

Board of Inquiry into the COVID-19 Hotel Quarantine Program

SUBMISSIONS OF THE CHIEF COMMISSIONER OF VICTORIA POLICE

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SUBMISSIONS OF THE CHIEF COMMISSIONER OF VICTORIA POLICE

A. OVERVIEW OF SUBMISSIONS

1. Victoria Police makes submissions concerning findings that should be made in relation to three issues.
2. *First*, the decision to engage private security in the Hotel Quarantine Program (**HQP**) (Part B, B.2 in particular), including decisions relating to the expanding scope of private security in the HQP (Part B.3), and the effect of decisions having been made outside the emergency management framework (Part B.4).
3. *Second*, the role that Victoria Police in fact performed in the HQP (Part C).
4. *Third*, the use and potential use of Australian Defence Force (**ADF**) personnel in Op Soteria (Part D).
5. These submissions by Victoria Police are made to assist the Board. It has been necessary to refer to the evidence of various individuals and agencies involved in the HQP. When doing so, Victoria Police notes that it does not do so for the purpose of seeking to attribute blame to any person or agency. Victoria Police agrees with Counsel Assisting that there can be no suggestion that all those engaged in the setting up of the HQP worked otherwise than with the best of intent and to the best of their ability.¹

A.1 Overview of the *first* issue—the decision to engage private security

6. Counsel Assisting have invited the Board to make these findings:²

The conclusion that private security would be the first tier of enforcement in the Hotel Quarantine Program was not made before the State Control Centre meeting; no one person made that decision; it can be best understood as a creeping assumption or default consensus reached in the State Control Centre after the preference of Victoria Police was known; it was not Victoria Police's decision but Victoria Police's clear position that security would be preferable was a substantial contributing factor to the consensus. It follows that there was no proper consideration by anyone given to whether it was appropriate to rely so heavily on private security for what was a detention program, rather than a sporting event or a voluntary gathering. It was reasonable for DJPR to have understood that they had been tasked to appoint private security after the State Control Centre.

7. Victoria Police respectfully takes issue with certain aspects of these recommended findings and submits that, on the available evidence, the Board should find that a decision was made to engage private security, and that that decision was undoubtedly made before the 4:30 pm State Control Centre (**SCC**) meeting on 27 March 2020. Indeed, it is likely that the decision was made even before the 2:00 pm meeting that day between Min Neville, Commr Crisp, and CCP Ashton. Alternatively, if not satisfied there was a "*decision*" *per se*, the Board should find

¹ P-2196.46-47 (Day 26, 28 September 2020).

² P-2290.33-2291.4 (Day 26, 28 September 2020).

that a conclusion or settled consensus was reached prior to the SCC meeting, unaided by any view (however expressed) by Victoria Police. The specific findings sought by Victoria Police are set out at [18] in Part B.1 below.

8. The findings sought by Victoria Police are most clearly evidenced by:
- (1) the plans and arrangements made by the Department of Jobs, Precincts and Regions (**DJPR**) for private security prior to the 4.30 pm SCC meeting;³
 - (2) each of Commr Crisp, CCP Ashton,⁴ and Minister Neville's understanding that a decision to use private security in the HQP had already been made prior to the first SCC meeting and (for Min Neville and CCP Ashton) that that decision had been made prior to their meeting at 2:00 pm;⁵
 - (3) the model for HQP announced by the Premier at 3:20 pm;⁶
 - (4) there having been no proposal to or request of Victoria Police, prior to or at the 4:30 pm SCC meeting, that it guard returned travellers in the HQP.
9. Having regard to the evidence on these matters (see Part B.2 below), the Board should find that the things said by AC Grainger in the 4:30 pm SCC meeting were supportive of a pre-existing decision (that private security should be the first tier of enforcement), but they did not cause or constitute it (since it happened earlier), nor were they a substantially contributing factor. The discussion at the 4:30 pm SCC meeting was a natural continuation of the decision or arrangements being considered, understood, or assumed before that meeting.
10. Relatedly, contrary to the submission of Counsel Assisting, CCP Ashton did not misremember any sequence of events in giving evidence that he understood a decision had been made to engage private security prior to the SCC meeting. His evidence is supported by contemporaneous documents (text messages, meeting minutes).
11. Counsel Assisting also made submissions regarding the appropriateness of additional duties that private security were ultimately contracted to perform,⁷ and further submitted that there should be findings as follows:⁸

As the Hotel Quarantine Program developed and the roles allocated to security companies evolved, no one turned their mind to whether they remained a suitable workforce for those roles because no one understood themselves to have been the original decision maker. Absent very clear oversight by persons properly trained in

³ See Items 3, 4, 19 and 23 in Victoria Police's Chronology: see Attachment A to these submissions.

⁴ Mr Graham Ashton APM was, then, the Chief Commissioner of Police (**CCP**). As the Board knows that position is presently held by CCP Patton. In these submissions Mr Ashton will be referred to by reference to the position he held at the relevant time—*i.e.*, as CCP Ashton.

⁵ See, in the case of Min Neville, Ex 196 (Statement of the Hon. Lisa Neville MP) at [40]; in the case of Commr Crisp, Ex 144 (First Statement of Andrew Crisp) at [47]; in the case of CCP Ashton, Ex 173 (First Statement of Mr Graham Ashton APM) at [2.2], [2.4].

⁶ See Item 19 in Victoria Police's Chronology: see Attachment A to these submissions.

⁷ P-2215.1-19 (Day 26, 28 September 2020).

⁸ P-2291.17-25 (Day 26, 28 September 2020). Emphasis in underlining added.

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infection prevention and control and continued training for all on-site, it was not appropriate to use security guards for the roles that they ultimately performed in the Hotel Quarantine Program.

12. Victoria Police submits in response:

- (1) There is no basis for linking decisions as to the development of the role of security companies with the original decision to engage private security, let alone with the absence of an understanding of who made that latter decision.
- (2) The decision to engage private security in the HQP for “*security*” should not be conflated with subsequent decisions to use private security for other tasks, which were made without any consultation with Victoria Police. Rather, it is clear that subsequently-issued DHHS and DJPR policies in relation to smoking, exercise, and fresh-air breaks resulted in an expansion in the role of private security.

This issue is addressed in Part B.3 below commencing at [84].

13. Finally in relation to the first issue, Counsel Assisting submitted that the Board should make a finding as follows:⁹

the Hotel Quarantine Program was properly understood as part of the State’s response to the public health emergency and properly allocated to the Department of Health and Human Services as control agency in accordance with the State Emergency Response Plan.

14. Victoria Police agrees that the HQP should have been understood as part of the State’s emergency management response from the outset. Various State Government Departments were informed of the decision to quarantine international travellers and commenced planning. However, the Emergency Management Commissioner (Commr Crisp) and the Chief Commissioner of Police (CCP Ashton) were not formally or promptly informed. It was some time before it was recognised that the HQP should be managed using the Emergency Management Framework (primarily, at the meeting of the Victorian Secretaries’ Board (**VSB**) at 4:00 pm on 27 March 2020). In a day “*measured in minutes*,”¹⁰ the emergency management framework should have been immediately engaged, and Commr Crisp and CCP Ashton promptly informed. The fact that there was such a delay strongly indicates that those involved in setting up the program were working on the basis that private security would be used,¹¹ rather than police (who, if they were to be engaged, would have to be mobilised urgently, such that early notification to them of this fact would be critical).

⁹ P-2289.40-44 (Day 26, 28 September 2020).

¹⁰ Mr Phemister’s evidence at P-1825.43 (Day 22, 22 September 2020); referred to in Counsel Assisting’s closing submissions at P-2197.31.32 (Day 26, 28 September 2020).

¹¹ See Items 3, 4, 19 and 23 in Victoria Police’s Chronology: see Attachment A to these submissions.

A.2 Overview of the *second* issue—the activities of police and security in the HQP

15. Counsel Assisting submitted as follows:

It is also clear that no formal request for 24/7 police attendance was ever received by police. And the Board can find that that's the case.¹²

...

... those assisting you don't invite you to conclude that there should have been for enforcement purposes necessarily a 24/7 presence by Victoria Police.¹³

16. Victoria Police agrees that these findings should be made. In addition, it submits that the escalation protocol developed by Victoria Police in consultation with DHHS and DJPR in early April 2020 was effective for its particular purpose (see Part C.2 below commencing at [105]). Victoria Police performed (and went beyond) its operational role under Op Soteria (see Part C.3 below commencing at [111]).

A.3 Overview of the *third* issue

17. In relation to the *third* headline issue (see [4] above), Victoria Police submits that, insofar as the Board makes any finding about why ADF was not involved earlier or to a greater extent, there should not be a finding that Victoria Police resisted the involvement of the ADF. See Part D, below.

B. THE DECISION TO ENGAGE PRIVATE SECURITY**B.1 The findings sought by Victoria Police**

18. Victoria Police makes submissions in support of the following findings:

- (1) For reasons given in Part B.2, a decision was made to engage private security, and that decision was made before the 4:30 pm SCC meeting, and indeed before the 2:00 pm meeting between Min Neville, Commr Crisp, and CCP Ashton. Alternatively, if the Board is unable to find that there was a decision, but considers there was nonetheless an assumption or default consensus, that too was reached prior to the SCC meeting, without the input of any view expressed by Victoria Police.
- (2) For reasons given in Part B.3, the decision that was made was to engage private security for a core security role—and that decisions leading to "*function creep*" (e.g., fresh air breaks, carrying luggage) were separately and later made, and again without reference to Victoria Police.

These findings should be made in lieu of the findings sought by Counsel Assisting referred to in [6] above.

¹² P-2220.19–21 (Day 26, 28 September 2020).

¹³ P-2213.38–38 (Day 26, 28 September 2020).

19. For completeness, it is noted that on 27 March 2020, the current Chief Commissioner of Police (CCP Patton), who was then a Deputy Commissioner, was not the State Police Commander and therefore had no involvement in any decision, consensus or arrangements in relation to any aspect of the HQP. The evidence is that he was at home quarantining and did not have responsibilities relating to the Covid-19 Pandemic until 30 March 2020.¹⁴ The Board should record that CCP Patton had no involvement in any issues relating to the proposed use of private security in the HQP.

B.2 The evidence relevant to findings about the engagement of private security

20. Victoria Police did not on 27 March 2020, and does not now, know the identity of the person, persons, or agency that made a decision to engage private security at all, or as the first tier of enforcement.
21. To make findings about the decision or assumption or consensus about private security, it is necessary to conduct an examination of the evidence of the events of Friday, 27 March 2020. The Board is also referred to the chronology of relevant evidence for 27 March 2020 in Attachment A.

B.2.1 Events prior to 2:00 pm on 27 March 2020

22. A meeting of National Cabinet commenced in the morning of 27 March 2020.¹⁵ Around midday, Mr Eccles stepped out of the meeting and called Mr Phemister to inform him of the decision of National Cabinet to require all travellers arriving in Australia from overseas to quarantine at a designated facility for a mandatory 14-day period.¹⁶ While it was evidently a short conversation, Mr Eccles told Mr Phemister there was a need for hotels and for persons with deep logistical experience to work on establishing the HQP.¹⁷ Mr Phemister understood that Mr Eccles was giving him a problem and that he was tasked with finding the solution.¹⁸ Critically, Mr Phemister understood from Mr Eccles's call that DJPR had "*lead responsibility for delivering the Program.*"¹⁹
23. Shortly after, also around midday, Mr Phemister telephoned Unni Menon (DJPR), told him that the program was likely to be implemented, and asked him to ascertain which hotels would be available to provide accommodation, including their capacity to provide meal, security and cleaning services.²⁰ Mr Menon then sought assistance from his colleagues to make these arrangements. An email at 12:17pm on 27 March 2020 stated:²¹

¹⁴ Ex 169 (Statement of CCP Patton APM), [2.7]–[2.11].

¹⁵ Item 28 of Counsel Assisting's Chronology.

¹⁶ Item 2 in Victoria Police's Chronology: see Attachment A.

¹⁷ Ex 177 (Statement of Christopher Eccles), [78].

¹⁸ Ex 184 (Statement of Simon Phemister), [26].

¹⁹ Ex 184 (Statement of Simon Phemister), [26].

²⁰ Ex 49 (Statement of Unni Menon) at [12]. See Mr Menon's evidence at P-631.26-40; P-633.41–634.33 (Day 10, 21 August 2020).

²¹ Ex 37 (Attachments to Statement of Katrina Currie), DJP.104.008.6765, underlining added.

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Unni is going to write to us shortly with potential requirements for a cleaning and security workforce to manage people who might be quarantined in hotel rooms.

We might need to act quickly depending on govt policy choices in this space so would be good to think through options. It would be in metro and regions.

I need a point person who can work with Unni.

24. At around 12:30 pm, Mr Phemister met with a number of DJPR executives, including Ms Claire Febey.²² Ms Febey's contemporaneous notes of this meeting, which Mr Phemister accepted as accurate, indicate that DJPR was urgently working up a model for the entire process including private security.²³

25. Ms Febey's notes included:²⁴

I will responsible [sic] for the whole process

Everything

Sanitation, food services, health care, security

They need to be safe, but we need them to stay where they are

Simon will call Graeme [sic] Ashton, need a regime that makes sure they adhere to their quarantine.

Ms Febey's notes also refer to "*Police and security*".²⁵

26. Mr Charles Rankin, from the Office of the Secretary (DJPR), also took contemporaneous notes of this meeting and these record:²⁶

Claire will be responsible for the DJPR process. Hotels to provide sanitation, health, security, catering. Medical support, concierge. They need to provide a full suite of service. They cannot go outside and wander. SP to call Graham Ashton. Need to ensure they abide by their quarantine.

