasions to other Departmental executive staff*

Do you recall when you expressed those views?

30 MS SPITERI: Not specific dates and times. But it was a view that I did express when we had some issues brought to our attention around some of the behaviour that was occurring within the hotels. And I'm sure you're aware, but there were a couple of incidents where there was inappropriate behaviour to staff and also to guests as well, in that hotel environment, and I felt that a small uniformed presence of Victoria Police within the hotel environment could potentially have quelled some of that behaviour. It was purely my personal view, it wasn't based on any particular evidence but it was just a view after hearing about some of the incidents that had occurred. And also the --- just the general view of safety in those environments. You have hundreds of people sometimes in a hotel, with a small number of staff, 35 small number of authorised officers, and while we did have escalation processes in place that worked really well when we had some really critical incidents, I just felt that there could have been some benefits in having police a little bit more visible in that environment.

45 MR IHLE: You are unable to say when you expressed those views but can you tell us with a bit more detail as to who you expressed them?

MS SPITERI: I would have expressed those to my Deputy Secretary, Skilbeck, and I would have expressed those views to Mr Helps and also to our Agency Commanders at various times.

5 MR IHLE: Mr Helps, do you recall those views being expressed to you?

MR HELPS: We had --- in short, yes. I mean, I think what's important to say is we were constantly reviewing and discussing options and trying to, you know, look at, you know, ways that we could improve the program. Did we have general
10 conversations about Victoria Police? Yes, absolutely we did.

MR IHLE: I'm asking specifically the views that Ms Spiteri has identified today as her personal views about setting the example. Can I ask you if you can assist you --- Ms Spiteri is unable to tell us as to what she formed those views. But can you assist
15 us in telling us when you first became aware that Ms Spiteri held those views?

MR HELPS: No, I can't. As I said, we had a lot of conversations. It was probably on multiple occasions. It was not abnormal for us to, particularly at the end of the day and on handover, to talk about issues. So when they occurred, I can't tell you.
20 But it was normal for us to continue to review both hotel quarantine operations and all of the other operations and issues that we had, and yes, I do recall having those conversations. I probably expressed views myself too. But when they occurred, I don't know.

25 MR IHLE: Thank you, Madam Chair. That concludes the questions that I have for these witnesses. Can I say there are three interested parties who have approached me in respect of questions that they have. Perhaps I'll call upon Dr Hanscombe for the Department of Justice and Community Safety in the first instance.

30 DR HANSCOMBE QC: Thank you, Mr Ihle. I'm pleased to be able to tell the Board that I no longer need to cross-examine Ms Spiteri.

CHAIR: Thank you, Dr Hanscombe.

35 DR HANSCOMBE QC: If the Board please.

MR IHLE: Mr Moses on behalf of Unified Security.

40 MS ALDERSON: Sorry to disappoint the Board. It's Ms Alderson on behalf of Unified Security at the moment.

Madam Chair, I just have some very, very limited questions around AOs and briefings and in particular one email that I just wanted to ask Ms Spiteri about.

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

MS ALDERSON: Thank you, Madam Chair.

CROSS-EXAMINATION BY MS ALDERSON

5

MS ALDERSON: Operator, is it possible to please bring up document DJP.102.001.9680.

10 That should be the redacted form of the email that I want to ask you a question about. Ms Spiteri, can you see that email?

MS SPITERI: No, I'm sorry, I can't, it's quite blurred.

15 MS ALDERSON: Thank you, Operator. It's the last paragraph on that page. Perhaps if we could zoom into that last paragraph. Ms Spiteri, this is an email that you are copied into from Ms Febey to Chris Eagle, I believe, on 31 March 2020. In that paragraph Ms Febey says:

20 *In conversation just now Andrea and I have agreed an immediate process improvement. That AOs will twice daily brief staff and contractors on appropriate use of PPE and other safe working practices.*

Do you see that?

25 MS SPITERI: Yes, I do. Thank you.

MS ALDERSON: Do you recall that conversation?

30 MS SPITERI: Yes, I do.

MS ALDERSON: Do you recall that these briefings ever took place after this agreement was made?

35 MS SPITERI: Yes, they did. But not by AOs.

MS ALDERSON: Do you know who conducted that process?

40 MS SPITERI: The team leaders in the hotels and occasionally some of the nurses were also used to help with specific parts of briefings as well.

MS ALDERSON: And these were, you say, done on a twice daily basis from 12 March?

45 MS SPITERI: So I'll just check the date. My recollection is that the conversation occurred on 31 March with Ms Febey and I had agreed that there would be briefings at the start of each shift, so twice daily refers to the number of shifts that were in place in the hotels. And the briefings were put in place through the team leaders and

I saw emails effecting that with the team leaders, and confirmation later that they had occurred and were occurring.

5 MS ALDERSON: So that would you say we would be able to find that in an email, in email correspondence?

MS SPITERI: Yes, yes.

10 MS ALDERSON: And Mr Helps --- can I just ask, Ms Spiteri, this email is dated 31 March. The security firms were provided with the actual formal written PPE guidance on 12 May 2020. Do you know what advice has been used to brief security during that six-week period?

15 MS SPITERI: Yes, I believe there were a range of instructions and guidance that was provided regularly into the Hotel Quarantine Program and that was informed by the advice that was given through our public health colleagues and accessing the infection prevention and control advice that they were providing at the time. So there were --- there were signs up, there were documents available to guide the use of PPE and there were briefings that were undertaken.

20 MS ALDERSON: That advice, was that from an IPC consultant or was that from actual health command?

25 MS SPITERI: So there is a terminology that is used in the sector for an IPC consultant, there is one that is employed by the Department and initially we were using the --- sourcing the advice around PPE through the Public Health Command structure from that IPC consultant.

30 MS ALDERSON: Just one last question. Was it ever raised with you by the Accommodation Commanders that they had concern about the fact of the capabilities or experience of the DHHS team leaders?

35 MS SPITERI: Sorry, would you mind repeating that? There was a bit in the middle that was fuzzy.

MS ALDERSON: Certainly. Was it ever raised with you by Accommodation Commanders that they had any concerns about the lack of skills, capabilities or experiences of the team leaders?

40 MS SPITERI: I recall having some conversations with Commanders about the challenges that we had overall in terms of resources. The hotels were stood up incredibly quickly, I think by the second week we were up to hotel number 12 and over 3,000 people. So it was a challenge to source team leaders and other staff, including authorised officers, for the Hotel Quarantine Program.

45 We had some, you know, very good offers of support from within our Department for the team leader role, but I do think it is fair to say that it was a very challenging

and unique circumstance. We used our emergency management surge staff initially who had usually had experience in relief centres and other emergencies, but as time went on we did not have enough of those and we sourced other staff from the Department. But there was definitely an ongoing challenge for us to resource those team leaders in the way that we wanted to, in that environment.

MS ALDERSON: Thank you very much. Thank you, Ms Spiteri. Those are my questions, Madam Chair.

CHAIR: Thank you, Ms Alderson.

MR IHLE: Thank you, Madam Chair. I understand Ms Condon on behalf of DJPR has some questions.

MS CONDON QC: Yes. Thank you, Madam Chair. My questions are just for Mr Helps.

CHAIR: And the nature of them, Ms Condon?

MS CONDON QC: Yes, Madam Chair, I have got really three areas that I would like to explore with the witness. The first contains or pertains to his involvement at these SCC meetings on 28 March, the second and third meetings; the second area relates to the transition from the DJPR to the DHHS, effected as the lead agency; and the third area contains questioning regarding Mr Helps' assertions that he has made at paragraphs 97, 98 and 99 in relation to the role of Victoria Police and DJPR insofar as whether or not there was any agreement reached on the role of private security.

CHAIR: Yes.

MS CONDON QC: So they are the three main topics that I seek to ---

CHAIR: Yes, I will grant you that leave.

MR IHLE: Just before those questions are asked, Madam Chair, I need to switch computers, so I can see that the transcript is still rolling, so I don't need to interrupt things, but I just wanted to tell you as a matter of courtesy that I will be switching to another computer, so I have to log out and log back in, but that shouldn't hold up proceedings.

CHAIR: Yes. Thank you.

Yes, you can proceed, Ms Condon.

CROSS-EXAMINATION BY MS CONDON QC

MS CONDON QC: Mr Helps, my name is Julie Condon and I appear on behalf of the Department of Jobs, Precincts and Regions.

5 I want to ask you some questions in relation to what you said at paragraphs 47 and 48 of your statement. Do you have those paragraphs there?

MR HELPS: I'll go to them now.

10 MS CONDON QC: Do you see that? Do you have that in front of you?

MR HELPS: I do.

15 MS CONDON QC: In essence, as I understand it, your state of mind prior to the meeting at --- well, you say at 5.00 pm on 27 March --- was that you had become aware that the DJPR had been tasked to put together the end-to-end program for hotel quarantine?

MR HELPS: That was my understanding, yes.

20 MS CONDON QC: That was your understanding. And they saw themselves as the lead agency?

MR HELPS: Yes.

25 MS CONDON QC: And you also say it was at this meeting that the DJPR were tasked to discuss security arrangements with Victoria Police and to establish the role Victoria Police would play in hotel quarantine. Can I just ask you a little bit about that assertion there. You make no reference to the meeting itself. But was that your understanding as a consequence of the meeting on 27 March?

30 MR HELPS: Sorry, what's the specific question you're asking? Is --- affirming the comment in my statement, is that --

35 MS CONDON QC: Yes.

MR HELPS: Yes, it was my understanding, my recollection during that meeting that Ms Febey had agreed to contact Mr Grainger, subsequent to the meeting, to establish the role of Victoria Police.

40 MS CONDON QC: Yes. But you also recall, don't you, that in essence Commissioner Crisp asked a specific question towards the end of that meeting of Assistant Commissioner Grainger, didn't he, about ---

45 MR HELPS: You'll have to refresh me.

MS CONDON QC: I'm sorry, I assume --- have you had the opportunity to see evidence of ---

MR HELPS: Yes, I have, but you'll have to refresh my memory on the specific comment you're referring to.

5 MS CONDON QC: In essence --- pardon me a moment, Madam Chair, I'll just get the exact reference.

CHAIR: It is perhaps easiest found in statement number 3 of Commissioner Crisp, Ms Condon, if that's where you are going.

10

MS CONDON QC: Thank you, Madam Chair. I have Ms Febey's statement in front of me so I can quote the exact paragraph from her statement.

CHAIR: Right.

15

MS CONDON QC: Now, it's paragraph 41 of Ms Febey's statement, Mr Helps. In essence, Commissioner Crisp asked this specific question of Assistant Commissioner Grainger:

20 *MR CRISP: ... So, private security, Victoria Police? I understand the preference of Victoria Police, or the Chief Commissioner, is that private security be the first line of security, and then police to respond as required. Is that your understanding, Mick?*

25 *MR GRAINGER: Yes, it's Mick Grainger here. Absolutely that's our preference.*

Then Commissioner Crisp went on to ask who was going to take responsibility around contracting private security and he nominated Claire Febey of DJPR. So that's the portion of the meeting --

30

MS HARRIS QC: --- (overspeaking) --- is it useful to go to that last part of the transcript from Ms Febey's statement?

35 MS CONDON QC: Yes, I'm happy to.

MS HARRIS QC: I think that's relevant to what Mr Helps said before.

MS CONDON QC: Yes. Then Ms Febey said:

40

Yes. I understand that that's for us to take up. So I'd like to have a follow-up conversation with Mick and just to understand a little bit more about how he sees that best working, and then we're happy to make sure that the right arrangements are made, both in hotels and also in exploring what the arrangements might be with the transport as well.

45

Mr Helps, that's the part that I want to refresh your memory. Does that accord with

your recollection of what transpired at that meeting?

MR HELPS: Yes.

5 MS CONDON QC: Is it your understanding that Victoria Police would develop for themselves what role they would play in the Hotel Quarantine Program?

MR HELPS: It was my understanding that a conversation between Ms Febey and Mr Grainger would establish that role.

10

MS CONDON QC: Yes. But you are not in a position, as I understand it, to give any evidence to the Board about whether or not Ms Febey and Assistant Commissioner Grainger actually had any conversation?

15 MR HELPS: My recollection of the meeting is that Ms Febey agreed to make that phone call. If it did or didn't take place, I can't comment. But it was certainly agreed that she would make that phone call.

20 MS CONDON QC: Yes, I appreciate that. And perhaps my question is now a little bit different. Would you agree that it would be appropriate for Victoria Police, from an operational point of view, to determine their role in the Hotel Quarantine Program?

25 MR HELPS: It is appropriate for them primarily I would suggest to determine their role, but in conjunction with other agencies and with a full understanding of the requirements of the program.

MS CONDON QC: Yes.

30 MR HELPS: So I don't see it as just their decision. I think it is a consensus decision to some degree on what the needs of the program are.

35 MS CONDON QC: All right. So you then have a meeting at the SCC at 10.00 am the next day. As I understand it, again your state of mind going into that meeting is that you are still of the belief that the DJPR are the lead agency; is that the case?

40 MR HELPS: There was a period of discussion that I had with Ms Febey and others, following the 27th and into the 28th and 29th, in regards to a transfer, if you like, of responsibility for aspects of the --- overall, and then establish what aspects agencies would lead. So my understanding is going into the morning of the 28th, I don't believe that that had been clarified and the program still essentially sat with DJPR and we worked through that transition.

45 MS CONDON QC: Yes. And as I understand it, Mr Helps, it didn't --- is it fair to say it didn't really make sense to you that the DJPR had been given the role of being the lead agency in a public health emergency? Is that a fair assessment of your state of mind on 28 March?

MR HELPS: My state of mind was as the control agency, if we are working to the emergency management arrangements then the responsibility should have sat with DHHS.

5

MS CONDON QC: Yes. So in relation to that 10.00 am meeting, can I ask you, did you have any --- did you make any specific contribution in relation to Victoria Police's role at that stage? I am going to take you to the transcript, so I don't mean to be unfair. Is it easier if I take you to the transcript of the portion that I want to ask you about?

10

MR HELPS: That would be appreciated.

MS CONDON QC: All right. Of course. Madam Chair, could I have HQI.0001.0004.0024 be brought up for this witness, and it is at page 11, line 25 to page 12, line 5. Mr Helps, just to assist you, this is a transcript of the meeting at 10.00 am on 28 March, at the SCC.

15

If I can just focus your mind obviously, can you see that there? You have indicated your presence at the meeting. A Mr Mefflin makes a contribution in relation to, as I understand it, what might be the procedure at the airport. Do you see that there?

20

MR HELPS: I'm reading it now, yes.

MS CONDON QC: Mr Mefflin is a representative of the DHHS, is he not?

25

MR HELPS: He's one of our regional Commanders, yes.

MS CONDON QC: He indicates this:

30

We are able to actually provide authorised officers and I'll have them there at 3.00 pm as well and I'll be there personally as well.

That's at the dry run, is it, that was proposed to take place at 3.00 pm on the Saturday?

35

MR HELPS: That's my understanding, yes.

MS CONDON QC: You then indicate:

40

.... in previous roles that you've had in this event and in your planning, [redacted] --

MR MEFFLIN: Yes, they do. Yes, they do.

45

And then you say this:

Yep. Yep. And then once we cross into Victoria, I mean, I think DHHS has a lead role in the direction being provided and ensuring that the, you know, the relevant support agencies have fulfilled their obligations around transport and all of those things.

5

Can I just stop there. When you referred to support agencies there, is that a reference to the role of the DJPR as you envisaged it to be at that stage?

10 MR HELPS: It is in reference to all the agencies that were supporting us in this event, DJPR included, yes.

MS CONDON QC: If we perhaps, Operator --- I will keep on going:

15 *But as you said, Andrew, there might be some leadership change in various sections*

That is a reference to Commissioner Crisp, as I understand it:

20 *I mean, it's important we don't have a custody aspect. These people are not ---*

Mr Operator, can we go to the next page, please. Would you like the opportunity to read that or are you happy for me to read it out, Mr Helps?

25 MR HELPS: I'm happy for you to read it to me, yes.

MS CONDON QC: Yes:

30 *.... but there is lead agency responsibilities that will transfer through this, right through ultimately, and I'm sort of speculating, but through to Victoria Police then as the lead around the enforcement side of it or the compliance side of it.*

35 Just stopping there, insofar as your contribution there is concerned, you're contemplating, are you not, Victoria Police having a fairly significant role in the enforcement of the direction that was going to be given to the returned travellers? Is that a fair assessment of your contribution there?

40 MR HELPS: If my memory serves me correct, that conversation started in regards to who had custody, at which phases of people coming from airside to stateside and then across the transport arrangements that were put in place. [Redacted], then Victoria Police would have a lead in the custody, if you like, or the detention of those people, assisting DHHS's authorised officers. Now, it subsequently turned out that with an agreement between Victoria Police and the AFP, that the AFP did that. So that was my view at the time, that Victoria Police would take a lead role stateside.

45 MS CONDON QC: And going over --- thank you, Mr Operator, perhaps that transcript can be taken down. I ask that --- I'm now going to take you to the final meeting. When I say the final meeting, there's another meeting, isn't there, at 6.15 p

m on 28 March?

MR HELPS: Correct.

5 MS CONDON QC: At that juncture the actual terms of the Detention Notice hadn't been finalised, had they? Is that the case?

MR HELPS: Yes, I think we were still waiting for the actual wording of the notice, yes.

10

MS CONDON QC: So would it be fair to say this, that your state of mind when you go into the meeting at 6.15 pm is that the issue of exactly how the enforcement is going to look is not --- hasn't been finalised? Is that a fair assessment?

15 MR HELPS: I --- I don't know that I turned my mind specifically to that. I was comfortable at that stage that discussions between a number of agencies, DJPR and Vic Police, would resolve that issue. I can't recall --- I can't recall whether ---

MR IHLE:

20

MS CONDON QC: I just --- sorry, I don't mean to speak over to you. What were you going to say?

MR HELPS: No, you go.

25

MS CONDON QC: Perhaps I neglected to make this clear. By the time you go into the meeting at 6.15 pm, the DHHS --- it has been clarified, hasn't it, that they are the lead agency in Operation Soteria; correct?

30 MR HELPS: I --- my understanding is that ---

MS CONDON QC: Or not?

35 MR HELPS: My understanding is Commissioner Crisp affirmed that in that meeting. I would not say that practically it was resolved, hence I had to send a meeting --- an email the following day to clarify some aspects of that and how we would work through it. So it wasn't linear. There was still some working out to do. But Commissioner Crisp made it clear at that meeting that --- that we had, if you like, taken responsibility as the control agency.

40

MS CONDON QC: Yes. But perhaps, Mr Operator, if we could have the transcript of HQI.0001.0004.0001 be brought up for Mr Helps, at page 20, line 1 to page 20, line 15. Mr Helps, this is now the transcript of the 6.15 pm meeting that I want to ask you a little bit about your contribution there.

45

Do you see there at the top:

MR HELPS: Sorry, Andrew. Yeah, I've just been madly typing away and getting some advice while this has been going on.

Do you see that there?

5

DR HANSCOMBE QC: Excuse me, if the Board please, I'm sorry to interrupt. I tried to send a chat to Counsel Assisting but something went wrong with that. The Board will know that some information concerning the specifics of handover arrangements at the airport have been the subject of previous non-publication orders. I think the transcript which my learned friend for the DJPR went to earlier trespasses across that same subject matter. Might I ask temporarily that the Board make an interim non-publication order until that can be tidied up between the solicitors?

10

CHAIR: Yes, I'll make that interim order until that is resolved.

15

MS CONDON QC: Thank you, Madam Chair. Madam Chair, if it assists, as I understand it these transcript references are the ones that have actually been published. But anyway.

Perhaps if we can go back, Mr Helps, to that document that you should have in front of you. I think it was up on the screen before.

20

MR HELPS: It was, it's not now.

MS CONDON QC: Right:

25

MR HELPS: Sorry, Andrew. Yeah, I've just been madly typing away and getting some advice

Now, I appreciate it's some time ago but is the advice that you are referring to there about the question of what the enforcement and compliance order was going to look like?

30

MR HELPS: It was in regards to the wording of the direction.

35

MS CONDON QC: Then:

I just want to clarify, and there's, I suppose, a difference between who actually has responsibility for, if you like, the custody of these people versus who might practically do some roles. But I've just clarified that essentially once the AO gives the direction they will be in the, if you like, custody of Department of Health and Human Services. So it's just important we take responsibility for that. Now, Victoria Police and others will potentially have a role

40

Now, I want to stop there. It is clear, is it not, Mr Helps, that you are making a contribution there about what you specifically see potentially the role of Victoria Police to be?

45

MR HELPS: Yes, I am.

5 MS CONDON QC: And there's no contribution from the Department of Jobs,
Precincts and Regions in relation to this discussion there, is there?

MR HELPS: I think I say "Victoria Police and others". I didn't name every agency,
but in my role, yes, Victoria Police had a role.

10 MS CONDON QC: Yes:

*.... others will potentially have a role but, you know, I just wanted to make sure
that that's clear, we're not sort of abdicating our responsibilities or asking
VicPol to, sort of, potentially put them in risk.*

15

Are you referring to putting Victoria Police members at risk by being in the role of
perhaps a static guarding of the returned travellers? Is that what you are referring to
there?

20 MR HELPS: No, I wanted to make it absolutely clear who had the legal custody for
these people. So I didn't want an agency assuming responsibilities for the custody of
returned travellers if it wasn't clear that they were --- the direction under the *Public
Health and Wellbeing Act*, if you like, we were taking responsibility that they are ---
that it was DHHS who were enforcing that. So I was --- I was trying to make that as
25 clear as I could in the absence of the full direction myself. So we were trying to
work through it.

MS CONDON QC: Yes:

30 *They certainly have powers in regards to enforcement*

That's a reference to VicPol, is it not?

MR HELPS: It is.

35

MS CONDON QC: Then:

*But I think the custody remains with us, so we'll just have to iron that out.
Now, that doesn't mean we have to physically stay with them the whole time.
40 We give them a direction and we will, you know, obviously monitor those
directions with the support.*

Thank you, Mr Operator, that can come down.

45 So that's the 6.15 on 28 March and then Commissioner Crisp makes it crystal clear to
you and to the others at the meeting that the DHHS is the control agency in relation
to this operation.

MR HELPS: Yes.

5 MS CONDON QC: So perhaps if I can just now take you to what you have already
been asked about, and the construction --- this is at paragraphs 32 to 33 of your
statement, Mr Helps, and you talk --- you have been asked about this by Mr Ihle.
You talk --- do you have that there?

10 MR HELPS: I have got 32 and 33, yes.

MS CONDON QC: What you say at paragraph 32 is:

15 *The role was one of multi-agency coordination for specific elements of the
COVID-19 response, rather than control.*

So that's your evidence before the Board and you have been asked about that, haven't
you?

20 MR HELPS: That's right.

MS CONDON QC: I appreciate that subsequent to the handover on 29 March, you
became --- or you came to the conclusion that you were not in a position to perform
the traditional function of State Controller in this particular emergency. Is that a fair
assessment of your evidence to the Board?

25 MR HELPS: Some aspects of it. I think I said the typical --

MS CONDON QC: Function, yes. But insofar as your state of mind was concerned,
let's say on 29 March, it was crystal clear to you, was it not, at that point that the
30 DHHS had been allocated the control agency pursuant to the *Public Health and
Wellbeing Act*; correct?

