

Board of Inquiry into the COVID-19 Hotel Quarantine Program

Submissions on behalf of Unified Security Group (Australia) Pty Ltd

1 Introduction

1.1 On 1 July 2020 Premier Andrews said during an interview with Leigh Sales on the ABC's 7.30 program that:

“[w]e have some very clear suspicions about what’s gone on here. There are a number of staff who despite knowing about infection control protocols have decided to make a number of errors”.

1.2 The Premier's evidence during cross-examination was that despite this statement, that cast aspersion on security and hotel workers for the outbreak, he could not recall the specific briefing or document upon which he made those public statements on the 7.30 program.¹ That is not remarkable, because there is no evidence before the Inquiry that in any way substantiates the statement that was made.

1.3 It is notable that at the time of the above statement, Ms Peake, the Secretary of the Department of Health was reporting directly into the Premier's office in relation to the pandemic as the Mission Lead Secretary – Health Emergency, accountable to the Premier for the delivery of the mission.² That arrangement with respect to Ms Peake reporting directly to the Premier was not an issue that was explored to ascertain what documents or briefings, if any, were being provided by Ms Peake to the Premier or the Premier's office with respect to what was occurring in the Hotel Quarantine Program (**Program**). Indeed, while Ms Peake was accountable to the Premier for the 'Health Emergency' mission, it does not appear on the face of the evidence as though there were continual written briefings to the Premier and the Crisis Council of Cabinet beyond the

¹ USG.0001.0016.0001 [NB: not exhibited]; Transcript of Inquiry, 25 September 2020, p 2169, lines 13-20. There is no evidence for this statement before the Inquiry.

² Exhibit 193, DHS.0001.0031.0004. See also discussion of these events in Chip Le Grand, 'Confronted with deadly blind spot, bureaucrats stayed in their lane' *The Age* (2 October 2020).

development of the Mission Implementation Plan³ and joint portfolio submission proposals to the Crisis Council of Cabinet⁴.

- 1.4 It is regrettable that part of the genesis for the creation of this Board of Inquiry was rumour and innuendo that is now known, only because of the significant work undertaken by this Inquiry, to be untrue. The story, that spread like wildfire through the community and covered by international media, fuelled by government statements on the issue and salacious news reporting, was that one of the most significant health crises in Australian history was caused by “*a few security guards having a good time*”.⁵ The origin of these stories was not examined in this Inquiry. However, what has become apparent is that the Government was more willing to provide commentary on the alleged conduct of security and hotel workers rather than ascertaining whether there were failures by Government that caused the outbreak.
- 1.5 As the evidence has demonstrated, the unprecedented health crisis was caused by systemic failures in the highest levels of government, in particular the failure of the Department of Health and Human Services (**DHHS**) to adequately consider and assess the risks involved in the Program and to take responsibility for the Program as the agency in charge. Nearly everyone involved in the Program understood the DHHS to be responsible for infection and prevention control, apart from, it seems, the DHHS itself, who were responsible for public health. As the former US President, Franklin Delano Roosevelt said:⁶

"The success or failure of any government in the final analysis must be measured by the well-being of its citizens. Nothing can be more important to a state than its public health; the state's paramount concerns should be the health of its people."

³ Exhibit 194, DHS.0001.0013.0408.

⁴ See in particular Exhibit 178 CCC47 at DPC.0001.0001.6565; Exhibit 178 CCC143_R at DPC.0012.0001.0356; Exhibit 178 CCC202 at DPC.0012.0001.0463.

⁵ The Deputy Chief Health Officer Dr Annaliese van Diemen said: “*There’s been some closer mingling than we would have like of these guards in the workplace*”: Richard Baker, ‘Patient zero for Victoria’s second wave was not a security guard’ *The Age* (13 August 2020).

⁶ Board on Health Promotion and Disease Prevention, Institute of Medicine. 2002. *The Future of the Public’s Health in the 21st Century* (Washington, DC: National Academies Press, p 96 cited in Dr Greger, M. 2020. *How to Survive a Pandemic*, (London, UK: Pan Macmillan), p 234.

