

WITNESS STATEMENT OF MURRAY SMITH

Name: Murray Smith

Address: Level 1, 50 Lonsdale Street, Melbourne, Vic, 3000

Occupation: Commander, COVID-19 Enforcement and Compliance, Department of Health and Human Services

Date: 1 September 2020

1. I make this statement to the Board of Inquiry in response to **NTP- 134**, the Notice to produce a statement in writing (**Notice**). This statement has been prepared with the assistance of lawyers and Departmental officers.
2. I commenced employment with the Department of Health and Human Services (**Department**) as Commander, COVID-19 Enforcement and Compliance on 7 May 2020. This statement is true and correct to the best of my knowledge and belief. I make this statement based on matters within my knowledge, and documents and records of the Department. I have also used and relied upon data and information produced or provided to me by officers within the Department.

Professional background

3. My curriculum vitae, which contains comprehensive detail of my professional qualifications and employment history as at the time of making this statement, is available at DHS.0001.0084.0089.

QUESTIONS**Roles and Responsibilities**

Question 1: What is your usual role within the Department of Health and Human Services (the Department) and what are your key accountabilities?

4. My role within the Department is Commander, COVID-19 Enforcement and Compliance, which I have held since 7 May 2020.
5. In this role, my key responsibilities are:
 - (a) in respect of the Hotel Quarantine Program:

- (i) to lead and provide oversight to compliance matters under all Public Health Directions as they relate to detention notices;
 - (ii) to provide advice and input into complex compliance matters as they relate to detention notices;
 - (iii) to provide advice and support to the Chief Health Officer (**CHO**) and his delegates on compliance with detention notices;
 - (iv) to address interagency issues as they relate to compliance and enforcement matters for hotel quarantine;
 - (v) to approve requests for changes to alternative detention arrangements for those subject to detention notices for international travellers; and
 - (vi) to undertake daily reviews of those subject to detention.
- (b) to lead, evaluate and respond to Authorised Officer (**AO**) requests (subject to resourcing availability) outside of the hotel quarantine program, such as AOs assisting with the Working from Home Directions, operations at the public housing towers, door-knocking, and compliance programs at the domestic airport terminal.

Question 2: What is (or was) your role within the COVID-19 Hotel Quarantine Program and what are your key accountabilities? How long have you held (did you hold) this role (include dates)?

6. The key accountability of COVID-19 Enforcement and Compliance Command, as part of Operation Soteria, and therefore my key accountability, is to maintain the regulatory framework for the detention of international travellers entering into Victoria in accordance with the initial notice issued by the Deputy Chief Health Officer on 28 March 2020 and enacted by the plan approved by the Public Health Commander (through the Deputy Health Commander / delegate).
7. Within the COVID-19 hotel quarantine program, my role was as described at paragraph 5(a) above. I commenced in that role on 7 May 2020 and remain in that role at the time of making this statement.

Question 3: In relation to question 2, who:

- (a) **is (or was) under your supervision**
8. As my role has responsibility for the entire Enforcement and Compliance Command structure, the positions under my supervision include all of the AOs, AO Team Leaders (since that role was introduced in late May 2020), and Senior AOs. In addition, the positions of Deputy

Commander – AO Operations and of Deputy Commander – Determinations and Policy (called Deputy Commander – Exemptions and Policy until July 2020) are under my supervision, as are their staff of case officers, policy officers, team leaders and managers.

(b) reports (reported) to you?

9. The positions that directly report to me are the Deputy Commander – AO Operations and the Deputy Commander – Determinations and Policy.

(c) do (did) you report to?

10. In respect of the hotel quarantine program as part of the pandemic emergency response, I report to the State Controller – Health. This reporting line did not substantively change during my time in the Enforcement and Compliance Commander role.

Authorised Officers

Question 4 – What is your understanding of the role of an Authorised Officer in the Hotel Quarantine Program?

11. There were three broad roles for AOs in the hotel quarantine program:
- (a) firstly, serving upon persons arriving at the airport or maritime ports a direction notice under the *Public Health and Wellbeing Act 2008* (Vic) (**PHWA**), directing their detention in hotel quarantine (the **detention notice**);
 - (b) secondly, during the hotel quarantine period, ensuring compliance with the detention notice and issuing and managing permissions and 'exemptions' from quarantine (although known as 'exemptions', these were in reality a change of the conditions of the detention rather than true exemptions from detention); and
 - (c) thirdly, approving the release of those persons from the hotels at the end of the hotel quarantine period.
12. AOs did not have responsibility for overseeing infection prevention controls at hotels or for overseeing the use of personal protective equipment (**PPE**) by others working at quarantine hotels more generally.
13. The operation of DHHS services in hotels (outside of AO operations) was overseen by the Commander – COVID-19 Accommodation as part of Operation Soteria.

14. AOs did not have responsibility for any other staff working at hotels, nor did they have any such staff reporting to them.
15. AOs' reporting structure is through Enforcement and Compliance Command and is further described in my response to Question 8, below.
16. Within the three broad roles that AOs did have, their general responsibilities included:
 - (a) warning persons to be detained that refusing or failing to comply with the detention notice without a reasonable excuse is an offence;
 - (b) explaining the detention notice to persons being directed into hotel quarantine, including explaining what was and was not permitted;
 - (c) issuing verbal directions to persons refusing or failing to comply with a detention notice;
 - (d) facilitating reasonable requests for communication;
 - (e) responding to and facilitating requests for fresh air breaks, temporary leave and exemptions as described further in my response to Question 21 below;
 - (f) facilitating departure from hotel quarantine, as described further in my answer to Question 22 below;
 - (g) explaining to hotel staff, security contractors and police as necessary, what persons in hotel quarantine were permitted and not permitted to do;
 - (h) requesting the assistance of Victoria Police as necessary; and
 - (i) considering the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* (**the Charter**) when making decisions.
17. An AO on site at a hotel could escalate any compliance related issues, complaints or concerns to an AO Team Leader or Senior AO.
18. In addition:
 - (a) AO Team Leaders were appointed from 25 May 2020, and had responsibility for oversight and management of their team of AOs, including monitoring the approval of permissions, supporting AOs through complex matters, making exemption requests

where appropriate and ensuring appropriate parties are aware of complex matters;
and

- (b) Senior AOs had responsibility for operational oversight of the AOs and supervision of the AO Team Leaders.
19. Specific roles and responsibilities evolved over time as the Hotel Quarantine Program developed. Additional detail about AO roles and responsibilities at various points in time is contained in the documents I refer to in response to Question 10 below, and otherwise set out elsewhere in this statement as relevant to a specific question.
20. In particular, as set out in my answer to Question 13 below:
- (a) a designated AO had specific responsibility for giving notice of a person's detention to the CHO, managing the regulatory framework for the detention notice while it was in force and concluding the detention notice in line with CHO requirements; and
 - (b) a designated senior AO had specific responsibility for, at least once every 24 hours, reviewing whether the continued detention of persons was reasonably necessary to eliminate or reduce a serious risk to public health and giving notice of the same to the CHO.