27. This evidence shows that DJPR immediately commenced a planning process and was aware that security would be an input into the HQP. DJPR's initial plan was to contract with hotels for the provision of security, cleaning, and catering. Mr Menon prepared a spreadsheet in which he recorded the respective hotels' capacities to provide these services.²⁷

28. The Board should note that DJPR was proceeding to make plans with respect to security without contacting or seeking input from Victoria Police. Both sets of notes of the 12.30 pm meeting record that Mr Phemister was to call CCP Ashton. However, Mr Phemister did not call

²² Item 4 in Victoria Police's Chronology: see Attachment A.

²³ Ex 184 (Statement of Simon Phemister), [31].

²⁴ Ex 33 (Attachments to Statement of Claire Febey), DJP.202.002.0001 (Tab 1) at .0001. Underlining added.

²⁵ Ex 33 (Attachments to Statement of Claire Febey), DJP.202.002.0001 (Tab 1) at .0003.

²⁶ Ex 33 (Attachments to Statement of Claire Febey), DJP.201.002.0001 (Tab 2). Underlining added.

²⁷ Ex 50 (Attachments to Statement of Unni Menon), JP.102.102.007.9907 (Tab 4). Mr Menon says he developed this spreadsheet on 27 March 2020 and circulated it the following day: Ex 49 (Statement of Unni Menon), [26].

CCP Ashton on 27 March 2020.²⁸ Despite this meeting occurring at 12:30 pm, the only communication from Mr Phemister to CCP Ashton in evidence is a WhatsApp message at 3:30 pm ([43]–[44] below). CCP Ashton communicated with Mr Phemister at the VSB meeting at 4.00 pm, but there is no evidence that Mr Phemister sought CCP Ashton’s views at that time about who should guard hotels.

29. At around 1:00 pm, CCP Ashton received a phone call from an interstate colleague informing him of the decision of National Cabinet.²⁹ The actions of CCP Ashton subsequent to him receiving this information indicate that he was attempting to determine what role Victoria Police had been assigned to perform rather than expressing any view as to what role it should be assigned in the HQP.

(1) At 1:12 pm, CCP Ashton sent a text message to Commr Kershaw (AFP) stating “*Mate. Question. Why wouldn’t AFP guard people At the hotels??*”.³⁰

(2) At 1:16 pm, CCP Ashton sent a text message to Mr Eccles letting him know he was “*getting word from Canberra*” about the HQP and the suggestion that Victorian arrivals are conveyed to a hotel and “*guarded by police for 14 days*” and asked if Mr Eccles knew anything about this.³¹

30. There is no direct evidence that Mr Eccles responded. However Mr Eccles gave evidence that his usual practice was to respond or, if he could not, have someone from his Department respond to any contacts from CCP Ashton.³² In cross-examination, Mr Eccles said that he had not made enquiries as to whether anyone in DPC contacted CCP Ashton on 27 March 2020 in response to CCP Ashton’s 1:16 pm text message.³³

31. It is evident that between 1:16 pm and 1:22 pm someone had given information to CCP Ashton of arrangements to use private security, although he could not recall who gave him that information or advice.³⁴ CCP Ashton has obtained his mobile telephone billing records but these only include incoming calls from other Victoria Police executives.³⁵ Neither CCP Ashton nor Victoria Police have access to records of any other incoming calls.³⁶ The text message sent at 1:22 pm by CCP Ashton to Commr Kershaw (AFP) is contemporaneous evidence of

²⁸ P-1864.38-41 (Day 22, 22 September 2020).

²⁹ Ex 173 (Statement of Graham Ashton), [2.1] and [5.1].

³⁰ Item 6 in Victoria Police’s Chronology: see Attachment A. Ex 174 (Attachments to First Statement of Graham Ashton), VPOL.0005.0001.0244.

³¹ Item 7 in Victoria Police’s Chronology: see Attachment A. Ex 174 (Attachments to First Statement of Graham Ashton), VPOL.0005.0001.0140.

³² P-1795.46–P-1797.30 (Day 21, 21 September 2020).

³³ P-1795.22–30 (Day 21, 21 September 2020).

³⁴ P-1663:37–1664:3 (Day 19, 17 September 2020), item 8 in Victoria Police’s Chronology: see Attachment A.

³⁵ Ex 175 (Second Statement of Graham Ashton) at [3]; and see also P-1661.34 to 1662.3 (Day 19, 17 September 2020).

³⁶ Under Part 3-3 of the *Telecommunications (Interception and Access) Act 1979* Victoria Police can access telephone records for law enforcement purposes, but in the present context they are in no different position than any other telecommunications customer.

CCP Ashton's then state of knowledge. It records that the advice to CCP Ashton at that time was that:³⁷

... ADF will do Passenger transfer and private security will be used.

32. This is contemporaneous documentary evidence that private security was the proposed or likely model in the HQP, well before the 4:30 pm SCC meeting. There is no other reasonable explanation for this objective evidence. Counsel Assisting's submissions and proposed findings do not have regard, or give sufficient weight, to this evidence: see Part B.2.5 further below.
33. Following a call with Commr Fuller (NSW Police), at 1:32 pm CCP Ashton sent a text message to Commr Kershaw saying that the arrangement that ADF would do passenger transfer and private security would be used was, he thought, "*the deal set up by our DPC.*"³⁸
34. The Board has before it evidence of DPC communicating about security at and around this time. At 1:19 pm, a staff member from the Premier's Private Office (**PPO**) sent a text message to Mr Ada, Deputy Secretary (DPC), referring to "*security*" and that "*Simon is getting to me ASAP*", which is likely a reference to Mr Phemister.³⁹ This evidences communications in relation to logistical aspects of the HQP, including security, as between DPC, DJPR, and the PPO. Relevantly, these communications were ongoing at a time prior to any input being sought from Victoria Police. They were ongoing even before the Premier's announcement (which referred to private security), a few hours later.
35. At 1:34 pm, Commr Crisp sent a text message to CCP Ashton regarding "*ADF support to state police for COVID19.*"⁴⁰ CCP Ashton immediately telephoned Commr Crisp.⁴¹ CCP Ashton did not have a specific recollection of that call, but thought he likely informed Commr Crisp of what he had heard about an impending announcement regarding the HQP and what he thought he knew about that announcement.⁴²
36. Accordingly, the evidence indicates that CCP Ashton was attempting to find out the proposed scope of involvement for Victoria Police, if any, in the HQP and that he was talking to various law enforcement counterparts in order to answer that question. In the few minutes between 1:16 pm (when CCP Ashton texted Mr Eccles seeking information in relation to security arrangements) and 1:22 pm (when CCP Ashton texted Commr Kershaw), CCP Ashton

³⁷ Ex 174 (Attachments to First Statement of Graham Ashton), VPOL.0005.0001.0244. Item 10 in Victoria Police's Chronology: see [Attachment A](#).

³⁸ Ex 174 (Attachments to First Statement of Graham Ashton), VPOL.0005.0001.0244. Item 13 in Victoria Police's Chronology: see [Attachment A](#).

³⁹ P-2129.40–2131.7 (Day 25, 25 September 2020). Item 9 in Victoria Police's Chronology: see [Attachment A](#).

⁴⁰ Ex 174 (Attachments to First Statement of Graham Ashton), VPOL.0005.0001.1283. Item 14 in Victoria Police's Chronology: see [Attachment A](#).

⁴¹ Item 15 in Victoria Police's Chronology: see [Attachment A](#).

⁴² P-1665.20–24 (Day 19, 17 September 2020).

received information that private security was to be used, and that this was a deal set up by DPC.

37. The evidence does not establish that CCP Ashton was asked for or shared any view of the appropriateness or otherwise of engaging private security or of Victoria Police's preferred role in the HQP. Indeed, the contemporaneous evidence shows that despite work being done by, and communications between, various Departments, CCP Ashton was not at that time contacted or consulted. Given the shortness of available time, to not consult Victoria Police for several hours, while at the same time progressing the private security model, is highly suggestive of the fact that those involved at the earliest stages with setting up the HQP had by this time already decided (alternatively, assumed) that private security would be engaged and its role was as the first line of security.

B.2.2 The 2:00 pm meeting of Min Neville, Commr Crisp, and CCP Ashton

38. At 2:00 pm, a regular meeting between Min Neville, Commr Crisp and CCP Ashton occurred.⁴³ The following is the material evidence in relation to this meeting (noting the difficulties for the Board as there were other people present who were not called).⁴⁴

- (1) Private security was discussed. CCP Ashton's notes of the meeting state "*Hotels. / Security guards / Police back up.*"⁴⁵ Commr Crisp's notes simply state "*ADF / Private Security*" and "*DJPR*" and, in contrast with the notes that follow, do not attribute the comments to Victoria Police or indeed anyone.⁴⁶
- (2) CCP Ashton's evidence is that at the start of the meeting, he was attempting to gather information about the role of Victoria Police.⁴⁷ He explained that it was necessary for him to do this because, depending on what the role was proposed to be, a lot of work would be required to put arrangements in place.⁴⁸
- (3) Both Min Neville and CCP Ashton gave evidence that it was Commr Crisp who said that private security would be used, with police in support.⁴⁹

⁴³ Item 16 in Victoria Police's Chronology: see Attachment A. Commr Crisp had a "Teams" invitation for 1:30 pm, but he did not have a recollection of whether it was 1:30 pm or 2:00 pm that the meeting started (P-1403.8–12). CCP Ashton's notes record that the time of the meeting was 1400 hrs (Ex 174 (Attachments to First Statement of Graham Ashton APM), VPOL.0005.0001.0057 at .0064), and his phone records show that he was on the telephone (including to Commr Crisp) for a good part of the time between 1:30 pm and 2:00 pm (Ex 175 (Second Witness Statement of Mr Graham Ashton APM), [4]) and so would not have been at the same time in a "Teams" meeting. Accordingly the Board should find that the meeting began at 2:00 pm, and not 1:30 pm on 27 March 2020.

⁴⁴ Such as (amongst others) Corri McKenzie, Deputy Secretary, DJCS.

⁴⁵ Ex 174 (Attachments to First Statement of Graham Ashton APM), VPOL.0005.0001.0057 at .0064.

⁴⁶ Ex 148 (Attachments to Third Statement of Andrew Crisp), DOJ.514.001.0001.

⁴⁷ See P-1666.

⁴⁸ P-1705.20–42 (Day 19, 17 September 2020).

⁴⁹ In the case of CCP Ashton, P-1665.46–1667.21 (Day 19, 17 September 2020). In the case of Min Neville, P-1951.31–46 (Day 23, 23 September 2020).

- (4) Commr Crisp stated that it was unlikely that he brought up private security as, to his recollection, he did not learn of their involvement prior to the meeting.⁵⁰ However, Commr Crisp had a telephone discussion with CCP Ashton at 1:35 pm,⁵¹ a minute after Commr Crisp had texted CCP Ashton with his intelligence from ADF colleagues. CCP Ashton gave evidence that he would have conveyed to Commr Crisp the information he then had at hand (see [35] above). Given Min Neville and CCP Ashton both recalled the 2:00 pm meeting, whereas Commr Crisp did not,⁵² the Board should find that Commr Crisp (like CCP Ashton) had made inquiries concerning the use of private security,⁵³ so that he was able to convey what he had learned during the meeting.
- (5) Min Neville's recollection is that CCP Ashton did not express any particular view, recommendation or preference as to security arrangements in the hotels.⁵⁴
- (6) Significantly, each of Commr Crisp, CCP Ashton, and Min Neville understood that a decision had already been made, prior to the SCC meeting that private security would be used in the HQP.⁵⁵ Indeed Min Neville and CCP Ashton considered that it had been made before the 2:00 pm meeting.⁵⁶

B.2.3 After 2:00 pm and before the 4:30 pm SCC meeting

39. At about 2:30 pm, the Prime Minister held a press conference announcing the decisions of National Cabinet. After this (at an unknown time prior to the VSB meeting at 4:00 pm), DPC conducted a briefing regarding the National Cabinet meeting with other senior public servants, including DHHS staff.⁵⁷ No one from Victoria Police was there—further evidence of arrangements being progressed without reference to Victoria Police.

⁵⁰ P-1368–1369 (Day 17, 15 September 2020).

⁵¹ Item 15 in Victoria Police's Chronology: see Attachment A.

⁵² P-1368.10–14 (Day 17, 15 September 2020).

⁵³ While DPC.0027.0001.0002 did not go into evidence, Min Neville was cross-examined about the content of that document in a way that discloses that at around 2:04 pm, Commr Crisp was in contact with DPC in relation to use of the Australian Defence Force (P-1955.1–42 (Day 23, 23 September 2020)). It is of course possible that there were other communications between Commr Crisp and DPC.

⁵⁴ Ex 196 (Statement of the Hon. Lisa Neville MP), [58].

⁵⁵ See, in the case of Min Neville, Ex 196 (Statement of the Hon. Lisa Neville MP) at [40] and [60], P-1953.1–9, (Day 23, 23 September 2020); in the case of Commr Crisp, Ex 144 (First Statement of Andrew Crisp) at [47]; in the case of CCP Ashton, Ex 173 (First Statement of Graham Ashton APM) at [2.2], [2.4], P-1684.40–27 (Day 19, 17 September 2020).

⁵⁶ Ex 196 (Statement of the Hon. Lisa Neville MP) at [40], P-1953.1–9, (Day 23, 23 September 2020); Ex 173 (First Statement of Graham Ashton APM) at [2.2], [2.4], [4.2], P-1684.40–27 (Day 19, 17 September 2020).