- 1.6 It was the Victorian Government not contractors who failed in their duty to ensure public health. Rather than accept responsibility for this failure, the Victorian Government through various Departments attempted to deflect blame or responsibility to others.
- 1.7 The Program was established because it was considered by the Government that home quarantine of returned travellers posed an “*unacceptable risk*” of allowing COVID-19 to spread into the community.⁷ The “*superordinate goal*” of the program as identified by Counsel Assisting was infection control.⁸ This goal was clearly not understood by those in charge of the Program. Instead, some of the senior officials charged with responsibility for the Program gave evidence that it was not the DHHS who was responsible for infection control but rather private security because of a contractual arrangement.⁹ As Counsel Assisting correctly observes, those contractual arrangements did not remove the responsibility of the State for infection control.¹⁰
- 1.8 The Victorian Government created the Program and was responsible for identifying and managing risks associated with the Program. Hotels are not constructed for the purpose of infection prevention and control. To ensure that the Program was effective in achieving its objectives, and to ensure that a safe work environment was provided, it was necessary for the Government to perform a risk assessment. There is no evidence before the Board that this ever occurred.
- 1.9 It is remarkable that before the outbreak at Rydges on Swanston (**Rydges**) the only formal health advice in relation to infection control and appropriate personal protective equipment (**PPE**) in the Program came from a private consultant.¹¹ This advice, as discussed below, was inadequate and even if followed to the letter, would not have prevented a security worker from

⁷ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2197, lines 15-8.

⁸ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2263 lines 15-6.

⁹ Transcript of Inquiry, 11 September 2020, p 1330, lines 24-37.

¹⁰ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2225, lines 10-3.

¹¹ Transcript of Inquiry, 11 September 2020, p 1334, lines 7-28.

contracting COVID-19. A nurse practitioner in infection control was not appointed until on or around 11 June 2020.¹²

- 1.10 The Public Health Command had no input or line of sight as to what infection control measures were appropriate or in place before the outbreak at Rydges occurred.¹³ Had a proper risk assessment been conducted, by those with the relevant expertise, the situation that unfolded may have been prevented or the risk significantly reduced.
- 1.11 It is now clear that there was no causal link between the conduct of any security worker engaged by Unified Security Group (Australia) Pty Ltd (**Unified Security**) and the outbreak. Further, it is also clear that the risk of transmission of the virus to the community was not contributed to or increased by the decision of the Department of Jobs, Precincts and Regions (**DJPR**) to engage Unified Security rather than any other security firm. The risk existed because of the failures of the State in infection control measures. As noted by Counsel Assisting, 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 any of the security companies for the roles they ultimately performed in the Program.¹⁴

Structure of Submissions

- 1.12 **Part 1** – Outlines the key aspects of the submissions of Counsel Assisting that Unified Security contends should be accepted by the Board.
- 1.13 **Part 2** – Sets out why it is not open to the Board to make a finding that the engagement of Unified Security by DJPR in the manner in which it did increased the risk of a transmission event, including the use of subcontractors and why it was appropriate for Unified Security to take guidance from the DHHS in relation to infection prevention and control.
- 1.14 **Part 3** – Considers the information and guidance provided to Unified Security in relation to PPE and cleaning and identifies the evidence that the

¹² Transcript of Inquiry, 11 September 2020, p 1328, line 35 – p 1329, line 5.

¹³ Transcript of Inquiry, 16 September 2020, p 1489, line 7 – p 1493, line 43; See also Exhibit 153, DHS.9999.0002.0001, [159]-[160] regarding line of sight for health and welfare.

¹⁴ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2212, lines 35-8.

Board can rely upon in making a finding that Unified Security enforced PPE use, notwithstanding contradictory instructions on this issue.

1.15 **Part 4** – Sets out the basis upon which the Board can make a positive finding that Unified Security did not cause the outbreak at Rydges.

1.16 **Part 5** – Discusses the highly infectious nature of COVID-19 and the risks of transmission occurring, regardless of measures in place. The recent experience of transmission events in clinical health care settings and in the Brady Hotel are considered.

2 **PART 1 – Submissions of Counsel Assisting**

2.1 Unified Security respectfully adopts and reiterates the following submissions of Counsels Assisting the Inquiry:

- (a) A key failure of the Program was not to conceive of it as, first and foremost, a public health program.¹⁵
- (b) The design, implementation and oversight of the Program was inadequate.¹⁶ The inadequacies of the Program increased or at least failed to mitigate the risk that that the virus would be transmitted from return travellers into the community.
- (c) Prior to 27 March the Victorian Government had no plans for large-scale quarantine.¹⁷
- (d) The Program had to be implemented from scratch in a very short space of time and that placed a huge burden on those tasked to do the job.¹⁸
- (e) DHHS was the lead agency. The DHHS had the expertise and knowledge and they should have brought it to the Program and they did not.¹⁹

¹⁵ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2264, lines 12-4.