MR HELPS: No, not correct. So the DHHS --

35 MS CONDON QC: Well --

MR HELPS: Sorry, DHHS were the --- see, you're mixing three things up. The
responsibilities of the Controller, I said that I --- there was elements of that that
I could not perform; then there's the DHHS control agency under the emergency
40 management arrangements, not the *Public Health and Wellbeing Act*; and then there's
the Chief Health Officer's responsibilities under the *Public Health and Wellbeing
Act*. They are three separate things.

MS CONDON QC: Yes, thank you for correcting me in relation to that. But insofar
45 as the *Emergency Management Act* is concerned, your state of mind as at 29 March
is that DHHS had been appointed as the control agency, is that not the case?

MR HELPS: DHHS had been the control agency from the moment this was declared an emergency.

5 MS CONDON QC: Yes. And you made that crystal clear, did you not, in an email to Ms Febey? Perhaps if, Mr Operator, DJP.101.004.4571 could be brought up, at page 4572, this is the email, Mr Helps, that you referred to earlier that you sent at about 4 o'clock on 29 March to Ms Febey. We just have that --- is that before you?

10 MR HELPS: It is, yes.

MS CONDON QC: Obviously you made clear that the DHHS was the control agency. You said:

15 *As the control agency, DHHS has overall responsibility for all activities undertaken in response to this emergency.*

Do you accept that that certainly was what you intended the role of the control agency to be as at 29 March?

20 MR HELPS: Yes.

MS CONDON QC: You expressed your gratitude to the DJPR and you indicated this:

25 *It is important, however, that we clarify some roles and responsibilities to work on a transition plan over the next day or so many of the roles DJPR provided in the planning, and operationally today will need to transition to the Deputy State Controller and DHHS as the Control Agency.*

30 Again, there was certainly no ambiguity as at 29 March as to how you foresaw that transition playing out, was there?

35 MR HELPS: I was articulating that the transition needed to occur and how it would play out, yes.

MS CONDON QC: Then:

40 *I would like to clarify that as a minimum I would request DJPR continue to provide the valuable work in procurement of hotels and the services required to support people under the direction to detain. I don't underestimate the complexity of this task in the current environment.*

45 Perhaps can I paraphrase that. Is that a way of you expressing that as the DJPR is a support agency, that they would provide particular services under the direction and authority of the DHHS? Is that what you are really saying there?

MR HELPS: I think I'm trying to summarise there that there was further work that

needed to occur. At a minimum we would like them to continue to do some roles. If I could provide you some background, there was --- at this stage there was a tension between the fact that Ms Febey had been tasked by her Secretary, is my understanding, and the emergency management arrangements, and I was trying to resolve that tension, and work out a path forward where we could resolve who did what responsibilities going forward.

So in a normal support agency arrangement, support agencies will have roles and responsibilities, they are absolutely accountable for those roles and responsibilities; and there's a number of support agencies that will support the control agency who has overall responsibility. So it was trying to work through those tensions between, quite rightly I understand, Ms Febey's views at the time that she was being tasked by her Secretary and we needed to work through those.

MS CONDON QC: Yes. But in terms of operational decisions post 29 March, you made it clear, didn't you:

It will be vital that DHHS make the operational decisions in regards to which hotels we utilise and when, along with other decisions which require a risk assessment by the Chief Health Officer or delegated Authorised Officer.

So just in relation to that latter issue, that's a specific inference by you, isn't it, that insofar as matters that relate to infection control procedures, they are matters which are solely in the purview of the Department of Health and Human Services? Is that fair, what you're saying there? Do you want me to read it out again?

MR HELPS: Sorry --- no, can you repeat the question?

MS CONDON QC: Your final line is this:

It will be vital that DHHS make the operational decisions in regards to which hotels we utilise and when

So that's the first part of what you are saying to Ms Febey, is that the DHHS will take over operational decisions with respect to which hotels are being stood up and when; correct?

MR HELPS: That was my intention, yes.

MS CONDON QC: Yes:

.... along with other decisions which require a risk assessment by the Chief Health Officer or delegated Authorised Officer.

I want to focus your mind on the last part of what you said there. Is that you referring to matters that relate to questions of infection control will be solely in the purview of the Department of Health and Human Services?

MR HELPS: So what I was referring to there is that at that point neither DHHS nor the Public Health Command had been consulted on the sourcing of the hotels or when we would stand them up and a number of decisions that needed to be made
5 around the suitability of the hotel. So that's what I was trying to articulate there, that we needed to --- we needed to have consultation and ultimately, yes, these people were being detained under the *Public Health and Wellbeing Act* and therefore the Public Health Commander or the Chief Health Officer had to be comfortable with the arrangements that were in place.

10

MS CONDON QC: All right. Thank you for that clarification. So to that extent the final part of the email relates very much to the question of the choice of hotel in the context of the program. Is that a fair assessment of what you're getting across there?

15 MR HELPS: That's right. That's right. And we worked through that over a number of days. It was some days after that that we actually started to make decisions on hotels. This was a transition period where we worked through to get to that point.

MS CONDON QC: All right. Thank you for that clarification. Mr Operator, that
20 document can come down.

I want to ask you now, Mr Helps, a little bit about the actual transition itself and particularly in the early days you indicated I think in your evidence before that there was certainly queries that came up through the line in relation to --- for example, you
25 gave the example of PPE usage and the like, and it would have been of some benefit to have, I think you said, a Public Health Liaison Officer embedded in the SCC in order to respond to those matters. Was it the case that you yourself were having to sometimes give advice about those matters when they were being escalated to you?

30 MR HELPS: It wasn't the case that I would give that advice. It was that I would have to source that advice. I may relay it back and I may --- it would depend on the advice. There was general advice that I could give. You know, if something was well known and established, I could reinforce what was already well known and established. But specific advice in the public health remit, no, I would have had to
35 go to them or through an Agency Commander, go to them.

MS CONDON QC: Perhaps, Mr Operator, if we bring up DJP.113.009.6454 and I ask you to have a look at this document, please, Mr Helps. Can you see that,
40 Mr Helps?

MR HELPS: I can see it but I can't read it.

MS CONDON QC: Perhaps if you have an opportunity to read it.

45 MR HELPS: I can't see that.

MS CONDON QC: How is that?

MR HELPS: That's better.

MS CONDON QC: Let me know when you have had the opportunity to read it.

5

MR HELPS: Yes, I've read that.

MS CONDON QC: That's dated 30 March and that's sent to, obviously, the State
Emergency Management Centre and to you. And it's from Mr Holland from the
DJPR:

10

*I wasn't sure on the best place to direct this urgent query regarding available
training/guidance for our staff and contractors on correct use of PPE for this
operation. On the call yesterday Jason confirmed that only surgical masks and
hand sanitiser were required, but guidance we can provide on correct usage
would be really helpful if you can direct us to the correct place.*

15

Is that a good example of you being in a position of providing advice about those
sorts of matters?

20

MR HELPS: It's clearly advice I provided but it would have been in consultation
with Public Health Command. Or it would have been well known to me from a
subsequent --- you know, from a previous enquiry. I can't recall which. But the
advice that I would provide at any given time around that would have been advice
that come via Public Health Command.

25

MS CONDON QC: That document can come down, Mr Operator.

I want to ask you a little bit more about what you have told the Board in relation to
going back to this issue about Victoria Police and DHHS's role in perhaps
determining what the role of Victoria Police might be in the program. If I can have
put up, please, DJP.102.007.6151, at page 6152.

30

Mr Helps, this is an email that was sent actually on 29 March, some four hours after
you made it very clear to Ms Febey that the DHHS was the control agency. I don't
expect you to recall receiving this email but you are familiar, no doubt --

35

MR HELPS: I'm familiar with it, yes.

MS CONDON QC: You will see the subject matter obviously is "Urgent issues for
resolution by DHHS tonight". And Ms Febey raised a number of matters and she
specifically raised the question obviously of a static presence of Victoria Police 24/7.
She said she asked DHHS urgently make that request as the control agency.

40

Again, I want to just come back to the point: at this point, at say 8.00 pm on 29
March, if any agency is going to determine the role of Victoria Police in the Hotel
Quarantine Program, it's going to be the Department of Health and Human Services,

45

is it not?

MR HELPS: So I think if you've been listening to my evidence earlier, you will probably appreciate that this was one of those areas where the State Controller was not necessarily involved in all of those decisions and a number of those decisions were made in a --- in what I would title a government business-as-usual type arrangement. It is my understanding now, not at the time --- at the time it was my understanding that DJPR and Victoria Police were directly resolving those things and had continued to work through those. Subsequent to that, DHHS enforcement and compliance team were tasked to speak again with DJPR and Victoria Police to come up with an escalation model. So it was an evolutionary process of what Victoria Police's role in the program was.

MS CONDON QC: I'll perhaps make this clear: post 27 March, Ms Febey --- it was made clear to Ms Febey by Commissioner Crisp that certainly the DJPR was to have no direct dealings with Victoria Police, that any deals were to be via the SCC. So that would be consistent, would it not, with what you are saying?

DR HANSCOMBE QC: I object to that question. "Made clear to Ms Febey by Commissioner Crisp" is an inaccurate summation of that evidence.

MS CONDON QC: Perhaps I'll rephrase it for the benefit of my learned friend for the Department of Justice, Madam Chair.

CHAIR: Yes.

MS CONDON QC: Ms Febey indicates at paragraph 51 of her statement that she was given a directive from the Emergency Management Victoria that the DJPR was to have no direct dealings with Victoria Police and dealings were instead to be required via the SCC. Does that accord with what you're telling the Board?

MR HELPS: That's not my recollection, no. I think that's --

MS CONDON QC: You don't --- perhaps --- I don't want to get into --- (overspeaking) --- deal with that later.

MR HELPS: I think --- I think that's Ms Febey's interpretation or her words. That's not my recollection.

MS CONDON QC: Yes, all right. Insofar as, just going back to her request for Victoria Police presence at each hotel 24/7, was your state of mind on 29 March that that wasn't required?

MR HELPS: So at that stage when we received this email, I --- my recollection is that I had some discussion with our Agency Commander and the Deputy State Controller became involved as well and it was felt that at that stage of that night that we could do no more than what we had done that night and we would continue to

resolve these things over the next few days. So my recollection is that some of those things were actioned that night and others were to be actioned over the next few days.

5 MS CONDON QC: Yes. I must say, perhaps if I can just clarify your answer, in relation to the specific request she made that the DHHS urgently make that request as the control agency, did you action that request or not?

10 MR HELPS: I --- I wasn't involved in that part of it. Our Agency Commander made some --- had further conversations, is my understanding, with Ms Febey, but I can't recall what that further conversation was and what the exact responses were. But I'm comfortable that they corresponded.

15 MS CONDON QC: But perhaps, if I can clarify this: as I understand it, your personal view would have been in any event that Victoria Police weren't required to have a static presence at the hotel. Is that fair?

20 MR HELPS: No, I don't think that is fair. I can't recall what my personal view was at the time. I think, as I said before, I think if you look at that particular time of the day, I think there might have been some concession by us that we had probably done as much as we could do in relation to some of those issues. But what my personal view was on that particular day, I don't recall.

25 MS CONDON QC: Very well, thank you. Mr Operator, that document can come down.

30 CHAIR: Just to be clear, Mr Helps, have I understood you correctly that you weren't responsible for making any request to Victoria Police for a 24/7 presence on any of the hotel sites?

MR HELPS: Not in relation to that email, Madam Chair, no, I ---

35 CHAIR: No, I understand your answer in relation to that email, but I'm now talking about your involvement throughout the duration of the program, in the days and weeks afterwards?

MR HELPS: I had no personal conversations with Victoria Police, no.

40 CHAIR: And --

MR HELPS: Nor was I tasked to --- sorry, Madam Chair.

CHAIR: And aren't aware of any requests that were made for a 24/7 presence?

45 MR HELPS: I'm aware of the requests that came via DJPR but no others.

CHAIR: What you give that answer, you mean with respect to the email that

Ms Condon has just taken you to?

MR HELPS: And I think, if I recollect, I think there may have been another email around about the same time as well, indicating that.

5

CHAIR: Indicating a request for a 24/7 presence?

MR HELPS: Yes.

10 CHAIR: But you didn't respond --- you didn't seek or make a request to Victoria Police in response to that request?

MR HELPS: No, I didn't personally. The follow-up was tasked to the Agency Commander who I know had further conversations.

15

CHAIR: With? Further conversations with?

MR HELPS: My understanding --

20 CHAIR: With Victoria Police?

MR HELPS: My understanding initially, with DJPR, and then subsequently with our compliance and enforcement team, which led to a meeting with Victoria Police and our compliance and enforcement, which ultimately led to the escalation plan. So it was certainly followed up, Madam Chair.

25

CHAIR: Yes.

30 MS CONDON QC: Madam Chair, there's just one more document that I seek to put to Mr Helps, if I may.

CHAIR: Yes.

35 MS CONDON QC: Thank you.

35

Mr Helps, I just want to ask you finally about what you say at paragraphs 115 to 116 of your statement. This really concerns the same area that I've been asking you about insofar as the role of the DJPR and Victoria Police is concerned. Perhaps if you could go to those paragraphs, please.

40

MR HELPS: Yes.

45 MS CONDON QC: If you just bear with me, I'll bring them up. What you say there is this --- well, first of all, as an ex-member of Victoria Police, you formed the view that they were well placed to have a role operationally in the Hotel Quarantine Program, and I've already suggested to you that it would be really a matter for Victoria Police operationally to determine that role, wouldn't it?

MR HELPS: My view was that they were well placed, yes. And I was at that stage --- and I think I referred to it in my statement, I was comfortable that those conversations were occurring with the --- between DJPR and Victoria Police, to resolve that matter.

MS CONDON QC: Yes. Perhaps I haven't really asked you about that. When you give your evidence to the Board, those conversations were occurring between DJPR and Victoria Police command, you weren't a party to those conversations, were you?

MR HELPS: No.

MS CONDON QC: You are not able to give any evidence to the Board about having anyone from DJPR report back to you at the SCC, saying, "I've had a conversation with Commander Tully and he said to me, X, Y, Z", are you?

MR HELPS: No.

MS CONDON QC: So is it your evidence, your basis upon which you say to the Board that there were conversations between DJPR and Victoria Police, is that based on what Claire Febey said at the end of the meeting on 27 March, that she wanted to speak to Assistant Commissioner Grainger? Is that what your evidence is based on?

MR HELPS: I can't recall whether that's all it is based on but it is certainly what I'm basing predominantly, yes. I mean, it is normal in a State Control Team meeting that if somebody agrees to do something that it would be done and it would be resolved and if it wasn't resolved it would come back as an issue that hadn't been resolved. And it was not brought back as an issue at the next meeting, is my understanding, but it was brought back as an issue subsequently, by Ms Febey, and we continued to --- you know, it wasn't linear. Whatever decision was made, if you like, on the 27th or 28th, that's why you have State Control meetings, is to continue to review those. So I was comfortable at the time that the appropriate decision would be made to get the program up and running and if we needed to review that then we would review that. It wasn't set in stone, in my mind, that whatever decision was made on the 27th, 28th and 29th would be the decision that we lived with for the program.

MS CONDON QC: Yes.

MR HELPS: If that makes sense to you.

MS CONDON QC: Yes. Well, perhaps I'll take you to a specific --- yes, what you are saying in your statement now:

.... I understood that DJPR had put together an "end-to-end" program and that planning between DJPR and Victoria Police had occurred and was continuing, which included hotel site visits between the DJPR and [police]. As such I was comfortable that the relevant expertise was involved to identify security issues

and produce a model suitable for the commencement of the program."

5 I want to ask you about that, and there are two aspects I want to ask you about. When you say "comfortable that the relevant expertise was involved to identify security issues", no doubt that is a reference to Victoria Police, is it not --

MR HELPS: It is.

10 MS CONDON QC: --- as experts in security?

MR HELPS: Yes.

15 MS CONDON QC: It is certainly not a reference to the DJPR, who nobody would consider to have that expertise; correct?

MR HELPS: No, you are quite correct. I was comfortable Victoria Police were there.

20 MS CONDON QC: Yes. And when you say "produce a model suitable for the commencement of the program", that's not a model that was conceived or developed as between the DJPR and Victoria Police, was it?

MR HELPS: That's my understanding, that that was who was working on the model.

25 MS CONDON QC: I'll show you this document, Mr Helps, and ask you a bit about that. Mr Operator, if the document DJP.102.001.3600 could be brought up, please. That's the email. Do you see that there, Mr Helps?

30 MR HELPS: It will need to be bigger than that for me to see it.

35 MS CONDON QC: First I'm going to show you this email and then I'm going to show you a document that was attached to it. This was an email on 28 March, so it's just before 6.00 pm on 28 March. Now, I appreciate that you don't appear as one of the recipients, but Mr Hogan is there and Mr Mefflin from the DHHS. It is from Mr Nolan from the DJPR:

Hi DHHS team

40 *Thanks for the discussions today on briefing security guards on how they should assist authorised officers to enforce the CHO's directions inside the hotels.*

As discussed ---

45 Then there is reference to some written material to provide to security contractors so that they can properly understand what their role is in enforcing these directions and who to contact if something goes wrong. Then it is a request that this document could

be sent from DHHS to contractors. The actual document itself is DJP.102.001.3602. If that could be brought up, please. If the operator needs the reference again, perhaps.

5 Mr Helps, have you seen this document before?

MR HELPS: I have seen it in preparation for the hearing, yes.

10 MS CONDON QC: Okay. So you obviously see it. It is the document that was referred to in Mr Nolan's email about what was envisaged for security personnel to be engaged "to support authorised officers from the DHHS and Victoria Police to uphold mandatory quarantine directions from the Chief Health Officer". So you have seen the document before?

15 MR HELPS: I just said that, yes, I have seen it in preparation for the hearing, yes.

20 MS CONDON QC: Sorry, perhaps that's my fault, my question was not specific enough. Were you made aware of the existence of this document as around 28 or 29 March, that weekend when the DHHS had been given the clear status as the control agency?

MR HELPS: I don't recall having seen it at the time. I can't say one way or another. But I don't recall at the time seeing the document, no.

25 MS CONDON QC: All right. Would you agree with me, though, being familiar with document, that document envisages a model which is quite clear with the role of authorised officers in conjunction with DHHS and Victoria Police?

MR HELPS: So --

30

MS CONDON QC: Do you accept that's what the model envisages?

35 MR HELPS: That may be what the model envisages. I don't even know who the author is, so I don't have any view on the document. I don't know who authored it and I don't recall seeing it at the time.

MS CONDON QC: Just so it's clear as well, it's clear, is it not, that the role of Victoria Police is envisaged in that document?

40 MR HELPS: If you say it's clear in that document, it's clear in that document. But I've said to you, I don't recall seeing the document and I don't know who authored it so I don't have an opinion on the document.

CHAIR: I'm not sure you are going to get any further with that, Ms Condon.

45

MS CONDON QC: No, I appreciate that, Madam Chair. Yes, thank you for your time, Mr Helps. They are the questions that I have.

CHAIR: Yes, Ms Davidson?

5 MS DAVIDSON: Madam Chair, I would seek leave to ask some questions following up from the questions that Ms Condon has asked Mr Helps. It really relates to --- it's a very small topic, it relates to the meeting on 27 March and it's really in relation to the exchange between Ms Febey and Mr Grainger, and Mr Helps' understanding of what was tasked out of that meeting.

10 CHAIR: Tell me what you are concerned about, Ms Davidson, because these words have been referred to on a number of occasions throughout the Inquiry and --

15 MS DAVIDSON: I'm concerned about the fact that Ms Condon has only taken Mr Helps to one aspect of that meeting, a later part, and hasn't taken Mr Helps to the earlier part of the meeting, where Ms Febey herself expressed a view about the use of private security and the role of Victoria Police and the discussion that occurred in relation to following up with Mr Grainger in relation to that. If did occur later in the meeting but there was a much earlier discussion and it was a much more fulsome discussion.

20

CHAIR: Where does the point go to in terms of assistance for the Board?

25 MS DAVIDSON: It's been put to Mr Helps that it was --- I think that Mr Helps --- it was suggested that Mr Helps was incorrect in his assertion, in his view about who was making the decisions in relation to security, private security. And the more detailed discussion does indicate that actually DJPR had a very clear view themselves upon the engagement of private security and the role that Victoria Police would play in relation to that. But the only way it's been put at the moment is as if this has been a decision made by Victoria Police rather than by DJPR.

30

CHAIR: So take me --- you take me to the part of the transcript that you're now referring to.

35 MS DAVIDSON: Certainly. The transcript is HQI.0001.0004.0056 and it's at page 12 of that transcript, and it's where security is first raised. Mr Molnar, who is dealing with that, raises the question of the security element, and Ms Febey said:

Is anyone from Victoria Police on the call?

40 Mr Grainer responds that he is on the call, he's there with [redacted]. He goes on to --- he talks about the role of security at the airport. But then he goes on to say:

45 *But then in terms of security, there would be private security, and then the police would have a role perhaps around that as well, but we'd have to work through what that looks like.*

MS FEBEY: I'd be really keen to take this up with you. And I'm so sorry,

I missed your name.

And then she goes on to say:

5 *I'd be really keen to work through this with you because, as you say, there are different steps in security and some of it should be, for example, increasing the provision of private security at hotels. Some of it will be around security either at the point of arrival or during transport.*

10 *And then we'd like to understand from you where you see VicPol's role being predominantly, which I would have thought [this is Ms Febey expressing her view and essentially DJPR's view] was around where things are not going as they should and you need to be called in to assist with enforcement.*

15 *So could you and I take that up separately, and perhaps with you I could understand who else I need to bring to the table in that conversation?*

CHAIR: All right. So how are you asking Mr Helps to assist with that, Ms Davidson?

20

MS DAVIDSON: What his understanding was in relation to what would happen after that meeting and what he understood DJPR's view was in relation to the engagement of private security in the role of --

25 CHAIR: Let's deal with the first part first. I think Mr Helps has been asked a number of times now what he understood would happen and his answer has been that his understanding was that the agreement to take that up outside the meeting would happen. Am I right about that, Mr Helps?

30 MR HELPS: You are right, Madam Chair, yes.

CHAIR: So that's the first part. What else can you --- what else are you seeking Mr Helps to assist you with?

35 MS DAVIDSON: What his understanding, whether it was his understanding that DJPR themselves had a view about the role of private security and the role of Victoria Police from that exchange.

40 CHAIR: What did Mr Helps make of that exchange?

40

MS DAVIDSON: Yes, what was his understanding of the view of DJPR regarding the role of private security and the role of Victoria Police?

45 CHAIR: I'll let you answer that, Mr Helps.

45

MR HELPS: Madam Chair, I'm not sure that I'll speculate on what my view was but I can reaffirm that that conversation certainly took place and those word accurately reflec

t the conversation both from Ms Febey and Mr Grainger.

CHAIR: I understand what you are saying is other than the word on the page, you are not able to add anything more?

5

MR HELPS: It may or may not have helped form my view that Victoria Police and DJPR were going to have a further conversation about the role of Victoria Police and it was very much in support of private security, yes, that's my understanding.

10 MS DAVIDSON: I don't have anything else, Madam Chair.

CHAIR: Thank you.

15 MR IHLE: Madam Chair, as far as I'm aware, they are the questions for these witnesses. I will pause for a moment unless there's anything that has emerged from the extensive cross-examination.

CHAIR: Ms Harris?