⁵⁷ Item 18 in Victoria Police's Chronology: see Attachment A.

40. At approximately 3:20 pm, the Premier gave a press conference.⁵⁸ The Premier announced:⁵⁹

Police, private security, all of our health team will be able to monitor compliance in a much easier way, in a static location, one hotel or a series of hotels, as the case may be. That'll mean, and this is the really important message, that will mean that more of those police that we have, those 500 police that are doing that work in terms of Coronavirus enforcement, they'll be able to get to even more homes where people are supposed to be quarantining.⁶⁰

41. Ms Febey of DJPR was watching the press conference and texting her team. At 3:26 pm, Ms Febey texted a summary of what she regarded as salient points announced by the Premier:⁶¹

police, security, monitor compliance

500 police doing COVID19 enforcement will be able to get to more homes, if you're doing the wrong thing you will be caught

42. It is open to the Board to find that, by no later than this point, a decision had been made that the proposed model would involve private security, and that all interested agencies understood this. This is consistent with information conveyed to CCP Ashton between 1:16 pm and 1:22 pm that day (see [30]–[34] above). The fact that the person or persons who made the decision cannot be ascertained on the available evidence is not a proper basis for concluding that there was no decision until the SCC meeting at 4:30 pm.

43. At 3:30 pm, Mr Phemister sent CCP Ashton a WhatsApp message, copied to other Departmental Secretaries, saying this:⁶²

Graeme [sic], we're running the inbound passenger isolation system with Transport (just announced by the Premier). Can I get a point person from your crew to liaise with pls. If anyone else sees a role for their crew pls let me know. Claire Febey, DJPR is running this with support of Paul's team.

CCP Ashton promptly responded with DC Nugent's contact details.⁶³

44. There are significant features about Mr Phemister's 3:30 pm message to CCP Ashton:

- (1) It is the first evidence of Mr Phemister contacting CCP Ashton (a) after the decision of National Cabinet, (b) after Mr Phemister became aware of the decision at midday, *via*

⁵⁸ The timing of this conference is best ascertained by reference to two pieces of information. *First*, Min Neville says that it was not long after 3:00 pm (Ex 196 (Statement of the Hon. Lisa Neville MP), [45]). *Second*, perhaps more importantly, a Slack message sent by Ms Febey on 27 March 2020 at 3:24 pm says "*Premier speaknig* [sic]" (Ex 33 (Attachments to Statement of Claire Febey), DJP.500.001.0001 (Tab 3) at .0002), and another at 3:26 pm refers to "*police, security, monitor compliance*" (*ibid.*).

⁵⁹ Item 19 in Victoria Police's Chronology: see Attachment A. Ex 210 (Transcript of Premier's media conference held on 27 March 2020), 2.15.

⁶⁰ The Premier returned to some of these matters later in the press conference: see his discussion of the "*other workers who've had their hours cut*" and the "*500 dedicated members of Victoria Police*" on p5 of the transcript in Ex 210.

⁶¹ Item 19 in Victoria Police's Chronology: see Attachment A. (Ex 33 (Attachments to Statement of Claire Febey), DJP.500.001.0001 (Tab 3) at .0002).

⁶² Item 20 in Victoria Police's Chronology: see Attachment A. Ex 174 (Attachments to First Statement of Graham Ashton APM), VPOL.0005.0001.1279.

⁶³ Item 21 in Victoria Police's Chronology: see Attachment A.

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Mr Eccles and (c) after he stated in a planning meeting with his executive staff at 12:30 pm that he would contact CCP Ashton.

- (2) The time (3.30 pm) is minutes after the Premier had stated the matters set out in [40] in his press conference. Mr Phemister's own message refers to the system "*just announced by the Premier*".
 - (3) Mr Phemister accepted that, contrary to his statement,⁶⁴ this text did not indicate an "*understanding that Victoria Police would lead the security operation.*"⁶⁵
 - (4) The terms of Mr Phemister's message reinforce the view that DJPR was the lead agency for all matters, including security. His message said expressly "*we're running the inbound passenger isolation system with Transport*". If Mr Phemister or DJPR had in contemplation a model involving police leading the security operation:
 - (a) it is unlikely that Mr Phemister would have waited 3 hours to contact CCP Ashton;
 - (b) Mr Phemister would have spoken to the CCP about private security (noting that there was no conversation between them all day);⁶⁶
 - (c) Mr Phemister would, when he made contact via WhatsApp message, do more than ask for "*a point person from your crew to liaise with*" and would have mentioned Victoria Police's role in relation to security.
 - (5) By this time, no view had been expressed to DJPR from any person at Victoria Police, including CCP Ashton, regarding the role to be played by either Victoria Police or private security in enforcement arrangement for the HQP.
45. At 4:00 pm, CCP Ashton attended the meeting of the VSB, chaired by Mr Eccles, with other attendees including Mr Phemister and Ms Peake (DHHS).⁶⁷ No operational decisions for the HQP were made, consistently with the nature of the function of the VSB.⁶⁸ Notes by Mr Eccles's senior advisor show that CCP Ashton made very little comment during the meeting (unlike Mr Eccles and Mr Phemister). Under the heading "*Questions*" the following is attributed to CCP Ashton:⁶⁹
- People coming in from OS – the process that Paul is coordinating – police wont guard but will be doing the checks?
46. A direct response is not recorded but the subsequent discussion strongly suggests that the gist of it was that police would not, indeed, be guarding. If it were otherwise, one would reasonably

⁶⁴ Ex 184 (Statement of Simon Phemister), [34].

⁶⁵ P-1862–1864, see in particular P-1863.1–5 (Day 22, 22 September 2020).

⁶⁶ P-1863.26–31, P-1864.38–41 (Day 22, 22 September 2020).

⁶⁷ Item 22 in Victoria Police's Chronology: see [Attachment A](#).

⁶⁸ Ex 179 (Further Statement of Mr Chris Eccles), [54] and [60].

⁶⁹ Ex 178 (Attachments to First Statement of Mr Chris Eccles), DPC.0013.0001.0001 at .0003.

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expect an extensive discussion about that matter and CCP Ashton immediately commencing to make arrangements for police at the hotels.

47. Overall, the Board should view CCP Ashton's contributions and questions in the VSB meeting as being another instance of him seeking to gather information. The contemporaneous notes of Mr Eccles's senior advisor do not suggest that he expressed any view, recommendation, or preference regarding the role of Victoria Police or of private security in the HQP. Indeed, if CCP Ashton had participated otherwise one would have expected the formal minutes to record that he had led a discussion on those matters.⁷⁰

48. While the VSB meeting was occurring, DJPR was continuing its work under the belief it was the lead agency. Members of the DJPR planning team exchanged text messages between 4:12 pm and 4:19 pm in relation to security, as follows:⁷¹

4.12 pm : "We need a security stream in our plan"

4.18 pm: "We will likely need:

Private security on buses (TBC)

Additional security at hotels (please raise with Unni that we require this as part of full service)

Police on call to enforce where there is non compliance

Authorized officers (health system) to direct security."

4.19 pm: "We will get more information on the scc call

49. The last message—getting more information on the SCC call—supports the view that DJPR was actioning its plans for private security, but would obtain more information in the SCC meeting, in circumstances where it was not then known what directions would be made under the *Public Health and Wellbeing Act 2008* (Vic). There is nothing in these messages to suggest that DJPR was awaiting a decision about the enforcement model from someone else or confirmation as to the nature of Victoria Police's role in the security arrangements. To the contrary, the contemporaneous notes from DJPR are highly consistent with a belief that they were responsible for leading the end to end process, including making arrangements for private security.

50. At this time (at and around 4:15 pm), Ms Febey was still contemplating that DJPR would be contracting with hotels to provide additional security: see [26]–[27] above. However, Mr Menon's spreadsheet suggests that only Crown had indicated a capacity to do so,⁷² and

⁷⁰ Ex 178 (Attachments to First Statement of Mr Chris Eccles), DPC.0016.0001.0095.

⁷¹ Ex 33 (Attachments to Statement of Claire Febey), DJP.500.001.0002 (Tab 3), at .0005.

⁷² See Spreadsheet prepared by Unni Menon in Ex 50 (Attachments to Statement of Unni Menon) DJP.102.007.9907 (Tab 4).

Mr Kamenev had identified the possibility of organising a cleaning and security workforce as at 12:17 pm.⁷³

51. Crown was the first hotel to be stood up. As events later transpired, by 8:18pm on 27 March 2020, Crown identified that its catering union would not deliver food to the floors, that an alternative delivery workforce might be required, and that it wanted DJPR to provide security.⁷⁴ Thereafter, Ms Febey said, "*Simon is mkaing [sic] a call now,*" and "*the PPO is coming back in five minutes.*"⁷⁵ It is telling that, when issues in relation to security arrangements arose, DJPR did not contact Victoria Police.
52. The next key event is the SCC meeting at 4:30 pm. Before turning to it, it is relevant to note that it was not until the meeting of the VSB that it was appreciated that the program should be run out of the SCC.⁷⁶ The evidence of Commr Crisp is that he was informed that DJPR had been allocated responsibility by DPC for sourcing accommodation and private security contracts, that he was not consulted in relation to this allocation of responsibility, and that the decision as to private security was made before Op Soteria sat formally within the State emergency arrangements and any meetings had taken place in the SCC.⁷⁷ His evidence is that at around the time of, or during the SCC meeting at 4:30 pm:⁷⁸

I received a phone call from the Secretary of the Department of Justice and Community Safety (Rebecca Falkingham), who told me that [DJPR] had been given the lead by [DPC] on establishing hotel quarantine but that she considered it should be an operation that sat within the State emergency management arrangements. I agreed with that position and that [DHHS] should be the control agency supported by other agencies as required.

B.2.4 The SCC meeting at 4.30pm

53. Victoria Police submits that the evidence addressed above concerning events before the 4:30 pm SCC meeting establishes three important propositions.
54. *First*, there was considerably more than a "*working assumption*" that private security would be the first tier of security in the HQP.⁷⁹ This was the only option that DJPR was progressing. It took three hours for any communication to go from DJPR to Victoria Police. When that communication came, it only sought a point of contact (not an opinion, preference or recommendation).

⁷³ Ex 37 (Attachments to Statement of Katrina Currie), DJP.104.008.6765.

⁷⁴ See text message 27/03/2020 8:18pm Ex 33 (Attachments to Statement of Claire Febey) DJP.500.001.0001 (Tab 3) at .0016.

⁷⁵ Ex 33 (Attachments to Statement of Claire Febey) DJP.500.001.0001 (Tab 3) at .0016, texts at 8:20 and 8:24 pm.

⁷⁶ See notes of VSB meeting, Ex 178 (Attachments to first Statement of Mr Eccles) DPC.0013.0001.0001 at .0004.; Evidence of Mr Eccles P-1763–1764 (Day 21, 21 September 2020); Evidence of Ms Peake P-1907.12-46 (Day 22, 22 September 2020).

⁷⁷ Ex 144 (First Statement of Andrew Crisp) at [43]–[44].

⁷⁸ Ex 144 (First Statement of Andrew Crisp), [45].

⁷⁹ Cf. evidence of DJPR officers to the contrary—e.g., P-397.37 (Day 8, 27 August 2020).

55. *Second*, relatedly, those standing up the HQP did not seek Victoria Police's views in relation to security arrangements.
56. *Third*, there is no evidence that before the 4:30 pm SCC meeting there was any consideration of an alternative model in which Victoria Police would undertake security in the hotels. There is no evidence from DJPR or any other department of such a model. Nobody sought Min Neville's view.⁸⁰ Min Neville's evidence is that:⁸¹
- (1) in every case where Victoria Police has been asked to perform a role, or where such a role is in serious contemplation, she has been consulted; and
 - (2) if there had been any serious contemplation at a high level of a model where Victoria Police would play a significant new role in guarding people quarantining in hotels, she would have been consulted in the making of that decision.
57. Accordingly, the Board should find that before the 4:30 pm SCC meeting a decision had been made. While things said by AC Grainger may have been perceived by some as consistent with or supportive of that decision, they did not cause or constitute it (since it happened earlier), nor did they substantially contribute to it (for the same reason).
58. The SCC meeting at 4:30 pm must be considered in the context of all of the evidence from midday onwards on 27 March 2020 referred to above. To do otherwise would involve artificiality. It is also obvious but important to note that the context of the meeting involved:
- (1) circumstances of great urgency;
 - (2) an absence of an existing State plan for a mandatory quarantine response to pandemics;
 - (3) public servants and their agencies working hard under intense pressure; and
 - (4) DJPR acting as the "*lead*" agency and upon the understanding that it was in charge of the entire program.⁸²
59. With these matters in mind, there are three relevant exchanges at the SCC meeting in relation to security. In reviewing these exchanges, it is also important not to artificially parse and analyse each speaker's language as if it was a written document. This was a multi-party teleconference of many persons, all working under immense pressure.
60. The *first* relevant exchange, generally illustrative of Ms Febey's mindset as to DJPR's overall key role, is as follows (emphasis added):⁸³

So, of course, the Critical Response Team at Melbourne Airport is going to be a

⁸⁰ Ex 196 (Statement of the Hon. Lisa Neville MP), [44].

⁸¹ Ex 196 (Statement of the Hon. Lisa Neville MP), [46], [66].

⁸² Ex 184 (Statement of Simon Phemister), [26].

⁸³ Ex 143 (Transcript and Minutes of Recording of Op Soteria Meeting 27 March 2020), at P-9.6–14.

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valuable source of information, and then as well DJPR will have the role from, from what I understand, of managing end to end, I guess, the point at which they get off the plane, until the time at which they finish the period of quarantine.