¹⁶ See, for example, Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2242, lines 11-6; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2256, lines 34-7.

¹⁷ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2232, lines 13-5.

¹⁸ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2232, lines 15-9.

¹⁹ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2204, lines 43-7.

- (f) The Program was not under the control of the Chief Health Officer as contended by some DHHS witness.²⁰
- (g) The Program should have been accompanied by ongoing monitoring and auditing and it was not.²¹
- (h) Fomite or environment transmission was a recognised and known method of transmission from very early in the Program. This was known by the DHHS.²²
- (i) No proper consideration was given by anyone as to whether it was appropriate to rely so heavily on security.²³
- (j) Security guards should have been under the direct supervision of the authorised officers (**AO**). It was a failure of the system that the AOs did not understand that they were in charge.²⁴
- (k) 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 for the roles they ultimately performed in the Program.²⁵
- (l) Contracts should not have placed responsibility for PPE and infection control on security companies. Those contractual arrangements did not remove the State's responsibility in relation to infection control.²⁶
- (m) It was the duty of DHHS to ensure that all staff that worked at Rydges at all times received the benefits of face to face training on PPE and infection control and this did not occur or it was inadequate.²⁷
- (n) Commonwealth online training did not come from DHHS and was insufficient and misleading.²⁸

²⁰ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2264, lines 38-40.

²¹ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2232, lines 21-4.

²² Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2249, lines 7-13.

²³ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2212, lines 2-4.

²⁴ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2265, lines 18-22.

²⁵ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2212, lines 35-8.

²⁶ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2225, lines 10-3.

²⁷ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2239, lines 6-9.

²⁸ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2258, lines 21-31.

- (o) Whether it was DHHS or DJPR that is found to be ultimately responsible, it was the responsibility of the State and not private companies: “[I]t shouldn’t have been left for those who were doing their job properly to mitigate risks to the Government but who weren’t in a position to understand really what those risks were and where responsibility for them should have resided.”²⁹
- (p) Security guards were in a bind about whether to follow the contractual obligations that the company had signed up to (to use PPE all the time) or to follow the directions being given by the person they knew was in power on site.³⁰
- (q) A hot hotel should have been the same standard or akin to an infectious diseases ward of a hospital, not an ordinary community setting.³¹

3 **PART 2 – The engagement of Unified Security by DJPR did not increase the risk of a transmission event**

Subcontracting

- 3.1 Counsel Assisting submits that, had there been proper reliance on the firms that were part of the security services panel, there would have been a reduced risk of the perception that subjectivity influenced decision-making and that personal professional connections were relied upon to engage private contractors, rather than utilising the objective panel process.³² It is contended by Counsel Assisting that this created a particular risk for the success of the Program.³³
- 3.2 In support of these contentions, three propositions are advanced which are misconceived and contrary to the evidence:
 - (a) The firms on the security panel which were ultimately engaged for the Program, MSS and Wilson, were less reliant on subcontracting than

²⁹ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2226, lines 10-3.

³⁰ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2227, lines 20-2.

³¹ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2241, lines 36-39.

³² Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2221, lines 34-40.

³³ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2222, lines 7-12.

Unified Security, which presented particular challenges for the Program;³⁴

- (b) Unified Security did not give formal notice of its subcontracting arrangements in line with its requirements under the Agreement for Professional Services;³⁵ and
- (c) The larger firms, MSS and Wilson, had better training and supervision and were less reliant on DHHS for matters of infection control. Wilson engaged its own medical expert and introduced temperature testing at its hotels months before it become standard and MSS prepared its own training, yet Unified Security relied on guidance from DHHS.³⁶

3.2.2 In light of the fact that the rumour and innuendo concerning how the Rydges outbreak occurred have proven to be false, it would be erroneous and unfair for such findings to be made as this may be conflated with issues of causation. There is no issue that the cause of the outbreak at the Rydges was a lack of an infection control plan by DHHS and the fact that it was used as a hot hotel without the same controls as an infectious diseases ward. The security guards and hotel workers were placed at an increased level of risk because of the failure of DHHS to discharge its duty of care including statutory obligations owed pursuant to the *Occupational Health and Safety Act 2004 (Vic)*.