Question 5 – what powers do Authorised Officers exercise in order to fulfil those roles, and what is the source of that power?

21. AOs exercise powers and perform functions under the PHWA. For instance:
- (a) AOs serving a detention notice, ensuring compliance with that notice, and approving the release of those persons at the end of the quarantine period are exercising the power under s 200(1)(a) of the PHWA to *'detain any person... for the period reasonably necessary to eliminate or reduce a serious risk to public health'*;
 - (b) AOs issuing warnings, as described in paragraph 16(a) above, were performing a function under s 200(4) of the PHWA;
 - (c) AOs explaining the detention notice to persons being directed to quarantine, as described in paragraph 16(b) above, were performing the functions required by s 200(2) and (3) of the PHWA;

- (d) AOs accommodating requests for communication, as described in paragraph 16(d), were performing the functions required by s 200(5) of the PHWA;
 - (e) AOs seeking the assistance of Victoria Police, as described in paragraph 16(h) above, is contemplated by s 202 of the PHWA; and
 - (f) AOs giving notice to the CHO and reviewing a person's detention, as described in paragraph 20 above, were performing functions under s 200(6) and (7) of the PHWA.
22. In the exercise of these functions under the PHWA, AOs were required to take into consideration the Charter, as described in paragraph 16(i) above.
23. For the purposes of the hotel quarantine program, each AO was authorised by the CHO under s 199(2) of the PHWA to exercise all of the powers under s 200 of the PHWA (emergency powers) and s 190 (public health risk powers).

Question 6 – What selection process was adopted for Authorised Officers to be appointed to the Hotel Quarantine Program? Has the selection process changed since the commencement of the Hotel Quarantine Program? If so, how and why?

24. My response to this question is based on documents and records of the Department, as well as my own knowledge and experience.
25. AOs were recruited to work in the COVID-19 hotel quarantine program from both within the Department and outside the Department.
26. Existing employees of the Department in regulatory and compliance roles were initially redeployed to the hotel quarantine program when the Program was operationalised at short notice on 29 March 2020. The AOs deployed at the beginning of the Program were existing employees with regulatory experience within the Department, from areas such as food safety, radiation, Legionnaires disease and supported residential services, as well as from the Department's operational divisions. Some of these individuals had already been appointed as AOs with authority under section 30 of the PHWA. The remainder were appointed by the CHO under the PHWA, acting as the Secretary's delegate.
27. AOs recruited from outside of the Department in the first few weeks of the Program came from other government entities (for instance, the Victorian Commission for Gambling and Liquor Regulation, the Department of Transport, the Department of Environment, Land, Water and Planning and local councils). To the best of my knowledge and belief, such AOs were

recruited by an 'expression of interest' process run by their own organisations. Those processes resulted in other organisations recommending a number of suitable officers to the Department for appointment as AOs, based on their existing training, experience and background. The CHO was briefed on the relevant qualifications and training of those persons for the purpose of the appointment and authorisation process.

28. Recruitment of AOs was initially managed by the Enforcement and Compliance Operations Support area until some time in around April 2020 when it was taken over by the Department's People and Culture Branch.
29. From early June 2020, as a number of AOs were scheduled to return to their substantive roles, the Department developed a Workforce Plan to recruit to the positions of AO (VPS4), AO Team Leader (VPS5), and senior AO (VPS6). The development of that strategy involved consideration of the roles and responsibilities of AOs, AO Team Leaders, and Senior AOs and the desired qualifications, skills and attributes for those roles. In addition to advertising on the Working for Victoria website, and approaching other government departments and local councils, the Department directly targeted industries reflecting the desired skill sets and attributes (for instance, the Department recruited directly from the aviation industry as persons from this industry operated within a framework of security, high regulatory requirements and customer service), and recruiters who specialised in recruitment for relevantly similar positions.
30. A copy of the Workforce Plan is at DHS.0001.0039.0006.
31. I understand from the Workforce Plan and the Department's People and Culture Branch that the selection process was merits-based according to key selection criteria. Applicants were required to address the selection criteria through a written application and interview. Successful candidates progressed to a reference check and safety screening, before being onboarded and inducted.
32. A copy of the key selection criteria and interview questions in the document titled "Authorised Officer Job Cards" is at DHS.5000.0142.4213.

Question 7 – What training or qualifications do Authorised Officers have or receive? Is the training ongoing? Is there a training register?

33. To be appointed an AO, the person must be employed under Part 3 of the *Public Administration Act 2004* (Vic) and be suitably qualified or trained to be an AO for the purposes of the PHWA.

34. As set out in my response to Question 6, relevant government departments, government bodies and local councils initially conducted their own processes to identify and recommend particular employees or officers to the Department as potential AO candidates. The CHO, acting as the Secretary's delegate, then determined whether he was satisfied that those persons were suitably qualified or trained to be appointed as AOs under the PHWA, on the basis of advice from the Enforcement and Compliance Operations Support team area. For the purpose of determining whether a person was suitably qualified or trained, the Secretary's delegate had reference to the person's existing role (including, as relevant, the qualifications, skills and attributes required for that position) and in particular for secondees whether the person:
- (a) had knowledge and experience in law enforcement functions and roles;
 - (b) had experience in conflict resolution and mediation; and/or
 - (c) could transfer skills across regulatory frameworks with appropriate briefing and training.
35. As set out in my answer to Question 6 above, AOs were initially recruited from a pool of persons who generally had experience either working as AOs within the Department or local councils, or in similar roles in other government departments or bodies. Such persons are ordinarily trained and work in specific regulatory areas (as set out in my response to Question 6) and, accordingly, had a wide range of training and qualifications.
36. Initially, no specific additional qualifications were required to be appointed as an AO for the purpose of the Hotel Quarantine Program. For the first two weeks of the Program following rapid establishment, AOs did not receive formal program-specific training before commencing work on the ground at hotels, but received instruction and supervision from Senior AOs (who were on the ground at hotels or on call 24 hours a day 7 days a week) and members of the Enforcement and Compliance team.
37. Following the implementation of the Workforce Plan described in paragraph 29 above, the selection criteria for AOs also included education or qualifications in regulation, compliance and/or enforcement as a desirable skill or attribute.