20 MS HARRIS QC: Yes, Madam Chair, could I please ask a limited number of questions, first of Mr Helps in relation to the email of 29 March and also some questions of Ms Spiteri about the email of 9 April and also some evidence that she gave about how guidelines were as part of the State Controller role transmitted and anticipated that they would be complied with.

25

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

MS HARRIS QC: Thank you, Madam Chair.

30

CROSS-EXAMINATION BY MS HARRIS QC

35 MS HARRIS QC: Mr Helps, I think I said the email of 29 March, and there may be more than one. There was one that you were taken to, it was an email from Ms Febey from the Department of Jobs, Precincts and Regions talking about a Victoria Police presence 24/7 at each hotel. Now, on 29 March, what understanding did you have about --- given that the hotel quarantine operation hadn't yet started, what understanding did you have about why Victoria Police might need to be present and what their role would be?

40

45 MR HELPS: So my understanding was that, as I said, DJPR and Victoria Police were to, offline, have a conversation about Victoria Police's role in support of private security. So my understanding at that stage was that private security was the first tier of security and then Victoria Police would have a role in support of that.

MS HARRIS QC: And on that question of private security, did you have any role in

a decision that the private security would be engaged?

MR HELPS: No, no role at all in that.

5 MS HARRIS QC: Actually, just on that point, can I just ask Ms Spiteri, Ms Spiteri, did you have any role in the decision that private security would be engaged?

MS SPITERI: No, I did not.

10 MS HARRIS QC: Thank you. Now, there was another email of 29 March that you were taken to. This time, Mr Helps, it was an email from you to Ms Febey and it talked about --- it was in the context of the transition from DJPR being the lead agency to DHHS being the lead agency. And you talked about as control agency DHHS has overall responsibility for all activities undertaken in response to this
15 emergency.

I just wanted to ask you what in your understanding that meant from support agencies and their roles, their designated functions, and what responsibilities they had? If I can take the example, first, of contracting with hotels, that the evidence has
20 been that that was the function of DJPR. When you said DHHS has overall responsibility, does that mean that DJPR did not continue to have responsibility for that contract management function in their role as support agency?

MR HELPS: No. So a support agency will have responsibility for elements of a
25 program and they will have the responsibility and the accountability to make sure that those aspects of what they are responsible for are properly resourced and properly supervised, properly acquitted, to --- for that piece that they are responsible for. So the control agency has overall responsibilities insofar as making sure that the structures and the support agencies have the relevant structures, but the role of the
30 support agency is to do that. When you talk about contracting, I mean, the control agency does not take on the responsibilities of the contract. That is a private contract and it's not something that as State Controller I could have intervened with or had any responsibility for.

35 MS HARRIS QC: And Ms Febey and Ms May talked about --- acknowledged that designated functions that the DJPR performed included not only that hotel contracting and contract management role but contracting with security and contract management for security and some cleaning responsibilities, and accepted that they had --- the DJPR still had responsibility for those roles. Is that consistent with your
40 understanding of what the Emergency Management Manual says when there might continue to be shared accountability across all agencies in a complex emergency?

MR HELPS: Yes, it is, yes. It's normal that support agencies will have responsibilities and as I said they have accountabilities to those responsibilities. And
45 it is primarily up to them to resolve those issues and where the resources of their Department, if you like, couldn't resolve them then they could escalate those but it's normal that a support agency will deal with the bits that they are responsible for and

will resource appropriately to it.

MS HARRIS QC: If I can just --

5 CHAIR: Mr Helps, where would they be escalating to?

MR HELPS: So if the support agency --

10 CHAIR: When you answer that question --- yes. Sorry, go on.

MR HELPS: If the support agency couldn't fulfil something that was its
responsibility then it would escalate to the control agency. And then there would be
a control team meeting to say, can somebody else assist with that? Because you
might have run out of resources. A common example of that, Madam Chair, might
15 be that Victoria Police has responsibility for traffic management points. If they had
exhausted their resources initially, it might be agreed that private traffic managers or
another agency would assist with those roles. But that would not mean that Victoria
Police wasn't still responsible; it would be that they had exhausted their immediate,
you know, resources to carry out that function. So it was beyond their capability to
20 meet that responsibility.

MS HARRIS QC: Thank you, Mr Helps. Madam Chair, just as a slight distraction,
I did want to confirm that the Emergency Management Manual that I have just
referred to is in fact in full in I think Commissioner Crisp's statement, so I won't
25 continue further with the tender of that document.

CHAIR: Yes.

MS HARRIS QC: I'm sorry to jump around a bit, Mr Helps. In the questioning
30 about 29 March you were asked about what the response was to the request for
Victoria Police presence. Now, I'm sorry I'm being a bit hesitant, but I think my
instructors have identified an email that you might have mentioned in your answer.
You said there might have been another exchange about that issue. Madam Chair,
I think the document that as it is in the hearing book is DJP.101.002.8853. I'm
35 looking at it with a slightly different number but that's been produced but is not in the
hearing book, so if I could ask the operator to bring up that document.

Now, I'm not sure that you're --- you did mention, I think, Mr Helps, that the Agency
Commander for DHHS may have had some discussions about this. Who was the
40 DHHS Agency Commander at about this time?

MR HELPS: I think in response to queries from Ms Febey, both the Agency
Commander, who was Braedan Hogan, and the Deputy State Controller, Chris Eagle,
replied in regards to various elements of the issues that she had put forward.
45

MS HARRIS QC: And so Ms Febey here says:

Thank you for your quick advice.

5 *While our recommendation and request is still for Vic Pol (or DHHS) to be onsite overnight, I will follow the escalation protocol that you have outlined below for tonight, and we can revisit these issues as you have suggested in more detail tomorrow.*

10 First, I'm not sure if this document includes it, but what's your understanding of the escalation protocol?

15 MR HELPS: So there was a --- the escalation protocol was formalised I think subsequent to the 29th. I don't think it was actually formalised until, if I'm --- if my memory serves me, it was the 4th. But there was an escalation protocol that if there were any issues at the hotel, they would contact Victoria Police via 000 and Victoria
20 Police would respond quickly because they had dedicated patrols to the hotel precinct, so they were in the vicinity. As I said, I think --- and I'm not sure of the actual nature of the work, but that was formalised through an escalation process that Victoria Police and our compliance and enforcement worked on over the next few days.

25 MS HARRIS QC: Can I ask the operator if there is a second page to this email. Yes. So this was an email to Ms Febey from Chris Eagle, the Deputy State Controller - Health. He has referred to, at the third paragraph:

30 *With the security staff, there should be no reason they need to exercise any power of arrest or restraint. We ask they do as they would normally do, and verbally request any traveller who has left their room to return. This can be done under the social distancing principles which will not put guard in any danger.*

If the traveller ignores advice or becomes threatening, then the guard should contact Vicpol on 000.

35 Do you understand that to be what was referred to when there was a later reference to the escalation?

40 MR HELPS: That's correct. As I said to you, the police were in the hotel precincts, if you like, they had dedicated patrols, so that response was always going to be quite quick and that was the escalation process that ultimately came about formally.

45 MS HARRIS QC: Thank you, Mr Operator, for finding that so quickly. I don't need that document any further.

My remaining questions are for you, Ms Spiteri.

First, you gave some evidence in relation to the role of the State Controller and the policies and guidance that were put in place with the input from the Public Health Team

within the Department of Health and Human Services. And you were asked some questions about what your expectation was about whether they would be implemented. I think your evidence was that every person in the environment on the ground, from an occupational health and safety perspective, both Government employees and people who were contracted to be on site, were responsible for complying with those instructions, including within their own organisations. Now, do you have any understanding of whether, for example, security companies had been obliged in the contractual arrangements with DJPR to ensure their own staff were familiar, for example, with PPE use and other training with respect to responses to being in a COVID-19 environment?

MS SPITERI: Yes, I do. So Ms May emailed me at one stage an excerpt from one of the security contracts, that meant that I could see that it specifically required security companies to train their staff, to ensure that their staff were --- and that was in a specific training package that was available online, relating to COVID-19, and that they provide PPE to their staff as well. So --- and comply with whatever the relevant --- it wasn't specified in the contract but it said words to the effect of "comply with the relevant Public Health guidance at any point".

MS HARRIS QC: You have just referred to some specific training. Evidence has been given, including by security firms, witnesses from United Security and others, that there was a Commonwealth Government Health Department program with respect to COVID-19. Is that what you mean by that?

MS SPITERI: It's my understanding that that training was referred to specifically in contracts. I only saw an excerpt from a security contract, I don't see the ones for hotels or other services, so I can only comment on that.

MS HARRIS QC: There was some evidence given about, for example, referring back to Ms Bamert's evidence of physically going to locations and providing advice about use of PPE. Now, that was advice prepared from within the DHHS, is that your understanding?

MS SPITERI: That is my understanding, yes.

MS HARRIS QC: When there is an obligation to security firms to ensure the training of their own staff, was the purpose of that in your view in the sense of wanting to ensure that appropriate guidelines were in place --- not a matter of replacement of Government guidelines but reinforcing through the people who were on site through their own employers, the appropriate use of PPE and other ---

CHAIR: Ms Harris, I think that question has been laboured over.

MS HARRIS QC: Thank you, Madam Chair. And it was getting a bit too long. I can move away from that topic, Ms Spiteri. There was one question, Madam Chair, I'm not sure I made it clear that I wanted to ask this. Dr van Diemen was asked about

an email that was sent by Dr Romanes and copied to her and that was sent to Ms Spiteri at the State Control Centre. She wasn't been asked about the response to that today and I just wanted to ask her about that very briefly, if I may.

5 CHAIR: Yes.

MS HARRIS QC: Ms Spiteri, I'm not sure if you are aware of the evidence that was given yesterday by Dr van Diemen about an email that was sent to you and others at the State Control Centre by Dr Romanes, that copied in Dr van Diemen. Were you
10 listening to that evidence?

MS SPITERI: Yes, I was. I'm familiar with that email, yes.

MS HARRIS QC: I think Dr van Diemen also gave some evidence about a response
15 that you gave on 10 April to that email. If I can first go to the email of 9 April. Perhaps if it's possible to bring that up. I think the version that was used was document DELW.0001.0011.2166.

I don't want to waste the Board's time, so I might start asking that question in the
20 hope that that document might be available.

CHAIR: I think Ms Spiteri has indicated that she is familiar with what you are referring to, Ms Harris, so just go to your question.

25 MS HARRIS QC: Yes, I can read it out. There was an issue raised in that email about governance, and the email said the Chief Health Officer and the Deputy Chief Health Officer were formally requesting an urgent review of governance of the mandatory quarantine detention program, and goes on to say:

30 *These arrangements should provide for*

And there are a number of dot points. The first dot point was:

35 *A clear lead who could remain the Deputy State Controller - Health (currently Chris Eagle).*

So at the time of that email on 9 April was there a person in that post already?

40 MS SPITERI: Yes, there was.

MS HARRIS QC: That was Mr Eagle, and was there at that time another person sharing that role with him?

45 MS SPITERI: Yes, there was, there were two that were rotating through that role.

MS HARRIS QC: I think we haven't named that person. The second dot point in that email is that there needed to be a direct line of accountability to the Deputy

Chief Health Officer of all sectors of the response as the role that is legally responsible for this detention regime.

5 Can I ask you, at 9 April, what the standing of the Deputy Chief Health Officer, who also held the role of Public Health Commander, was within the Emergency Management Framework? Did the Deputy Chief Health Officer have an input into the governance at that point in time?

10 MS SPITERI: So the Public Health Commander is a member of the State Control Team and so was part of the regular meetings of that team and activities of that team as well. So at that time the State Control Team was meeting each morning at 9 o'clock. The Public Health Commander also has a standing invitation as a member of the interagency group that met daily for Operation Soteria, as well, and we had a direct line of communication with the Public Health Commander, both myself and
15 our Agency Commander as well. We would often deal with people who were within the Public Health Incident Management Team, but we had a direct line of communication with the Public Health Commander. So that was the involvement of the Public Health Commander at that time in the governance arrangements for the program.

20 MS HARRIS QC: The third dot point relates to a sector for health care and welfare, including a clearly named lead role, which could be the Deputy State Health Coordinator. Was there any part of the arrangements in place on 9 April that was responsible for health care and welfare, and if so what was that?

25 MS SPITERI: Yes, there were two elements to this. The policy and planning around health care and welfare at that time sat with the Public Health Team under the Public Health Commander. It was an extension of the physical distancing planning that had been done earlier and elements that related to the health care and welfare of people in
30 mandatory quarantine were then subsequently introduced into that planning. So that's from a policy and planning point of view. There was also a welfare cell that had been stood up, who were making the welfare calls to the people who were in the quarantine program. And at that time that was --- that was sitting within the Public Health Incident Management structure as well. Then there was the operations on the
35 ground, the contracting of nurses, the contracting of GPs and the services that were required on the ground, and they were being done by a position that was the Deputy State Health Coordinator that was reporting to our Agency Commander in the State Control Centre. So there was quite a significant amount of focus and work, planning and operations that were underway at that time. And --

40 CHAIR: Ms Harris, before you go any further, I'm not sure that I understand what is going on here. Is Ms Spiteri indicating her response to the concerns that are being raised by explaining that these concerns were not properly raised or is Ms Spiteri going through what she actually did, what Ms Spiteri did respond to with respect to
45 the contents of this letter?

MS HARRIS QC: My question, and I apologise if I haven't made it clear, is what

actually was in place when that concern was raised, because there's been evidence about the concern being raised but not evidence from Ms Spiteri about whether all those matters in fact had not yet been actioned or some of them had and some of them had not.

5

CHAIR: All right. So then my question remains: what was the response that was given to Dr Romanes and Dr van Diemen?

10 MS HARRIS QC: So if I can --- there is an email of 10 April that I raised with Dr van Diemen in her evidence yesterday.

CHAIR: Yes.

15 MS HARRIS QC: I can bring that document up, Madam Chair, if that would be of assistance. One of the responses was to identify that there were some current governance arrangements in place and also to provide the draft Operation Soteria plan version 2 that referred to some of those governance arrangements.

20 CHAIR: All right. Well, those --

MS HARRIS QC: I will give the document number, if that would assist the Board, because it might tie together the sequence of events.

25 CHAIR: What I understand you to be saying is it is DHHS's position that these concerns were addressed, rather than going through this detail, these concerns were addressed and they are contained in those documents?

30 MS HARRIS QC: They were fully --- I was trying to marry up some of the details of individuals but I don't need to do that further, Madam Chair. I'm happy to refer to the response, which is document DHS.5000.0053.6652, which I did raise with Dr van Diemen yesterday. It is, I believe, annexed to her statement.

35 The statement that I was referring to, Madam Chair, if I can just ask Ms Spiteri, when it says from SCC Vic State Controller - Health, if we can scroll down, that's you sending that email, isn't it, Ms Spiteri?

MS SPITERI: Sorry, it's quite blurry. But I am familiar with the email and that email address is the State Controller - Health email address that we used, yes.

40 MS HARRIS QC: It says in the bottom email:

45 *Please see attached draft v2.0 Operations Plan --- Operation Soteria as requested. The current governance arrangements are included, as is reference to documents that support the operational leads in their functions.*

I don't know whether the attachment is in that same document or whether I should read out the document to complete that.

CHAIR: Ms Harris, the process that you are going to, as I understand it, is bringing up the documents that Ms Spiteri indicated are her response to those concerns being raised; is that right?

5

MS HARRIS QC: That's right, and I wish to bring up the attached document which was the draft version 2.0 Operations Plan. I don't need to ask questions about, it Madam Chair, the document should speak for itself but there were some positions that I was seeking to elaborate or have Ms Spiteri elaborate on. If it's possible just to bring that document up so it can be quite clear what we are talking about, DHS.5000.0053.6655. Thank you, Mr Operator.

10

Ms Spiteri, are you familiar enough with the document that looks to be the attachment that was with your email?

15

MS SPITERI: Yes, I think that says version 2.0 at the bottom, so yes, that looks like the right version.

MS HARRIS QC: Madam Chair, I don't need to take that any further.

20

CHAIR: Thank you.

MS HARRIS QC: Those are all of my questions, thank you.

25

CHAIR: Thank you. Nothing further --

MS HARRIS QC: Sorry, Madam Chair, there is one thing. I understand that the document that I referred to that my instructors had identified for me is in the online hearing book. But can I just, for the avoidance of any doubt, tender that document if it's not?

30

CHAIR: Yes.

MS HARRIS QC: I hope I'm going to repeat the right number, it's DJP.102.108 --- I've got that wrong. DJP.102.008.6981.

35

CHAIR: That will be Exhibit 168.

40

EXHIBIT #168 - DOCUMENT DJP.102.008.6981

CHAIR: Mr Ihle?

45

MR IHLE: Nothing from me, Madam Chair. Can I indicate that the witnesses for after lunch will be Commissioner Patton, followed by former Chief Commissioner

Ashton, and Ms Ellyard will be taking their evidence.

CHAIR: Yes, thank you. I'll excuse you, Mr Ihle, and we will take the lunch
adjournment now until 2.15. Thank you to both Ms Spiteri and Mr Helps for bearing
5 with us throughout that long session. I'm sorry we didn't have a mid-morning break,
which we would normally do, but it became clear that we needed to finish with both
of you before lunch.

10 MR HELPS: Thank you, Madam Chair.

MS SPITERI: Thank you, Madam Chair.

15 **THE WITNESSES WITHDREW**

CHAIR: 2.15.

20 **ADJOURNED** [1.15 PM]

RESUMED [2.15 PM]

25 CHAIR: Yes, Ms Ellyard.

MS ELLYARD: Good afternoon, Madam Chair. The first witness is the Chief
Commissioner of Police who appears, and I ask that your Associate take him through
30 the formalities.

CHAIR: Yes, Chief Commissioner. My apologies for keeping you waiting.
I understand you wish to take the oath for the purposes of giving your evidence?

35 MR PATTON: That's correct, Madam Chair.

CHAIR: Thank you. I'll have my Associate do that now.

40 **SHANE ANDREW PATTON, SWORN**

CHAIR: Thank you, Chief Commissioner. If you can replace the Bible, I'll hand
you to Ms Ellyard now.

45 MR PATTON: Thank you.

EXAMINATION BY MS ELLYARD

5 MS ELLYARD: Thank you, Chief, Commissioner. For the avoidance of doubt, can I ask you for your full name, your rank and your professional address.

A. Shane Andrew Patton. I'm the Chief Commissioner of the Victoria Police Force. Level 10, 637 Flinders Street, Docklands.

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

A. That's correct.

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

A. Yes.

20 Q. It is dated 10 September 2020 and bears document ID VPOL.0027.0001.0043.

A. Yes.

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

25 A. Yes, they are. There's two slight inaccuracies that need correcting.

Q. I will take you to those momentarily. Subject to those two minor matters, is the statement otherwise true and correct?

30 A. Yes.

Q. I tender that statement, Madam Chair.

35 CHAIR: Exhibit 167.

EXHIBIT #169 - STATEMENT OF SHANE ANDREW PATTON

40 MS ELLYARD: Chief Commissioner, the first inaccuracy you wanted to correct, as I understand it, is a typographical internal paragraph reference at paragraph 3.1; is that correct?

45 A. That's correct, yes.

Q. The reference at the end of paragraph 3.1 to paragraph 3.16 should be a reference to 3.17?

A. Yes, a formatting error.

Q. Then the other correction, as I understand it, is to paragraph 10.1?

5

A. That's correct.

Q. And there's a word there that you want to remove, that's been included there in error?

10

A. Yes.

Q. And that's the word "not" in the first line?

15 A. Yes. When you describe it as in error, perhaps if I were to give context as to why I want that word removed.

Q. Please do.

20 A. So at the time of putting the statement together I hadn't refreshed my memory for a while in respect of the COMDISPLAN. I had previously read that, and I was very much aware that I in my role as Chief Commissioner and Victoria Police have the authority to request Defence assistance under that plan, and that the Emergency Management Commissioner also had that capacity, but I wasn't sure, because I hadn't
25 read the plan for a while, whether other persons were included there. So that's why it was included, "I am not aware who has authority", because I wasn't aware whether others had been included. Now I have read that document, I'm aware it's myself and the Emergency Management Commissioner only.

30 Q. Thank you. So having refreshed your memory since the date on which statement was made, we can now remove the word "not" because as you sit here today you are in a position to say who it is can make those requests?

A. Correct.

35

Q. You refer in your statement to a number of documents by reference to document numbers that have been assigned to them. Am I right in understanding that those are documents that you have reviewed or otherwise wish to include as part of your evidence today?

40

A. That's correct.

Q. I tender the bundle of attachments to the statement of the Chief Commissioner as contained in the hearing book.

45

CHAIR: Exhibit 168.

EXHIBIT #170 - ANNEXURES TO STATEMENT OF SHANE ANDREW PATTON

5

MS ELLYARD: Chief Commissioner, when did you take up your present position?

A. 27 June this year.

10

Q. What was the role that you held immediately before taking up the role of Chief Commissioner?

15

A. I was Deputy Commissioner for the Regional Operations portfolio which in essence encompassed --- it was the uniform policing for the state and the emergency management responsibilities.

20

Q. In paragraph 3.13 of your statement you make some references to Emergency Management Framework and to your responsibilities. Are you able to say to the Board by way of summary what your level of experience or involvement has been in emergency management arrangements or emergency management responses in your time at Victoria Police?

25

A. I think broadly speaking every member of Victoria Police at some stage is involved in emergency management, albeit on a minor scale and receives training in emergency management response. But from a leadership perspective I was, as the Senior Sergeant officer in charge of Prahran Police Station, I was the municipal emergency response coordinator. I have since then at various levels and roles been involved in numerous emergencies, one of those in the role of Assistant Commissioner in charge of our State Emergencies and Security Command at that stage, it was known, which had responsibility for interaction at a State level with the State Control Centre, and so since then I have been involved in active emergency management, including roles throughout the Hazelwood mine fires.

30

35

Q. So I take it from that experience, Chief Commissioner, that you would regard yourself as familiar with the Emergency Management Manual and the principles that it contains?

A. Yes.

40

Q. Including the principles relating to the headings that the Board has heard referred to of coordination, control and command in emergencies?

A. Yes.

45

Q. Are those terms that have currency in general policing as well as in emergency management?

A. Yes, they are clearly articulated in the Emergency Management Manual Victoria and they are the guidelines under which we operate in terms of coordination, control and command.

5 Q. Perhaps may I ask you, Chief Commissioner, dealing firstly with coordinate and then control and command, what is the delineation between those three different but I take it related functions for emergency management purposes?

10 A. So coordination is the bringing together of agencies and resources to effectively respond to or recover from an emergency; control is having overall direction for response activities in an emergency, and that operates horizontally across agencies involved; command is having direction for personnel and resources, and that operates vertically within a particular agency.

15 Q. I understand that the Emergency Management Manual includes references to three different classes of emergency. Class 1 and class 2 have been referred to already before the Board. But class 3 are a class of emergencies that only involve Victoria Police; is that right, or that Victoria Police have responsibility for coordination, control and command?

20

A. Yes.

25 Q. In that context, perhaps by way of an example, how would you describe the different roles being performed in that context, perhaps an example of who might be command and who might be coordinating and who would be controlling such an operation?

A. Sorry, which operation are you referencing? One of the class 3 emergencies?

30 Q. Yes, a class 3 emergency.

35 A. Yes, so a class 3 emergency, because we would be the nominated control agency in accordance with the Emergency Management Manual Victoria, police would be the controller for that emergency, having overall control and direction of the response activities. And if it was, for instance, a siege, then there would be an Incident Controller Police Commander role and then they would give instruction and command to those beneath them within our organisation about the deployment of our resources, both generalist and specialist, but also where necessary draw on the resources of other specialist agencies which would operate in a support role to us to
40 achieve the objectives we had set in that particular emergency.