3.3 Specifically, the contentions of Counsel Assisting should be rejected by the Board for the following reasons:

- (a) There is no evidence that MSS and Wilson were less reliant on subcontractors, with Wilson engaging double the number of subcontractor firms than Unified Security. In any event, there is no evidence that subcontracting, in and of itself, created additional challenges for the Program;

³⁴ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2222, lines 7-12; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2223, lines 3-6.

³⁵ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2222 lines 28-34.

³⁶ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2222, lines 14-9; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2225, lines 3-8.

- (b) The DJPR knew or ought to have known that Unified Security used subcontractors before the written contract was entered into with the State on 9 April 2020. Unified Security could not be expected to provide written requests for approval of subcontractors in the context of not being aware of the terms of the contract at the time those subcontractors were engaged. Unified Security notified DJPR of new subcontractors after the written contract was entered into: it was a prospective not retrospective obligation;
- (c) Though there is evidence that Wilson had training programs for staff, there is no evidence to support the assertion that MSS had better training and supervision for infection control than Unified Security. In any event there was nothing wrong with Unified Security being reliant on DHHS to provide advice on infection control. DHHS was meant to be expert on such issues. This is consistent with the findings of Counsel Assisting as to what should have occurred in the Program; and
- (d) There is no causal link between these factors and the outbreak.

Reliance on Subcontractors

3.4 The table below outlines the numbers of subcontractor firms and subcontracted guards engaged by each of the contracted private security firms.

Table 1: Numbers of Subcontractor Firms and Subcontracted Guards Engaged

Quarantine Hotel	Subcontractor	Number of subcontracted guards
Unified Security³⁷		
Crown Metropol	Sterling Pixxel Pty Ltd trading as Sterling Security Group (Sterling)	498
Crown Promenade	Tui & Sons Security Services Pty Ltd trading as Hi8 Security (Hi8)	637

³⁷ Exhibit 69, USG.9999.0001.0001, [75], [79].

Quarantine Hotel	Subcontractor	Number of subcontracted guards
	Sterling	
	TaylorM Operations Pty Ltd (TaylorM)	
	Australian College of Security Training Pty Ltd trading as Acost Security Services (Acost)	
	Elite Protection Services (Australia) Pty Ltd trading as Elite Protection Services (EPS)	
Travelodge Southbank	Sterling	123
Rydges on Swanston	EPS	273
	Sterling	
	Acost	
Novotel on Collins	Acost	741
	Sterling	
Marriot	Acost	464
	Sterling	
Holiday Inn on Flinders	Hi8	357
	Sterling	
Novotel South Wharf	Sterling	373
Crowne Plaza	Sterling	166
Pan Pacific	Sterling	337
Comfort Inn Portland	Sterling	19
Grand Chancellor	Acost	483
	Sterling	
The Brady Hotel	Sterling	137
MSS³⁸		
Park Royal Melbourne Airport	The Security Hub Pty Ltd (The Security Hub)	Not provided
	Ultimate Protective Services Pty Ltd (Ultimate Protective Services)	

³⁸ Exhibit 65, MSSS.0001.0014.0002, [109], [117].

Quarantine Hotel	Subcontractor	Number of subcontracted guards
Holiday Inn Melbourne Airport	Ultimate Protective Services	Not provided
Sheraton Four Points	Australian Protection Group Pty Ltd	Not provided
	The Security Hub	
Travelodge Docklands	United Risk Management Pty Ltd (United Risk Management)	Not provided
	The Security Hub	
Stamford Plaza Melbourne	United Risk Management	Not Provided
	The Security Hub	
	Ultimate Protective Services	
Wilson³⁹		
Pan Pacific	ICorp Security (ICorp)	180
	AMG Security Services (AMG)	
	Signal88 Security Australia (Signal88)	
	The Security Hub	
	CPS	
Crowne Plaza	Nuforce Security Group (Nuforce)	168
	Signal88	
	Austec Security Services	
	GMS Staffing	
Mercure Hotel	AMG	160
Pullman Hotel	ICorp	145
	Black Tie Security	
	Nuforce	
	AMG	
	Nexar Group	

3.5 The above table evidences the following:

- (a) Unified Security provided services to 13 quarantine hotels and engaged the assistance of 5 subcontractors;

³⁹ Exhibit 61, WILS.0001.0015.00001, [107], [109], [116].