So I guess the question is how do we best balance the holding of that information between those three points, I guess, that control Melbourne Airport in terms of Critical Response Team, and then DJPR's overall lead responsibility for delivery.

61. The *second* relevant exchange involves the following:⁸⁴

(1) AC Grainger saying this:

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.

The Board can note that this is consistent with the Premier's comments in his 3:20pm press conference (see [40] above).

(2) Ms Febey saying to AC Grainger (emphasis added):

I'd be really keen to work this through 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.

And then we'd like to understand from you where you see VicPol's role being predominantly, which I would have thought was around where things are not going as they should and you need to be called in to assist with enforcement.

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?

(3) AC Grainger responded that he would take a call from Ms Febey and put her in touch with other relevant people. That is, although discussions were to continue, Ms Febey had put forward a model for police and private security (presumably the model that already DJPR had been working up).

62. The *third* relevant exchange has been much emphasised in the hearing. It is when Commr Crisp returned, after stepping out to take a call from CCP Ashton, and stated that he understood the preference of Victoria Police, or the CCP, to be that private security would be the first line of security and Victoria Police would respond as required, to which AC Grainger responded, "*Absolutely that's our preference*."⁸⁵

63. The evidence is that, at 5:20 pm, Commr Crisp sent AC Grainger a text message stating:⁸⁶

I stepped out to speak to Graham and I let him know you're in this meeting as he's only just come out of VSB. He made it clear in VSB that private security is the first security option at hotels/motels and not police

⁸⁴ Ex 143 (Transcript and Minutes of Recording of Op Soteria Meeting 27 March 2020), at P-12.

⁸⁵ Ex 143 (Transcript and Minutes of Recording of Op Soteria Meeting 27 March 2020), P-22.32-38.

⁸⁶ Item 25 in Victoria Police's Chronology: see Attachment A. Ex 148 (Attachments to Third Statement of Andrew Crisp), DOJ.515.001.0014.

64. However Commr Crisp could not recall the actual conversation with CCP Ashton.⁸⁷ CCP Ashton's evidence is that he is likely to have conveyed to Commr Crisp that the VSB meeting confirmed his understanding that a decision to engage private security as tier 1 enforcement had been made.⁸⁸ In the light of the notes of, and evidence given about, the VSB meeting, this is the preferable finding: that CCP Ashton communicated his understanding arising from the VSB meeting, not that he told Commr Crisp of a preference he made clear in the VSB meeting (the notes of which meeting do not record the expression of such a preference).

65. It is also relevant to note that the third exchange concludes with Ms Febey saying this:⁸⁹

Yes, I understand 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 for exploring what the arrangements might be for transport as well.

66. Having regard to the evidence discussed above, the Board should assess and understand the evidence as follows:

- (1) By Ms Febey's comments at the SCC meeting, DJPR first suggested the model that would eventually come to pass, namely with private security as first tier enforcement with Victoria Police in support: see [61(2)] above. The comments of AC Grainger did not dislodge (indeed expressed agreement with) that settled understanding, but was not a contributing factor to any decision.
- (2) Ms Febey entered the 4:30 pm SCC meeting with a clear understanding that private security would be engaged at the hotels. She had no need to test that understanding; as she knew herself, it had already been announced by the Premier ([40] above), and plans were already in progress within DJPR in this regard.⁹⁰ What she sought was to work through issues with AC Grainger and "*to understand from [AC Grainger] where [he saw] VicPol's role being predominantly, which [she] would have thought was around where things are not going as they should and [VicPol] need to be called in to assist with enforcement*" (see [61(2)] above).
- (3) AC Grainger's later agreement with Commr Crisp's question in relation to Victoria Police's "*preference*" cannot be elevated to a consensus conclusion at that meeting to engage private security. At its highest, what emerged from the SCC meeting was a reinforcement of the existing decision about security arrangements. It may be noted that the Board did not call AC Grainger as a witness and therefore is not in a position to make findings as to his state of mind.

⁸⁷ Ex 147 (Third Statement of Andrew Crisp), [7].

⁸⁸ P-1672.3–33 (Day 19, 17 September 2020).

⁸⁹ Ex 143 (Transcript and Minutes of Recording of Op Soteria Meeting 27 March 2020), at P-22.43–47.

⁹⁰ See Items 3, 4, 19 and 23 in Victoria Police's Chronology: see Attachment A to these submissions.

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- (4) The 4:30 pm SCC meeting was not an end point for security arrangements. At least some matters were still left for AC Grainger and Ms Febey to take up separately. However, Ms Febey did not take up that opportunity, even when AC Grainger contacted Ms Febey the next morning and invited her to do so.⁹¹

B.2.5 Response to Counsel Assisting's submissions about the evidence of then CCP Ashton

67. In relation to their proposed findings as to any decision, assumption, or consensus to use private security in the HQP, Counsel Assisting submitted as follows:⁹²
- (1) There is no evidence of a deal or final decision prior to the SCC meeting other than CCP Ashton's text to Commr Kershaw at 1:32 pm. CCP Ashton could not recall the source of the information he provided to Commr Kershaw regarding the engagement of private security.
- (2) CCP Ashton's evidence regarding his certainty that the decision had been made and communicated with him was "at odds" with:
- (a) the understanding of everyone else at the SCC meeting;
- (b) the way CCP Ashton framed his questions at the VSB meeting at 4:00 pm; and
- (c) the text message from Commr Crisp to AC Grainger at 5:20 pm during the SCC meeting.
68. On the basis of the above, Counsel Assisting submitted that "*it may well be that [CCP] Ashton is misremembering the sequence of events.*"⁹³
69. Victoria Police submits that it is not open to the Board to find that CCP Ashton has misremembered the sequence of events for those reasons. The evidence does not support that finding and, for the reasons which follow, the Board should accept the evidence of CCP Ashton as to his state of mind and knowledge.
70. *First*, for the reasons provided in [42] and [53] to [57], there was other evidence to suggest that a decision had been made to engage private security prior to the SCC meeting at 4:30 pm on 27 March 2020.
71. *Second*, it cannot reasonably be said that CCP Ashton has misremembered the sequence of events when that sequence is based on and supported by contemporaneous documentary evidence (particularly text messages) indicating his state of mind at relevant times: see [29] to [35] above. CCP Ashton's text messages to Commr Kershaw at 1:22 pm and 1:32 pm incontrovertibly show that CCP Ashton understood that a decision had been made by that time

⁹¹ Ex 209 (Text exchanges between Assistant Commissioner Grainger and Claire Febey 28 March 2020).

⁹² P-2211.7–17 (Day 26, 28 September 2020).

⁹³ P-2211.14–15 (Day 26, 28 September 2020).

to engage private security. Whether the information CCP Ashton received was accurate is another matter, but CCP Ashton did not misremember any sequence of events.

72. *Third*, CCP Ashton was not the only person who considered that a decision had been made to engage private security prior to the SCC meeting at 4:30 pm, including a number of the attendees at that meeting. Min Neville and Commr Crisp also understood that a decision had already been made, prior to the SCC meeting that private security would be used in the HQP: see [38] above.⁹⁴ Indeed Min Neville and CCP Ashton considered that it had been made before the 2:00 pm meeting. Minister Neville also said in her statement that, hearing the Premier mention the involvement of private security in his press conference that afternoon had confirmed her understanding.⁹⁵ Ms Febey confirmed that she did not suggest that any decision was made at the SCC meeting.⁹⁶
73. *Fourth*, the evidence of the VSB meeting at 4:00 pm is also consistent with CCP Ashton's understanding that a decision had been made by that time to engage private security. The question raised by CCP Ashton (see [45] above) is consistent with his evidence that he was seeking clarification of what role Victoria Police would play (*vis à vis* enforcement), in the context that private security was discussed at the VSB meeting.⁹⁷
74. *Fifth*, the text message at 5:20 pm from Commr Crisp to AC Grainger is not inconsistent or at odds with CCP Ashton's evidence (see [63] above). As CCP Ashton states, he is likely to have conveyed to Commr Crisp in his call to him at around that time that the VSB meeting confirmed his understanding that a decision to engage private security as tier 1 enforcement had been made.⁹⁸
75. Victoria Police submits that a finding should be made that CCP Ashton's recollection is accurate and should be accepted: *cf.* [68] above. On that basis, the Board should find that a decision was made (alternatively, a consensus emerged) that private security were to be engaged in the HQP, prior to the 4:30 pm SCC meeting (even if it cannot find by whom).

B.2.6 Response to cross-examination of CCP Ashton by Senior Counsel for DPC

76. Senior Counsel for DPC essentially put three propositions to CCP Ashton during cross-examination:

⁹⁴ See, for Min Neville, Ex 196 (Statement of the Hon. Lisa Neville MP) at [40] and [60], P-1953.1–9, (Day 23, 23 September 2020); and for Commr Crisp, Ex 144 (First Statement of Andrew Crisp) at [47].

⁹⁵ Ex 196 (Statement of the Hon. Lisa Neville MP), [45].

⁹⁶ P-424.36–39 (Day 8, 27 August 2020).

⁹⁷ Transcript, Day 19 (17 September 2020), T1670:46 to T1671:14 and T1671:45 to T1672:6.

⁹⁸ P-1672.8–23 (Day 19, 17 September 2020).

- (1) *First*, that CCP Ashton gave materially different responses in his witness statement and his evidence before the Board regarding who raised the issue of private security in the 2:00 pm meeting with Min Neville, namely whether it was himself or Commr Crisp.⁹⁹
- (2) *Second*, that CCP Ashton in fact spoke to AC Grainger based on the language used by AC Grainger in the SCC meeting.¹⁰⁰
- (3) *Third*, that CCP Ashton made clear in the VSB meeting at 4:00 pm that it was his view that private security should be the first line of security at hotels, and not Victoria Police.¹⁰¹

77. These propositions are not open on the evidence before the Board. Regarding the *first* point, there was no inconsistency in the evidence of CCP Ashton, let alone a material one. The import of CCP Ashton's evidence was that he asked Commr Crisp to clarify the role of Victoria Police and it was Commr Crisp who mentioned that private security would be engaged to guard the hotels and not Victoria Police.¹⁰² This is consistent with [2.4.3] of CCP Ashton's statement: Ex 173.

78. Even if CCP Ashton raised the use of private security in the course of clarifying with Commr Crisp the role of Victoria Police, that is understandable in light of the evidence that he had received information prior to the 2:00 pm meeting that private security would be engaged (see [29] to [37] above).

79. Regarding the *second* point, there is no evidentiary basis to allege that CCP Ashton spoke to AC Grainger immediately prior to AC Grainger attending the SCC meeting. CCP Ashton's evidence was clear that he didn't discuss matters with AC Grainger prior to the SCC meeting.¹⁰³ No other witness stated that CCP Ashton had communicated with AC Grainger prior to the SCC meeting. The transcript of the SCC meeting does not suggest any such contact.

80. To the extent that AC Grainger accepted the view that it was Victoria Police's "*preference*" that private security be the first line of security, that acceptance was responsive to the language of Commr Crisp, not CCP Ashton. Although CCP Ashton had a brief conversation with Commr Crisp by phone during the SCC meeting, CCP Ashton gave evidence that he was merely conveying the outcome of the VSB meeting and that he supported that outcome, namely that private security would be used.¹⁰⁴ Commr Crisp couldn't recall the conversation.¹⁰⁵

81. Regarding the third point, there is no evidentiary basis to suggest that CCP Ashton put forward the view in the VSB meeting that private security should be the first line of security rather than

⁹⁹ P-1685.42-1687.24 (Day 19, 17 September 2020).

¹⁰⁰ P-1622.1-22 (Day 19, 17 September 2020).

¹⁰¹ P-1695.27-35 (Day 19, 17 September 2020).

¹⁰² P-1687.30-34 (Day 19, 17 September 2020).

¹⁰³ Ex 173 (First Statement of Graham Ashton APM) at [2.5]; P-1673.31-32 (Day 19, 17 September 2020).

¹⁰⁴ P-1673.14-18 (Day 19, 17 September 2020).

¹⁰⁵ P-1377.39 (Day 17, 15 September 2020).

Victoria Police. The notes of the meeting suggest the opposite; CCP Ashton was questioning whether that was the position rather than advocating or sharing a view that that should be the case: see [45] to [47] above. No person from DPC or any other agency has provided evidence otherwise.

82. Accordingly, the Board should reject the propositions referred to in [76] above, if any party seeks to establish them.

B.2.7 Other matters relevant to engaging private security

83. On the evening of 27 March 2020, following the SCC meeting, Supt ^{REDACTED} _{Personal information} sent an email including to AC Grainger and Cmdr Tully, which included the line that “*CCP recommendation that private security is to be the first line of security.*” In light of all of the evidence referred to above, the Board should not find that CCP Ashton made a recommendation at any time that private security should be the first line of security, notwithstanding this email. CCP Ashton did not have any conversation with Supt ^{REDACTED} _{Personal information} or any other attendees at the SCC meeting on 27 March 2020.¹⁰⁶ Sup ^{REDACTED} _{Personal information}'s evidence is also that she did not have any conversation with CCP Ashton regarding the operation of the HQP.¹⁰⁷ Supt ^{REDACTED} could not recall why she described the use of private security in the HQP as a “*recommendation*” and did not recall that was in fact the case.¹⁰⁸

B.3 The decisions to use private security for higher risk tasks

84. Victoria Police submits that the decision to engage private security in the HQP for “*security*” should not be conflated with subsequent decisions to use private security for other tasks, including to accompany detainees to their room in lifts, handle luggage, and accompany detainees for smoking, exercise and fresh air breaks. The use of private security for these tasks which necessarily involved a higher risk from a public health perspective, went beyond the “*security*” that was contemplated on 27 March 2020. The decisions to use private security for these higher-risk tasks were made at a later date, including with the involvement of the DHHS public health team.
85. Counsel Assisting has submitted that:¹⁰⁹

The contracts that were later signed are slightly less clear in the line of accountability and are more expansive in the likely duties. But even beyond that, over time it is clear that the Department of Jobs, Precincts and Regions called upon security guards as a more flexible resource that were used to perform a range of non-security related tasks, escorting people for breaks, doing some work in sanitising of facilities, delivering food and parcels, going to the shops to purchase toys, delivering Easter eggs, a whole range of other activities. That gradual function creep, if I might use that expression, for security guards posed a risk for transmission of infection --- infection transmission because we submit that security guards, whatever might have been their proper role in static guarding, were not the

¹⁰⁶ Ex 173 (First Statement of Graham Ashton), [4.5].