45 Q. One of the issues that has received some attention in the work of the Board so far is the extent to which the Emergency Management Frameworks which you have just described operating for class 3 emergencies and which are understood to have been used on multiple occasions for class 1 emergencies, the extent to which the framework and procedures are of assistance in a class 2 emergency, like a health emergency, which might proceed over a much longer period of time or be much

more diffuse in its impact than other kinds of emergencies. Do you have a view, Chief Commissioner, about the suitability or appropriateness of the Emergency Management Framework for responding to health emergencies which might be all over the State and last for months or years?

5

A. Yes, broadly speaking --- and I think it's informative to speak historically as well --- the current Emergency Management Framework and structures that we have in place and legislation from my understanding arose from the Royal Commission into the 2009 bushfires, and post those, from my understanding, there was a deliberate move to create an all-hazards approach in response to emergency management and the creation subsequently of what is now the Emergency Management Commissioner role, so that there was a greater ability for flexibility in response to emergencies.

10

15

So it is, to me, very clear the structures and processes that exist, control agency, support agencies, the articulation of those within the Emergency Management Manual Victoria, the *Emergency Management Act*, 1986 and 2013, that articulate requirements and responsibilities, they are equally applicable and scalable in respect to an emergency from a road collision right up to a pandemic or a major fire. So I believe they are purposely designed that way to allow that scalability and flexibility.

20

25

Q. Thank you. May I ask you about the specific interrelationship between control agencies and support agencies, in circumstances where Victoria Police would be performing the role of a support agency. The Board has heard evidence about the different ways in which agencies will be assigned the position of control or support, based on factors contained in the manual. From your experience or observation, where Victoria Police is a support agency, how --- what occurs if a control agency requires some form of assistance from Victoria Police that Victoria Police feels is inappropriate or otherwise not available to be provided? How is that potential difference between what a control agency wants and what Victoria Police as a support agency might have available resolved?

30

35

A. It would --- generally speaking, from a control agency perspective, there's an establishment of an incident emergency management team, the relevant support agencies and the control agency come together and they assess the resource or whatever the request is, and it is a very collegiate approach that occurs in emergency management. And I think from my knowledge in the entirety of the 42 years I've been in the Victoria Police, I have never seen a situation where there hasn't been able to be resolution in respect to a resource or other type of request. There is sometimes a balancing act that is required but generally speaking it would come together, there would be a localised attempt to resolve the matter through an emergency management team but nonetheless if that couldn't be achieved then it would be escalated through the appropriate command lines of that control agency up to a higher level, so it could then be considered in a more formal manner if not able to be achieved.

40

45

Q. I appreciate from your experience what I'm asking you about is a hypothetical situation that hasn't in your observation occurred, but assuming that those more local efforts weren't able to reach a resolution about the role that a control agency thought a support agency should provide, is there a mechanism in the emergency management arrangements to break the deadlock, as it were, in such a scenario and is it different whether the emergency is a class 1 or a class 2?

A. It's like a bit of a quiz. Sorry, I shouldn't be flippant. The State Emergency Response Plan has a requirement --- I think it's --- no, sorry, it's contained in the State Emergency Response Plan whereby the Emergency Management Commissioner, if he believes that an agency, be it a support agency or a control agency, is not acting in accordance with their responsibilities articulated in the State Emergency Response Plan, that the Emergency Management Commissioner can direct that agency to perform their responsibilities in accordance with that plan. Should an agency determine that they are not going to comply with that direction, then my understanding is there's a requirement for that agency to formally provide responses to the Emergency Management Commissioner as to the reasons why they are not going to comply with that.

And I think we are talking, I think it's section 55A of the *Emergency Management Act* it relates to, but I may not be correct on the section, but where it is formalised legislatively, so it does have some teeth, if you like, but --- and there are exemptions to being able to comply with that, and the exemptions relate to if you have a common law responsibility to something else or another overarching legislative requirement, I think that overrides that. I'm speaking there in relation to generally class 1 and class 2 emergencies.

In a class 1 emergency, my understanding also is that should the Emergency Management Commissioner for a class 1 emergency, which is a major fire or another emergency of significance that the Fire Services are responding to, the Emergency Management Commissioner can make a direction, as I understand, for the agencies to perform specific tasks if he or she --- and currently it's a he there, so I'll reference "he" moving forward --- deems it appropriate to make that direction.

Q. You mentioned, Chief Commissioner, that in your experience and observation it doesn't reach that level because matters are organised and agreed at quite a collegiate level between the various agencies playing control and support functions. Would I be right in understanding that in that collegiate approach, appropriate regard or weight is given to different agencies' expertise, so that if an agency asked for something, that they make an assessment or offer advice that it should perhaps be done differently or not at all, part of the collegiate arrangements would involve appropriate weight being given to that expertise and the view that that expertise might bring?

A. Yes, and that's the importance of an emergency management team, that each of those support agencies and control agencies all bring different levels of expertise and experience to them. Often it's quoted, "Well, don't tell me what you want me to do

as a support agency; tell me what outcome you are seeking to achieve and we will apply our expertise and through that expertise offer ways in which we can do it." For instance, it may be somebody says, "I want you as a support agency to provide X amount of police." And then we might say, "What is it you are trying to achieve?"

5 They are actually trying to achieve something that the objective can be achieved in another manner rather than deploying all police, but through putting in place, if you like, a no-go zone or bollards or something. So yes, it certainly takes into account everybody's expertise. And under the class 1 emergency that's obviously a key factor that the Emergency Management Commissioner has to take into account when

10 appointing a State Controller.

Q. Thank you. May I turn then, Chief Commissioner, to the role that you played in the role that you held then in the Hotel Quarantine Program. You describe at paragraph 2.1 and following some information by way of background in the period

15 leading up to 27 March, when the Hotel Quarantine Program was announced. You describe that you were in fact isolating at home yourself, having travelled overseas, and not been specifically subject to self-isolating directions but having made a decision to stay at home.

20 In that period of time the Board understands that because there had been a self-isolation direction issued by the Chief Health Officer, there was already a role for Victoria Police or an anticipated role for Victoria Police in supporting the Chief Health Officer with the directions that had been made. Did you in the role that you were holding then have any involvement in that?

25 A. No.

Q. So then we come to 27 March and you describe at paragraph 3.3 of your statement some initial involvement that you had on that day. Firstly, when did you first learn

30 that there was to be a program for mandatory quarantine in Victoria?

A. Well, it's difficult to describe it in those terms, as in a mandatory program for quarantine. I became aware at 7.00 pm that night, from discussions with Chief Commissioner Ashton in a telephone call, as per my statement, that we were going to

35 have arrivals from the airport and that people would be coming in over the weekend. And so that --- we were going to be, if you like, having to quarantine people. That's when I first became aware of it.

Q. Can I perhaps take you to the note that you have made of that call, by asking the operator to bring up document number VPOL.0005.0001.1298. This is, as

40 I understand it, Chief Commissioner --- and I'll ask the operator to enlarge the bottom part of the document --- this is a note made by you of the conversation that you have just referred to in your evidence?

45 A. Yes.

Q. And was this an ordinary planned meeting between the Chief Commissioner,

Mr Ashton, as he then was, and others, or was this a meeting, as far as you knew, that had been called specifically because of the announcement of quarantining of returning travellers?

5 A. Sorry, the meeting that I've referred to there at 7.00 pm?

Q. Yes.

10 A. No, this wasn't a normal scheduled meeting. I had had many conversations with then Chief Commissioner Ashton over COVID-19 response arrangements in respect to a whole range of different issues and either --- and it's got "CCP/D/C's hook-up". I don't have it scheduled as such so the presumption is that the then Chief
15 Commissioner has rung me and along with Deputy Commissioners Nugent and Steendam, we've had a discussion then and he's briefed on matters that he is aware of, I understand.

Q. We see the last line, leaving out some material that's been redacted as not relevant, a reference to the static guarding of sites and the availability of the ADF for that purpose.

20

A. Yes.

Q. As you sit here today, are you able to recollect the context in which those matters were discussed and you came to make that note?

25

A. No. As I've stated, I don't have a recollection of the actual conversation other than these notes. It was one of many, many conversations around that time.

30 Q. Thank you. Can you recall --- perhaps before I do that, thank you, Mr Operator, that can come from the screen. I'll ask that another document that's referred to, Chief Commissioner, in your statement at paragraph 3.5 be brought up. That's VPOL.0004.0001.0040. I understand from your statement, Chief Commissioner, that you are aware you received these but you are not able to say when --- you hadn't had them drawn to your attention until you were preparing for your evidence here, but it
35 appears that you were copied into them at the time.

A. That's correct.

40 Q. Conscious that you referred a short time ago to a telephone hook-up that you had with the then Chief Commissioner and Mr Nugent and others --- can I ask the operator to zero in on the top half of the page. This is an email from Mr Nugent, who was one of the Deputy Commissioners of Police at that time?

45 A. Correct.

Q. And Mr Nugent refers to a conversation that he had had with the Chief Commissioner of Police in which discussions with the Victorian Secretaries Board

were discussed. Are you able to say whether or not the conversation Mr Nugent is referring to is the same meeting that you have taken a note of? You are not able to say?

5 Chief Commissioner?

CHAIR: We might have lost the connection.

10 MS ELLYARD: I think we may have. No, there he is. I'm sorry, Chief Commissioner. We have got the visual of you back but we can't hear you.

A. [inaudible] the CCP discussions with VSB, et cetera.

15 I'm back, I've got the internet connection again.

Q. Thank you, Chief Commissioner. I'm sorry about that. I'm conscious that you have already answered my question but we weren't able to hear you. So could I ask the question again and have you answer it again. I was asking you whether you were able to say whether the discussion Mr Nugent is referring to here is the same
20 discussion that you have referred to as being part of with the Chief Commissioner on the evening of 27 March?

A. I don't know whether the matters detailed by Nugent in here relate to that discussion or another discussion.
25

Q. You say at paragraph 3.7 of your statement that you have had --- you have discussed with Mr Nugent the reference in this email to DPC?

A. Correct.
30

Q. And can I ask you, what was the information that Mr Nugent was able to give you about the identity of the person from DPC who he refers in this email to having spoken with?

35 A. He doesn't know in fact whether the person was from DPC, he believes it was somebody from Government but he can't say who. He didn't have his diary with him on that Friday night, I think it was, and so didn't make a notation, a contemporaneous note of it, as I understand, so he can't take the matter any further.

40 Q. Thank you. The email there refers to an agreed position for private security being employed. Are you able to say --- and I'm conscious that you have a limited memory of the meeting outside of your notes, Chief Commissioner, but are you able to say when you first became aware that there was going to be private security as a first-tier response in the Hotel Quarantine Program, with police providing a back-up role?
45

A. I think chronologically it would have --- it would have been on the Sunday, the 29th, I certainly would have been aware of that on Sunday, the 29th, because that

was the day I recommenced work and went in on the Sunday morning. I was briefed on the matter to get up to speed. I attended our 11.00 am Incident Management Team meeting that Nugent was chairing and it was agreed I would take control from midnight that night, so I was aware at that stage of the establishment of the quarantine model, if you like.

5
10 Q. Do you recall being made aware, and by whom, if by any one person, the decision had been made there would be a model using private security for first-tier response with Victoria Police effectively in a more background role?

A. No, it wasn't --- I couldn't pinpoint any one person. As I stated, when I came in on the Sunday, the model was fairly much up. There had been, from recollection, an Operation Soteria plan that had been signed off by the Emergency Management Commissioner at 2000 hours on the Saturday night and we had a role to assist in a limited manner.

15
20 Q. Paragraph 6.1 and following in your statement, Chief Commissioner, you respond to the question about whether you held or at any time held any concerns about the role or the involvement of private security. And perhaps one might distinguish between the view you might hold now as opposed to the view that you held when you became aware this was the model to be adopted. At the time you became aware of the model, did you have any concerns about the use of private security in the program?

A. We --- it wasn't something I turned my mind to, I can say, because --- and just to reiterate, and it has, I hope, been made clear, and again we were the support agency, we did not have responsibility for formulating or putting together that model, and we were requested to support the control agency, and so it was nothing that I turned my mind to at all at that time.

30 Q. As I understand it from paragraph 6.4 of your statement, it's been your experience that the model of Victoria Police working together with private security is a model that can work and that you've seen work well?

35 A. Yes. We work with security where they are tier 1 response and we support them, and this is obviously --- no analogy can be drawn between this, if you like, and a sporting event but it works in a very seamless manner there. We work with them in a range of conferences and dignitary protection, a range of different matters. So properly trained, governed, supervised, private security work very well with police on many occasions.

40
45 Q. Thank you. May I turn then to the events of the week following this first weekend. You deal at paragraphs 7.5 and following of your statement with some discussions that you had or involvement you had on the question of the way in which members of the Australian Defence Force would be working with or supporting the COVID-19 responses. May I direct your attention to that paragraph and bring up on the screen, please, Mr Operator, document VPOL.0005.0001.1298, but then having

brought up the document, if we could go to page 1301.

If we zero in on the note that is at 1100, could you tell us, please, Chief
Commissioner, what is the context of this note, what was the meeting that you were
5 at that caused you to make this note?

A. So that is 11.00 am and that's on Monday, 30 March, so that's the first --- if you
like, I came in on the Sunday, the first day back, I had been briefed and as at
0001 hours on that Monday, assumed the role of State Police Commander, replacing
10 Deputy Commissioner Nugent. This is the standard information management team
meeting that is ran from our State Police Operations Centre. I am chairing that
Incident Management Team meeting and I have written, as per minutes, because they
are minuted, but I have chosen to make a couple of notes to myself there as well.
"The ADF to work triage/supervisory re PAL", which is the Police Assistance Line,
15 in relation to supporting Operation Sentinel, and "(2) support sentinel back of house."
I have written, "Advised they have 30X ADF for this, with a future 70X available.
(they would like to be more visible.) Plus would like to know if there was a 'trigger
point' when we would envisage using them in another role (with the extra 70)." And
I've made a note here that "[I've said] I'd work through and come back to them." So
20 that is what is noted.

Q. Just to be clear, we have heard reference in these proceedings to Operation Soteria
which was the Hotel Quarantine Program. Operation Sentinel, which you have
referred to there, was a different operation conducted by Victoria Police that was
25 responsive in a different way to COVID-19 matters; is that right?

A. Yes, Sentinel is 500 personnel who are about restricting movement and attending
to ensure populous places, et cetera, that people comply with the CHO guidelines.
But in regards to the 30 and 70 here, and you said a bit earlier about the COVID-19
30 response, these 100 are specifically referenced in relation to being made available to
Victoria Police to assist in our response.

Q. But that was your response under Operation Sentinel, rather than performing roles
in Operation Soteria?

35 A. Yes, it wasn't in relation to Operation Soteria, Soteria still being separate, ran by
the control agency. My --- the best I can reference when I'm looking at this note is
that --- and I do have some recollection --- that we were being offered 100 ADF staff
to assist Victoria Police in assisting us in any way we could, and we had the ability to
40 use 30 of them. Bearing in mind there are issues with using ADF because they don't
have enforcement powers, they are not trained in dealing with civilians and a whole
range of those matters.

Q. There's a reference there, and I think you refer later on at paragraph 7.7 to a later
45 diary note of the same day where a similar phrase is used about the ADF wanting to
be more "visible", is the word that you have used. Can you explain what you meant
by that?

5 A. I think from recollection, and I can't be 100 per cent on this, but I believe that there we had in the State Police Operations Centre a Defence Force liaison officer who indicated to that effect that they wanted to be more visible, when would they be out and about? It wasn't a matter of when would they be out and about, it was a matter of what was the most practical use of them in terms of assisting us and what would be the most effective use of them.

10 Q. There wasn't, so far as you are aware, any view within Victoria Police that the ADF shouldn't be visible?

A. No, none whatsoever.

15 Q. Can I ask you then about a different aspect of the ADF's potential involvement as a support to Victoria in the COVID-19 response. You refer at paragraph 13 --- you answer at paragraphs 13.1 and following of your statement, Chief Commissioner, questions about any communication that you had about the use of ADF in the Hotel Quarantine Program and you recalled a conversation that occurred on, I think you say, 25 June, during the week in which you were transferring in your current role?

20

A. Yes.

25 Q. Could you tell the Board, please, what you are able to recall of that conversation and what the outcome was, as far as you are aware?

30 A. So on 25 June --- and I don't have any notes or recollection of this --- that in the afternoon, and in preparation for the PAEC, the Public Accounts and Estimates Committee, hearing that I recently participated in over COVID-19, it was brought to my attention that there had been discussions between myself and Secretary Rebecca Falkingham from the Department of Justice and Community Safety. She had rang me very briefly that afternoon to say, and I don't know what the word were, but in effect looking at further engaging over further enhancement, development, reset --- I'm not sure what the terminology is --- over and what further police involvement or what the police involvement should be in the Hotel Quarantine Program moving forward, or aspects of it. It was the briefest of conversations and as a result of that I said that I would be comfortable with the matter being progressed and it was referred for progression.

35

40 Q. Thank you. The Board has heard evidence that it was the view of some of those involved in establishing the Hotel Quarantine Program, including but not only members from the Department of Jobs, Precincts and Regions, that it would have been beneficial and indeed they would have said appropriate to have a 24/7 police presence at the hotel quarantine venues. Are you aware that there has been some evidence or views expressed that that would have been, in the minds of those people, desirable?

45

A. I have loosely heard in the media that there's been discussions about emails at a ---

and I don't say this disrespectfully but at a lower officer level or a lower engagement level about some people who may or may not have held views to that effect, but we've never received any response through the appropriate level or even at my level. I was the State Police Commander for the entirety of time upon --- until I returned
5 back, I never received any requests. Had any requests been funnelled up to us through an official channel, through any type of communication, we would have dealt with it and engaged and risk-assessed and seen when we were in a position to and whether it made sense to do that.

10 Q. On the topic of whether it made sense to do that, it appears that one of the arguments that might have been made or been in the minds of those considering that there was a place for 24/7 police presence was the visual or psychological impact of police being present at a venue and perceived to be being in charge of a venue, as
15 opposed to the different perception that might be created by the presence of private security. In your experience is that a real thing, that a different perception can be created in the minds of the community where police are present as opposed to where other forms of security are in place?

20 A. Most certainly. I would be very concerned if there wasn't a nice solid perception of confidence in policing and a presence, and there's an expectation that we do and the public do look up to police, that's fairly obvious. But the reality is to then --- and I'm not trying to be defensive, but to then take a quantum leap and say that the police should be there 24/7 at any quarantine or hotel would need to be explored, if we ever
25 had such a request made of us. And it may be that we would ultimately come to some middle ground or we may accept it in totality but in the absence of any request, it's not something I considered.

30 Q. You give evidence at paragraph 4.6 of your statement, Chief Commissioner, of a request that subsequently was made in July for a 24/7 police presence at a small number of hotels. And for this purpose could I ask, Mr Operator, that we have the document VPOL.0005.0001.1272, but because the document is an email chain
35 proceeding over several pages, could we go through to page 1276, towards the back of the document, and the bottom half of this page, please, Mr Operator. We see here, as I understand it, the beginning of an email chain that we see passing through from the State Controller - Health through to the Emergency Management Commissioner
40 and then on to Victoria Police for the provision of services by Victoria Police at what are termed there "hot hotels", which we understand to be hotels where there might be COVID-positive residents?

40 A. Yes.

45 Q. There was a list of duties that were identified as being duties to be performed by Victoria Police. If we scroll through back through the document to page 1273, down to the bottom of that page, please, Mr Operator, and then over to the next page, then, page 1274. We see here, as I understand it, Chief Commissioner, what was ultimately the request for the involvement of Victoria Police, which the Board understands was ultimately granted and Victoria Police has taken up a role along the

lines set out here. Is that right?

5 A. That's the role we took up. I probably --- not meaning to be pedantic, but when you say "granted", "agreed upon" is probably a more preferable outcome, I would say, because that's the way it is. It is working through what is achievable, what is the best role for us.

10 Q. And that's an ongoing position, as I understand it, at a confined number of locations, at the present time?

A. Yes.

15 Q. And as I understand it the Victoria Police has through its lawyers today produced, and we have uploaded on to the hearing book, Madam Chair, a number of documents that relate to operation procedures and guidance for the police who are performing roles in what's been called Operation Soteria II.

A. That's correct.

20 Q. Madam Chair, if it's convenient, may I tender --- they are included in the hearing book under "Further materials" under the heading "Operation Soteria II" --- may I tender the bundle of documents produced by Victoria Police relating to Operation Soteria II, that being the involvement of Victoria Police at what has been called the health hotels.

25 CHAIR: Yes. In the course of doing that, Ms Ellyard, I will just correct the exhibit numbers that I read out previously. I think I incorrectly noted that the statement of Chief Commissioner Patton was Exhibit 167. Indeed it is Exhibit 169. The bundle of documents is Exhibit 170. And so that makes this Exhibit now Exhibit 171.

30

EXHIBIT #171 - BUNDLE OF DOCUMENTS PRODUCED BY VICTORIA POLICE RELATING TO OPERATION SOTERIA II

35

MS ELLYARD: If the Board pleases. That can come from the screen, Mr Operator.

40 Chief Commissioner, can I ask you, in circumstances where I think you would say, "No one asked us until recently to perform this role," but once you were asked to provide support as a support agency to the operation in the way that we have just seen, what in your opinion made it a request that it was appropriate and possible for Victoria Police to accede to and support in the way that had been envisaged?

45 A. My understanding of the hot or health hotels, whichever we want to call them, I'll call them health hotels, distinguish the occupants and those housed in those hotels as from the normal other quarantine hotels, if you like, where we have a range of --- in the past, we had had up until then a range of hotels where people had been detained

from --- they have come back and they have been required to quarantine in hotels throughout the city. The distinction here is, from my understanding, that these are people who have tested positive in these hot hotels, they are people who have had close contact, there are also persons in there who may for those reasons not be able to quarantine at home, because of particular vulnerabilities, and so a range of risks elevated the requirement and the necessity for that, and so quite appropriately the request was made through that line of command up through the State Controller and then over to us in that formal request and it was worked through and agreed.

5
10 Q. In the event that there was a resumption of international travel or returning of international travellers into Melbourne and a resumption of a broader Hotel Quarantine Program, what would be some of the factors that would be relevant to how you think Victoria Police might assess any future requests for the provision of this level of police involvement at a larger number of facilities?

15 A. It's a really good question. And when you say we assess, it's not as if someone delivers up a request to us and we say, "Oh, sorry, we can't help you," or anything like that. The reality is, as in all emergency management matters, as has occurred throughout this entire coronavirus COVID-19 pandemic response, it's a collegiate approach that's worked through when matters are raised with any support agency and so it's a matter of sitting down and working together to assess what is the best model to assist the control agency achieving their outcome.

20
25 From a Victoria Police perspective, some of the key factors --- and unfortunately I don't get to read all of the papers or anything like that or watch all of the media reporting, but I'm often told New South Wales has been held up to a gold standard in response to this and that's fantastic, but nonetheless my understanding of the New South Wales models in these quarantine hotels is that there is a --- an involvement of police but a significant involvement of private security in those hotels as well, and involvement of ADF in some of those hotels as well.