- (b) MSS provided services to five quarantine hotels (which was subsequently reduced to three in April 2020) and engaged the assistance of four subcontractors; and
 - (c) Wilson provided services to four quarantine hotels and engaged the assistance of ten subcontractors.
- 3.6 In relation to the number of guards that were engaged through subcontracting arrangements, the evidence before the Inquiry is that:
- (a) Unified Security engaged approximately 1,754 guards;⁴⁰
 - (b) MSS engaged approximately 500 guards;⁴¹ and
 - (c) Wilson engaged approximately 650 guards.⁴²
- 3.7 While Counsel Assisting was correct in submitting that Unified Security has fewer direct employees in Victoria than MSS and Wilson,⁴³ Unified Security submits that it does not necessarily follow that all of these directly employed individuals were used in the Program. No evidence has been produced to the Inquiry on behalf of MSS or Wilson which confirms how many of its guards that worked in the Program were directly employed, as opposed to having been engaged through subcontractors. In fact, there is no evidence to support a finding that MSS and Wilson used more direct employees to provide their services in the Program than Unified Security.
- 3.8 Counsel Assisting submits, and Unified Security agrees, that DJPR personnel, despite being the contracting party, were not on the ground at all times to observe security guards and did not regard themselves as responsible for directing security.⁴⁴ In addition, there was confusion for guards between directions provided by DHHS staff on the ground and the party the security firm contracted with, DJPR,⁴⁵ with the added failure that

⁴⁰ Exhibit 69, USG.9999.0001.0001, [74].

⁴¹ Exhibit 65, MSSS.0001.0014.0002, [110].

⁴² Exhibit 61, WILS.0001.0015.00001, [109].

⁴³ Transcript of Inquiry, 28 September 2020, p 2220, lines 20-2; Exhibit 65, MSSS.0001.0014.0002, [30]; Exhibit 61, WILS.0001.0015.0001, [42]-[43]; Exhibit 69, USG.9999.0001.0004, [21]-[23].

⁴⁴ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2227, lines 24-30.

⁴⁵ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2226, lines 43-7 and p 2227, lines 1-5; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2227, lines 46-7 and p 2228, lines 1-3.

AOs did not understand that their role included directing security guards.⁴⁶ This created difficulty for the effective and consistent provision of security services in the Program. Subcontracting, in and of itself, is not a risk factor from a public health perspective.

- 3.9 Furthermore, Unified Security submits that the subcontracting of private services would be immaterial had DHHS established a comprehensive clinical model for Rydges and set up the quarantine hotels as akin to infectious diseases wards, as was the appropriate model in the view of Professor Grayson.⁴⁷
- 3.10 The distinguishing feature of the comprehensive clinical model is the focus on appropriate oversight by infection control experts. As Counsel Assisting outlines in their Closing Submissions, DHHS was required to bring its health expertise to the Program and provide global oversight as the control agency.⁴⁸ As Counsel Assisting submits, it did not perform these core functions appropriately⁴⁹ which, Unified Security submits, distinguishes the original model of the Program from the comprehensive clinical model implemented by Alfred Health.⁵⁰ Had DHHS adequately brought its expertise and oversight to the Program, the employment status of security personnel would have been, and was, of no importance. This failure in DHHS' model was a significant contributing factor to the failures in the Program.
- 3.11 Further, Counsel Assisting invites the Board to find that, *"absent very clear oversight from persons who had infection control expertise, absent continued training, absent continued supervision, it was not appropriate for private security to be the frontline in enforcement at the hotels."*⁵¹ While Unified Security does not dispute this finding, it reiterates that the finding does not rest upon any delineation of the employment status of security

⁴⁶ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2227, lines 7-22.

⁴⁷ Transcript of Inquiry, 17 August 2020, p 56, lines 12-21; Transcript of Inquiry, 17 August 2020, p 69, lines 42-6.

⁴⁸ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2201, lines 43-7; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2204, lines 43-7.

⁴⁹ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2204, lines 43-7.

⁵⁰ The evidence currently before the Inquiry is that the comprehensive clinical model included the use of a private security firm, Spotless, but that appropriate clinical oversight and infection prevention consultancy was provided by Alfred Health: Exhibit 99, ALFH.0001.0001.0001, [30]–[31], [39]; Transcript of Inquiry, 8 September 2020, p 1038, line 2.