Training provided by the Department

38. From early April, the Department organised safety training and induction for AOs.

39. All new AOs were required to attend induction training via teleconference. The induction training was delivered in two parts. Part A of the training involved a general DHHS induction. The session included the following topics:
- (a) Welcome to the Department;
 - (b) The Department's Values and Code of Conduct;
 - (c) The Department's Role in the Emergency;
 - (d) An Introduction to Cyber Security;
 - (e) An Introduction to Health Records Management; and
 - (f) Safety and Wellbeing.¹
40. Following the Part A training session, the Department provided the attendees with copies of the following documents:
- (a) Part 1 – Welcome to DHHS Induction Booklet (DHS.0001.0013.0133);
 - (b) Part 2 – DHHS Safety and Wellbeing Guide (DHS.0001.0013.0142);
 - (c) The Code of Conduct for Victorian Public Sector Employees (DHS.0001.0013.0162);
 - (d) The DHHS Acceptable use of Technology Policy (DHS.0001.0013.0148); and
 - (e) Cyber Security Tips (DHS.0001.0013.0159).
41. Part B of the training involved a workplace orientation delivered by the Enforcement and Compliance Command Operations area, in conjunction with a Deputy Commander, Enforcement and Compliance. This part of the training included information about the AO role and team, working conditions, the provision of PPE and rostering.
42. In addition, AOs were supported with instructions, policies, guidelines and leadership from senior managers as the AO program evolved.
43. From June 2020, following the implementation of the Workforce Plan described in paragraph 28, successful applicants received 5 days of training, specifically focused on the roles and

¹ DHS.0001.0064.0001

responsibilities of AOs in hotels and at ports of entry. This training program was developed to cater for recruits from the private sector and to improve and enhance the skills of AOs currently employed. The following units of competency, which form part of the Certificate IV in Government Investigations are delivered to AOs:

- (a) PSPETH002 – Uphold and support the values and principles of the public service;
 - (b) PSPREG003 – Apply regulatory powers;
 - (c) PSPCRT007 – Compile and use official notes;
 - (d) PSPGEN032 – Deal with conflict; and
 - (e) PSPGEN033 – Use advanced workplace communication strategies.
44. This program also requires AOs to undertake instruction with respect to infection control and the use of PPE, for which they are tested on their knowledge.
45. Existing AOs either have undertaken, or will undertake, the above further training program.
46. In addition, as set out in my response to Question 10 below, AOs have access to a dedicated Microsoft Teams platform which houses a range of policies, protocols and operational guidelines to assist them in performing their roles. There is a laptop at every operational hotel that AOs can use to access the policies via Microsoft Teams.
47. AO training records are kept by the Department's Learning and Development team.

Question 8 – Is there a command structure or hierarchy applicable to Authorised Officers? If so, what is that structure and how does (did) it operate?

48. The command structure or hierarchy was as follows, in order of increasing seniority:
- (a) AOs, whose role is described in my answer to Question 4 above;
 - (b) AO Team Leaders (from 25 May 2020) whose role is described in my answer to Question 4 above;
 - (c) Senior AOs, whose role is described in my answer to Question 4 above;
 - (d) Deputy Commander, AO Operations, whose role included responsibility for providing oversight to AOs, ensuring effective communications between AO operations,

Command and Policy and Exemptions, ensuring operations are compliant with protocols, engaging with the Emergency Operations Centre as required and leading the provision of guidance to the AO Team Leaders, and reporting on daily review of people being detained; and

- (e) Enforcement and Compliance Commander, which is my role, described in Question 2 above.

49. A copy of the current command structure and hierarchy applicable to Authorised Officers is available at page 23 of DHS.0001.0001.1053.

Question 9 – During the months of;

- (a) April 2020;
- (b) May 2020;
- (c) June 2020; and
- (d) July 2020,

how many Authorised Officers were operational at each hotel where the Hotel Quarantine Program was delivered?

- 50. Generally, at each operational hotel, there was a minimum of 1 AO rostered per 8-hour shift over a 24 hour period (or 3 AOs rostered each day), with additional AOs available for arrival and departure of detainees. AOs generally worked at multiple different hotel sites.
- 51. AO Team Leaders worked across hotels: generally, there were 8 AO Team Leaders allocated across 4 groups of hotels (each group covered approximately 3-5 hotels).
- 52. Senior AOs worked across hotel sites: generally, there were approximately 3-4 Senior AOs available to support AOs across all sites, with one Senior AO on shift at a given time.

Question 10 – Identify any computer program(s), application(s), document(s), or otherwise used by:

- (a) the Department; and
- (b) Authorised Officers,

to enable the Authorised Officers to fulfil their roles and functions.

Computer programs, and applications

53. The COVID-19 Compliance Application (**the Compliance Application**) is an application specifically created by the Department for the hotel quarantine program and used to record the following information:
- (a) detainee personal information, including date of birth, age, passport number and whether an interpreter was required;²
 - (b) admission details, which include the date of arrival to quarantine hotel, expected end of detention period, which hotel they were detained in, hotel room number and details of movement between hotels, if applicable (for example if a detainee tested COVID positive and was moved to a COVID positive hotel);
 - (c) temporary leave permissions granted, which included reasons for the grant of permission for temporary leave, period of temporary leave and the name of the authorised officer who approved the temporary leave; and
 - (d) release information, which included details of any COVID testing swabs taken at day 3 and day 11 of quarantine, the results of testing and any reasons provided by the detainee for refusing to be tested, and an image of the release letter provided.
54. The Compliance Application was initially rolled out from 3 April 2020, but was not used more widely by AOs at hotels until about 24 April 2020.
55. The Compliance Application formed part of a larger Compliance Welfare Management System (the **CWMS**), a browser-based Microsoft customer relationship management system interface that is customised so that specific roles have access to tailored fields of input or information available in a read only format. Its functionalities included welfare data and nurse health records, as well as exemption data and reporting functionalities.
56. AOs also have a dedicated Microsoft Teams platform which houses a range of policies, protocols and operational guidelines to assist them with their role.

Documents

² Note this information was pre-loaded from passenger manifests.