30
35 So the concerns for me is we would have to say, as we do with all matters that we look into, what is the risk, what is the requirement, what is the objective we're trying to achieve here? And if there's a requirement for Victoria Police to step up and be involved and if we have to carry the large burden of it, we will. We never step away from that. We have no issue with any of that. It's like any other organisation, though. Well, it's probably a little bit different, it's probably harder, in that Fire Services, SES, all these agencies, their sole response is emergency response. Victoria Police has to juggle the entirety of its resources as well as performing emergency management. So --- and don't get me wrong, we are very well staffed and resourced, but there is no bottomless pit. And for us we are juggling significant mental health issues in the community, family violence issues, we are still monitoring terrorism, we have to monitor registered sex offenders, we are looking at driving down crime. I won't continue on. But just to give the picture, and that's not to say --- you know, on the weekend alone we had to deploy around 1,500 police shifts for demonstrations, anti-, freedom demonstrations. And so --- and coming into the summer season as well we will have, subject to the restrictions, public order

matters, potentially sporting events to staff.

5 So it's juggling all of the commitments one has, assessing the risk, dealing with all of the matters and working in a collegiate manner with all of the emergency management teams. But we have not refused throughout this pandemic and we will continue to support and do what we do and it's about what the priority is for the State.

10 Q. Thank you very much, Chief Commissioner. Madam Chair, those are the matters that I have for the Chief Commissioner. I did have notice of perhaps one or two applications for leave to cross-examination but it may be that the matters have been dealt with. I see Mr Moses has an application I think to make.

15 MR MOSES SC: Yes, I'm sorry to disappoint the Board that it's not Ms Alderson asking the questions. Madam Chair, there are just two issues I want to raise with the Chief Commissioner. The first arose out of paragraph 6.4 of the Chief Commissioner's statement on tier 1 and tier 2 support; and, secondly, in relation to the presence of Victoria Police at the Brady and the Grand Chancellor and whether the Chief Commissioner is aware of any risk assessment undertaken by the Victoria
20 Police in relation to the work undertaken by police at those hotels and any specific training given to police to undertake that work at those two hotels, being red hotels. They are the two issues.

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

CROSS-EXAMINATION BY MR MOSES SC

30 MR MOSES SC: Chief Commissioner, I'm counsel for Unified Security, one of the private security firms that undertook work in the Hotel Quarantine Program. I have a number of questions to ask you. I won't be that long. Can I ask you to go to paragraph 6.4 of your statement at page 11.

35 A. Yes.

40 Q. Of course, you observe there that Victoria Police is able to work successfully with private security companies performing tier 1 security and Victoria Police providing tier 2 support. In relation to the Hotel Quarantine Program, to the best of your knowledge, is this the first time where security guards were used as tier 1 security to in effect assist in the compulsory detention of persons, of course against their will, it is self-evident, in your knowledge in terms of operations in Victoria?

45 A. Yes. I was just thinking through about detention centres and the like, but I don't have specific details about that. So in the absence of having that knowledge, yes.

Q. I know you have given evidence in your statement already that you have no

role --- let me withdraw that. You have no knowledge of the decision that was made in respect of the role in which Victoria Police and security would have in the Hotel Quarantine Program. Since you have taken over as Chief Commissioner, have you seen anything in writing within Victoria Police that suggests whether Victoria Police
5 recommended that the security providers be tier 1 security in the hotel security program?

A. No.

10 Q. Thank you. And the final issue I want to address with you, Chief Commissioner, relates to some evidence given on 8 September 2020 by a representative of Alfred Health, who told the Inquiry --- and the reference is page 1056 of the transcript --- gave evidence that Victoria Police have a full-time presence at the Brady and the
15 Grand Chancellor, which are, if I can call them, red hotels. And the presence is mobile and walks from floor to floor around the major areas. Does that accord with your understanding of what Victoria Police are doing at those two hotels at the moment?

A. I'm sorry, could you state that again? I didn't get who you are attributing this
20 comment to.

Q. I apologise, Chief Commissioner. This is evidence given by a representative of Alfred Health and that evidence was from Ms Gardener --- I withdraw that.

25 CHAIR: Ms Alexander, I think.

MR MOSES SC: Thank you, Madam Chair, Ms Simone Alexander. She was asked the question by the Chair at line 5:

30 *CHAIR: So just to help me understand that, does that mean there was not or is not a full-time presence of Victoria Police at --- we're talking about the Brady, are we, rather than the range of hotels?*

A. *The Brady and --- the health hotels, Madam Chair. So the Brady and Grand
35 Chancellor.*

CHAIR: Yes.

A. *So there is a full-time presence, but the presence is mobile and walks from
40 floor to floor and around the major areas.*

Is that your understanding of what Victoria Police are doing at the Brady and Grand Chancellor?

45 A. Just prior to answering that, can you reference me the date you are talking about or the proximity of the date?

Q. Yes, so that is "presently", as in what is happening at the moment.

5 A. At the moment we have a presence whereby we control access and egress and we have a presence in the foyer. We also have a mobile presence that regularly patrols each of the floors in support of the customer support officers who have a permanent presence on those floors.

10 Q. Thank you. Chief Commissioner, do you know whether a risk assessment has been undertaken by Victoria Police in relation to what if any control measures have been put in place to ensure that there is no exposure of police officers to hazards, for example, COVID-19 at those hotels?

15 A. I haven't seen any specific risk assessment and I'm often loath to use the word "assume" but I'm very confident I can assume one has been conducted because of the documentation I have reviewed in the lead-up to me giving evidence, which outlines safety briefings, it outlines briefings for members, it outlines a range of different materials, including red zones, green zones, delineating areas, decontamination capabilities, and a whole range of definitive instructions, decontamination suites and overarchingly a very detailed and thorough outline, with a Senior Sergeant as a safety officer, with each of the members receiving briefings when they start and absolute clarity about what their roles are and how they would deal if contaminated in a range of different tiered approaches. So on that basis I'm very comfortable to say that that could only have occurred had full risk assessments occurred.

25 Q. Chief Commissioner, if you don't know, say so, because I don't want to put you on the spot, but do you know whether what you have just referred to, that material, is that material that has come into existence since the [indistinct] of the outbreaks in May or was it something that was in existence at the start of the Hotel Quarantine Program? If you don't know, say so.

30 A. No, my understanding is it has been produced for when we were deployed to the two health or hot hotels.

35 Q. That is the most recent deployments; is that right?

A. Yes.

40 Q. I have no further questions. Thank you, Madam Chair. Thank you, Chief Commissioner.

CHAIR: Thanks, Mr Moses. Just to be clear, Chief Commissioner, speaking of assumptions, am I correctly assuming that the documents that you are referring to have now become that bundle of documents that have been tendered into evidence now and marked 170?

45 A. Yes, Madam Chair.

CHAIR: Thank you.

MS ELLYARD: Madam Chair, I'm pausing because I was aware of the possibility
5 of another application. But not seeing anyone else's camera turn on, I have no further
questions for the Chief Commissioner and ask that he be excused with our thanks.

CHAIR: Yes. Thank you, Chief Commissioner. Thank you for your attendance at
10 the Board. You are now excused, which means you are able to turn off your camera
and your microphone.

A. Thank you, Madam Chair.

THE WITNESS WITHDREW

15

MS ELLYARD: The next witness is the former Chief Commissioner of Police,
Mr Ashton. I understand arrangements are being made for him to log on but perhaps
20 the Board wouldn't mind standing down for five minutes while we make sure that
he's online and available.

CHAIR: Yes, of course.

MS ELLYARD: As the Board pleases.

25

CHAIR: I'll take a short break while that is being done.

ADJOURNED [3.14 PM]
30

RESUMED [3.18 PM]

35 CHAIR: Yes, Ms Ellyard.

MS ELLYARD: Thank you, Madam Chair. The next witness is Mr Ashton. Before
I call him, may I tender --- and I have given notice of this --- the statement of a
40 further police witness, a Superintendent of Police, whose name has been redacted in
accordance with the Practice Direction. The document is numbered
VPOL.0027.0001.0059_R, statement of a Superintendent of Police. The statement is
on the hearing book and I tender it.

CHAIR: Yes. Exhibit 172.

45

EXHIBIT #172 - STATEMENT OF A SUPERINTENDENT OF POLICE

MS ELLYARD: Thank you. Mr Ashton appears and I ask your Honour's Associate to take him through the formal process for his evidence to begin.

5

CHAIR: Mr Ashton, I understand you wish to take the oath?

MR ASHTON: Yes, that's correct, Madam Chair.

10 CHAIR: Thank you. I will have my Associate take you through the oath.

GRAHAM LEONARD ASHTON, SWORN

15 CHAIR: Thanks, Mr Ashton if you put the Bible down, I'll hand you over to Ms Ellyard.

MS ELLYARD: Thank you, Madam Chair.

20

EXAMINATION BY MS ELLYARD

MS ELLYARD: Mr Ashton, could you tell the Board your full name and your present occupation.

25

A. My full name is Graham Leonard Ashton. I currently don't have an occupation; I'm retired.

30 Q. Your former occupation was as Chief Commissioner of Police?

A. Correct, I was Chief Commissioner of Police between 1 July 2015 and 26 June 2020.

35 Q. Thank you. You have made two statements to assist the Board pursuant to a request that was made of you earlier this year?

A. Correct.

40 Q. Have you got copies of those two statements with you?

A. Yes, I do.

45 Q. May I turn your attention to the first statement, which is dated 7 September 2020. Are the contents of that statement true and correct?

A. Yes, they are.

Q. I tender that statement, Madam Chair.

CHAIR: Exhibit 173.

5

EXHIBIT #173 - FIRST STATEMENT OF GRAHAM LEONARD ASHTON

10 MS ELLYARD: Mr Ashton, you refer in that statement to a number of documents by document ID number. Those are documents that you have had regard to and otherwise wish to include as part of the evidence that you are giving to the Board today?

15 A. Yes, that's correct.

Q. I tender a number of attachments on the hearing book as attachments to the statement of Mr Ashton.

20 CHAIR: 174.

EXHIBIT #174 - ANNEXURES TO FIRST STATEMENT OF GRAHAM LEONARD ASHTON

25

MS ELLYARD: Mr Ashton, more recently you provided a second statement that is one page, dated 16 September 2020.

30 A. Correct.

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

A. Yes, they are.

35

Q. I tender that statement, Madam Chair.

CHAIR: Exhibit 175.

40

EXHIBIT #175 - SECOND STATEMENT OF GRAHAM LEONARD ASHTON

45 MS ELLYARD: Mr Ashton, you heard me a moment ago tender the statement of a Superintendent, the name of which I gather is known to you. Is that a statement the contents of which you are familiar with?

5 A. Look, off the top of my head, I'm not sure entirely which Superintendent's statement you're referring to but I have --- I am aware of extracts of some of those police statements. I haven't seen Mr Patton's statement but I have seen some extracts from some statements.

10 Q. The statement that has been tendered is a statement that gives context to certain emails that were sent on 27 March and references in those emails to the Chief Commissioner of Police and opinions about the role of police in the Hotel Quarantine Program. Does that assist you in knowing the Superintendent that I'm referring to?

A. Yes, I'm fairly sure I do, yes.

15 Q. Thank you very much. As I understand it --

MR STAR QC: Could I assist? I'm not sure Mr Ashton has --- I don't think Mr Ashton has seen the statement which has just become an exhibit of the Superintendent, so perhaps if there's something relevant to that, it might need to be shown to him. I just thought I'd assist with that point.

20 CHAIR: Thank you, Mr Star.

MS ELLYARD: Thank you. I'm grateful for that indication.

25 Mr Ashton, I understand that in preparation for your evidence you consulted records, including notes that you made during your tenure as Chief Commissioner?

A. Yes.

30 Q. And also phone records, including text records?

A. Correct.

35 Q. When we look at paragraph 2 of your second statement, where you refer to having obtained access to your mobile phone telephone records, can I ask you, do you mean the record on the phone itself or a different kind of record?

A. These are billing records from Telstra.

40 Q. Thank you. As I understand, looking at your second statement and the table that is there, one of the limitations on the records that have been available to you is that for the most part you don't have a record of incoming calls unless they were calls from a small number of Victoria Police executive phone numbers?

45 A. Yes, that's right.

Q. So the table at paragraph 4 of your second statement is complete as to outgoing

calls but not necessarily complete as to incoming calls; is that a fair summary?

A. Yes, that's correct.

5 Q. Thank you. May I turn then to your first statement, Mr Ashton, and direct your attention to paragraph 5.1. You describe at paragraph 5.1 the circumstances in which you first became aware of a decision of National Cabinet that there would be a requirement for returned travellers to quarantine. Could you describe to the Board briefly what that first knowledge was and how it reached you?

10

A. My first level of knowledge as to an intention to conduct a hotel quarantine process was, I believe, contact I received from Canberra, from the Australian Federal Police Commissioner, Reece Kershaw, and whilst I don't have a specific recollection of that call, from the records I have seen, I'm fairly confident it was from him.

15

Q. Speaking of the records that you have seen, at paragraph 5.5 you refer to the first in chronological time of a number of texts that I understand you consulted for the purpose of your evidence. Can I ask, Mr Operator, that the document VPOL.0005.0001.0140 be brought up.

20

You describe --- just a close-up on the first of the two messages there, Mr Operator, if I may. Mr Ashton, you say in your statement that this is a text message that you sent to Mr Eccles, the Secretary of the Department of Premier and Cabinet

25 A. Yes, that's correct.

Q. As I understand it, this seems to have been sent at 1.16 on the Friday afternoon, 27 March?

30 A. Yes.

Q. Why did you send this message?

35 A. Well, at that time I had learned, I believe from Reece Kershaw, that there was a plan to isolate overseas travellers within the hotels, enforced isolation, I should say, in hotels and that as part of that process --- my area of interest, obviously, that they be guarded by police for 14 days. So I was trying to ascertain whether Chris had any knowledge of this because I hadn't heard of this before, before I had heard of this from Canberra.

40

Q. Are you able to recall --- it doesn't appear from this extract that you received a text message response from Mr Eccles. Are you able to recall whether you received any other response from him?

45 A. No, I don't recall getting a response from Chris. I don't recall getting a response from him.

Q. Thank you, Mr Operator, that can come from the screen. Can I ask that we have VPOL.0005.0001.0244. You mentioned, Mr Ashton, that you believe your initial information about the existence of a quarantine program must have come from Commissioner Kershaw. Can we zoom in, please, Mr Operator, on the top part of the page, a little bit further up. The first green one there. Mr Ashton, we see there a message sent by you to Commissioner Kershaw shortly before the text we just looked at.

5
10 A. Yes.

Q. "Mate. Question. Why wouldn't AFP guard people at the hotel?"

Can you tell us what was the context of that question and why you asked it?

15 A. At that stage I believed --- well, I did not really know what was happening in regard to the whole thing. I believed that these people would still be at that point in time --- I believed these people would still be the subject of Commonwealth responsibility, so I was trying to ascertain why the AFP wouldn't be still looking after them if they were a Commonwealth responsibility. It was only later I learned that that was --- that there was agreement at the National Cabinet that States would take responsibility.

20
25 Q. When you say you had assumed that they would be a Commonwealth responsibility, do you mean that you understood that it would be the exercise of Commonwealth powers that would be detaining people in quarantine?

A. Yes, because they were coming into the country, they were subject to immigration law and, you know, subsequently the responsibility of Commonwealth agencies in the ordinary context, but yes, I was later to learn that there was an agreement that the States would take some responsibilities there.

30
35 Q. The second text that we can see there appears to have been sent by you at 1.22, so six minutes after the text to Mr Eccles. Is that correct?

A. Yes.

Q. And you refer in that text to Commissioner Kershaw to advice that you had received. Are you able to say where you got that advice?

40 A. No, I can't guarantee --- I can't remember where I got that advice from. I followed the text I sent to Chris Eccles and there was a six-minute period in which I received information which is along the lines that I have outlined in that text. So I don't know for sure where I got that information from and the records --- because I do not have incoming records primarily, I don't know where I got that from.

45 Q. Are you drawing the inference that it's information that you didn't have when you sent the text to Mr Eccles but you did have by the time you sent this text to

Commissioner Kershaw?

A. That's correct.

5 Q. Could we scroll down a little bit, please, Mr Operator, to show the succeeding texts. It appears that you got a text from Commissioner Kershaw and then you have responded at 1.32.

A. That's right.

10

Q. "I think that's the deal set up by our DPC." That's Department of Premier and Cabinet. "I understand NSW will be a different arrangement. I spoke to Mick F." Can you unpack that for us?

15

A. Yes, that's me responding back to Reece Kershaw that --- well, he said, "OK, that's new". He wasn't aware of those arrangements. And I said, "I think that's the deal set up by [Department of Premier and Cabinet]." In conversations I had with Mick Fuller, I think he was still unsure himself, Mick Fuller, what the arrangements were going to be in New South Wales. But he seemed to think that there was ---

20 there could be a combination of a range of agencies, police, security, ADF, could be involved. So it was saying that I understand New South Wales will be a different model; I spoke to Mick Fuller.

25

Q. You say there, "I think that's the deal set up by our DPC." You may feel you have already answered but are you able to say why it was you were texting that you thought there had been a deal set up by the DPC?

A. That's the level of knowledge I obviously had at that point. I don't remember where I got that or who I got that from.

30

Q. Mr Eccles has provided a statement or statements to the Board and will be giving evidence next week. As I understand, his evidence will be that he doesn't recall whether he himself spoke to you on this day and about this time, but his evidence, as I understand it, will be that he didn't himself know about an arrangement for private security at that time so that he couldn't have been the source of that information. Is there any comment you would make in response to that?

35

A. No. I can only rely on Chris' evidence as well as mine. It's clear in that message I have sent to him that that's the level of my understanding at that time.

40

Q. Thank you. That can come from the screen, thank you, Mr Operator.

45

Could we in its place have document VPOL.0005.0001.1283. I'm directing your attention to paragraph 5.7 of your first witness statement, Mr Ashton, as well as to this document that is coming up.

A. Yes.

5 Q. You refer --- we have just looked at some texts passing then you and Commissioner Kershaw. If we go to the first of those two blue messages toward the top of the page, please, Mr Operator, this is a text message received from the Emergency Management Commissioner Mr Crisp; is that right?

A. Yes, that's correct.

10 Q. At 1.34.

A. Yes.

15 Q. And as I understand from your records as reflected in your second statement, Mr Ashton, around about this time you also had a conversation with Mr Crisp?

A. Yes, I rang him off having received that text, yes.

Q. Thank you. And are you able to recall what you and he discussed?

20 A. I don't have a specific recollection of that conversation but it would have been me conveying to him that I had already heard from Canberra that there would be an announcement soon and relating to that and what my level of knowledge was at the time, and it's highly likely that that's the purpose for me ringing him but I don't recall specifically the conversation.

25 Q. Mr Operator, that can come from the screen. That's at 1.34 and 1.35. As I understand the sequence of events in your statement, if we go to paragraphs 2.1 and following in your statement, the next event in your day that is relevant to the Board's Inquiry was around about 2.00 pm on the Friday, when you attended a meeting?

30 A. Yes. This was a video meeting via Teams video, which was between myself, the Police Minister, the Emergency Management Commissioner Andrew Crisp, and I believe probably Corri McKenzie from the Department of Justice and Community Safety.

35 Q. You say at paragraph 2.1, in answer to a question about what requests, if any, were made, that the first request that you received for Victoria Police to play a role in the quarantine program was during this meeting.

40 A. In essence, yes. Yes, that's correct.

Q. At paragraph 2.4 you set out your recollection of what was discussed at the meeting about that. Could I ask you to give the Board your recollection of what was discussed and how the issue of Victoria Police involvement came up?

45 A. Yes. I have quite a clear recollection of parts of that conversation. The Minister kicked off briefly the start of the meeting, which was a little bit different to how the

meetings were usually conducted. Straightaway, normally Andrew Crisp would give us the update, but the Minister just kicked us off by mentioning the decision of the National Cabinet and then it was over to Andrew Crisp to give us the update on what he thought was happening at that time or any other issues relevant to the COVID situation. I was --- it was fairly early on in that update that I jumped into the conversation and said, "Andrew, can you confirm to us that it's --- that it's police supporting private security guards in this hotel quarantine and that private security are used with police back-up?" And he said, quite quickly, "Yes, that's the plan, that it won't be police, it will be private security with police in support, and police would be involved in conveying arrivals, overseas arrivals to the hotel."

Q. Thank you, Mr Ashton. In paragraph 2.43 of your statement, which is in part the evidence that you have just given, you recall when you wrote your statement that you had asked Mr Crisp whether or not Victoria Police was going to be asked to guard the hotels. You are probably aware that this is a matter of some controversy so I just want to be clear about whether you can recall who was it who mentioned private security, was it him or was it you?

A. It was him. I asked whether --- I asked whether police would be doing that and he said no, that the private security would be doing that.

Q. You have given evidence already and we have gone to some text messages that suggest that by the time of this meeting you were already aware, through a source that you haven't been able to recall, that private security were going to be used. If that was already your understanding, what was the purpose of asking the question? Didn't you already know the answer?

A. Yes, sure. Well, again, I was trying to make sure what the arrangements were and I was trying to do that through the course of the afternoon, in fact on a number of occasions, to clarify what was taking place. It was very much a moving feast at that time, things were happening very quickly, they were happening in different locations as well, so it was a matter of just trying to make sure that if Andrew is going to be involved in any coordination up at the Emergency Management Centre, that he --- that he was aware of what those arrangements were.

Q. Are you aware of the evidence that Commissioner Crisp gave when he attended before the Board on Tuesday?

A. No, I listened to --- I was told that he was giving evidence and then I tuned in for about the last 15 minutes. That's all I'm aware of.

Q. Mr Crisp was asked about his recollections of this meeting. Looking at the evidence that you have put in your statement at 2.4, paragraph 2, his evidence was that as at this time, so around 2 o'clock or perhaps shortly before, he didn't believe that he himself knew that DJPR was going to be running the program, so that he wouldn't have been in a position to say that to you. Are you confident that you heard this information from him at this meeting rather than perhaps at some later point on

the same day?

A. Yes, I'm confident about that.

5 Q. And similarly, he says that he didn't at that time have a knowledge of the role that private security would ultimately play and doesn't believe --- I'm paraphrasing his evidence. The effect of his evidence was that he wouldn't have been in a position to say, "No, no, no, it's private security, not you," because he wasn't aware of any such decision having been made?

10

A. Well, I'm quite clear in my recollection of that.

15 Q. Again, perhaps just to press you a little bit, Mr Ashton, you have mentioned that there were a lot of conversations and a lot of things happening at once and as I understand your statement, you yourself attended more than one meeting on this day at which these matter was discussed. Are you confident it was in this conversation or this meeting rather than in a later one that these matters were discussed?

20 A. Yes, because I have a specific recollection of trying to clarify with Andrew that it was private security and not the police that were doing that work, because I needed to know.

Q. Were you surprised that --

25 DR HANSCOMBE QC: I'm sorry to interrupt Ms Ellyard and the Board. I have instructions to ask that the public feed be cut. There is a concern over some of the content of one of the text messages which has been disclosed, concerning again the issue of handover arrangements at the airport. If the Board would make an interim non-publication order, we would be grateful.

30

CHAIR: I think it is probably too late to cut the feed, Dr Hanscombe. But I will make an interim direction with respect to the publication of material.

35 DR HANSCOMBE QC: Thank you, Madam Chair. We would hope that the media would take note of the fact that such a direction has been made and act accordingly. I understand you can't do anything about that.