⁵¹ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2212, lines 35-8.

personnel, and this should be made clear in any finding made to ensure there is no unfair criticism of Unified Security or reputational damage to it.

Formal Notice of Subcontracting Arrangements

- 3.12 Unified Security notes that the first time it received the Agreement for Professional Services (**Agreement**) from DJPR staff was on 9 April 2020,⁵² 11 days after the commencement of its services in the Program. Additionally, there is no evidence that Unified Security was previously notified, either in writing or orally, of the requirement to obtain prior written approval for the use of subcontractors,⁵³ as stipulated in clause 26.1 of the Agreement.⁵⁴
- 3.13 The DJPR was aware that Unified Security had engaged subcontractors in order to deliver security services at the scale required by the Program as at the date the Agreement was provided to Unified Security on 9 April 2020. At no time after Unified Security commenced providing services on 29 March 2020 until the time it ceased providing services to the DJPR on 30 June 2020 did the DJPR raise any concerns with Unified Security in relation to its use of subcontractors.⁵⁵
- 3.14 Each of Unified Security's subcontractors commenced providing services, not only prior to the receipt of the Agreement, but on 29 March 2020.⁵⁶ As addressed by Counsel Assisting, in this initial phase there were a mere 36 hours to stand up the Program and decisions were made under enormous time pressure with emergency surge capacity a factor in DJPR's engagement of Unified Security.⁵⁷
- 3.15 It should not be expected that Unified Security should have sought written approval from DJPR about its engagement of subcontractors during the period within which it had not received the Agreement and was not

⁵² Exhibit 70, USG.0001.0001.2766.

⁵³ Exhibit 69, USG.9999.0001.0001, [30], [33]; Transcript of Inquiry, 27 August 2020, p 478, lines 18-20; Transcript of Inquiry, 3 September 2020, p 859, lines 12-25.

⁵⁴ Exhibit 70, USG.0001.0001.2688; Exhibit 70, USG.0001.0001.3941.

⁵⁵ See, for example, Exhibit 59, DJP.050.004.0001, [45]-[46].

⁵⁶ See table in Exhibit 69, USG.9999.0001.0001, [79].

⁵⁷ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2232, lines 4-6; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2220, lines 19-20; See also Transcript of Inquiry, 22 September 2020, p 1825, lines 43-6.

otherwise aware of the contractual requirement to obtain prior written approval.

- 3.16 Unified Security also notes that upon becoming aware of the contractual provisions under which it became engaged by DJPR, and specifically clause 26.1, on 9 April 2020, a representative from Unified Security called the Principal Policy Officer seeking formal approval for the engagement of a further subcontractor, ISS Security Pty Ltd, who was not yet engaged by Unified Security. Following the phone call, formal authorisation was granted for the engagement via email;⁵⁸ though, the firm was not ultimately used.⁵⁹ The Principal Policy Officer notes that because of this interaction, he formed the conclusion that subcontractors were being used.⁶⁰
- 3.17 In any event, in response to questions from Counsel Assisting regarding whether it was a "concern" that work was conducted through subcontractors *"without the Department having appropriate oversight and knowledge of those matters,"* Simon Phemister, Secretary of DJPR (**Mr Phemister**), made it clear that the subcontracting, itself, was not an issue.⁶¹ He explained that "post-incident reviews" were undertaken for all subcontractors which found that, in all likelihood, DJPR would have permitted the subcontracting. Mr Phemister added that had the reviews produced any negative results, DJPR would have been required to take an approach other than retrospectively approving the use of the subcontractor.⁶²

Training and Supervision for Infection Control and Reliance on DHHS

- 3.18 No evidence has been produced to the Inquiry to support or substantiate the proposition that Unified Security's approach to training its staff was inferior to that of Wilson or MSS. Indeed, no expert has been tasked with performing a comparative analysis in order to demonstrate that the approach of one firm was more effective than that of another.

⁵⁸ Exhibit 59, DJP.050.004.0001, [44]; Exhibit 60, DJP.110.004.1158.

⁵⁹ Exhibit 59, DJP.050.004.0001, [37].

⁶⁰ Exhibit 59, DJP.050.004.0001, [37].

⁶¹ Transcript of the Inquiry, 22 September 2020, p 1847, lines 28-31.

⁶² Transcript of the Inquiry, 22 September 2020, p 1847, lines 21-34.