57. The following documents were provided to the Department or AOs to enable AOs to fulfil their roles and functions:

- (a) Overarching policies:
 - (i) COVID-19 DHHS Physical Distancing and Public Health Enforcement and Compliance Plan dated 4 April 2020 DHS.0001.0001.0729;
 - (ii) draft COVID-19 Policy and Procedures – Mandatory Quarantine (Direction and Detention Notice) v1 dated 8 April 2020, available at DHS.5000.0075.0009 and DHS.5000.0075.0010;
 - (iii) Annex 1 COVID-19 Compliance Policy and Procedures – Detention Authorisation (v1) dated 29 April 2020, available at DHS.5000.0025.4759;
 - (iv) Annex 1 COVID-19 Compliance Policy and Procedures – Detention Authorisation (v2) dated 25 May 2020 available at DHS.0001.0013.0006;
 - (v) Annex 1 – Detention Compliance and Enforcement (c2) dated 1 June 2020 available at DHS.0001.0001.1053;
- (b) Operational Instructions:
 - (i) Operational Instruction 1/2020, Supply of alcohol and Searches of personal belongings dated 17 May 2020 available at DHS.5000.0003.7293;
 - (ii) Operational Instruction 2/2020, Accountabilities for the role of AO Team Leader dated 24 May 2020 available at DHS.0001.0013.0206;
 - (iii) Operational instruction 3/2020, Use of improvement and prohibition notices dated 1 July 2020 available at DHS.0001.0013.0208;
 - (iv) Operational Instruction 4/2020, Detainee Person Carer Policy dated 2 July 2020 available at DHS.0001.0013.0212;
 - (v) Operational Instruction 5/2020 Management of detainee movement from hotel to hotel dated 11 July 2020 available at DHS.5000.0003.2505;
 - (vi) Operational Instruction 2020 Authorised Officer Handover Notes dated 14 June 2020 available at DHS.5000.0008.3881;
- (c) Guidelines or Guidance Documents:
 - (i) Guidelines for Authorised Officers – Ensuring physical and mental welfare of international arrivals in individual detention (unaccompanied minors), Charter considerations dated 1 April 2020 available at DHS.5000.0111.3590;
- (d) Practical guidance and fact sheets provided to AOs included:
 - (i) Duties of the AOs dated 6 April 2020 available at DHS.5000.0025.6524;
 - (ii) Additional info for new Authorised Officers dated 28 April 2020 available at DHS.5000.0025.6532;
 - (iii) General Information – COVID-19 Quarantine Authorised Officers dated 14

- May 2020 available at DHS.0001.0062.0009;
- (iv) General Information – COVID19 Quarantine Authorised Officers v 1 dated 2 May 2020 available at DHS.5000.0073.9060;
 - (v) General Information – COVID19 Quarantine Authorised Officers v 2 dated 14 May 2020 available at DHS.0001.0063.0012;
 - (vi) General Information – COVID19 Quarantine Authorised Officers v 3 dated 5 June 2020 available at DHS.0001.0063.0025;
 - (vii) General Information – COVID19 Quarantine Authorised Officers v 4 dated 25 June 2020 available at DHS.0001.0063.0040;
 - (viii) General Information – COVID19 Quarantine Authorised Officers v 5 dated 31 July 2020 available at DHS.0001.0068.0001;
 - (ix) Coronavirus – emergency response fact sheet available at DHS.5000.0095.8973; and
 - (x) COVID-19 Enforcement and Compliance - Investigator's manual available at DHS.5000.0096.8142 (document only provided to AOs who were specifically tasked to undertake investigations).
- (e) Fortnightly rosters were provided in Excel which allocated AOs' work locations and times of attendance, example roster available at DHS.0001.0062.0025.

58. In addition, AOs were provided regular information via email from various teams within DHHS including COVID-AO Logistics, COVID-19 Authorised Officer Rostering and COVID-AO timesheets. As Commander, I also emailed AOs with updates, including circulating policies and video tutorials and reminding AOs of protocols in relation to infection prevention control (for example, see DHS.5000.0020.7561, DHS.5000.0018.6358, DHS.5000.0090.8970 and DHS.0001.0089.0005 with Attachment at DHS.0001.0089.0006).

59. AOs were also invited to a weekly all- AO meeting with Senior AOs and the Deputy Commander of AOs, in which they could raise questions and seek clarity. This was also an opportunity to provide information to AOs about contemporary operations.

Question 11 – What is (was) the purpose and function of the COVID-19 Compliance Application? Who has access to and who uses the application and for what purpose? Is the information contained in the COVID-19 Compliance Application stored by the Department? If so, where and how is it stored?

60. As set out in my response to Question 10 above, the Compliance Application formed part of the CWMS; its specific purpose and function was to record the details of who was detained in the hotel quarantine program and the dates on which those persons were detained, including

leave or exemption from hotel quarantine. The Compliance Application was intended to replace the need to retain paper-based records by allowing AOs to photograph Detention notices and other forms and upload them to the Compliance Application.

61. A copy of the Quarantine and Welfare User Guide – COVID-19 Compliance Application User Guide v 1.0 is at DHS.5000.0091.5258.
62. I am aware that the Compliance Application required ongoing enhancement to fix technical issues that arose and to improve the quality of engagement by AOs generally. I am also aware that, pending those improvements, AOs did at times record information in a manual form.
63. The CWMS, including the Compliance Application, was updated very frequently. I am informed by the Department's Business Technology and Information Branch and believe that the CWMS was initially updated nightly, then twice weekly, then weekly, and that overall there have been approximately 300 iterative versions of the CWMS. Particularly significant updates included:
 - (a) adding functionality to upload photographs of the relevant detention notice and guest passports for identification purposes;
 - (b) pre-populating flight manifest data obtained from the Department of Jobs Precincts and Regions (DJPR) into the CWMS. The data was uploaded by DJPR to a file sharing system and then automatically loaded into the CWMS. This was designed so AOs at ports of entry generally did not have to enter individual passenger details, but were simply able to take and upload a photo of the relevant detention notice and enter the name of the hotel at which the person was to be detained (although the Compliance Application retained functionality to manually enter details where a person was not on the flight manifest). However, the manifests supplied by DJPR were frequently inaccurate and therefore required manual entry by AOs. The reasons for the inaccuracy would vary but reasons included some passengers did not get on the intended flight, others were recorded under different names and some were not recorded at all, particularly infants; and
 - (c) adding functionality to enable exemptions from hotel quarantine to be fed into the data available through the Compliance Application to enable AOs at ports of entry to identify arrivals who held a valid exemption from hotel quarantine. However, it is my understanding that this functionality was not available until about May.