¹⁰⁷ Ex 172 (Statement of Superintendent of Police), [16].

¹⁰⁸ Ex 172 (Statement of Superintendent of Police), [13].

¹⁰⁹ P-2215.1-19 (Day 26, 28 September 2020).

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appropriate cohort to perform that more expanded role and that suite of roles that were more likely to bring them into contact with people who might be COVID-positive or to move through areas where the infection might be present.

In our submission, it is open to you to find that that increased reliance on security guards to perform non strictly security functions was not a considered decision and led to certain functions being performed by those who didn't have the necessary expertise.

86. Victoria Police does not respond to these proposed findings. However, Counsel Assisting has sought to link the expanded functions to the original decision to engage private security and the lack of clarity as to who made that decision:¹¹⁰

As the Hotel Quarantine Program developed and the roles allocated to security companies evolved, no one turned their mind to whether they remained a suitable workforce for those roles because no one understood themselves to have been the original decision maker. Absent very clear oversight by persons properly trained in infection prevention and control and continued training for all on-site, it was not appropriate to use security guards for the roles that they ultimately performed in the Hotel Quarantine Program.

87. Victoria Police submits in response:

- (1) There is no proper basis in logic for, and the evidence is strongly against, linking the subsequent decisions made with respect to the development of the role of security companies with the original decision to engage private security.
- (2) To the extent that, during the period of the HQP, decisions were made to use security guards for additional roles, those later decisions cannot be attributed to Victoria Police.
- (3) The decisions to expand the role of private security, particularly insofar as that role related to facilitating smoking, exercise, and fresh air breaks, were decisions made by DJPR and DHHS, with a clear understanding by both that this was a decision for DHHS, made with significant input of the public health team.

B.3.1 The role of security

88. The discussions on 27 March 2020 concerned the use of private security for “*security*”¹¹¹ or “*guarding*”¹¹² returned travellers at the hotels. CCP Ashton described his expectations of private security as “*acting as sentries, stopping people coming in and out of the hotel and deterring guests from breaching quarantine and absconding from the hotel.*”¹¹³ The initial discussions between DJPR and security companies also appear to have proceeded on this basis.¹¹⁴ As Mr Watson explained: “*Wilson Security staff were initially to have very limited*

¹¹⁰ P-2291.17-25 (Day 26, 28 September 2020). Emphasis in underlining added.

¹¹¹ “*Security*” was the language used at the 4.30pm meeting at the State Control Centre: See Ex 33 HQI.0001.0004.0056 at .0067.

¹¹² “*Guarding*” was the language used by CCP Ashton at the VSB meeting: Ex 178 (Attachments to first statement of Chris Eccles), DPC.0013.0001.0001 at .0003.

¹¹³ Ex 173 (First Statement of Graham Ashton), [3.3].

¹¹⁴ The evidence of the private security firms is that their role was expanded beyond guarding duties after their initial discussions with DJPR representatives: Ex 61 (Statement of Gregory Watson), [70]–[71], [94],

contact with hotel quarantine guests and had a 'hands off' role - with contact limited to directing guests to their rooms."¹¹⁵

89. As events transpired, the role of private security was later expanded to include higher-risk activities, involving greater contact with guests and their luggage. Victoria Police had no involvement in these decisions, and was not invited to contribute to them.
90. It appears that late on 28 March 2020, a decision was made to expand the role of private security to include handling of detainees' luggage and escorting detainees to their rooms (including in lifts).¹¹⁶ This appears to have been a matter dealt with between DJPR and the private security firms. Victoria Police was not involved in or consulted about these matters.
91. In early April 2020, the role of private security was further expanded to include escorting guests for exercise and fresh air breaks. Again Victoria Police was not involved in or consulted about these decisions.
92. The issues of smoking and recreation appear to have been raised with DHHS by DJPR on 28 or 29 March 2020.¹¹⁷ Concerns appear to have been identified within DJPR about the risks associated with detainees leaving their rooms,¹¹⁸ and DJPR's initial recommendation was "*from an operational perspective that they not be able to leave.*" Nevertheless, DJPR sought direction from DHHS "*given the health and human rights issues.*"¹¹⁹ DJPR subsequently revised its position and advised as follows:¹²⁰

[s]ubject to advice from State Control we recommend a provision for recreation

[104]–[106], [165]; Oral evidence of Gregory Watson P-786.24–789.40 (Day 11, 2 September 2020); Ex 71 (Statement of Mo Nagi), [23], [27]; Oral evidence of Mo Nagi and Nigel Coppick, P-853.29–858.37 (Day 12, 3 September 2020). Ms Gönül Serbest also gave evidence about how the role of private security, and her understanding of it, evolved over time: P-500.31–501.35 (Day 8, 27 August 2020). In an internal email on 16 April 2016 following the security forum, Victoria Police identify the original plan and "*some creep into the original scope*": Ex 79 (Attachments to Statement of Commander Tully) VPOL.0002.0006.0027 (Tab 37).

¹¹⁵ Ex 61 (Statement of Gregory Watson), [164(a)], see also at [70]. Mr Watson expanded upon these matters in oral evidence: see P-786.11–30 (Day 11, 2 September 2020).

¹¹⁶ These decisions appear to have been made by DJPR in the evening of 28 March: email from Paul Stagg to Ms Febey and others 28 March 2018 at 8.03pm (Ex 39 (Attachments to Statement of Gönül Serbest), DJP.102.007.4446 (Tab 1)); text message from Ms Febey 28 March 2018 at 8.14pm (Ex 33 (Attachments to Statement of Claire Febey), DJP.500.001.0001 (Tab 3) at .0036). When issues were raised by Wilson Security regarding luggage handling, the tasks were insisted upon by DJPR and incorporated into the contract: Ex 63 (Statement of Shaun Hogan), [51]; Ex 61 (Statement of Gregory Watson), [94], [104]–[106], [165]; email from ██████████ to Wilson Security 3 April 2020 (Ex 39 (Attachments to Statement of Gönül Serbest), DJP.110.001.4975 (Tab 34) at .4978); email from ██████████ 4 April 2020 (Ex 39 (Attachments to Statement of Gönül Serbest), DJP.110.001.4975); Purchase Order Contract Ex 62 (Attachments to Statement of Gregory Watson), WILS.0001.0001.8812 (Tab 17) at .8873.

¹¹⁷ See email from Ms Febey to Mr Eagle and others dated 29 March 2020 (Ex 33 (Attachments to Statement of Claire Febey), DJP.102.007.6151 (Tab 7) at .6152). However, it appears from text messages that the issue was raised orally in the evening of 28 March 2020: see Ex 33 (Attachments to Statement of Claire Febey), DJP.500.001.0001 (Tab 3) at .0035 and .0039.

¹¹⁸ See text message of 29 March 2020 at 11:56 am re Recreation policy (Ex 33 (Attachments to Statement of Claire Febey) DJP.500.001.0001 (Tab 3) at .0041).

¹¹⁹ Email from Ms Febey to Mr Eagle and others dated 30 March 2020 (Ex 33 (Attachments to Statement of Claire Febey), DJP.102.009.2694 (Tab 9) at .2696).

¹²⁰ Email from Ms Febey to Braedan Hogan and others dated 31 March 2020 at 7:47 am (Ex 114 (Attachments to Statement of Dr Finn Romanes), DHS.5000.0073.0562 at .0563).

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outside of rooms is made urgently, and will explore options today should it be supported by State Control.

93. The issues of smoking and recreation were referred to DHHS's Public Health Command,¹²¹ and policies were developed by the Public Health Incident Management Team.¹²² Decisions were made to permit departures from the original plan that detainees not be permitted to leave their rooms, knowing that this increased the risk to staff but nevertheless directing that detainees be supervised by security guards. That is apparent from the terms of the policies themselves.
94. On 9 April 2020, private security contractors were advised by DJPR that the CHO had endorsed an exercise and fresh air policy and were requested to provide additional security staff to implement the policy.¹²³ However, it appears from the evidence of Wilson Security that DHHS had requested an authorised officer at the Pan Pacific Hotel to implement a trial program of exercise breaks prior to the that time.¹²⁴ DJPR and DHHS safety officers then worked with the hotels, AOs and security firms to develop specific procedures for each hotel.¹²⁵

B.3.2 No involvement by Victoria Police in the decisions to expand the role of private security

95. Victoria Police was not party to any of the correspondence or discussions concerning additional roles for private security and was not consulted in relation to the exercise and fresh air policy or its initial implementation.¹²⁶ Cmdr Tully's unchallenged evidence was that he "*had no line of sight as to what arrangements were in place, I was not part of that decision-making at all*".¹²⁷

¹²¹ See email from Mr Hogan to Ms Febey dated 30 March 2020 4:43pm with highlighted responses in attached email from Ms Febey (Ex 33 (Attachments to Statement of Claire Febey), DJP.102.009.1588 (Tab 10) at .1589 and .1590). See also email from Mr Hogan to Ms Febey 31 March 2020 at 7:49am and email from Mr Hogan to Dr Romanes at 7:51am (Ex 114 (Attachments to Statement of Dr Finn Romanes), DHSS.5000.0073.0562).

¹²² An initial policy with respect to smoking was developed by the public health team and distributed by email on 1 April 2020: see Ex 114 (Attachments to Statement of Dr Finn Romanes) DHS.5000.0096.3347 at .3348–3349. A policy with respect to exercise and fresh air was developed subsequently and both were incorporated into the draft COVID-19 – DHHS Physical Distancing and Public Health Compliance and Enforcement Plan dated 4 April 2020: see Ex 114 (Attachment to Statement of Dr Finn Romanes) DHS.5000.0123.3241 at .3269 to .3271. This draft policy was circulated as "*the working approach*" by the public health unit on 4 April: see Ex 114 (Attachment to Statement of Dr Finn Romanes) DHSS.5000.0123.3240. The policies were also subsequently incorporated into the COVID-19 – Interim Healthcare and Welfare Mandatory Quarantine Plan dated 11 April 2020, prepared by the Public Health Incident Management Team and the COVID-19 Mandatory Quarantine Health and Welfare Plan – Operation Soteria dated 17 April 2020: see Ex 160 (Statement of Dr Van Diemen) at [72], [79]; Ex 161 (Attachments to Statement of Dr Van Diemen) DHS.5000.0111.4966 (Tab 21) at .4985 and .4986.

¹²³ See emails dated 9 April 2020 from DJPR to Security Contractors HQI0060_RP at DJP.110.002.8531 (Wilson Security), DJP.110.003.3059 (MSS Security), DJP.110.004.0479 (Unified Security).

¹²⁴ Ex 61 (Statement of Gregory Watson) at [144(b)].

¹²⁵ Ex 130 (Statement of Ms Pam Williams), [22(c)] and exhibits referred to in fn2 (Ex 131).

¹²⁶ Smoking and recreation were raised as issues at SCC meetings: see, for example, Op. Soteria Minutes 31 March 2020 HQI0079 VPOL.0007.0001.0494_R at .0497. However the issues were dealt with between DJPR and DHHS, outside of SCC meetings, and the evidence of Cmdr Tully is that he was aware there was a consideration for mental health breaks and exercise breaks, but he was unaware that that was going to take place outside the facility: P-940.37–41 (Day 13, 4 September 2020).

¹²⁷ P-942.2–8 (Day 13, 4 September 2020).

96. It is understandable that DHHS (and DJPR in its support role) dealt with these issues. Expertise regarding infection risk relating to duties performed by workers including security guards lay with DHHS.
97. Victoria Police became aware, through observations by members and reports by a former police officer, that detainees at the Pan Pacific Hotel were being allowed to leave the hotel and exercise in a public area outside.¹²⁸ Cmdr Tully raised the issue at the 14 April 2020 SCC meeting,¹²⁹ and was informed by DHHS that:¹³⁰

Physical exercise policy is enacted across the hotels, managed by the AO's and they work with security to ensure they are supervised with distancing and appropriate PPE. Can send through to VicPol how it is being operationalised.

98. While issues regarding infection control and the health and welfare of detainees were properly matters for and within the expertise of DHHS and the Public Health Team, the implementation of the policy, particularly insofar as it permitted detainees to leave the grounds of the hotel and exercise in public areas, inevitably had implications for security (*i.e.*, increasing the risk of absconding) and public safety. Victoria Police instigated a meeting with DHHS and the managers of the security firms which was held on 16 April 2020.¹³¹ This "security forum" is addressed further in [115] below.

B.4 The fact that the usual emergency management processes were not used and its effect on early decision making

99. Counsel Assisting have submitted that the Board should make a finding that:¹³²

the [HQP] was properly understood as part of the State's response to the public health emergency and properly allocated to [DHHS] as control agency in accordance with the State Emergency Response Plan.