- 3.19 Pursuant to clause 7.2 of the Agreement between Unified Security and DJPR dated 9 April 2020, Unified Security was required to ensure that security personnel completed the Australian Government Department of Health COVID-19 infection control training module (**COVID-19 Online Training Course**).⁶³ Unified Security complied with its obligations in this respect and received no further direction from the DHHS or DJPR as to any requirement to undertake further infection control training. If the COVID-19 Online Training Course was considered to be inadequate, that is not a matter for Unified Security.
- 3.20 It would be inappropriate for an adverse finding to be made on what was, at the time, the only available Government training on COVID-19.⁶⁴ Unified Security agrees with Counsel Assisting that *"[i]t is not reasonable to expect that they [being security firms] would have access to expertise if the State didn't."*⁶⁵
- 3.21 In fact, the evidence before the Inquiry is that Unified Security had already arranged for a number of its staff to undertake the COVID-19 Online Training Course prior to first learning of the existence of the Program and the potential opportunity for it to provide services in that Program.⁶⁶
- 3.22 Unified Security also had a legitimate expectation that DHHS would, in its capacity as control agency of Operation Soteria with expertise in infection control,⁶⁷ take a proactive role in relation to training security personnel. Unified Security agrees with Counsel Assisting's observation in that regard, that *"if as the DJPR Secretary Mr Phemister and Minister Pakula suggested in their evidence, DJPR had an expectation or an intention that the State, through DHHS, would in fact provide on-the-ground training and guidance to supplement the contractual obligations placed on security companies, then*

⁶³ Exhibit 70, USG.0001.0001.3941, cl 7.2(c).

⁶⁴ Transcript of Inquiry, 22 September 2020, p 1851, lines 16-20; Transcript of Inquiry, 27 August 2020, p 443, lines 43-4.

⁶⁵ Transcript of Inquiry, 28 September 2020, p 2224, lines 46-47.

⁶⁶ Exhibit 69, USG.9999.0001.0001, [65].

⁶⁷ Exhibit 131, DHS.0001.0027.0108, pp 7-1, 7-3; Exhibit 145, DOJ.501.001.9224, 2.4; Exhibit 177, DPC.0017.0001.0001, [65]; Exhibit 178, DPC.0001.0001.6766, p 13; Exhibit 218, PREM.0001.0001.0001, [1]; Transcript of Inquiry, 21 September 2020, p 1801, lines 17-23.

*one would have expected to see that expectation documented and enforced.*⁶⁸

3.23 Unified Security took the health and safety of its staff extremely seriously (as evidenced by its approach to the outbreak at Rydges) and there are numerous occasions throughout the Program where Unified Security raised queries with the relevant Government Departments and took proactive steps to obtain information and guidance in relation to infection control. Those steps were taken by Unified Security with the ultimate aim of supplementing and enhancing its understanding of infection control so that the best possible information and advice could be provided to guards on the ground. By way of example:

- (a) On 28 April 2020, Nigel Coppick (**Mr Coppick**) challenged the system in place for taking guests on fresh air walks on the basis that he considered the system to pose a risk of cross contagion and sought clarification on the process;⁶⁹
- (b) On 30 April 2020, Mr Coppick sought guidance on the processes that were in place to relocate COVID-19 positive guests from one hotel or floor to another;⁷⁰
- (c) On 12 May 2020, Mr Coppick challenged the PPE Advice document he received from the DHHS on the basis that it recommended that security guards not wear PPE in certain circumstances;⁷¹
- (d) On 15 June 2020, Mo Nagi (**Mr Nagi**) challenged the updated PPE Advice (Version 2.2) he received on the basis that it recommended guards not wear gloves despite security personnel having to handle the luggage of guests who may be COVID-19 positive;⁷²
- (e) On 19 June 2020, Mr Coppick emailed a representative of the DJPR to recommend that mandatory temperature checks be implemented for all

⁶⁸ Transcript of Inquiry, 28 September 2020, p 2224, lines 30-34.

⁶⁹ Exhibit 71, WIT.0001.0036.0001, [37].

⁷⁰ Exhibit 71, WIT.0001.0036.0001, [45].

⁷¹ Exhibit 69, USG.9999.0001.0001, [122]; Exhibit 70, USG.0001.0001.3795.