64. The Compliance Application was generally used only by the AOs to input the details of who was detained in the hotel quarantine program. However, in addition to AOs, other categories of persons had read-only access to the data entered through the Compliance Application and stored in the CWMS (for instance, persons from the data-analytics team.) Similarly, although AOs generally only entered data through the Compliance Application, they could also be given read-only access to relevant data fields entered into the CWMS through other applications (for instance, data fields entered into the nurse health record indicating whether a person had anaphylaxis). I am informed by the Department's Business Technology and Information Branch and I believe that the categories of persons who have access to the data contained in the Compliance Application and the purposes for which they have access to it are as follows:
- (a) AOs generally had read and write access to data entered through the Compliance Application;
 - (b) the Exemptions team have read-only access for the purpose of considering and recording exemptions from hotel quarantine;
 - (c) the Intelligence team, previously known as the data analytics team, have read-only access for the purposes of generating reports based on various data sets (for example, it was used to generate graphs of the movement of detainees in and out of hotel quarantine and generate lists of detainees within certain hotels); and
 - (d) the development team have read and write access, in order to:
 - (i) develop and update the CWMS; and
 - (ii) to assist with data management, including transfer of paper or electronic (e.g. Microsoft Excel) based record-keeping into the CWMS and to identify data discrepancies or errors.
65. The data contained in the CWMS is stored by the Department in a secure Microsoft cloud service. Access to the CWMS requires security checks such as multifactor authentication. The Department completed a Privacy Impact Assessment in respect of the CWMS.

Question 12: During the period you worked within the Hotel Quarantine Program, was there a designated person responsible for managing or overseeing Authorised Officers? If so, who was that?

66. The designated person responsible for managing and overseeing AOs is the Enforcement and Compliance Commander (initially titled Lead Executive of the DHHS COVID-19 Compliance cell).
67. As noted in my response to Question 2 above, I am currently in the role of Enforcement and Compliance Commander, and have been since 7 May 2020. The other persons who have been in this role were:
- (a) Meena Naidu, between 29 March and 17 June 2020 ('twinned' with me from 7 May 2020 onwards); and
 - (b) Leanne Hughson, from 10 June 2020 onwards (currently 'twinned' with me).

Question 13: Did Authorised Officers involved in the Hotel Quarantine Program undertake daily reviews of the Hotel Quarantine sites and the detainees? Did they provide reports to the Department? If so, what did this review and reporting function involve?

68. Section 200(6) of the PHWA provides that, at least once every 24 hours during the period that a person is subject to detention under s 200(1)(a), an AO must review whether the continued detention of the person is reasonably necessary to eliminate or reduce a serious risk to public health. Given that the hotel quarantine program was instituted in the context of a national requirement that all returning travellers spend a period of 14 days quarantine in a suitable facility such as a hotel, the criterion for identifying the elimination or reduction of the serious risk to public health was whether the person had completed the required 14 day period of quarantine. Daily reviews were undertaken in the context of this national requirement.
69. Given the very high number of persons subject to detention in the hotel quarantine program, a process was developed very early on, for the daily reviews of quarantine for individual passengers required by s 200(6) to be conducted as efficiently and consistently as possible.
70. From about 30 March 2020, the reviews were undertaken by a single Senior AO reviewing a spreadsheet containing details of each person in hotel quarantine, their room number, and how many days they had been in quarantine. This review was supplemented by daily health checks undertaken by healthcare workers, with additional welfare reviews undertaken by welfare staff.
71. Before the Compliance Application was developed, the spreadsheet utilised by the Senior AO undertaking the daily review was populated based on information provided to the Department by DJPR in a hotel database report which contained information of those who had been

issued with a detention notice upon arrival. Occasionally, the DJPR hotel database report was supplemented by information provided from Australian Border Force for the purpose of resolving inconsistencies.

72. After the Compliance Application (discussed in my response to Question 11, above) was developed and AOs commenced using it, the Senior AO undertaking the daily review used data from that Application to facilitate the daily review. This process was documented in the policy documents and plans set out in paragraph 57(a) above.
73. The daily reviews were captured in reports which were provided to the CHO either daily or in batches. Since the end of July 2020, that reporting has occurred on a weekly basis.

Question 14: During the period you worked within the Hotel Quarantine Program, was there a practice, procedure or policy regarding the making, receiving and/or responding to complaints, concerns or issues raised by or on behalf of Authorised Officers, nurses, security guards and/or detainees? If so, please annex copies of any relevant policies and protocols and describe:

- (a) who was responsible;
- (b) how the procedure was applied in practice;
- (c) any changes to the procedure; and
- (d) how effectively it operated.

74. In practice, AOs were expected to and did escalate complaints, concerns or issues through the Enforcement and Compliance Command structure described in my answer to Question 8 above. Although AOs were expected to and did resolve issues locally wherever possible, Senior AOs and Deputy Commanders were available on call 24 hours a day, 7 days a week to respond to, or assist AOs in responding to, complaints, concerns or issues. AOs were provided with contact details on the roster. There were some changes to this practice, with the implementation of a formal AO Team Leader and Senior AO structure from 25 May 2020, which provided an additional formal layer in the command structure. In my experience, although the process of escalating issues through the Command structure was not always perfect, generally it worked well in the circumstances.
75. In addition, the policy and procedure documents described in paragraph 57(a) above provided instruction on responding to a range of specific complaints concerns or issues, including in

relation to OHS and escalation of onsite issues. Although the detail of those policies evolved as the Operation developed, the key channels for escalation of issues largely remained consistent. For instance:

- (a) In respect of OHS, AOs were advised to raise hazards, concerns and incidents with the AO Team Leader or the Deputy Commander.
- (b) In respect of responding to complaints, concerns or issues concerning child welfare, AOs were advised to contact DHHS welfare teams immediately and the DHHS after hours child protection team if a child was at risk of harm (later advice clarified that Victoria Police were to be contacted).
- (c) In respect of responding to concerns about the mental health of a detained person, AOs were advised to immediately request an assessment of mental health be conducted and ensure appropriate support is facilitated. As a general rule, AOs were to notify someone who could assist and could raise the request with their AO Team Leader, the DHHS team leader, the nurses on duty or the DHHS Welfare Team.
- (d) In respect of escalating onsite issues, AOs were advised to respond with a graduated approach to non-compliance, including providing opportunities to communicate with a translator, family or friend, and escalating issues to nursing staff and Victoria Police as necessary.
- (e) Later versions of the policies also advised AOs to escalate non-compliance and other issues to the DHHS Team Leader on-site.

76. Finally, as employees or secondees to DHHS, there are a range of applicable policies, practices and procedures relevant to making, receiving or responding to complaints, concerns or issues including both departmental (such as in relation to OHS) and governmental processes (such as Ombudsman or WorkSafe complaints processes).

Question 15: Were any complaints, concerns or issues raised by or on behalf of Authorised Officers, nurses, security guards and/or detainees made in writing and sent, either directly or indirectly, to you? If so, please annex copies of each document containing the complaints, concerns or issues.

77. Complaints, concerns and issues were raised by or on behalf of AOs and detainees in writing and sent, both directly or indirectly to me. Complaints were also raised by Departmental staff,

staff from DJPR, and hotel staff. To the best of my recollection I did not receive complaints made by or on behalf of nurses or security guards.