CHAIR: No.

40 DR HANSCOMBE QC: Thank you. I'm sorry to have interrupted.

MS ELLYARD: Perhaps by way of response to that point, Madam Chair, I note that I apprehend that the concern is about a text message that was visible but wasn't taken to by me or the witness, so that the media should be able to report on what we
45 discussed without commenting on a document that was up but was not referred to.

DR HANSCOMBE QC: I'm grateful to my learned friend.

CHAIR: Thanks, Dr Hanscombe.

5 MS ELLYARD: Mr Ashton, I was asking you about the various meetings that you attended on this day. As I understand it, you are certain in your evidence that the matters --- that it was at that time in this meeting with Minister Neville and others that you were told that it wouldn't be Victoria Police taking a frontline role.

10 A. Well, that police would be in support of the security guards for the arrangements and that we would be dealing with the escorts from the airport.

15 Q. Would you have ordinarily expected to be consulted before a decision was made about what the role for Victoria Police would be, given that you were the Chief Commissioner?

20 A. It would depend on what was happening. Ordinarily, just in everyday business, yes, but this was a --- a very different arrangement where there were --- you know, it was a class 2 emergency and in this case it was the case that police weren't the control agency, police were really in support as the support agency and, you know --- so decisions can be taken in that environment and then it's up to the agency, if they want to contest the decision, to contest it through the emergency management arrangements.

25 Q. At paragraph 2.6 of your statement you refer to an announcement made by the Prime Minister and you extract that announcement in some detail and then refer at paragraph 2.7 that you were taken by surprise in the sense that you hadn't previously been aware that there was going to be an announcement that the ADF would be supporting States with compliance checks.

30 A. Yes.

35 Q. So am I right that as at the time you heard the Prime Minister's announcement, you hadn't been told or made aware that the ADF was going to have any --- I'm going to call --- 'boots on the ground' role in the States?

40 A. Well, it was still a developing situation, as I understood it, so we were around that time looking for opportunities to use the ADF in the discharge of the police functions. This isn't in relation to the hotel quarantine; this is in relation to other areas that Victoria Police were supporting the COVID effort. And then when I was watching the PM's announcement, he indicated that was happening and so I wasn't aware of that yet happening in Victoria.

45 Q. And so as I understand it you had some contact with Deputy Commissioner Nugent, and I'll ask that the document you refer to at paragraph 2.7 be brought up, VPOL.0005.0001.0248. Can we zero in on the first of the two green items, please, Mr Operator.

There's a reference there, Mr Ashton, to a text message sent by you to Mr Nugent at 4.15 in the afternoon on this day:

5 *Only NT have boots on the ground. All others are trying to follow our model of using them back of house on phones.*

I think you have already said but, for the avoidance of doubt, was this about the role of the ADF in any quarantine program or was it about something different?

10 A. No, that's not about the hotel quarantine.

Q. What was it about?

15 A. That was in relation to our work in making sure that people who were in home quarantine were being checked on and we had a couple of processes to do that, one was via phone check and there we tried to get them on a video FaceTime call and get them to prove to us that they were at that address, and others were going out and knocking on the doors, et cetera. And so we were looking, as I said, around that time, as to how we could use ADF in support of us because we had a good
20 relationship during the bushfire season and we thought we were collaborating --- had opportunities to collaborate quite well. That was --- we were trying to organise for the ADF to work on the phones side of the contact checking, quarantine check, and that police would be on the ground doing the door-knocking.

25 Q. And why was it your view that it was better for the police to be the ones doing the door-knocking and the ADF to be back of house on phones, to use your terminology?

30 A. Yes, because when you are out in the community knocking on doors, anything is likely to occur. The ADF officers didn't have police powers, they weren't armed, they didn't have any defensive equipment. While there may be no particular issue knocking on someone's door, if you are out in the community, that in itself --- in uniform --- can create some risks. So without the necessary powers training for us, it was preferential that they be back of house more than forward. Unless for example
35 we were completely stretched for resources or there was a situation where we didn't think we could cover it, then we would certainly look to try to get their support more as a front-of-house support.

Q. Thank you very much, Mr Operator, that can come from the screen.

40 Mr Ashton, are you able to say whether in the course of this day, 27 March, and the calls that you had, you had any direct contact with anyone from the Australian Border Force?

45 A. Not directly. I think that I had a Police Commissioners' hook-up the following day where the Border Force were represented, but not on that day.

Q. I'll show you a document and ask you if you have any recollection of it; you may

not. Madam Chair, the document reference number is VPOL.002.0005.0123. It is a document that was produced by Commander Tully when he gave his evidence. It is a document that is attached to an email received by the Superintendent whose statement has been tendered, but she didn't produce the attachment. Just bear with me a moment, these, Mr Ashton, while that document is brought up.

Perhaps I'll go on to the next topic, Madam Chair, rather than --- we will go on to the next topic. We will come back to that, Mr Ashton, my apologies.

10 The next event that as I understand it occurred for you on this day, Mr Ashton, was that at around 4 o'clock, as you say at paragraph 2.10 and following of your statement, you attended what was a regular meeting of the Victorian Secretaries Board?

15 A. Yes, that was again a video meeting chaired by Chris Eccles as the Secretary of the DPC.

Q. The recently announced quarantine program for returned travellers was one of the items discussed at that meeting?

20 A. Yes.

Q. Are you able to recall whether prior to this meeting --- what level of contact, if any, you had had with Mr Phemister from the Department of Jobs, Precincts and Regions prior to this meeting?

A. Yes, I got a text from Mr Phemister at 3.40 pm, which would have been just prior to the VSB meeting.

30 Q. Yes. And you have extracted that text at paragraph 2.8 of your statement. As I understand it, Mr Phemister said:

.... we're running the inbound passenger isolation system

35 And he asked for the name of someone to be nominated.

A. Yes. Because they are running it and he wanted a point person to liaise with at VicPol. He said that Claire Febey at DJPR is running it with the support of Paul's team, which is the Department of Transport.

40 Q. Thank you. Now, as I understand your evidence, you already knew that DJPR were running it because you had been told that by Mr Crisp?

A. Yes.

45 Q. And you say that at paragraph 2.11 of your statement. Are you able to recall the extent to which the use of security and policing resources was discussed at the

Victorian Secretaries Board meeting?

5 A. No, I don't have a specific recollection of that aspect of it being discussed. I recall Mr Phemister outlining that SkyBus was going to be used to do the conveying and that hotels would be located in the CBD in the first instance, but I have since seen minutes or some notes of that meeting that are in addition to my own notes, which lead me to think that it was talked about and in fact I did ask for clarification in that meeting.

10 Q. I take it you accept that that occurred because you have seen the minutes but you don't have a recollection of it as you sit here today?

15 A. That's right, I don't remember it but I think, looking at those minutes, it certainly occurred, yes.

20 Q. Commissioner Crisp, in one of the statements he made to the Board and gave evidence about on Tuesday, recalls a conversation that you and he had at a time when, as he understood it, you had just left the Victorian Secretaries Board meeting. Do you recall speaking with Commissioner Crisp around about that time?

25 A. No. I've only rely on the phone records, which told me that he did. I attempted to call him briefly and I was unsuccessful in getting through and then he called me straight back.

30 Q. So you accept from the records that you have of the call that you made to him that's very short, that it seems most likely that he rang you back and you and he then had a conversation?

35 A. That's correct.

40 Q. He gave evidence that, having had that conversation with you, he then sent a text message to Assistant Commissioner Grainger and in that text message he referred to having just spoken with you. I'm conscious that the operator has the document that I asked for before ready to go, Madam Chair, and I apologise to them, but can I ask that we have a different document instead, then we will go back to the other one. Could we bring up DOJ.515.001.0014. The top part, thank you, Mr Operator.

45 This, Mr Ashton, is a text message that Mr Crisp said that he sent to Assistant Commissioner Grainger. The text message records Mr Crisp summarising your conversation in the following terms:

He [that is you] made it clear in VSB that private security is the first security option at hotels/motels and not police.

45 One inference that might be drawn from that summary is that Mr Crisp understood you yourself to having been expressing a preference or a strong view in VSB. As best you can recall, is that what happened, you expressing yourself a view that

private security should be used ahead of police?

5 A. No, from my reading of the minutes and the way that VSB is normally conducted, which is consistent with those minutes, is that the text would most appropriately read that I clarified in VSB that private security was the first security option. That would be the most accurate reflection, I think, of that conversation.

10 Q. Do you recall at any point having to persuade anyone that private security should be used because they were thinking about some different arrangement?

15 A. No, not at all. It never came up from that option. I think if that had been the case I would have specifically remembered that. But I was okay with the decision to use private security for security guarding work so I didn't contest that view and I conveyed that to Andrew. I think I would accept that in that phone call to Andrew that what I was doing was telling him what I had learned at VSB and that's consistent with the text that he sent Mick Grainger.

20 Q. When you say what you had learned at VSB, what do you mean by what you had learned at VSB?

A. As to what the arrangements were that I understood them to be, which was the police doing the transfer work, security guards doing the security guarding and police backing up security guards if required.

25 Q. Why was it necessary, if you can recall, for you to speak to Mr Crisp about this matter just after 5 o'clock, when as I understand it on your evidence it was Mr Crisp who told you a couple of hours previously that it was going to be private security?

30 A. Mr Crisp was doing the State Control Centre meeting, it's in his interest to know what transpired at the VSB meeting because at that meeting you have got all the Secretaries there as well as the head of DPC and if he is trying to organise a process, it's important for him to know what the outcomes were of that meeting. I'm not sure whether anyone else called him and told him but clearly I have.

35 Q. So I take it from your statement that you have had drawn to your attention, although you weren't aware of it at the time, comments made by Mr Crisp and also by Assistant Commissioner Grainger in the State Control Centre meeting, shortly after the conversation that you and Mr Crisp had?

40 A. Correct.

Q. And you extract what you understand and the Board understand to be the relevant extract at paragraph 4.6 of your statement?

45 A. Yes.

Q. Mr Crisp's evidence was that, having had the conversation with you and sent the

text that we have just looked at --- which can come from the screen, thank you, Mr Operator --- he re-entered the meeting and said the words that are attributed to him there:

5 *I understand the preference of Victoria Police, or the Chief Commissioner, is that private security be the first line of security ...*

A. Yes.

10 Q. Again, that remark by Mr Crisp suggests an understanding by him that there was a view, a preference or a position being put forward by you or by Victoria Police. Was that your understanding?

15 A. What I was conveying to him was that --- what he is endeavouring to convey there is my position is that I supported the decision that private security guards be used and police be in support of that. And that wasn't my decision, I wasn't the person who took that decision but I supported that decision because to me it seemed like a sensible decision at the time.

20 Q. Mr Crisp goes on to say:

Is that your understanding, Mick?

And that's Mick Grainger. And Mick Grainger says:

25

Yes ... Absolutely, that's our preference.

As I understand your statement, you and Mr Grainger hadn't spoken on this topic on this day?

30

A. No, I haven't spoken --- I never spoke to Mick Grainger about that. But he's an Assistant Commissioner, he's capable of forming his own views on that at his rank.

35 Q. Also we have to infer or one might infer that he had received the text that we have just been looking at, sent to him by Mr Crisp, about the conversation that you and Mr Crisp had had?

A. Correct.

40 Q. And the conversation in the State Control Centre then goes on to a discussion about who is going to take responsibility for private security. Now, Mr Ashton, you may be aware that the evidence that was given by Ms Febey, who is the Claire referred to here, was that she understood that in this passage of the meeting there was a decision made or a task allocated to her that private security be retained where that decision hadn't yet been made. She understood it to have been made in this meeting
45 decision hadn't yet been made. She understood it to have been made in this meeting at this time. Do you have any view about that?

A. Well, I wasn't at that meeting and I don't --- I can only go on the recording of the meeting, which I have listened to. And in relation to that, there's an exchange at about the 25-minute mark of that recording where DJPR, through Ms Febey, make it quite clear that DJPR are coordinating the arrangements and taking the lead in that regard and that they wanted to talk to police about how they could assist in doing that or, you know, discharging those responsibilities. Andrew, in my listening of that tape, almost half an hour later, Andrew comes back into that meeting and because he wasn't privy to that earlier discussion, he just seeks to clarify for the purpose of the State Control Centre meeting, quite sensibly, what the arrangements were, and that's --- and again, the DJPR representative, which was I believe Ms Febey, said that that was something that DJPR were taking up.

Q. The remarks made by Mr Crisp and extracted by you from the recording, Mr Ashton, at 4.6, suggest that at least in Mr Crisp's understanding the opinion of Victoria Police was relevant to what the security arrangement were going to be. Do you accept that that was the case, that the opinion of Victoria Police about what the security arrangements would be was a relevant matter for those who were then going to put those arrangement in place?

A. They were probably Andrew's, Andrew Crisp's, understanding from what he said in the meeting. But the position, or certainly my position, was that I supported that decision to use --- for those arrangements that were talked about, which was police doing transfer, involved in transfer, private security at the hotels and police backing up private security. And that decision, I was happy to support that decision and that was my position.

Q. Could I ask, Mr Operator, that we --- before we go on, that we go back to the document that I called for before and I was remiss in not including enough zeros, Madam Chair, for which I apologise. Thank you very much, Mr Operator. You might recall, Mr Ashton, earlier in your evidence I asked you about any contact you had with Border Force and you couldn't recall any contact on that day. What we're looking at here, and I will ask the operator to go to the second page, is a document that appears to have been provided to a Superintendent of Victoria Police on the evening of 27 March from an officer of the Australian Federal Police. That is the provenance of the document and it has been produced, as we understand it [screen froze].

If we look across the document, it appears to be a summary of the allocation of responsibilities as between Commonwealth and States for the mandatory quarantine process. And if we look on the far right-hand side under the heading "Manage Quarantine", there are a number of matters there, the last of which is "Private Security management of social distancing". Do you see that?

A. Yes.

Q. Were you aware at any stage of a view or advice or an opinion being offered by the Australian Border Force about a role for private security or what the

arrangements at hotels or quarantine locations should be?

A. No.

5 Q. Thank you, Mr Operator, that can come from the screen.

Can we please have in its place the document VPOL.0002.0005.0117. Mr Operator, if we can go in a bit closer on the top half of the page first. This is an email sent at about 9.20 on the evening of Friday, the 27th, Mr Ashton, and it is sent by the
10 Superintendent whose statement has recently been tendered. As I understand her statement, she was tasked to prepare this summary of matters that had been discussed for the purposes of handing over to those who would be on shift the next day, so just to give some context.

15 We see there in the top part of the email a reference in bold to, firstly:

Victoria Police has the responsibility to take the lead on the developing the law enforcement plan.

20 Was that your understanding, that that was one of the roles that had been allocated to Victoria Police as the support agency for this response?

A. In the support agency role, my understanding was that Victoria Police, as I said, would be doing the transfers and assisting as a back-up to the security guard if things
25 escalated at the hotels and for that purposes we would need to develop a plan to do that. I think that might be the plan that she's referring to.

Q. Then:

30 *Victoria Police will have an enforcement role.*

This is enforcement in the Hotel Quarantine Program. Was that your understanding, that there would be an enforcement aspect to Victoria Police's role?

35 A. Yes, if we were needed, we could turn up and do enforcement action, yes.

Q. Could we scroll down so we can see the various dot points under the heading "What we do know". We see there, and you have dealt with this in your statement, Mr Ashton, about the sixth point down there is a reference to:
40

Security guards to be contracted to provide a level of security at the hotels.

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

45 Do you see that there?

A. Yes.

Q. You have dealt with this in your statement but can I ask you what's your response to that suggestion that there was a recommendation, either by you personally or by you as being the office in Victoria Police of a recommendation that private security be the frontline?
5

A. I gave no instructions of that nature to [redacted] or anyone else for that matter. As I take it, that's Superintendent [redacted]'s notes, having attended the meeting, the recorded State Control Centre meeting, which we talked about previously. So my only take on that would be that that's what she's left --- that's her interpretation of what she left that meeting with.
10

Q. And perhaps to be clear, what we do know was said at that meeting was an expression by Mr Grainger or a confirmation when asked by the Emergency Management Commissioner, a confirmation that Victoria Police's preference was that private security be used.
15

A. Yes. Well, if that's a sequential flow, that's me outlining my position to Crisp, which I have already referred to, which was me being fine with the decision and the structure that was talked about, to him saying it's a preference and then to her escalating that further to being a recommendation.
20

Q. Given that Victoria Police is the primary law enforcement agency within the State, was it your experience that a degree of deference would be given to Victoria Police when it expressed a preference or an opinion about the role that it should play in a multi-agency activity of this kind?
25

A. I don't think any more than any other agency. You know, you can express a view and if the view --- if you want to contest something, there's an opportunity, like all agencies, for you to contest it. I don't know that Victoria Police's opinion is any more cogent than any of the other agencies.
30

Q. But on the question of what would be appropriate security arrangements, Victoria Police might be thought of as having greater expertise in that field than other agencies who were represented at this meeting on 27 March; would you accept that?
35

A. Well, in relation to security arrangement?

Q. Yes.
40

A. Yes.

Q. And so if Victoria Police expressed a preference --- I'll rephrase that. If Victoria Police is perceived as expressing a preference, in a multi-agency meeting, that private security be used, it would be reasonable to anticipate that weight would be given to that preference by the others at the meeting?
45

A. Well, if it's said that that's a preference, then it can be assumed from that that the police are fine with that arrangement and that, yes, weight will be given to that.

5 Q. The evidence, to be fair, Mr Ashton, the evidence of some of the people present at the meeting, particularly Ms Febey, who was the DJPR representative, was that she understood the effect of that preference being expressed as a directive or a task for her that private security should be engaged. She understood Victoria Police's preference to be determinative. And I guess I'm inviting you to reflect on whether you can see how that might have been, given that Victoria Police is the agency in the room with the enforcement expertise?

15 A. Right. Well, given that she would have already said in the meeting, at about the 25-minute mark, that private security were in the plan, then she probably would have taken those remarks of being further confirmation that that was the right way to go.

MR STAR QC: Could I just interrupt for a moment. Madam Chair, there does need to be a non-publication order, I'm instructed, in relation to some names that were mentioned not too long ago about a Superintendent. I'm sorry to interrupt now but I thought it best to do so as soon as possible.

20 CHAIR: Yes, that's the name that's been redacted from the document that has been tendered, is it?

MR STAR QC: It has.

25 CHAIR: So I make that non-publication order with respect to that name.

MR STAR QC: If the Board pleases.

30 MS ELLYARD: Thank you.

Before we leave this point, Mr Ashton, I take it then that you would reject any suggestion that Victoria Police, whether you or anyone else within Victoria Police was the decision-maker about the role that private security as opposed to Victoria Police was going to play in this operation?

A. Absolutely.

40 Q. I take it from what you said that you yourself were comfortable --- perhaps my word, not yours --- with private security being given the role that they were given?

A. Yes, I'm happy to use the word "comfortable". I was comfortable with those arrangements and I supported the decision.

45 Q. If you hadn't been, what would you have had within your power to do about it?

A. If I hadn't been, I would have tried to go through the emergency management

arrangements which was to take it up with Andrew Crisp that I had an issue with it, and Andrew Crisp would make enquiries with the other agencies and then if they couldn't be deconflicted, he under the Act could make a direction one way or the other as he saw fit.

5

Q. So to that extent, given Victoria Police's position as a law enforcement agency in the state, if you felt there was going to be a lack of appropriate security at any of these locations, there were things you would have been able to do about it?

10 A. Yes, of course.

Q. You could have, for example, suggested that there would be a 24/7 presence at the hotels to deal with such risk issues as you felt required that?

15 A. Yes, but as the police --- as these hotels were in the city area, we have a response time of literally one or two minutes to any event, so we were close by if we were needed.

20 Q. What did you understand the job to be that private security were going to be performing? Mr Operator, that can come from the screen while we continue.

A. My understanding at that time was private security would be doing exactly that, doing security guard work during entry, exit, rattling doorknobs, making sure people didn't go in and out, and if there was a problem that required some enforcement, that they could call us.

25

Q. Have you since become aware that in fact the role expanded beyond that to include other activities?

30 A. Yes.

Q. You say in your statement that --- I think it is paragraph 6.2 --- I'm looking at the wrong document, pardon me. You refer to an expectation you had that if there were going to be activities such as accompanying people on walks that would be done, that wouldn't be a task for private security. Can I ask you to expand on that view?

35

CHAIR: It is 6.2, Ms Ellyard.

40 MS ELLYARD: I'm grateful, Madam Chair. 6.2.

40

A. Yes. Well, in that regard, you know, I had the expectation they would be doing -- at that time they would be doing security work, and if there was direct engagement with travellers, exercising, engaging in other activities, that that would be the subject of work supported by, you know, clinical teams, people with health expertise, not security guards.

45

Q. Perhaps it's an obvious question but why? Why would that have been your

expectation?

A. Because of the risk associated with the transfer of COVID-19.

5 Q. It might be suggested that that kind of work which involves potentially closer contact with people in quarantine and potentially a greater need for an understanding of risk issues could also perhaps have been better done by police than private security guards. Would you accept that?

10 A. No. I don't --- you know, if you're in a quarantine situation, say you're in a hospital, for example, you might have security guards on the door but you're looked after by medical people. You are not looked after or engaged with by the security staff. At the very least you would be looked after by an orderly or someone with some health knowledge. You wouldn't be looked after by the security guards. And
15 police are in the same boat.

Q. So if it had been suggested --- and I'm not suggesting that it was --- if it had been understood at the beginning, as at 27 March, that the role to be performed by security was going to have included escorting people for fresh air breaks and doing other
20 activities that involved more than just rattling doors and standing at entrances, would that have altered your view of the suitability of the private security workforce for that job?

A. Well, it may have. I think I certain would have --- again, this is just hindsight.
25

Q. Of course.

A. And conjecture. But I probably would have had some conversations with Rick Nugent and with Andrew Crisp about that, just to work out exactly what was going to be required and if necessary to talk to other agencies about that. But, you know, as the support agency I would have perhaps in the first instance, if I had those concerns, I would have sought some advice.
30

Q. At paragraph 5.10 of your statement, Mr Ashton, you refer to a discussion that you had later on with Deputy Commissioner Nugent about arrangements and we have seen through the evidence of Chief Commissioner Patton, whose evidence was a short time ago, that he recalls having a link-up with you in your capacity as Chief Commissioner and his capacity as one of the Deputy Commissioners at about 7 o'clock that night. Do you recall a hook-up of that kind?
35
40

A. I have a recollection of talking with Rick Nugent, I think we were in the same --- we were operating on the same floor. At that time I had spread the Deputy Commissioners off of the main floor, to reduce any risk of all of us coming down with COVID-19. And I was on the same floor as Rick Nugent, so it was regular for us to be in each other's doorway passing information back and forth.
45

There was a separate conversation earlier that evening --- sorry, later that evening,

early in the evening, between myself and the Deputy Commissioners via
videoconference. And whilst I don't specifically remember the content of that
evening's call, we certainly at that time were regularly hooking up on a video chat
just to run through how the day went, what we needed to have arranged for the next
day, make sure everyone was comfortable with what was going on.

5
10 Q. Mr Patton's note of that conversation refers to the use of --- the potential
availability of the ADF for static guarding as being a matter that was discussed. Do
you have any recollection of that?

A. No, but Rick Nugent had been having some discussions with the ADF through
that same afternoon so I can only speculate --- if I was to speculate, it might be that
he had raised that in that discussion, but I don't recall --- I don't recall him doing so.