100. The starting point is that the emergency management framework is fit for purpose. As Counsel Assisting noted, Commr Crisp¹³³ and CCP Patton¹³⁴ both gave evidence that they thought the emergency management framework was suitable for all emergencies and that it had been designed and intended through the benefit of recommendations made in earlier inquiries to be scalable and flexible enough to accommodate any form of emergency. Counsel Assisting invited the Board to accept that evidence.¹³⁵

¹²⁸ Ex 78 (Statement of Tim Tully), [14.9]–[14.14]; Oral evidence of Cmdr Tully P-940 in particular (Day 13, 4 September 2020).

¹²⁹ Ex 79 (Attachments to Witness Statement of Tim Tully) VPOL.0002.0002.0018 (Tab 23) at .0021.

¹³⁰ Ex 79 (Attachments to Witness Statement of Tim Tully) VPOL.0002.0002.0018 (Tab 23) at .0021.

¹³¹ Ex 78 (Statement of Tim Tully), at [14.9]–[14.18]; Oral evidence of Cmdr Tully P-941–942 (Day 13, 4 September 2020).

¹³² P-2289.40-44 (Day 26, 28 September 2020).

¹³³ P-1397.14–1399.27 (Day 17, 15 September 2020).

¹³⁴ P-1643.42–1644.21 (Day 19, 17 September 2020).

¹³⁵ P-2204.34–41 (Day 26, 28 September 2020).

101. Counsel Assisting also submitted that the framework was not used as it was intended.¹³⁶ Victoria Police submits that the deviation from the emergency management framework plainly occurred in the first several hours of the planning for the HQP.
102. Victoria Police has in Part B.2 above set out the evidence as to how planning and arrangements for the HQP proceeded on 27 March 2020. For several hours, a model involving the use of private security was being developed without any consultation with Victoria Police, the Minister for Police or, it seems, the Public Health team at DHHS. The matters referred to above had consequences including, Victoria Police submits, a lack of precision about the decision for the involvement and role of private security in the HQP.

C. THE ROLE OF VICTORIA POLICE AND PRIVATE SECURITY IN THE HQP

C.1 The findings sought by Victoria Police

103. Two related subject matters are addressed in this section:
- (1) *First*, the absence of a request for police to be present at quarantine hotels on a 24/7 basis.
 - (2) *Second*, the role assigned to Victoria Police, the role it in fact performed, whether any greater role was required, and whether a private security workforce was an appropriate workforce for the HQP.
104. In connection with these issues, Counsel Assisting submitted that:

It is also clear that no formal request for 24/7 police attendance was ever received by police. And the Board can find that that's the case. Whatever might have been the views of some within the planning and operations sector about the desirability of 10 police being there all the time, those views never found their way in a formal request that could have then been assessed by Victoria Police.¹³⁷ ...

[T]hose assisting you don't invite you to conclude that there should have been for enforcement purposes necessarily a 24/7 presence by Victoria Police.¹³⁸

Victoria Police agrees with Counsel Assisting on these matters and submits that there should be a finding that no formal request for 24/7 police attendance was ever received by Victoria Police. The evidence before the Board is that there was an escalation protocol promulgated in early April 2020 which was effective, such that there was no requirement for a 24/7 policing presence. Though, had Victoria Police been requested to perform a greater role it would have performed it (as it did in Op Soteria II).

¹³⁶ For reasons which were developed at P-2204.43–2208.3.

¹³⁷ P-2213.6-11 (Day 26, 28 September 2020).

¹³⁸ P-2213.35-38 (Day 26, 28 September 2020).

C.2 Absence of a request, during Op Soteria I, for a 24/7 police presence at hotels

105. Because it is uncontroversial that “*no formal request for 24/7 police attendance was ever received by police*”¹³⁹, it is possible to be reasonably brief in addressing this issue.¹⁴⁰ In summary, Victoria Police makes these submissions:

- (1) Ms Febey’s early requests to officers of DHHS for 24/7 police presence did not translate into a formal request and were resolved in SCC meetings by promulgation of an escalation protocol (see Part C.2.1);
- (2) The escalation protocol promulgated in early April 2020 was effective, and there was no requirement for a 24/7 policing presence (see Part C.2.2).

C.2.1 Ms Febey’s early requests for 24/7 presence of Victoria Police

106. On 29 and 30 March 2020, Ms Febey recommended to officers of DHHS that Victoria Police should have a 24/7 onsite presence at hotels,¹⁴¹ because private security contractors did not have relevant powers (*i.e.*, of restraint or arrest).¹⁴² Mr Eagle’s response was that there should be no reason why security staff should have to exercise a power of arrest or restraint. If travellers ignored a request that they return to a room, or became threatening, then security staff should contact Victoria Police.¹⁴³

107. Ms Febey maintained the recommendation that Victoria Police (or DHHS) should be onsite overnight, on 29 and 30 March 2020,¹⁴⁴ because (she thought) “*security incidents will increase throughout the quarantine period.*”¹⁴⁵ Thereafter,¹⁴⁶ Victoria Police developed (in consultation with DHHS and DJPR)¹⁴⁷ a “*security escalation process*”, which it produced on 4 April 2020.¹⁴⁸

¹³⁹ P-2213.7-8 (Day 26, 28 September 2020). See also evidence of CCP Patton (P-1651.39–1652.8 (Day 19, 17 September 2020)), evidence of Cmdr Tully (P-936.31–39, P-936.46–47, P-949.4–9, (Day 13, 4 September 2020)).

¹⁴⁰ This issue did not arise in Counsel Assisting’s submissions, but reference is made to the evidence of Victoria Police’s responses to other requests: see Ex 169 (Statement of CCP Patton APM), [3.1]–[3.17], all of which evidence is unchallenged.

¹⁴¹ See Ex 32 (Statement of Claire Febey), [57]; see P-401, P-427.13–21 (Day 8, 27 August 2020).

¹⁴² Ex 33 (Attachments to Statement of Claire Febey), DJP.102.008.6981 (Tab 8) at .6982.

¹⁴³ Ex 33 (Attachments to Statement of Claire Febey), DJP.102.008.6981 (Tab 8) at .6981. See also Ex 149 (Statement of Chris Eagle) at [65].

¹⁴⁴ Ex 33 (Attachments to Statement of Claire Febey), DJP.102.008.6981 (Tab 8) at .6981, DJP.102.009.1880 (Tab 11), DJP.102.009.2694 (Tab 9), DJP.102.009.1588 (Tab 10).

¹⁴⁵ Ex 33 (Attachments to Statement of Claire Febey), DJP.102.009.2695 (Tab 8) at .2696. This turned out not to be the case: see Ex 164 (Statement of Mr Jason Helps), [148]; P-1599.27–44, evidence of Ms Spiteri at P-1600.6–10 (Day 19, 17 September 2020), Ex 24 (Statement of Security Guard 1) at [35].

¹⁴⁶ As minuted in SCC meetings—see Ex 33 (Attachments to Statement of Claire Febey), DJP.102.009.1588 (Tab 10). See also Ex 149 (Witness Statement of Chris Eagle) at [67]. See minutes of SCC meeting for 1 April 2020 (Ex 33 (Attachments to Statement of Claire Febey), DJP.102.007.2382 (Tab 47)), 2 April 2020 (Ex 79 (Attachments to Statement of Tim Tully), VPOL.0002 .0010.0021 (Tab 19) at .0024), and 4 April 2020 (Ex 145 (Attachments to First Statement of Andrew Crisp), DOJ.501.001.8302_R (Tab 24) at .8303).

¹⁴⁷ Ex 164 (Statement of Mr Jason Helps), [99].

¹⁴⁸ Ex 164 (Statement of Mr Jason Helps), [99].

The 5 April 2020 SCC minutes (at which meeting Ms Febey was present)¹⁴⁹ record that the escalation process was “*complete*.”¹⁵⁰

108. As Counsel Assisting submitted, the Board may safely find that “*no formal request for 24/7 police attendance was ever received by police*.”¹⁵¹

C.2.2 The escalation protocol was effective for its purpose

109. The evidence was that the escalation protocol was effective.¹⁵² Mr Nagi (Unified Security) gave evidence that police were patrolling the hotel precinct in any event,¹⁵³ and that they attended pretty quickly and with a number of vehicles when called on.¹⁵⁴ Mr Cleaves (Senior AO – DHHS) gave evidence to the same effect,¹⁵⁵ and said that having police onsite would not have made much difference, given how quickly police responded to calls for assistance.¹⁵⁶ Ms Skilbeck¹⁵⁷ and Mr Helps¹⁵⁸ gave evidence of quick responses, and Ms Spiteri said that the escalation protocol “*worked well for emergency situations where Victoria Police were required at hotels*.”¹⁵⁹ Mr Helps said that had a greater need been demonstrated for Victoria Police presence, he would have requested it.¹⁶⁰
110. Cmdr Tully gave evidence that, for the entire duration of the HQP to 15 July 2020, there had been 131 requests for police assistance in 109 days across all of the hotels.¹⁶¹ Of those, only five required urgent police attendance, two of which related to the same incident.¹⁶² As it was, Victoria Police had dedicated resources performing duties across a 24/7 period who were in a position to respond in a timely manner.¹⁶³

¹⁴⁹ Ex 79 (Attachments to Statement of Cmdr Tully), VPOL.0015.0001.4143 (Tab 20) at .4143.

¹⁵⁰ Ex 79 (Attachments to Statement of Cmdr Tully), VPOL.0015.0001.4143 (Tab 20) at .4144. Internal Victoria Police minutes likewise record this issue as being discussed with DHHS and then finalised on 4 April 2020: see statement of CCP Patton (Ex 169) at [3.14(1)], Ex 170 (Attachments to Witness Statement of CCP Patton APM) at VPOL.0007.0001.2391.

¹⁵¹ P-2213.7-8 (Day 26, 28 September 2020). See also evidence of CCP Patton (P-1651.39–1652.8 (Day 19, 17 September 2020)), evidence of Cmdr Tully (P-936.31–39, P-936.46–47, P-949.4–9, (Day 13, 4 September 2020)).

¹⁵² There was some evidence that, at the outset of the operation and prospectively, people feared that a protocol of authorised officers and security guards escalating matters to police as and when required would not be effective. Ms Febey said this (P-401.13–27), as did Mr Watson (Wilson Security) (P-800.15–31). As appears from the evidence considered in [110], these prospective fears were not borne out in what in fact transpired.

¹⁵³ P-871.43–872.13 (Day 12, 3 September 2020). See also the evidence of Cmdr Tully to this effect at Ex 78 (Statement of Tim Tully), [11.3(3)], [24.1].

¹⁵⁴ P-872.20–25 (Day 12, 3 September 2020).

¹⁵⁵ P-917.12–28 (Day 13, 4 September 2020).

¹⁵⁶ P-918.43–919.2 (Day 13, 4 September 2020).

¹⁵⁷ Ex 125 (Statement of Ms Melissa Skilbeck), [137].

¹⁵⁸ P-1633.11–19 (Day 19, 17 September 2020).

¹⁵⁹ Ex 162 (Statement of Ms Andrea Spiteri), [101]. Ms Spiteri also gave evidence that she thought it may have been preferable to have a 24/7 police presence in hotels (P-1604.17–43), but again that was a view only expressed to DHHS people (P-1605.1–3).

¹⁶⁰ Ex 164 (Statement of Mr Jason Helps), [118].

¹⁶¹ P-938.11–19 (Day 13, 4 September 2020), see also Ex 79 (Attachments to Statement of Tim Tully), VPOL.0001.0004.0001 (Tab 39).

¹⁶² P-938.34–37 (Day 13, 4 September 2020).

¹⁶³ P-939.8–14 (Day 13, 4 September 2020).

C.3 The role performed by Victoria Police in Operation Soteria I

C.3.1 The operational role assigned to Victoria Police in Op Soteria I

111. The operations plan for Op Soteria, version 1.0 (released 28 March 2020), described the role of Victoria Police in Phase 3 of the plan (accommodation) in short terms: "*Provision of support to private security as required.*"¹⁶⁴ Version 2.0 (released 26 April 2020) relevantly described the role as follows:¹⁶⁵

- Victoria Police provide support to AFP, DHHS and DJPR for enforcement and compliance issues.
- Provision of support to private security as required
- ...
- [REDACTED]
- Security and management of passenger disembarkation from transport to accommodation
- Marshalling and security of incoming passengers
- Receive manifest and passengers from AFP on arrival at accommodation.

112. Version 3.0 was more or less the same and relevantly stated:¹⁶⁶

Victoria Police provide support to AFP, DHHS and DJPR for enforcement and compliance issues.

- Provision of support to private security as required
- ...
- Security and management of passenger disembarkation from transport to accommodation
- Marshalling and security of incoming passengers
- Receive manifest and passengers from AFP on arrival at accommodation.

113. CCP Patton gave evidence of the role of Victoria Police, consistently with the various Op Soteria plans quoted above, as follows:¹⁶⁷

Ultimately Victoria Police's role in Operation Soteria was providing support to the control agency, primarily through:

- (1) responsibility for security (including traffic management) at the times and places of entry and egress of the returned travellers at the quarantine hotels;
- (2) provision of support to the 'tier 1' private security at the hotels, as required, by responding to calls for assistance made via 000 calls; and

¹⁶⁴ Ex 150 (Attachments to Statement of Chris Eagle), DELW.0001.0020.0206 at .0213.

¹⁶⁵ Ex 150 (Attachments to Statement of Chris Eagle), DELW.0001.0020.1474 at .1483. Omitted passages are irrelevant.