78. I have, with assistance from Departmental officers, prepared a table of the complaints I received and the responses to those complaints.

A copy of that table is annexed as MS2.

Question 16: Were any complaints, concerns or issues raised by or on behalf of Authorised Officers, nurses, security guards and/or detainees made orally to you? If so, please summarise the substance of each complaint including details as to:

- (a) the nature of the complaint or concern;
- (b) the date on which it was made; and
- (c) who made the complaint.

79. My response to this question sets out, to the best of my recollection, complaints made orally to me.
80. In early to mid-May 2020 when I had recently commenced in the role, I attended hotels and spoke to AOs in the field. During those visits, concerns were raised with me orally by AOs of being regularly sought out by staff such as security and hotel staff with requests to search the personal belongings of detainees. AOs informed me that they were being pressured to undertake searches of belongings by other staff. This was specifically raised with me as an issue at the Stamford Hotel but had been raised in the context of other hotels as well.
81. Furthermore, around the same time, AOs raised issues with me about the supply of alcohol and how they were being asked to offer advice around whether this should be supplied to people in detention.
82. In May 2020 AOs also raised the issue with me about not knowing how to use Microsoft Teams particularly well.
83. Also in May 2020 AOs raised with me the fact that some of the phones they were issued were not capable of taking photos of the detention notices.
84. I became aware when I commenced in the role on 7 May that ongoing consideration was being given to the need for Team Leaders in the Enforcement and Compliance Command

structure to provide an additional level of supervision between the Senior AO managers and the AOs whom they were managing.

85. On a number of occasions prior to 1 July, issues were raised with me in relation to unaccompanied minors or persons with mental illness who were struggling in the hotel environment and required carers or support persons. For example:
- (a) Two siblings who were returning to Australia, without their parents, to attend school. Both siblings were minors and were required to go into hotel quarantine. As their parents were overseas, they did not have a carer and there were many communications with the relevant schools about how to deal with the situation.
 - (b) Persons with mental illness who might be struggling in the hotel environment (but had not been given permission to quarantine in an alternate location) would sometimes request a support person to come in to assist them.
 - (c) International students were expected to be returning to Australia and needing to quarantine and there need to be relevant detention processes in place. This matter was being led by the Department of Education and Training and the Commander – COVID-19 Accommodation within DHHS.

Question 17: In relation to each of the complaints, concerns or issues identified in response to the preceding two questions, please identify and describe what steps were taken to address the complaints or concerns.

86. This section addresses responses to complaints that were made orally to me, as set out in my response to Question 16. Responses to written complaints are set out in MS2, in response to Question 15, together with the written complaints themselves.
87. In response to the issue described at paragraphs 79 and 81 above, I issued Operational Instruction 1/2020 effective 17 May 2020.³ The Operational Instruction provides that AOs are not to undertake any detainee personal belonging or delivery searches or provide instructions or engage in discussion about the supply of alcohol to detainees. AOs were further directed to refer these matters to the DHHS Team Leader in each hotel and to raise any conflict with the instruction to their line manager.⁴

³ ME file note – witness interview with Meena Naidu dated 3 August 2020; Operational Instruction 1/2020 dated 17 May 2020

⁴ Operational Instruction 1/2020 dated 17 May 2020

88. In response to the issue described at paragraph 82 above, on 23 May 2020, I emailed to all AOs, a series of instructional videos about how to navigate and use Microsoft Teams (DHS.5000.0018.6358).
89. In response to the issue described at paragraph 83 above, I raised the issue of AO phones not being able to take photographs of detention notices with the DHHS technology team responsible for the Compliance App and this problem was rectified.
90. In response to the issue described at paragraph 84, I issued Operational Instruction 2/2020 dated 24 May 2020, regarding the accountabilities for the role of AO Team Leader.
91. In response to the issues described at paragraph 85, I issued Operational Instruction 4/2020 dated 1 July 2020, regarding the detainee person carer policy.

Question 18: In addition to those matters identified in answer to questions 15 and 16, are you aware of any, and if so what other information or allegations indicating that Authorised Officers, private security contractors or their subcontractors were performing their duties unsatisfactorily or were engaging in behaviours likely to increase the risk of COVID-19 transmission? Please provide details of that information for each month referenced in Question 9.

92. Except for the matters identified in questions 15 and 16 above, I am not aware of any information or allegations indicating that AOs, private security contractors or their subcontractors were performing their duties unsatisfactorily or were engaging in behaviours likely to increase the risk of COVID-19.

Question 19: Were/are Authorised Officers and nursing staff directed or required by the Department to prepare notes or documents to enable an end of shift hand-over? If so, please annex copies of any applicable policies and protocols regarding that requirement.

93. I have limited my response to this question to shift handover as it relates to AOs.
94. Initially, during a shift changeover at the hotels, the incoming AO was required to obtain a verbal hand over from the previous AO on shift. Instructions in relation to what information this verbal hand over should consist of developed over time and were captured in the policy documents referred to in paragraph 57(a) above.

95. Those policies did not require AOs to prepare a written handover. However, in practice, there was a hand over book in existence at hotels in which AOs would write down relevant information for incoming shifts.
96. Handover is now done electronically in the AO Teams Site. The requirement to prepare an electronic written handover was formalised in the Operational Instruction entitled "Authorised Officer Handover Notes, referred to in paragraph 57(b)(vi) above.

Question 20: Did you have any reservations about any aspect of the Hotel Quarantine Program at any time? If you did, what were your reservations, and to whom, if anyone, did you express them?

97. As part of my role there were aspects of the program that raised operational concerns. I saw my role as continually improving the performance of the Enforcement and Compliance Command and as such would engage with other areas to improve performance. Most of my interaction in this area was within Operation Soteria, including through the COVID-19 Accommodation Commander. For example:
- (a) In late May 2020, I raised with the Deputy Commander – Accommodation (Hotels), the issue of providing evacuation plans for each hotel to Authorised Officers so they would be familiar with their accountabilities should an evacuation be required.
- (b) In May and June 2020, I had concerns that decisions were being made in relation to maritime decisions other than in accordance with policy by staff that were not AOs. After first seeking to raise this with the COVID-19 Accommodation Commander, on 12 June 2020, I had a conversation with the Deputy Commander of Ports, and the matter was resolved.

Detention and release

Question 21: As far as you are aware, between April and July 2020 (inclusive), what were the procedures involved for authorising Temporary Leave for detainees in Hotel Quarantine? Who was responsible and what (if any) criteria informed the decision maker's assessment? Please refer to and annex copies of any applicable policies and protocols to this statement.