15 Q. Do you recall any raising the possibility of the use of ADF forces, if they were
available, to perform any State guarding duties?

A. No.

20 Q. The last topic I want to ask you about, Chief Commissioner, is we understand that
on and from 16 March 2020, when a State of Emergency was declared, there was a
request made by the Chief Health Officer for the assistance of Victoria Police in
monitoring compliance with the self-isolation directions that he had made. I will ask
that a copy of the request be brought up, Madam Chair. It is document
25 DHS.5000.0055.3884.

Do you recall, Mr Ashton, receiving or otherwise becoming aware of a request made
by the Chief Health Officer for the assistance of Victoria Police in relation to the
directions that he'd made and the work being done by authorised officers?

30 A. Yes, back on 16 March, yes.

Q. As I understand it, there was a particular operation that was established by
Victoria Police for the purposes of doing that work?

35 A. Correct.

Q. Operation Sentinel, as I understand it?

40 A. Yes, that's right, it was called Operation Sentinel.

Q. What were the tasks that were given to police officers for the purpose of
providing the assistance the Chief Health Officer had asked for?

45 A. Well, back then, that was to do with making sure that we had the ability to support
the authorised officers in executing various orders of the Chief Health Officer, and
for us that mainly involved making sure that people were adhering to the

requirements, you know, whatever the regulations were at that specific time. They did change a lot so I would have trouble recalling exactly what they were on the 16th. But also for us it was about making sure that people who needed to quarantine at home were actually at home for that period of time and that we would be
5 responding and making sure that people were at home.

10 Q. You mentioned a little earlier in your evidence that there were techniques like requiring people to accept a video call and be seen to be in their place of residence and activities of that kind?

A. Yes, as well as physical door-knocking.

15 Q. Do you recall receiving in that first couple of weeks after this request was made on 16 March any reports from members doing this work about the extent to which they were identifying non-compliance on the part of those who were meant to be quarantining at home?

20 A. Yes, I received daily reports on the levels of compliance, which came to me from the Police Operations Centre, and the Police Operations Centre was charged with running those operations, and daily reports were given to me and there were regular occasions when people were found not to be home when they were checked upon and that we then had to go through on exercise of locating them, working out where in fact they were when they were supposed to be at home. I should add that in many
25 occasions people were isolating but they weren't isolating at the place where the Australian Border Force thought they were going to be, and so we had to adjust records, et cetera, and try and clean the data a lot on where people actually were. But there were levels of noncompliance as well.

30 Q. Do you recall being asked for your view by anyone within Government about the sufficiency of home quarantine as a model for dealing with people who were being required to isolate?

A. No.

35 Q. Prior to the announcement of the Hotel Quarantine Program on 27 March, had you yourself been told about the possibility of such a program or asked about your view of it?

40 A. Sorry, are you talking about the hotel quarantine?

Q. Yes.

A. No.

45 MS ELLYARD: Thank you, Mr Ashton.

Madam Chair, those are the questions that I have. And I'm aware --- and I see their

faces jumping onto the screen --- of a couple of applications that I understand are pursued in light of the evidence that has already been given. I think I saw Mr Attiwill first so perhaps I'll call on Mr Attiwill to make his application.

5 CHAIR: Just before you do, Mr Attiwill.

Can I just understand something, Mr Ashton, you just said with respect to the door-knocking that police were doing as part of Operation Sentinel. Just to help me understand, have I correctly assumed, when you talk about Australian Border Force
10 obtaining information, was that how Victoria Police knew what premises to attend to do their compliance checks?

A. Initially, Madam Chair, yes. We were receiving information from Border Force of who had arrived into the country and then where their intended address would be.
15 What we often found was this was the address on their passport, for example, and that was in the database of Border Force, and then when we actually went there, they had either sold, left long ago or their address had changed, and that was a regular occurrence. So we would have to then work out ourselves from other ways of talking to people who were there, et cetera, and finding out where they actually were
20 and it was a bit of an investigative process that would sometimes take --- in some cases it took two or three days to work out where the person was.

CHAIR: I understood the first part of your answer --- you said initially that's where you got your information from. Am I to understand from that answer that at some
25 point that changed and you were getting information from somewhere else?

A. Yes, from my recollection, there was a point where we started to get that information from DHHS and not from Border Force.

30 CHAIR: Do you know when that point was, as in was it days or weeks? I'm not asking for a specific date.

A. I think it was days and I recall there was difficulties in other States being expressed by the Police Commissioners in some other States that we were having
35 trouble getting data from their health authorities due to privacy grounds, and we had to overcome privacy restrictions to obtain the data from the Department of Human Services, and that was a legal process we just had to be able to step through, which took a number of days to be able to do but then once we were able to do that, DHHS were lawfully able to provide us with that information.

40

CHAIR: Are you able to say, and please tell me if you're not, once you were obtaining the information from DHHS that there was a different level of compliance being observed, as in the addresses were correct and people were in the residences where they said they were going to be?
45

A. From my reading of the data, yes. Certainly the data was more accurate as to where they were. We still had people who were not complying. But most people

were doing the right thing and most people were complying. And from what I understand of the hotel program, that was much the same, where most people were compliant and as in all populations of people, you get some that don't do the right thing.

5

CHAIR: When you talk about the data where you established that most people are complying, are you talking about those daily situation reports?

A. Yes, I am, Madam Chair.

10

CHAIR: Thank you. Yes, Mr Attiwill.

MR ATTIWILL QC: Thank you, Madam Chair. Madam Chair, I seek leave to ask questions in relation to three topics. The first topic is just brief questions in relation to Mr Ashton's knowledge of the impending quarantine program at the time that he had the meeting with Minister Neville and Commissioner Crisp, at 2.00 pm on 27 March, so some brief questions about that.

15

CHAIR: Yes.

20

MR ATTIWILL QC: The second matter then, Madam Chair, are questions about his attendance at that meeting at 2.00 pm, and his attendance at a meeting at 4.00 pm with the Victorian Secretaries Board, and also to his reporting to various persons of those matters. And then the third topic is very brief question on his opinions on the use of private security in the Hotel Quarantine Program. I can just indicate in relation to those three topics, as I've said the first and third topics will be short, the second topic will be a little bit longer, and my best estimate at the moment is it will be 20 minutes, depending on how the questions go, at least, in relation to topic 2.

25

MS ELLYARD: Can I indicate, Madam Chair, that I had previously raised with Mr Ashton his availability to sit late and he is available and it would be his preference, subject to other matters, for his evidence to be completed today. I'm not myself aware of the details of what Mr Attiwill wants to raise in his longer questioning but I take it he is not going to be asking questions that I have already asked, and if that's the case, then I don't oppose his application.

30

35

CHAIR: Do you say that you are not going to be asking questions that have already been asked, Mr Attiwill?

MR ATTIWILL QC: I won't be asking questions that have already been asked but I will certainly be exploring Mr Ashton's questions. And I will only be doing it, Madam Chair, because matters which have been the subject of evidence this afternoon have further exposed some inconsistency and lack of clarity, so it is in that context that I wish to ask the questions. No doubt I expect to be pulled up promptly if all I'm doing is just re-asking questions that have already been answered.

40

45

CHAIR: All right. You can start, Mr Attiwill, but as you say, you will be pulled up

if you are repeating areas that have already been traversed.

MR ATTIWILL QC: Thank, Madam Chair.

5

CROSS-EXAMINATION BY MR ATTIWILL QC

10 MR ATTIWILL QC: Mr Ashton, my name is Richard Attiwill. I'm counsel for the Department of Premier and Cabinet.

The first matter I want to ask you about is basically this: it is the information you had when you attended the meeting at 2.00 pm on 27 March with Minister Neville and Commissioner Crisp and others. If you have your statement handy, if you go to paragraph 2.2 of that, please.

15

A. Yes.

20 Q. I just want to direct you to the third-last line of paragraph 2.2, in which you say this:

As best as I can now recall and ascertain, when I attended the 27 March meeting at 1400, the latest information I had was that 'ADF will do Passenger transfer and private security will be used'.

25

Now, so you knew at the time you went to the meeting that there was going to be some form of quarantine program; is that right?

30 A. At the 2.00 pm meeting, yes.

Q. And you expected that the Victoria Police would have a role in that quarantine program? That was your expectation?

35 A. Some sort of role, yes.

Q. And that was your expectation?

A. Yes.

40 Q. And prior to that meeting, you were not aware of any request for Victoria Police to play any role in that quarantine program, were you?

A. Ah --- not that I have a recollection of, no.

45 Q. Relating to private security, you had a belief that private security were to be used?

A. An understanding, yes.

5 Q. An understanding. And in relation to the meeting at 2.00 pm on 27 March, if I could just direct your attention to paragraph 2.3, you describe this as just a regular meeting via videoconference with the Minister for Police and Emergency Services, Ms Neville?

A. Yes, they were daily meetings at that time.

10 Q. They were daily meetings to discuss the COVID-19 response?

A. Yes.

15 Q. Commissioner Crisp told you at this meeting, didn't he, that he had convened an interagency planning telephone conference to discuss the impending quarantine program later that day?

A. I believe so, yes.

20 Q. You believed that, at that time, that's what you were told at that meeting commencing at 2.00 pm?

A. Yes.

25 Q. That was going to take place at the State Control Centre; you knew that too?

A. Yes.

30 Q. I want to ask you some questions about your discussion with Commissioner Crisp at this meeting. Could you please just go to paragraph 2.4(3).

A. Yes.

35 Q. I want you to tell the Chair whether that accurately sets out your present recollection of what you asked and how the Commissioner responded?

A. Yes, it is.

Q. And is that your clear recollection?

40 A. Yes, as per that statement, yes.

45 Q. In evidence moments ago when you were relating this --- I'll read your evidence and it's on transcript. It is at transcript page 1665, commencing at approximately line 42, for those who have got it. I will read it to you, because you won't have it. This is the question:

At paragraph 2.4 you set out your recollection of what was discussed at the

meeting about that. Could I ask you to give the Board your recollection of what was discussed and how the issue of Victoria Police involvement came up?

This is your answer:

5

Yes. I have quite a clear recollection of parts of that conversation. The Minister kicked off briefly the start of the meeting, which was a little bit different to how the meetings were usually conducted. Straightaway, normally Andrew Crisp would give us the update, but the Minister just kicked us off by the mentioning

10

I'm just reading the exact words here, so there's a few typos but I'm not going to make up the transcript:

15

.... mentioning the decision of the National Cabinet and then it was over to Andrew Crisp to give us the update on what he thought was happening at that time or any other issues relevant to the COVID situation. I was --- it was fairly early on in that update that I jumped into the conversation and said, "Andrew, can you confirm to us that it's --- that it's police supporting private security guards in this hotel quarantine and that private security are used with police back-up?" And he said, quite quickly, "Yes, that's the plan, that it won't be police, it will be private security with police in support, and police would be involved in conveying arrivals, overseas arrivals to the hotel."

20

25 Do you recall giving that evidence moments ago?

A. Yes.

Q. Well, have a look at paragraph 2.4(3) again.

30

MS ELLYARD: I'm sorry to interrupt my learned friend but my recollection is that I myself went on and sought clarification of the matter. So, with the greatest of respect, I would be grateful if my learned friend can come to the matters that are new because there hasn't been anything new yet.

35

MR STAR QC: And I have an objection too. What my learned friend hasn't directed attention to is in the witness statement, subparagraph (c) on page 1 of Mr Ashton's statement, and I also refer to the last sentence in subparagraph (c) on page 1 of Mr Ashton's statement.

40

MR ATTIWILL QC: That, with respect, is not a proper objection. In relation to my learned friend Counsel Assisting, I'm making the basic point, Chair, that you will see that at paragraph 2.4(3) Mr Ashton gives a version of this conversation in which he asks for it to be confirmed that Victoria Police's intended role ---

45

CHAIR: Yes, I understand --- (overspeaking) ---

MR A

TTIWILL QC: --- regarding the hotels ---

CHAIR: I understand the point, Mr Attiwill, but Ms Ellyard has raised a different point, which is that she too perceived the discrepancy and then went on to clarify it.
5 That's what I understand your position to be, Ms Ellyard, isn't it?

MS ELLYARD: Yes, Madam Chair. And if there is a point to be made in Mr Attiwill's mind about an inconsistency, it is a submissions point, in my submission, rather than a matter that needs to be extensively dealt with by way of
10 going over things. I don't wish to shut out relevant new material that can assist the Board but I'm concerned at the time and the need to deal efficiently with matters that are before you.

MR ATTIWILL QC: Chair, it is critical evidence of a critical conversation in which
15 Mr Ashton says this is the first time he is told of the decision in relation to the matter that he first raises with Commissioner Crisp. They are materially different, the responses of the Commissioner are materially different. I am entitled to put to him that they are materially different and that he can't recall the conversation. It's on a critical matter that ---

20 CHAIR: Yes. Do you understand ---

MR ATTIWILL QC: --- it is important to ask Mr Ashton rather than doing it in a submission next week or the week after.
25

CHAIR: Do you understand what is being asked of you, Mr Ashton, with respect to the evidence that has been read to you by Mr Attiwill and the contents of that section of your statement at paragraph 2.4(3)?

30 A. Well, my recollection of the --- of that particular conversation, Madam Chair, is consistent really with what's in the statement, that I sought to find out what the Victoria Police role was going to be. And I sought that clarification from Mr Crisp as to what his level of knowledge was about that and he clarified that for me in that meeting.

35 MR ATTIWILL QC: If the Chair has finished.

It's right, Mr Ashton, that you have no recollection of what you actually asked Commissioner Crisp, do you, the form of words at all --- none?
40

A. I recall asking him and clarifying that with him and that's his response, and to the best of my recollection it's contained in the statement.

45 Q. Asking him what?

A. What the --- what the police role would be, whether we --- you know, trying to work out are we or are we not doing the guarding work, who would be doing that,

what the police role would be.

Q. You didn't mention private security at that point, did you?

5 A. I think he mentioned private security guards were going to be used, from my memory.

10 Q. I put it to you briefly --- I'm putting it to you that you have got no positive recollection of what you asked and you have given two different versions to the Board. What do you say about that?

15 A. No, I disagree with you. I've told you I remember raising that and seeking that and what Andrew told me. I'm quite clear in my evidence on that, I think. I disagree with you.

Q. And you say that at some point during that conversation, that Commissioner Crisp told you that private security guards would guard the hotels?

20 A. Yes.

Q. You agree, don't you, that no other details were provided to you in relation to that matter, is that right, in relation to how they would be doing the guarding?

25 A. No.

Q. So that's correct?

A. Correct.

30 Q. Now, you say that Commissioner Crisp told you that Victoria Police would be needed to help with transferring the travellers; is that correct?

A. Yes.

35 Q. From the airport to the hotel; yes?

A. Yes.

40 Q. And he didn't tell you at that meeting how he expected Victoria Police to conduct those transfers, did he?

A. No.

45 Q. That would be a matter for Victoria Police; is that right?

A. Well, I think it was too early on to really know what that was going to look like at that stage.

Q. But you had an expectation, when he told you, that that might be something that obviously Victoria Police would have to turn their mind to in an operational sense, isn't it?

5

A. Yes.

Q. In relation to the back-up, you also say, do you, that Commissioner Crisp also told you that Victoria Police would be needed to provide back-up to the security companies; is that right?

10

A. Yes.

Q. He didn't give you any further details about that either, did he?

15

A. No.

Q. In relation to your response to that, at the conclusion of that meeting, it's correct to say, isn't it, that you considered that the proposed security arrangements as they had been --- or that you say had been outlined by Commissioner Crisp, were appropriate, that you considered them appropriate at that time?

20

A. Yes.

Q. You were comfortable with them at that time?

25

A. Yes.

Q. And you didn't have any concerns or reservations with those arrangements at that time?

30

A. Correct.

Q. Now, I want to ask you about the --- you were then taken, in a chronological sense, after this meeting to a meeting with the Victorian Secretaries Board at 4.00 pm.

35

A. Yes.

Q. Do you recall being asked questions about that?

40

A. Yes.

Q. I want to ask you questions about what you did in the period after the meeting until you attended that meeting at the Victorian Secretaries Board. Can you recall whether you had any discussions with any members of Victoria Police about what you had just discussed at that meeting with Commissioner Crisp?

45

5 A. Well, at some point I informed Deputy Commissioner Nugent of what I understood arrangements were to be. I don't know whether I did that prior to VSB, between that Minister's meeting and the VSB meeting, or after the VSB meeting. At some stage I did that, but I'm not sure exactly when that was.

Q. When you're working on this day, are you working from the Victoria Police head office?

10 A. Yes.

Q. At that time was Assistant Commissioner Grainger working from that head office too?

15 A. I don't know.

Q. If you could please go to your witness statement at paragraph 2.4(5), you have given evidence at that subparagraph that you asked Commissioner Crisp about the intended role of Victoria Police, and what you have said is:

20

.... because I was keen to clarify these matters early in the meeting as the responses would determine what further questions I would need to ask Commissioner Crisp in order that I could get the appropriate Victoria Police teams doing all of the necessary planning work.

25

A. Yes.

Q. Well, you did ask him the questions and he told you things at the meeting; yes?

30 A. Yes.

Q. Could you just tell the Board what actions you took after that meeting and before 4.00 pm?

35 A. Well, at some point I gave information to Deputy Commissioner Rick Nugent as to what information we had to act upon. I just don't know exactly when that happened but at some point through that afternoon that happened.

40 Q. Right. When you leave the meeting, you know that there's going to be an interagency meeting at the State Control Centre later that day?

A. Yes.

45 Q. And Victoria Police --- obviously you knew that Victoria Police at that time had a liaison with the Emergency Management Commissioner and the Emergency Management Victoria, didn't you?

A. Yes.

Q. And that was Assistant Commissioner Michael Grainger, wasn't it?

5 A. I believe so, yes.

Q. And you had an expectation, didn't you, when you left that meeting that you had with Minister Neville and Commissioner Crisp, that he would be attending that meeting?

10

A. Certainly that a senior Victoria Police representative would be there. It subsequently turned out from my understanding that that was Mick Grainger.

Q. And another --- other members of Victoria Police too?

15

A. Yes, apparently.

Q. You depose to this in your statement at paragraph 2.5, if you would get that for a moment. I'm not going to read the names because they are redacted, so I'm not going to read them out, but you can see that there were a number of other members who attended that meeting at the State Control Centre?

20

A. Yes.

25 Q. Now, amongst those members there --- and I please don't want you to mention names --- are you able to indicate, by even identifying a line or some other convenient way without identifying the name, who is the most senior person?

30 CHAIR: Mr Attiwill, you are going to have to tell me where this is going at the moment.

MR ATTIWILL QC: I can.

CHAIR: I'm lost.

35

MR ATTIWILL QC: Yes. It's this: as the Board knows, time and time again the Board has been taken to the transcript of the interagency meeting at the State Control Centre.

40 CHAIR: Yes.

MR ATTIWILL QC: I think we have now clarified, but only in the evidence earlier from Mr Ashton, that he did in fact call and speak with Commissioner Crisp, who called him back.

45

CHAIR: Well and truly clarified that.

MR ATTIWILL QC: Yes, well and truly clarified. But also too it's the words that he used, and it's Assistant Commissioner Grainger who makes a statement too at that meeting ---

5 CHAIR: Yes.

MR ATTIWILL QC: --- that is solely directed to establishing that that is likely to have been a result of a discussion with Mr Ashton prior to that meeting.

10 A. I've already clarified that I didn't talk to Mick Grainger when I was cross-examined by Ms Ellyard.

MR ATTIWILL QC: It is only directed to that. I will be brief.

15 CHAIR: If you have something to put, Mr Attiwill, by all means put it.

MR ATTIWILL QC: I will.

20 Now, you knew that Mr Grainger had been liaising with Commissioner Crisp that day, didn't you?

A. Not necessarily, no.

25 Q. Just excuse me for a moment. I want to take you to a document which is at VPOL.0005.0001.0248. It constitutes one of the exhibits to Mr Ashton's statement.

A. Yes, it's a text message.

30 Q. Yes, a text message, but it is constituted by a number of text messages. Are you familiar with a text message that you sent to Rick Nugent on 27 March 2020 at 5.23, and it's in that document that I have referred to, Madam Chair, and this is what it says. Can that conveniently be brought up?

35 CHAIR: Just keep reading, Mr Attiwill. We've had that ---

MR ATTIWILL QC: This is a text from you to Rick Nugent.

A. Yes.

40 Q. It says:

45 *Crispy is Picking up the defence related stuff and liaising through Mick Grainger which is great including the incoming overseas quarantines. Re spot checking defence to be back of house and supporting [redacted] coordinating via scc. All good.*

Do you recall sending him that text on 27 March?

A. I don't recall sending that but that's a text that I have sent him, yes. That was --- what was the time of that again? I think that was well after 5 o'clock, wasn't it?

5 Q. 5.23.

A. Yes.

10 Q. So you knew that Grainger was liaising with Commissioner Crisp in relation to the incoming overseas quarantines?

A. No, that's --- at that point was after I'd had that conversation obviously with Andrew Crisp at just after 4.00 or just after 5.00, 5.14, 5.15 pm on that day. I don't think I knew before that, which is what you were saying, that I was aware of this liaison during the day.

15 Q. Who told you that Grainger was liaising with Commissioner Crisp?

A. Well, I can only conclude --- I don't remember but I can only conclude it was from the conversation with Andrew.

20 Q. I will be putting to the Board in closing submissions, if it is appropriate to do so, that you knew that Assistant Commissioner Grainger was liaising with Commissioner Crisp as the liaison officer during the course of the period from after you left the meeting that you had with Minister Neville and Commissioner Crisp at 2.00 pm, and that he was going and liaising with Commissioner Crisp and going to the meeting at the State Control Centre that day?

A. Right, well, I can only tell you what my level of knowledge was. If you wish to say that I had another level of knowledge, well, that's a matter for you. I'm not sure how you can say that, but anyway, that's up to you.

30 Q. I want to ask you some questions just about your attendance at the Victorian Secretaries Board.

35

A. Yes.

Q. That was just a regular meeting of the Board?

40 A. Yes, that was a meeting. It wasn't --- by that time the VSB Board was meeting more regularly because of the COVID situation and it was again a videoconference.

45 Q. Then when you went into that meeting at 4.00 pm at the Victorian Secretaries Board, you believed that Victoria Police would be performing two roles in relation to the hotel quarantine; is that right?

A. Yes.

Q. So transferring persons from the airport to the hotel and providing security companies with necessary back-up?

5 A. Correct.

Q. At the meeting of the Victorian Secretaries Board, you were the person with the most experience in policing?

10 A. Yes.

Q. And you were also the person with the most experience in working with private security?

15 A. I've had some experience of working with people in private security. I don't know what the level of experience was --- is with the other members of VSB.

Q. I just want to take you to your notes in relation to that, and they are at VPOL.0005.0001.0064. You made a note, you will be able to recall it --- and if it's
20 convenient, Chair, I will continue even though the document is not coming up. You explained these notes at paragraph 2.12 of your witness statement, commencing at page 5. Have you got that?

25 A. Yes.

Q. And you will see at 2.12(2) you have a note, "guarding? Travellers".

A. Yes.

30 Q. If you turn the page in your witness statement to paragraph 2.14, you say:

"guarding? travellers" was a note that, should it be raised, I would confirm that Victoria Police was only doing the passenger transfer aspect of the international arrival quarantine operation and not the guarding aspect.