¹⁶⁶ Ex 187 (Attachments to First Statement of Kym Peake), DHS.0001.0001.2245 at .2254. Omitted passages are irrelevant.

¹⁶⁷ Ex 169 (Statement of CCP Patton APM), [3.13]. See also Ex 78 (Statement of Cmdr Tully), [9.4].

- (3) undertaking occasional vehicle patrols to the exterior of the hotels.

C.3.2 The role in fact performed by Victoria Police in Op Soteria I

114. Victoria Police fulfilled the formal roles assigned to it under Op Soteria I. Beyond its formal role, Victoria Police assisted in the HQP, where requested to do so or at its own initiative, as follows: (1) preparation of the escalation plan: see [107] above;¹⁶⁸ (2) meeting with DHHS and DJPR representatives twice weekly to discuss HQP issues, and working collaboratively to address them;¹⁶⁹ (3) reviewing information from the AFP in relation to incoming passengers to identify areas of potential risk for staff or guests, and taking steps to minimise any such risk;¹⁷⁰ (4) convening and participating in a “security forum,” as outlined below;¹⁷¹ (5) reviewing hotel evacuation plans.¹⁷²
115. As to the “security forum,”¹⁷³ in mid-April 2020, Cmdr Tully became aware that detainees were being permitted to leave hotel premises to go for walks.¹⁷⁴ Victoria Police convened a meeting for the purposes of ensuring that there was consistency in the expectations of DHHS and the security companies as to the support for security that Victoria Police would provide if needed; of understanding the arrangements in regard to fresh air breaks at each hotel; of confirming Victoria Police’s role in the HQP; and of making connections with the relevant people.¹⁷⁵ The forum was held on 16 April 2020.¹⁷⁶ Minutes were circulated.¹⁷⁷ Victoria Police later reviewed exercise plans, particularly for hotels that did not have suitable spaces or facilities within their own premises.¹⁷⁸
116. Having regard to the assistance that was provided by Victoria Police, and the matters referred to below, the Board should not find that any greater role was required of Victoria Police for Op Soteria I (noting that no such finding is sought by Counsel Assisting).
117. Having said all of the above, the Board can safely infer that had Victoria Police been requested to perform an even larger role than it did, Victoria Police would have done so (just as it did in Op Soteria II).¹⁷⁹

¹⁶⁸ Ex 169 (Statement of CCP Patton APM), [3.14(1)].

¹⁶⁹ Ex 169 (Statement of CCP Patton APM), [3.14(2)].

¹⁷⁰ Ex 169 (Statement of CCP Patton APM), [3.14(3)].

¹⁷¹ Ex 169 (Statement of CCP Patton APM), [3.14(4)]; Ex 78 (Statement of Cmdr Tully), [14.8]–[14.18].

¹⁷² Ex 169 (Statement of CCP Patton APM), [3.14(5)].

¹⁷³ Ex 78 (Statement of Cmdr Tully), especially at [14.6]–[14.8].

¹⁷⁴ Ex 78 (Statement of Cmdr Tully), [14.9]–[14.12], see also Ex 79 (Attachments to Statement of Cmdr Tully), VPOL.0002.0007.0001 (Tab 27), VPOL.0007.0001.1827 (Tab 28), VPOL.0002.0001.0018 (Tab 23) at .0021, VPOL.0002.0007.0020 (Tab 29), VPOL.0002.0006.0006 (Tab 36).

¹⁷⁵ Ex 78 (Statement of Cmdr Tully), [14.9]–[14.16], see also Ex 79 (Attachments to Statement of Cmdr Tully), VPOL.0002.0006.0011 (Tab 35).

¹⁷⁶ Ex 78 (Statement of Cmdr Tully), [14.17].

¹⁷⁷ Ex 79 (Attachments to Statement of Cmdr Tully), VPOL.0002.0006.0027 (Tab 37).

¹⁷⁸ Ex 78 (Statement of Cmdr Tully), HQI0078_RP at [14.18].

¹⁷⁹ See evidence of Minister Neville in this regard: Ex 196 (Statement of the Hon. Lisa Neville MP), [46]; P-1962.4–15 (Day 23, 23 September 2020).

D. THE USE AND POTENTIAL USE OF ADF

118. Counsel Assisting invited findings as follows in relation to the use and potential use of ADF personnel:
- (1) it was reasonable for Commr Crisp, on 27 March 2020, to conclude that resourcing was available for the HQP so that there was no need to request “*boots on the ground*” from the ADF;¹⁸⁰
 - (2) on 24 June 2020, Commr Crisp requested 850 ADF personnel for boots-on-ground work after DHHS decided that the private security workforce needed to be replaced;¹⁸¹
 - (3) the decision shortly thereafter to rescind that request, because the CCC had decided to use Corrections staff, was also reasonable and no criticism should be directed to those who made those decisions;¹⁸²
 - (4) while there may have been certain advantages to usage of ADF personnel having regard to their characteristics in comparison with the characteristics of the private security guard cohort,¹⁸³ it is not “*open to [the Board] to find that the ADF should have been engaged.*”¹⁸⁴
119. Victoria Police does not respond to these submissions. However, if the Board makes any finding about why the ADF was not involved earlier or to a greater extent, Victoria Police submits that there should not be a finding that Victoria Police resisted the involvement of the ADF. The submission of Victoria Police is supported by the following evidence.
120. It appears from minutes of the VSB meeting at 4:00 pm on 27 March 2020 that CCP Ashton raised the issue of AFP spot checks in the context of Op Sentinel (rather than Soteria),¹⁸⁵ in relation to which he explained that it was preferable that police undertake the “*on the ground*” roles in Op Sentinel, as they had the relevant training and legal powers.¹⁸⁶
121. CCP Ashton was not aware of any resistance to ADF involvement in the HQP.¹⁸⁷ CCP Ashton was not aware of communications by Victoria Police to the ADF in relation to their role in the HQP.¹⁸⁸
122. CCP Patton was likewise not aware of any resistance to ADF involvement in the HQP.¹⁸⁹ After 28 March 2020, the possibility of involvement of ADF personnel in Op Soteria I was not raised

¹⁸⁰ P-2217.36–40 (Day 26, 28 September 2020).

¹⁸¹ P-2217.42–46 (Day 26, 28 September 2020).

¹⁸² P-2218.1–9 (Day 26, 28 September 2020).

¹⁸³ P-2218, see at .33–41 in particular (Day 26, 28 September 2020).

¹⁸⁴ P-2218.41–42 (Day 26, 28 September 2020).

¹⁸⁵ Ex 178 (Attachments to First Statement of Mr Chris Eccles) DPC.0013.0001.0001 at .0003.

¹⁸⁶ Ex 173 (First Statement of Mr Graham Ashton APM), [2.13].

¹⁸⁷ Ex 173 (First Statement of Mr Graham Ashton APM), [7.1].

¹⁸⁸ Ex 173 (First Statement of Mr Graham Ashton APM), [14.1].

¹⁸⁹ Ex 169 (Statement of CCP Patton APM), [7.1].

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with CCP Patton again, either from within Victoria Police, or by the ADF or anyone else.¹⁹⁰ Only in various other respects, unrelated to HQP, was Victoria Police utilising ADF resources, formalising a memorandum of understanding with the ADF in early April 2020.¹⁹¹ All of the foregoing evidence was unchallenged.

Dan Star QC
Joanna Davidson
Timothy Goodwin
Jim Hartley
Counsel for Victoria Police

Date: 5 October 2020

Peter Cash
Norton Rose Fulbright Australia
Solicitor for Victoria Police

¹⁹⁰ Ex 169 (Statement of CCP Patton APM), [7.4].

¹⁹¹ Ex 169 (Statement of CCP Patton APM), [7.7]–[7.10].

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ATTACHMENT A to Submissions of Victoria Police to the Board of Inquiry into the Hotel Quarantine Program

CHRONOLOGY OF RELEVANT EVENTS ON 27 MARCH 2020 RE THE SETTING UP OF THE HQP AND PRIVATE SECURITYNote: **Highlighting** added for emphasis.

No	Time	Event	Key Evidence	Reference / Exhibit
1.	Morning	National Cabinet meeting – decision to quarantine returned international travellers.		
2.	Around midday	Chris Eccles , Secretary, DPC steps out of the National Cabinet meeting before it finishes and telephones Simon Phemister , Secretary, DJPR.	Mr Eccles' evidence is that he <i>"advise[d] him that there had been agreement that all new international arrivals will need to quarantine for 14 days effective from midnight on Saturday"</i> and he explained the need for hotels, for people with deep logistical experience and urgency.	Eccles' first statement, [77]-[78], Ex 177
			Mr Phemister's evidence is that <i>"[f]rom my discussion with Mr Eccles that day, I understood that DJPR had lead responsibility for delivering the Program, and that I needed to identify each of the building blocks that might be needed to implement the Program. ... As at 27 March 2020, however, I understood that DJPR would be playing a lead role in the Program."</i>	Phemister's statement, [26], Ex 184
3.	Around midday	Simon Phemister , Secretary, DJPR telephones executive director, Mr Unni Menon	Mr Menon's evidence is that at around midday, Mr Phemister called him and <i>"asked [him] to ascertain which hotels would be available to provide accommodation as part of the program (including their capacity to provide meals, security and cleaning services)."</i> Email from Mr Kamenev, Deputy Secretary DJPR at 12:17pm on 27 March 2020 stated: <i>"Unni is going to write to us shortly with potential requirements for a cleaning and security workforce to manage people who might be quarantined in hotel rooms. We might need to act quickly depending on govt policy choices in this space so would be good to think through options. It would be in metro and regions. I need a point person who can work with Unni."</i>	Menon statement, [12], Ex 49 Ex 37 (Attachments to Statement of Katrina Currie) DJP.104.008.6765
4.	Around 12.30pm	Simon Phemister , Secretary, DJPR meets with three executive directors of DJPR (incl Claire Febey).	Mr Phemister accepts the accuracy of Ms Febey's notes.	Phemister's statement, [31], Ex 184 Ex 185 (Attachments to statement of Simon Phemister), DJP.202.002.0001

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No	Time	Event	Key Evidence	Reference / Exhibit
			<p>Ms Febey's notes include:</p> <p>"I will responsible for the whole process Everything Sanitation, food services, health care, security They need to be safe, but we need them to stay where they are Simon will call Graeme Ashton, need a regime that makes sure they adhere to their quarantine ... Simon will get from the Premier's ... Premier is announcing at 3pm Police and security</p>	Ex 185 (Attachments to statement of Simon Phemister), DJP.202.002.0001 at .0002 and .0003
			<p>There are also notes of this same meeting by Charles Rankin, Office of the Secretary, DJPR. These notes state:</p> <p>"Claire will be responsible for the DJPR process. Hotels to provide sanitation, health, security, catering. Medical support, concierge. They need to provide a full suite of service. They cannot go outside and wander. SP to call Graham Ashton. Need to ensure they abide by their quarantine. ... SP to get start date from PPO."</p>	Febey's statement, [10], Ex 32 Ex 33 (Attachments to statement of Claire Febey), DJP.201.002.0001, tab 002
5.	Around 1pm	Telephone conversations and text messages between CCP Ashton and interstate colleague re impending decision of National Cabinet re HQP.		Ashton's first statement, [2.1] & [5.1], Ex 173

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No	Time	Event	Key Evidence	Reference / Exhibit
6.	1.12pm	Text from CCP Ashton to Commr Kershaw, AFP	"Mate. Question. Why wouldn't AFP guard people At the hotels??"	Ex 174 (Attachments to first statement of Graham Ashton), VPOL.0005.0001.0244
7.	1.16pm	Text from CCP Ashton to Chris Eccles , Secretary, DPC	"Chris I am getting word from Canberra for a plan whereby arrivals from overseas are to be subjected to enforced isolation from tomorrow. The suggestion is Victorian arrivals are conveyed to a hotel Somewhere where they are guarded by police for 14 days. Are you aware of anything in this regard?? Graham"	Ex 174 (Attachments to first statement of Graham Ashton), VPOL.0005.0001.0140
8.	Between 1.16pm and 1.22pm	CCP Ashton receives a call from someone advising of arrangements to use private security.	Mr Ashton's evidence is that he cannot recall whether Mr Eccles or some other person telephoned him.	Ashton's first statement, [5.6], Ex 173
			Mr Eccles' evidence is that he does not recall if he called CCP Ashton but says if he did he would not have been able to convey any decision about the use of private security.	Eccles' second statement, [23], Ex 179
9.	1.19pm	Text messages between PPO staff member and Tim Ada, Deputy Secretary, DPC	Text message of PPO staff member refers to " <i>security</i> ". Text message of Tim Ada refers to " <i>Simon is getting to me ASAP</i> ". According to the Premier, this is likely to be a reference to Simon Phemister.	P-2129.40 – 2131.7 (Day 25, 25 September 2020)
10.	1.22pm	Text from CCP Ashton to Commr Kershaw, AFP	"Mate my advise [sic] is that ADF will do Passenger transfer and private security will be used."	Ashton's first statement, [5.2], Ex 173 Ex 174 (Attachments to first statement of Graham Ashton), VPOL.0005.0001.0244
11.	1324	CCP Ashton telephones CC Fuller , NSW Police	Duration - 6 mins 17 secs.	Ashton's second statement, [4], Ex 175
12.	1.31pm	Text from Commr Kershaw, AFP to CCP Ashton	"Ok that's new"	Ex 174 (Attachments to first statement of Graham Ashton), VPOL.0005.0001.0244
13.	1.32pm	Text from CCP Ashton to Commr Kershaw, AFP	"I think that's the deal set up by our DPC . I understand NSW will be a different arrangement. I spoke to Mick F." [ie, Mick Fuller, the Chief Commissioner of NSW Police]	Ashton's first statement, [5.3], Ex