98. Detention Notices prohibited detainees from leaving their hotel in any circumstances, outside of an emergency, while undertaking their mandatory hotel quarantine. However, the role of the Compliance and Enforcement team during the detention period included providing permission to individual detainees for temporary leave from the place of detention in discrete

circumstances, including for fresh air and smoke breaks. Requests would be made in a number of ways by detainees and it was the responsibility of the AOs to complete the form granting permission for temporary leave.

99. Prior to 10 April 2020, the draft COVID-19 DHHS Physical Distancing and Public Health Compliance and Enforcement Plan dated 4 April 2020 (referred to in paragraph 57(a)(i) above) provided for four circumstances in which permission may be granted for detainees:
- (a) for the purpose of attending a medical facility to receive medical care;
 - (b) where it is reasonably necessary for physical or mental health;
 - (c) on compassionate grounds; and
 - (d) emergency situations.
100. Under that policy:
- (a) Applications for permissions under grounds (a), (b) and (c) were to be escalated to the Deputy Chief Health Officer or Public Health Commander for consideration with the AO to be informed of the decision.
 - (b) Where detainees at hotels required medical care, the AO, on site nurse, nurse manager and Director, Regulation and Compliance officer were to discuss to assist in determining the urgency of the matter and whether temporary leave was needed. For all other emergencies, AOs and Victoria Police would need to determine the severity of the emergency and the health risk it poses when considering whether temporary leave should be allowed for detainees.
 - (c) Additionally, the AO could provide permission for a detainee to leave their room under supervision of security to smoke and to exercise for short periods of time.
101. The draft COVID-19 Policy and procedures – Mandatory Quarantine (Direction and Detention Notice) v1 dated 8 April 2020 (referred to in paragraph 57(a)(ii) above), was circulated to AOs on 10 April 2020. This Policy contemplated that in circumstances where an AO recommended temporary leave be granted to a detainee, the AO should seek approval for the leave from the Director, Health and Human Services Regulation and Reform (Lead Executive - COVID-19 Compliance). If the approval was granted, the AO was to complete the required form and enter those details into the Compliance Application. AOs were also required to keep a register of permissions granted at each hotel site. In the case of an emergency situation, AOs

together with Victoria Police were to determine the severity of the emergency and the possible risk to the detainees in determining if detainees should leave the premises. If such a circumstance eventuated, the AO was required to make notes in the Compliance Application. The 8 April 2020 draft Policy also provided a procedure for a person in detention to leave their room for exercise or smoking, accompanied by a security escort.

102. Subsequently, the key policies and procedural guidelines relevant to issuing temporary leave permissions were contained within Annex 1 (version 1 dated 29 April 2020 and version 2 dated 25 May 2020) referred to paragraph 57(a) above.
103. Annex 1 provided that AOs were able to make decisions to grant temporary leave to detainees, in consultation with their Senior AO/AO Team Leader or Deputy Commander Authorised Officer Operations, on a case by case basis in relation to the following scenarios:
 - (a) attendance at a funeral;
 - (b) medical treatment;
 - (c) seeing family members who have terminal illness;
 - (d) smoke breaks where people are suffering extreme anxiety and where it is safe to do so from a public health/infection control perspective; and
 - (e) exercise breaks where it is safe to do so.
104. Not all temporary leave requests could be accommodated. Each hotel quarantine location presented with different resource and site specifications which affected how many detainees and at what frequency could be granted permission to leave temporarily. When considering leave requests, those with serious medical needs, persons who were seeking to attend a funeral or who had a family member who was terminally ill would generally be granted with permission to attend to those matters. The AOs were tasked with confirming the details of the request prior to issuing the permission to leave. If medical care was deemed urgent by an on-site nurse or medical practitioner or attending AV paramedic, the AO was expected to prioritise and approve leave immediately. For all other applications for temporary leave, including smoke breaks and exercise breaks, the AOs were tasked with assessing and permitting the applications on a case by case basis. Any arrangement for leave would need to meet public health and human rights requirements and balance the needs of the person.

105. Annex 1 provided that AOs' key responsibilities in relation to permissions for temporary leave were to:
- (a) at hotel check in, liaise with nurses to identify detainees that may require permissions for temporary leave (eg. for medical treatments);
 - (b) raise temporary leave requests for permission with an AO Team Leader or, by 1 June 2020, a Senior Authorised Officer, if the facility did not provide an authorised area for the detainee to exercise the permission or there was a complexity in applying the transition from the place of quarantine; and
 - (c) escalate all requests by detainees to leave the hotel site to the Deputy Command Authorised Officer operations if they had not already been approved.
106. In addition, Annex 1 provided that when making a decision to grant temporary leave an AO was to consider:
- (a) those that require exercise or fresh air breaks or those who may be at risk without these breaks, which was the most important consideration for fresh air and exercise breaks;
 - (b) willingness and availability of security to oversee and facilitate exercise or other fresh air breaks, which included consideration of the number of security available and the ability to ensure small groups by room are appropriately socially distanced;
 - (c) the site layout, safety and capability to ensure persons are in a cordoned off area;
 - (d) maintaining infection control, such as ensuring persons do not touch door handles and lift buttons;
 - (e) adherence to exercise and smoking procedures;
 - (f) in the case of a request for a person to visit a terminally ill family member in hospital, whether the medical facility will accept the person.
107. Where permission is issued for temporary leave, Annex 1 additionally provided that AOs are required to:
- (a) instruct security on the dates and times permitted for leave;

- (b) provide procedural guidance to security and the person in detention, such as exercising in a cordoned off area not accessed by members of the public;
 - (c) for medical temporary leave, request the medical facility or hospital inform the AO prior to return;
 - (d) prepare a Permission for Temporary Leave from Detention form, which the AO issues to the detainee and explains to them their leave obligations, for example:
 - (i) a person attending a funeral must not attend the wake, must practice physical distancing and return immediately within stipulated timeframes; and
 - (ii) an exercise break is for a certain time and the person must return to their room following exercise or fresh air break;
 - (e) warn the person that failure to comply with these directions is an offence;
 - (f) ensure the person checks back into the hotel at the specified time; and
 - (g) seek feedback on implementation of temporary leave and note any issues raised.
108. For record keeping purposes, if an AO did grant temporary leave, the AO was required to:
- (a) keep original copies of the Permission for Temporary leave from Detention form;
 - (b) complete the Register of permissions granted under 4(1) of the Directions and Detention Notice, and
 - (c) enter details in COVID-19 Compliance Application.
109. From 25 May 2020, AO Team Leaders took responsibility for providing instructions and advice to AOs in relation to permissions for temporary leave from quarantine. (Prior to this, Senior AOs monitored and supported AOs in permission decisions.) The AO Team Leaders were also responsible for the authorisation of temporary leave from quarantine where:
- (a) the leave was to exceed 3 hours; and
 - (b) was not related to a medical emergency or planned treatment at a medical facility.