35 A. Yes.

Q. What I want it put to you is that you made that note because you wanted to ensure that you could make your preference that it was to be the security companies or the
40 security guards who were to be the first line of security at the hotel, with police providing back-up, and that's why you made the note?

A. No.

45 Q. I just wanted to --- at paragraph 2.17 you have said that you didn't recall any discussion at the VSB meeting in relation to security arrangements for the hotels but now you have given evidence that you think that was discussed because you have

looked at the minutes. I just wish to put a number of matters to you briefly which may be the subject of closing submissions if it's appropriate to do so. I just want to give you an opportunity to respond to each of them. There's only a limited number.

5 First, security arrangements for the Hotel Quarantine Program were discussed at the meeting of the Board, including by you?

CHAIR: Just to be clear, Mr Attiwill, are you putting this on instructions or from the minutes or both?

10

MR ATTIWILL QC: I'm putting it on a range of different evidence that will be before the Board. I will briefly canvass it, Chair, because I will be identifying the source of it.

15 CHAIR: All right. Yes.

MR ATTIWILL QC: Do you agree with that?

A. Can you repeat your question?

20

Q. Yes. That security arrangements for the Hotel Quarantine Program were in fact discussed at the meeting of the Board, including by you?

25 A. I don't have a recollection of doing that but I think from the minutes it's evident that I did.

Q. At the meeting of the Board you made it clear that your view was that private security should be the first line of security at hotels and not Victoria Police.

30 A. Can you repeat the question?

Q. Yes. That at the meeting of the Board you made it clear that your view was, as the Chief Commissioner of Police, that private security should be the first line of security at hotels and not Victoria Police?

35

A. No.

40 Q. Your understanding, that is your understanding as the Chief Commissioner of Police, at the end of that meeting of the Board was that there was an agreement between the attendees, including you, with that view that you expressed?

A. That's --- I did not express a preference; I agreed with the plan.

45 Q. And you have given evidence that you supported it?

A. Yes, of course.

Q. After the meeting, at approximately 5.20 pm, you spoke with Commissioner Crisp on the telephone?

A. Correct.

5

Q. And you told him that your view was that private security should be the first line of security at hotels and not Victoria Police. You told him that?

10 A. I told him what the arrangement was. Well, I don't recall the conversation but what I --- from what I am piecing together from the various transcripts, et cetera, is that I would have conveyed to him what I understood the plan to be and that I agreed with the plan.

15 Q. You gave evidence earlier on in answer to Counsel Assisting that the reason you --- and tell me if this is not right because I'm just trying to capture the gist of it --- that the reason why you called Commissioner Crisp at that time and spoke to him was to update him?

A. Yes.

20

Q. I put it to you that the reason why you called Commissioner Crisp at that time is that you knew that he was in the interagency meeting. That's right, isn't it?

A. Yes.

25

Q. And you wanted your view known at that meeting that that was your clear preference. That's true, isn't it?

A. No, that's absolutely untrue.

30

Q. Now, if you could just go to your second statement for a moment, the one in which you list the telephone calls ---

35 A. Yes, now, the second statement, I only have that in an electronic version so it will be difficult for me to bring that up.

40 Q. I might be able to --- if I just tell you something from it, Mr Ashton, it might save time and somebody will stop me if I've got it wrong. What that shows is that at 18.39 on 27 March, you called Rick Nugent and spoke to him for 140 seconds.

A. Late in the day, yes.

Q. And you discussed what happened at the Victorian Secretaries Board, didn't you?

45 A. I don't know whether I did it in that phone call or not. Certainly at some stage I had a conversation with Mr Nugent in that afternoon period. I suspect it would have been before that phone call but I don't remember.

Q. I might just take you to a document which is VPOL.0004.0001.0040. I think you were taken to this. This is Exhibit 168 and it was an exhibit to Chief Commissioner Patton's statement. I want to ask you some questions about what Deputy
5 Commissioner Rick Nugent is recording in this email that he has sent to Grainger and Patton.

I am really just asking you questions about where it starts, "Many thanks Mick" until the end, "Kind regards Rick Nugent". I would like you to read that, please.
10

A. "Many thanks Mick." That section?

Q. Yes. You can read it to yourself, if you like.

15 A. I see. I thought you wanted me to read it aloud.

Yes. Yes, that's fine.

Q. Had you had cause to read that before giving evidence today?
20

A. I think I saw it --- I certainly saw it today, I'm not sure if I --- I'm not sure if that was in my previous pack or not, I would have to have a look.

Q. I just wanted to briefly take you through it:
25

Many thanks Mick

The CCP advised me

30 That's you, Chief Commissioner of Police?

A. Yes.

Q.
35 *.... of this last evening*

So this is referring, because it's an email sent on 28 March at 6.40 in the morning, but it's an email in which he is setting out a conversation with you the night before on 27 March?
40

A. Yes.

Q.
45 *.... and his discussions with VSB.*
Victorian Secretaries Board?

A. Yes.

Q. And it says:

5 *He advised me that the agreed position at this stage is private security will be employed for this health intervention.*

A. Yes.

10 Q. I'm putting it to you that you told Deputy Commissioner Nugent that that was an agreed position?

A. Yes.

15 Q. And then it says:

We agreed CBD motels would make it easier for police responses should we be called, which he advised Andrew (I understand).

20 I just want to ask you some quick questions about that. Can you recall agreeing with Deputy Commissioner Nugent about that matter, that is, using CBD --- it says --- motels to make it easier for police responses? Can you recall having that discussion with him?

25 A. No.

Q. And can you recall advising Commissioner Crisp of that?

A. No.

30

Q. Okay. Now, just to be plain, my final question about that is: is it your clear evidence to the Board that your understanding was, when you left the meeting of the Victorian Secretaries Board, that there was an agreement that private security should be the first line of security; is that right?

35

A. Yes.

Q. And that was something that you had agreed to, too, as an attendee?

40 A. Correct.

Q. You remain of the view that well-trained private security guards are appropriate for use in guarding work?

45 A. Yes.

Q. And I just wanted to put this, just a couple of --- two final things to you. Finally,

you would agree, wouldn't you, that the arrangement in the Hotel Quarantine Program that involved private security guarding the hotels and being the first line of security with police as back-up was in fact supported by you?

5 A. Yes.

CHAIR: That question has been asked and answered, yes.

10 MR ATTIWILL QC: It was agreed to by you. But it was in fact your preferred option too, wasn't it?

A. It didn't come to me expressing that preferred option.

15 Q. But once it came to you, it was your preferred option too, wasn't it?

A. No. You're trying to put words in my mouth. I've said that that was the agreed --- I agreed with that plan and I supported that plan and that was my position.

20 MR ATTIWILL QC: No further questions, Madam Chair.

CHAIR: Yes, thank you.

Mr Moses?

25 MR MOSES SC: Yes. Madam Chair, I just have three short questions to ask the witness. Just so that you know, the proposition that I want to put to the witness is whether in fact it was the Department of Premier and Cabinet that came up with the idea that private security be used as tier 1. I want to take the witness to two
30 documents in order to put that proposition to him, to see whether he accepts that proposition.

CHAIR: Yes, I'll let you do that, Mr Moses.

35 MR MOSES SC: Thank you, Madam Chair.

CROSS-EXAMINATION BY MR MOSES

40 MR MOSES SC: If the witness can be shown the text message that he has previously been shown, which is VPOL.0005.0001.0244.

45 CHAIR: Did you say it was a document that had previously gone up earlier this afternoon?

MR MOSES SC: Yes, it was a text message exchanged between the witness and the Federal Police Commissioner.

Mr Ashton, do you see up on the screen is the exchange that Counsel Assisting took you to earlier? The message I want to direct your attention to is the one sent by you on 27 March 2020 at what appears to be 1.32.49 pm. Do you see that?

5

A. Yes, I do.

Q. That is in the context of after you have provided advice to the Federal Commissioner:

10

Mate my advise is that ADF will do Passenger transfer and private security will be used.

He says:

15

Ok that's new.

And you say:

20

I think that's the deal set up by our DPC. Understand NSW will be a different arrangement. I spoke to Mick F.

Which is of course the New South Wales Police Commissioner.

25

In terms of your best recollection sitting here today, there was a Victorian Secretaries Board later that day on 27 March; is that right, I think that's been your evidence?

A. Yes.

30

Q. And following that, if I can just then take you to a document to refresh your memory, which the counsel for the Department of Premier and Cabinet took you to moments ago, which is VPOL.0004.0001.0040, it's an email sent at 6.40 am on 28 March 2020. You will see there, that's where it asserts that:

35

The [Chief Commissioner] advised me of this last evening and his discussions with VSB. He advised me that the agreed position at this stage is private security will be employed for this health intervention.

Do you see that?

40

A. Yes, I do.

Q. And it goes further to go on to say:

45

We agreed CBD motels would make it easier for police responses should we be called, which he advised Andrew (I understand). DPC also rang me about that point and last night and confirmed that was the arrangement discussed at VSB.

Do you see that?

A. Yes.

5

Q. There are just three propositions I want to put to you. First of all, do you accept that you had no legislative authority to make a decision as to whether Victoria Police or private security would be used by the Department of Health and Human Services in respect of the Hotel Quarantine Program; correct?

10

A. As an initial decision, that's correct.

Q. Secondly, your evidence is that you weren't the one who made the decision to use security as tier 1 and police as support in respect of the Hotel Quarantine Program; correct?

15

A. Correct.

Q. And, thirdly, is it possible --- that is, can you discount the possibility based on the two documents that I have shown you --- that in fact it was the Department of Premier and Cabinet that came up with --- if I can refer to it as --- the deal, by reference to your text message, whereby security guards would be used as tier 1 in respect of the Hotel Quarantine Program and Victoria Police would be support and that all you were asked was to indicate whether you had any issue with that. Is that a possibility, Commissioner?

20

25

MR ATTIWILL QC: I object to the question. It is inviting the witness to speculate on something that his evidence makes plain he knows nothing about.

30

MR MOSES SC: With all due respect to my learned friend, the questions that my learned friend put on behalf of the Department of Premier and Cabinet were speculative. The witness is entitled, I think, to have that proposition put to him, given the manner in which the questions were being put by my learned friend as to whether he can discount that as a possibility, given the fact that there will be evidence being called by the head of the Department and the Premier, so I think I'm entitled to put the proposition to him.

35

CHAIR: Yes.

40

MR ATTIWILL QC: I do maintain the objection because it is just asking this witness to speculate, not based on anything. He has given evidence that he sent a text to the Secretary of the Department of Premier and Cabinet, that he can't recall whether he got a response, he can only recall that the information that he had then within six minutes was that private security would be used --- that's it, no other detail. Then he goes to a meeting with Commissioner Crisp and Minister Neville and is told other things. And there's nothing in any of the material that he has been taken to by Mr Moses that gives any foundation at all to ask this witness to further

45

speculate on anything.

5 So I do object to the question because it is complete speculation and speculation that, to the credit of Mr Ashton, he himself did not choose to engage in, based upon what he could honestly recall.

MR MOSES SC: Madam Chair, can I be heard on that. The witness text messaged:

10 *I think that's the deal set up by our DPC.*

Sent on 27 March.

CHAIR: Yes.

15 MR MOSES SC: He's not a fantasist, it's come from somewhere.

CHAIR: Yes, I understand the point, Mr Moses. I understand and I'm going to confirm that with Mr Ashton. I understand Mr Ashton's evidence on this issue to be that he has no independent recollection of the basis of the contents of that --- of either of those references.

Am I right about that, Mr Ashton?

25 A. That's correct, Madam Chair.

MR MOSES SC: Madam Chair, the proposition that I would like to put to the witness is whether he could discount the possibility, as the Chief Commissioner, that that suggestion in fact came from the Department of Premier and Cabinet. I'm entitled to ask the question.

30 MR ATTIWILL QC: I do object. It's got no --

CHAIR: Yes, I understand, Mr Attiwill. I don't need you to repeat it, thank you.

35 The answer doesn't assist me at all, Mr Moses. If Mr Ashton is telling me he doesn't recollect what the basis of it is, him now going on to guess is not going to assist me at all.

MR MOSES SC: Yes, Madam Chair.

40 CHAIR: You are obviously able to make submissions about that and, as you say, there will be witnesses next week who will be able to speak to that material.

MR MOSES SC: Madam Chair, I don't press the question. I just wanted to raise it so there is no suggestion, when the issue is raised later, that it wasn't a matter put, because there is a complete vacuum of evidence around this, which is unsatisfactory.

CHAIR: Yes, I understand.

MR MOSES SC: Thank you. Thank you, Mr Ashton.

5 MS ELLYARD: Madam Chair, I understand there is a brief matter to be raised on behalf of the Department of Justice and Community Safety.

DR HANSCOMBE QC: Thank you, Ms Ellyard. If the Board please, I seek leave to ask only two questions around the word "preference".

10

CHAIR: Yes. Yes, I'll allow you the opportunity to do that, Dr Hanscombe.

DR HANSCOMBE QC: Thank you.

15

CROSS-EXAMINATION BY DR HANSCOMBE QC

20 DR HANSCOMBE QC: Mr Ashton, you have strenuously resisted all afternoon the attribution to you of the view that it was the preference of Victoria Police that private security guards be used; correct?

A. Yes.

25 Q. You have said, "Well, I was fine with the decision. Grainger saying that's a preference, that's his decision, he's a senior policeman, he can make that decision." But he wasn't saying that's his personal view, was he? He was attributing that to the organisation. Do you agree?

30 A. Yes, I think he said "our" in his words, so yes.

Q. Well, "our" means the organisation in that context, doesn't it? He's the liaison of the Victoria Police in the SCC?

35 A. I agree with you, yes.

Q. He's not in a position to express a view on behalf of the organisation unless the organisation has a view. Do you agree with that?

40 A. No, not entirely. He would be looking to express a view that would be an organisational view. But he is quite entitled at his level, at Assistant Commissioner level, to express an opinion and a view if he wished to.

45 Q. Okay. At 4.5 of your witness statement, a Superintendent in an email you were taken to, says:

CCP [that's you] recommendation that private security is to be the first line of

security.

Do you recall that?

5 A. Well, that's in the statement of that Superintendent.

Q. Yes, that's so. And you recall seeing the email?

10 A. Only in preparation for this evidence. I wasn't part of the email loop, no.

Q. No, I know that. But you've seen it today. It's been put up on the screen, hasn't it?

15 A. Yes, that's correct.

Q. Counsel Assisting asked you that and you said words to the effect --- I couldn't write fast enough to take it verbatim --- "My position to Crisp is that I was fine with the decision. Grainger saying that's the preference, that's his decision. But she, that's the Superintendent, is 'escalating'" --- that was your word --- "to a recommendation."
20 You said that to Counsel Assisting?

A. Yes, that's right.

25 Q. Now, a Superintendent is some ranks down from you --- well, from your former rank. Do you agree?

A. Yes.

30 Q. And yet you say that's her escalating a view she attributes to you. It's quite a strong escalation; do you agree?

A. It's a lot different to my position, yes.

35 Q. That would not be a thing, I suggest to you, that a person with the rank of Superintendent would do unless she had a basis to do it. And the basis she had to do it was that you did in fact have such a preference. Do you want to comment on that?

A. I have already --- I have already explained that, that that's not the case.

40 DR HANSCOMBE QC: I have nothing further, if the Board please.

CHAIR: Thank you, Dr Hanscombe.

45 MS ELLYARD: Thank you, Madam Chair. I think we are at the end of any further applications to cross-examine. I see Mr Star, I apprehend he may have some matters which are not yet in evidence and to the extent that that's the case I understand he would wish to call evidence of those matters.

MR STAR QC: Thank you, Madam Chair. I will be relatively brief. I think I have got four matter by way of re-examination.

5 CHAIR: You will appreciate that the term "relatively brief" has taken on a different meaning today, Mr Star.

MR STAR QC: It has, Madam Chair, but not by me. I will try and --

10 CHAIR: No, by me.

MR STAR QC: If the Board please, I'll try and come within the definition of brief.

CHAIR: Thank you.
15

CROSS-EXAMINATION BY MR STAR QC

20 MR STAR QC: The first point, Mr Ashton, you were asked some questions about the 2.00 pm meeting with the Minister and Commissioner Crisp. And in the transcript, I think it's at or around page 1667 line 20, you said you raised the matter with Commissioner Crisp because you needed to know, or words to that effect, or that substance.

25 A. Yes.

Q. Why did you need to know? Why did you need to know and what did you need to know?
30

A. Well, what the police role was going to be, because we would have had to put arrangements in place based on what he was telling me. So I needed to know so I could convey that to Deputy Commissioner Nugent.

35 Q. And if, for instance, you were --- you have given evidence of what you say you were told. But if you were told something else, such as that police were to be the first line and to be used in the program, what would this --- why would you need to know that? What would that cause you to do?

40 A. Clearly there's a lot more work involved in that from a policing perspective because we would have had to understand a lot more about what was going to be required of us. So there's a lot more required if that was going to be the case.

45 Q. Thank you. You have been asked about the VSB meeting and at some point in the [draft] transcript, I think it was page 1671, around line 34, you did refer to that you have seen some VSB notes. Just for clarity, I just want to be clear, so the Board knows what you have seen and what you haven't seen, could I ask firstly that you ---

I believe it's document DPC.0013.0001.0001, that document.

CHAIR: Have you got those documents with you, Mr Ashton, in hard copy?

5 A. Gee, Madam Chair, I could well have in this labyrinth of folders I have been provided with but it might take me some time to find them.

MR STAR QC: I will see if I can short-circuit it and Counsel Assisting may be able to assist me. It may be that these are attached to a witness next week so perhaps they are not in the system. But otherwise I will try to deal with it in another way. But he has referred to certain notes and I think it is important to take him to those notes, given the cross-examination of Mr Ashton.

MS ELLYARD: Perhaps, Madam Chair, if they are not in the hearing book, as I apprehend they are not, Mr Star can just put the contents to Mr Ashton for his comments.

CHAIR: Yes.

20 MR STAR QC: Thank you. Mr Ashton, have you seen the formal minutes of the VSB at 27 March from 4.00 to 5.00 pm? Do you recall seeing a document which is relatively brief which has the formal minutes?

A. Yes.

25 Q. Do you recall also seeing some typed notes of an adviser, which is not a running transcript but is notes taken by an adviser of things said in that meeting?

A. Yes.

30 Q. And they are the two documents to which you're referring to when you say that you don't have an independent recollection but you accept what's in the notes insofar as they refer to you?

35 A. Yes. There were my own notes from the meeting as well.

Q. I will have to read this out to you. In the typed notes on page 3, the notes of the adviser, there is a bullet point "Spot checks --- sorry, I'll start again. There are initials GA, to refer to yourself. It says:

40 *Spot checks - ADF will be assisting in the spot-checking process from what the PM and the Premier confirmed - in addition to the other states we're trying to keep the ADF presence back of house - to prevent the ADF presence obvious to the community etc.*

45 A. Yes.

Q. And then there's a second bullet point:

People coming in from OS - the process that Paul is coordinating - police wont guard but will be doing the checks?

5

Do you recall seeing those?

A. I saw those notes, yes.

10 Q. Does that refresh your memory as to what was being discussed there? I will read it out to you again:

People coming in from OS - the process that Paul is coordinating - police wont guard but will be doing the checks?

15

A. Yes, that's --- it doesn't help me in terms of that recollection of that but when I read that it's consistent, I think, with what I sought to do was --- from the notes, was I was clarifying what the police position was.

20 Q. And this --- you also recall that in these notes, that passage is under a section typed "Questions?" Can you recall as to what you were doing at this stage? It has been put to you that you have been arguing a case, in effect. And this is in a section headed "Questions?" Can you say in what context this topic is being raised by you?

25 A. Well, as a clarifying point from the Minister. The way those meetings are normally conducted is, you know, you'd go around the various Secretaries, who would update on their part of whatever the issue was that we would be talking about and at the end of those various updates there would be an opportunity for other Secretaries, or in my case as the Chief Commissioner, to clarify points or ask
30 questions.

Q. Now, in the first bullet point I referred you to there was reference to what the PM and Premier confirmed. As you know, this meeting with the VSB is at 4.00 pm and you had your meeting earlier at 2.00 pm. Do you recall that there were public
35 announcements that day of the Prime Minister and separately the Premier?

A. Yes, there were two separate press conferences held, one by the Prime Minister, which was about 2.30 pm, and then there was one later in the afternoon by the Premier, I think that was about 3.30.

40

Q. Did you watch those conferences?

A. I specifically recall watching the Prime Minister's one, I do recall that. But I --- it's highly likely I did watch the Premier's press conference but I don't have a specific
45 recollection of it. But in my office I had the TV on, which is up fixed to the wall, and I have that always playing on the news channels. And as the --- these press conferences come up, I try and listen in on what's being said. So it would be highly

likely I did listen to the Premier's presser as well, but I just don't have a specific recollection of doing so.

5 Q. Can you recall that mention was made in the Premier's conference, at or around between 3.00 and 3.30 that day, of private security being used?

10 A. I certainly subsequently have listened to that as part of preparation for giving evidence, so yes, I'm aware of that now certainly. I don't know whether --- I don't recall specifically watching the press conference at the time, though.

Q. But can you recall that it was in the public domain or known to others at the VSB meeting that there had been a public announcement about the program, including the use of private security?

15 A. Well, it's a matter of fact that that was the case, yes.

20 Q. Finally, you have said a number of times in your evidence that you were comfortable with the decision involving the use of private security with police back-up. I just want to give you the opportunity to say why you were comfortable with it.

25 A. Well, I was comfortable with that plan because, as I understood it, the private security would be operating at the hotels, so that people couldn't just come in and go as they liked; and that if there was any problem, we would be very, very close by, by having it in the CBD and that we could provide support as required. That seemed to me to be a very sensible plan. It's one in which Victoria Police normally works with security agencies in that regard, security companies in that regard, where for example at major sporting events, you know, the entry and exits are managed by the private security and, if there's a security escalation, it comes to police. That's a mature
30 model in which we work with security all the time and that seemed to be an appropriate arrangement in this case to me.

MR STAR QC: If the Board please, no further questions.

35 CHAIR: Thanks, Mr Star.

MS ELLYARD: Thank you, Madam Chair. I ask that the witness be excused with our thanks, unless there are any matters that you have for him?

40 CHAIR: No. Thank you, Mr Ashton. Thank you for your attendance at the Board. You are now excused. You can turn your camera and your microphone off. Thank you.

45 A. Thank you, Madam.

THE WITNESS WITHDREW

MS ELLYARD: Madam Chair, that concludes the evidence for today. Perhaps
fortuitously, given that we have trespassed on the Board's staff and stenographer's
5 time, we are not sitting --- we are sitting at 2 o'clock tomorrow, so everyone can have
a break. The witness tomorrow afternoon will be Dr Rob Gordon. His statement is
on the hearing book.

CHAIR: Thank you, Ms Ellyard. I just do acknowledge as well the work of the staff
10 who have been supporting the work of the Board and have had a very long day today,
without a mid-morning break and now working until 5.30, so I thank them and also
apologise for that very long day. I'm sure they will be grateful to know that the
Board doesn't recommence sitting until 2.00 tomorrow. So thank you to all of the
15 staff who have supported the work of the Board, of course not just today but all the
way through. We will adjourn now until 2.00 tomorrow.

MS ELLYARD: If the Board pleases.

20 **HEARING ADJOURNED AT 5.32 PM UNTIL 2.00 PM ON FRIDAY,
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