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No	Time	Event	Key Evidence	Reference / Exhibit
				173 Ex 174 (Attachments first to statement of Graham Ashton), VPOL.0005.0001.0244
14.	1.34pm	Text from Commr Crisp to CCP Ashton	"I just received this from the ADF. I assume you would have it but just letting you know. Thanks Andrew, federal announcement very shortly regarding ADF support to state police for COVID19"	Ex 174 (Attachments to first statement of Graham Ashton), VPOL.0005.0001.1283
15.	1.35pm	CCP Ashton telephones Commr Crisp	Duration – 2 mins 46 secs.	Ashton's second statement, [4], Ex 175
16.	Approx 2pm (meeting scheduled at 1.30, but started closer to 2pm)	Regular meeting with Minister re COVID issues. Attended by: <ul style="list-style-type: none"> Minister Lisa Neville CCP Ashton Commr Crisp and assistant Corri McKenzie, DJCS 	The handwritten notes by CCP Ashton state: "1400hrs Min Meeting. ... → Hotels. Security guards Police back up."	Ashton's first statement, [2.4], Ex 173 Ex 174 (Attachments to first statement of Graham Ashton), VPOL.0005.0001.0057 at .0064
			The handwritten notes by Commr Crisp simply record "ADF / Private Security".	Ex 148 (Attachments to third statement of Andrew Crisp), DOJ.514.001.0001
17.	Approx 2.30pm (conference commenced between 2.21pm and 2.33pm ¹⁹²)	Prime Minister's press conference - announcements made re hotel quarantine and ADF assistance re compliance checks		Ex 157a Video of press conference Ex157b Transcript of press conference

¹⁹² <https://www.smh.com.au/national/coronavirus-updates-live-australian-covid-19-cases-set-to-pass-3000-as-worldwide-fatalities-climb-beyond-22-000-20200326-p54ed7.html?fbclid=IwAR3g79xfbaPcv0t-1ygKDbcx8FA6Wgg4JeU9uRwoOIGNBHLhdDefCT18a-M> Sydney Morning Herald live reporting for 27 March 2020. Report at 2.21pm titled "Prime

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No	Time	Event	Key Evidence	Reference / Exhibit
18.	After PM's announcement and before VSB meeting	Debrief session conducted by DPC including DHHS staff.	Note that Victoria Police was not involved in this.	Peake's statement, [107]-[108], Ex 186
19.	Approx 3.20pm	Premier's press conference	At 3:45 in the recording, the Premier states: "Police, private security, all of our health team will be able to monitor compliance in a much easier way, in a static location, one hotel or a series of hotels, as the case may be. That'll mean, and this is the really important message, that will mean that more of those police that we have, those 500 police that are doing that work in terms of Coronavirus enforcement, they'll be able to get to even more homes where people are supposed to be quarantining. Those who've arrived prior to midnight tomorrow night. So if you're doing the wrong thing, you will be caught."	Ex 210 VPOL.0006.0002.0013 at .0014 (transcript) HQI.0001.0002.0013 (video recording)
		DJPR team (including Claire Febey) are monitoring the Premier's press conference including reference to private security.	3.24pm text message by Ms Febey to her team: "Premier speaking". 3.26pm text message by Ms Febey to her team: "... police, security, monitor compliance 500 police doing COVID19 enforcement will be able to get to more homes, if you're doing the wrong thing you will be caught ..."	Ex 33 (Attachments to statement of Claire Febey), DJP.500.001.0001 (tab 003) at .0002
20.	3.30pm	WhatsApp message from Simon Phemister, Secretary, DJPR to CCP Ashton (copied to VSB group)	"Graeme [sic], we're running the inbound passenger isolation system with Transport (just announced by the Premier). Can I get a point person from your crew to liaise with pls. If anyone else sees a role for their crew pls let me know. Claire Febey, DJPR is running this with support of Paul's team." This is the first evidence of communication between Mr Phemister and CCP Ashton prior to the 4pm VSB meeting. Mr Phemister accepted he never called CCP Ashton (despite the note in item 3 above that he would).	Ex 174 (Attachments to first statement of Graham Ashton), VPOL.0005.0001.1279 P-1864.38-41 (Day 22, 22 September 2020)

Minister Scott Morrison addresses the media after the national cabinet meeting" with video of announcement; followed by report at 2.33pm which commences the live reporting of the announcement titled "Self-isolation rules strengthened for people arriving in Australia".

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No	Time	Event	Key Evidence	Reference / Exhibit
21.	3.34pm	CCP Ashton responds to Simon Phemister, Secretary, DJPR by WhatsApp message (VSB group)	<p>“Mate ask Claire to call dep commissioner Rick Nugent in the first instance. I will send you his number”</p> <p>CCP Ashton then forwarded DC Nugent's mobile number to Mr Phemister on this WhatsApp group.</p> <p>Mr Phemister then shares Claire Febey's number on this WhatsApp group.</p> <p>CCP Ashton asks: ‘So Claire will call Rick’.</p> <p>Mr Phemister responds: ‘Yes, Sharing Claire's number was for others’.</p>	Ex 174 (Attachments to first statement of Graham Ashton), VPOL.0005.0001.1279 at .1280-1282
22.	4pm	Victorian Secretaries Board (VSB) meeting	<p>VSB meeting chaired by Mr Eccles, Secretary, DPC.</p> <p>VSB meeting included information exchange but no operational decisions for the HQP were made (consistent with the nature of the function of the VSB).</p>	Eccles' first statement, [54]-[55], [60], Ex 177
			<p>The formal minutes record nothing said by CCP Ashton.</p>	Ex 178 (Attachments to first statement of Chris Eccles), DPC.0016.0001.0095
			<p>The notes of Mr Eccles' senior adviser record many exchanges by Mr Eccles and Mr Phemister and relatively little from CCP Ashton. The following is ascribed to CCP Ashton under the heading “Questions”:</p> <p>“People coming in from OS - the process that Paul is coordinating - police wont guard but will be doing the checks?”</p>	Ex 178 (Attachments to first statement of Chris Eccles), DPC.0013.0001.0001 at .0003
			<p>The notes of Mr Eccles' senior adviser also record the following exchange:</p> <p>GA [Mr Ashton] ‘Challenge will be static presence over a long period of time - will end up with some private contractor or else the ADF ideally’.</p> <p>CE [Mr Eccles] ‘I assume a private contractor’.</p>	Ex 178 (Attachments to first statement of Chris Eccles), DPC.0013.0001.0001 at .0004
			<p>There are handwritten notes by CCP Ashton.</p>	Ex 174 (Attachments to first statement of Graham Ashton), VPOL.0005.0001.0057 at .0064-0065.
23.	4.12pm to 4.19pm [whilst VSB meeting is	Claire Febey sends text messages to her team.	<p>4.12pm - “We need a security stream in our plan”</p> <p>4.18pm - “We will likely need:</p>	Ex 33 (Attachments to statement of Claire Febey),

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No	Time	Event	Key Evidence	Reference / Exhibit
	occurring]		<p>Private security on buses (TBC)</p> <p>Additional security at hotels (please raise with Unni that we require this as part of full service)</p> <p>Police on call to enforce where there is non compliance</p> <p>Authorized officers (health system) to direct security.”</p> <p>4.19pm - “We will get more information on the scc call”</p>	DPC.500.001.0001 (tab 0003) at.0005.
24.	4.30pm	<p>SCC meeting commences:</p> <p><u>Notes:</u></p> <p>1. CCP Ashton did not speak with the Victoria Police attendees either prior to following this SCC meeting: see Mr Ashton’s 1st statement, [2.5] & [4.5] VPOL.0027.0001.0030.</p> <p>2. Item 24 below occurs prior to the timing of the third and last quoted exchange at the SCC meeting.</p>	<ul style="list-style-type: none"> • At 17 minutes, 30 seconds, Ms Febey says: <p>“So, of course, the Critical Response Team at Melbourne Airport is going to be a valuable source of information, and then as well DJPR will have the role from, from what I understand, of managing end to end, I guess, the point at which they get off the plane, until the time at which they finish the period of quarantine.</p> <p>So I guess the question is how do we best balance the holding of that information between those three points, I guess, that control Melbourne Airport in terms of Critical Response Team, and then DJPR’s overall lead responsibility for delivery.”</p> • At 25 minutes, 10 seconds, Ms Febey says, directed to AC Grainger: <p>“I’d be really keen to work this through with you because, as you say, there are different steps in security 30 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.</p> <p>And then we’d like to understand from you where you see VicPol’s role being predominantly, which I would have thought was around where things are not going as they should and you need to be called in to assist with enforcement.</p> <p>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?”</p> <p>AC Grainger responds “I’ll take the call from you.”</p> • At 53 minutes, 10 seconds to 54 minutes, 6 seconds, is the exchange where Commr Crisp refers to the “preference of Victoria Police” which concludes with the following: 	<p>Ex 33</p> <p>HQI.0001.0004.0056 at .0064</p> <p>Ex 33</p> <p>HQI.0001.0004.0056 at .0067</p> <p>Ex 33</p> <p>HQI.0001.0004.0056 at .0077</p>

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No	Time	Event	Key Evidence	Reference / Exhibit
			<p>MR CRISP: "So I'm just curious as to who's going to take responsibility around 40 contracting private security? Is that DJPR? Claire?"</p> <p>MS FEBEY: "Yes, I understand 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 45 arrangements are made, both in hotels and also for exploring what the arrangements might be for transport as well."</p>	
25.	5.14pm 5.15pm 5.20pm	During the SCC meeting	<p>CCP Ashton telephones Commr Crisp to update him on the VSB meeting.</p> <p>Commr Crisp calls CCP Ashton back.</p> <p>Text message from Commr Crisp to AC Grainger:</p> <p>"I stepped out to speak to Graham and I let him know you're in this meeting as he's only just come out of VSB. He made it clear in VSB that private security is the first security option at hotels/motels and not police"</p>	<p>Ashton's second statement, [4], Ex 175</p> <p>Crisp's third statement, [7]-[8], Ex 147</p> <p>Ex 148 (Attachments to third statement of Andrew Crisp), DOJ.515.001.0014.</p>
26.	7pm	Conference call of CCP Ashton & Deputy Commissioners (Patton, Nugent & maybe Steendam)	<p>Diary note of then DC Patton: "CCP D/Cs hookup - update re no notice re announcements by PM tomorrow - Defence assisting re 'back of house' checks - Arrivals -taken to hotels from airports. Sunday first 1300 first day - 1000 each day after that - don't know how many to expect back. ADF available re static guarding of these sites."</p>	<p>Ex 170 (Attachments to statement of Shane Patton), VPOL.0005.0001.1298</p>
27.	7.11pm	Email sent by AC Grainger to DC Nugent and DC Patton	<p>Reporting on the SCC meeting held earlier in the day. AC Grainger's notes include:</p> <p>"DJPR will have the responsibility of developing the end-to -end process (Claire XX). Claire will contact me to discuss VP's position on this."</p> <p>Note: Ms Febey never called AC Granger following the meeting: P-400.38-42 (Day 8, 27 August 2020). This is despite AC Grainger making himself available: Ex 209 (VPOL.0005.0006.0008), texts messages between AC Grainger with Ms Febey (to be read with Ex 214 (VPOL.0005.0007.0006), text messages between AC Grainger and Commr Crisp).</p>	<p>Ex 170 (Attachments to statement of Shane Patton), VPOL.0004.0001.0040</p>
28.	After 7.30pm	Rick Nugent receives call from 'DPC' or some other government department.	<p>DC Nugent's email sent at 7.40am (wrongly recorded at 6.40am) on 28/3/20 states email:</p> <p>"The CCP 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. We agreed CBD motels would make it easier for police resources should we be called, which he advised Andrew (I understand). DPC also rang me about this late last night and confirmed that was the arrangement discussed at VSB. I did suggest, if increased risks/ issues were identified, ADF</p>	<p>Patton's statement, [3.7], Ex 169</p> <p>P-1648.26-38 (Day 19, 17 September 2020)</p> <p>Ex 170 (Attachments to statement of Shane</p>

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No	Time	Event	Key Evidence	Reference / Exhibit
			could have a role in this regard.	Patton), VPOL.0004.0001.0040
29.	9.19pm	Email from Supt [REDACTED] to AC Grainger, Commander Tully and Supt [REDACTED]	The email includes: “ ... Victorian Police has the responsibility to take the lead on the developing the law enforcement plan. Victoria Police will have an enforcement role. ... What we do know: <ul style="list-style-type: none"> • DJPR has overall responsibility to develop the end-to-end plan and contact Claire ?? to contact Mick Grainger as contact for further planning. • 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 ... Proposed VicPol enforcement role: Maintain a policing presence at the transfer of passengers from arrival at the hotel through reception process. On-going tasking to support the security guards – patrolling the hotels Providing response to calls for assistance ...”	Ex 79 (Attachments to statement of Tim Tully), tab VPOL.0002.0005.0117 [REDACTED]'s statement, [11]-[12], Ex 172
30.	10.40pm	Email from Cameron Nolan, Executive Director, DJPR to Simon Phemister, Secretary, DJPR, Claire Febey and others	“Ideal model in my mind would be a supply of security staff from Katrina/David/Alex who work under the direction of an authorised officer in DHHS. This DHHS team would induct the security guards and provide on-call advice about what to do in certain situations and determine if any incidents should be escalated to the authorised officer and/or VicPol.”	Ex 33 (Attachments to statement of Claire Febey), DJP.101.002.7985 (tab 006) at .7985.