Question 22: Are you aware of any procedures, protocols and notices that were applicable to the release of detainees at the end of mandatory hotel quarantine detention for the periods between April and July 2020 (inclusive)? Did those procedure, protocols and notices differ in relation to detainees who were:

- (c) **COVID-19 negative;**
 - (d) **exhibiting symptoms consistent with COVID-19; and**
 - (e) **COVID-19 positive?**
110. The following procedures, protocols and notices were applicable to the release of detainees at the end of mandatory hotel quarantine detention between April and July 2020:
- (a) Procedures and protocols:
 - (i) working draft version of the COVID-19 Policy and Procedures – Mandatory Quarantine (Direction and Detention Notice) for AOs dated 8 April, available at DHS.5000.0075.0010, was distributed to be provided to all AOs;
 - (ii) Annex 1 COVID-19 Compliance policy and procedures – Detention Authorisation (v1) dated 29 April 2020, available at DHS.5000.0025.4759;
 - (iii) Annex 1 COVID-19 Compliance policy and procedures – Detention Authorisation (v2) dated 25 May 2020 available at DHS.0001.0013.0006; and
 - (iv) Annex 1 Detention Compliance and Enforcement (v2) dated 1 June 2020 annexed to Operation Soteria Plan (v3) dated 26 May 2020 available at DHS.0001.0001.1053;
 - (b) Notices:
 - (i) End of detention notice (not exhibiting symptoms of COVID-19) available at Appendix 7 of Annex 1 – COVID-19 Compliance policy and procedures – Detention authorisation for AOs dated 29 April 2020;
 - (ii) End of detention notice (confirmed case or have started to display symptoms of respiratory illness) available at Appendix 8 of Annex 1 – COVID-19 Compliance policy and procedures – Detention authorisation for AOs dated 29 April 2020;
 - (c) Fact sheets available for quarantined detainees:
 - (i) release from mandatory quarantine factsheet to be provided to people exiting quarantine dated 10 April 2020 available at DHS.5000.0069.6943; and

- (ii) Coronavirus (COVID-19) mandatory quarantine – Questions and answers – exiting mandatory quarantine dated 28 April 2020, available at DHS.5000.0002.0411.

111. For all detainees, the detention period was 14 days from the date of arrival. The departure procedures require that prior to the release of a person being detained, they will be provided with an end of detention notice. Prior to 1 July, there were two different End of Detention Notices to be completed by AOs, one to be used where a detainee was COVID-positive or had respiratory symptoms, and the other to be used in all other cases. For those exiting quarantine who were not COVID positive and did not have respiratory symptoms they were issued with one form of end of detention letter.⁵ For those exiting quarantine who were confirmed COVID-19 positive or had respiratory illness symptoms, they were issued with another form of end of detention letter.⁶ If a person had symptoms or was a confirmed case, there would be additional requirements they would need to follow once they were released, which would be dependent on the outcome of their final health check.
112. For persons who were not confirmed cases and did not have respiratory illness symptoms, the *Stay at Home Directions* (as amended from time to time) applied as detailed in the end of detention letter. Those directions required the person to travel directly to the premises where they ordinarily reside and remain there, unless leaving for one of the reasons listed in the Direction.
113. For a person with respiratory illness symptoms who had not tested positive, the *Stay at Home Directions* applied and they were to remain at their ordinary residence unless permitted to leave for a reason specified in the Stay at Home Directions.
114. For a confirmed case, conditions upon release included complying with the *Isolation (Diagnosis) Direction* and self-isolating in premises suitable to reside in, or a medical facility, until such a time that they were notified that they no longer needed to self-isolate and a clearance from self-isolation was given.
115. From on or about 1 July 2020, detainees who refused to undergo testing on day 11 of their quarantine were required to undergo an additional 10 days of quarantine and therefore were not issued with an End of Detention Notice on day 14 as per the ordinary process discussed above.

⁵ See Appendix 7 of Annex 1 (v 1) dated 8 April 2020, Annex 1 (v 1) dated 29 April 2020, Annex 1 (v 2) dated 25 May 2020 and Annex 1 (v2) dated 1 June 2020.

⁶ See Appendix 8 of Annex 1 (v 1) dated 8 April 2020, Annex 1 (v 1) dated 29 April 2020 and Annex 1 (v2) dated 1 June 2020.

Question 23: Which department/s, agencies, private companies and/or individuals facilitated arrangements for the release of detainees and their ongoing journey at the end of mandatory hotel quarantine detention for the period between April and July 2020 (inclusive)? What measures were in place to minimise the risk of COVID-19 transmission?

116. AOs were responsible for issuing exit documentation to detainees and updating detention records accordingly via the COVID-19 Compliance Application.
117. Extra infection control measures such as PPE were required to be implemented for COVID-19 cases and suspected COVID-19 cases, and physical distancing was required to be maintained throughout the exit process.
118. Additionally, AOs were required to schedule times for detainees to be released from detention, which was to occur in small groups, with sufficient time between each group to avoid crowds when detainees were brought to the foyer of a hotel for the release process.
119. AOs had no role or responsibility for the ongoing journey of detainees beyond the end of mandatory hotel quarantine detention.
120. A step by step process for AOs at check-out was developed and is contained in Annex 1.⁷

Question 24: What was the reason for the closure of the Crowne Plaza Melbourne and what, if any, steps were taken to relocate detainees? Who was responsible?

121. I am not aware of the closure of the Crowne Plaza Melbourne, nor of the reasons for that decision.

Question 25: If you wish to include any additional information in your witness statement, please set it out below.

122. Based on my experiences to date as Commander, in my opinion, the PHWA was not designed with a view to respond to the nature of the COVID-19 pandemic. In particular, the requirements when exercising emergency powers under the PHWA, including issuing individual detention notices (even to infants), detain people to rooms of hotels, providing permission to individual detainees to leave hotel rooms throughout the mandatory quarantine period and reporting on the ongoing detention of thousands of individuals at any one time to

⁷ See Table 9 of Annex 1 (v1) dated 29 April 2020, Table 8 of Annex 1 (v2) dated 24 May 2020 and Table 7 of Annex 1 (v2) dated 1 June 2020.

the CHO, are resource intensive. The PHWA therefore, in its current form, is not designed for managing the detention of thousands of people at any one time.

Signed at Melbourne
in the State of Victoria
on **1 September 2020**

A handwritten signature in black ink, appearing to read 'Murray Smith', written over a horizontal line.

Murray Smith