⁷² Exhibit 69, USG.9999.0001.00001, [125].

personnel entering quarantine hotels, which was supported by the DJPR,⁷³ and

- (f) Mr Coppick also led discussions with the DJPR in or around May 2020 in relation to implementing a system of regular COVID-19 tests for staff (which led to some random testing of guards at The Holiday Inn in May 2020) but this was not rolled out by the Government Departments across the Program.⁷⁴

3.24 It is clear from these examples that, rather than being reliant on advice received from Government Departments, Unified Security adopted a proactive approach in relation to seeking out the proper information with which to educate its guards and attempted to have processes implemented to continuously monitor the health and safety of staff.

3.25 It is clear from the evidence before the Board that every time an issue was brought to the attention of Unified Security, it was dealt with swiftly and appropriately. In this respect, Unified Security provides a table of contemporaneous positive feedback it received from Government Departments and hotels throughout the course of the Program at **Annexure A**.⁷⁵

3.26 Notwithstanding the above, Unified Security submits that, above all else, it was appropriate and preferable that it relied upon the public health advice of DHHS, which not only had the relevant health expertise, but was also the control agency for the State's response to COVID-19 and the Program.⁷⁶ In this respect, it was entirely appropriate that matters of infection prevention and control, including training and supervision on such topics, were organised and provided by DHHS or experts engaged by DHHS.

⁷³ Exhibit 71, WIT.0001.0036.0001, [102]; Exhibit 72, USG.0001.0001.2861.

⁷⁴ Transcript of Inquiry, 3 September 2020, p 875 lines 40-47, p 876 lines 1-20.

⁷⁵ Exhibit 70, USG.0001.0012.0018.

⁷⁶ Exhibit 131, DHS.0001.0027.0108, pp 7-1, 7-3; Exhibit 145, DOJ.501.001.9224, 2.4; Exhibit 177, DPC.0017.0001.0001, [65]; Exhibit 178, DPC.0001.0001.6766, p 13; Exhibit 218, PREM.0001.0001.0001, [1]; Transcript of Inquiry, 21 September 2020, p 1801, lines 17-23; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2201, lines 43-7; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2204, lines 43-7.

- 3.27 Indeed, Counsel Assisting also submits that *"very clear oversight from persons who had infection control expertise,"* including continued training and supervision, was required, which was an obligation that rested squarely with the State,⁷⁷ and that inadequate training was a failure on DHHS' part, at least in relation to Rydges.⁷⁸ Similarly, Counsel Assisting later invites the Board to find that *"it was not appropriate that the State, through DJPR, divest responsibility for training, infection control and PPE for private security guards, that frontline service."*⁷⁹
- 3.28 Furthermore, Counsel Assisting themselves point out that it was inappropriate to require security firms, whose ordinary functions do not readily align with infection control, to educate themselves on infection prevention and control, and that this stance produces varying approaches to infection control.⁸⁰ It is therefore not clear why Counsel Assisting contends that Unified Security being allegedly "less self-sufficient"⁸¹ in any way increased the risks to the Program. In Unified Security's submission, leaving security contractors to their own methods with varying outcomes across quarantine locations was more likely to hinder any attempts to effectively oversee infection prevention and control across the Program. While relying upon DHHS may have left Unified Security vulnerable to any deficiencies in the public health advice, this cannot be the fault of Unified Security. Therefore, Unified Security's reliance upon DHHS could not, in the Board's findings, be deemed an increased risk to the Program.
- 3.29 There is an internal inconsistency within Counsel Assisting's submissions, on the one hand indicating that Unified Security's reliance on DHHS for matters of infection control was a risk, and on the other stating that the State retained such obligations and should not have placed the burden on security companies. Unified Security's reliance on DHHS for public health advice, and training and supervision in this regard, was not inappropriate.

⁷⁷ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2225, lines 25-8.

⁷⁸ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2239, lines 6-9.

⁷⁹ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2224, lines 20-2.

⁸⁰ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2224, lines 40-7 and p 2225, lines 1-3.

⁸¹ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2222, lines 18-9.

- 3.30 Counsel Assisting has made submissions in relation to the proportion of hotels awarded to Unified Security based on what has been described as a “*relationship of professional reliance*” built on the ground between DJPR staff and Unified Security personnel.⁸² There is nothing unusual or inappropriate about a contractor being rewarded for good performance by being awarded additional parcels of work including more complex parcels of work.⁸³
- 3.31 Unified Security provided security services for 13 of the 20 hotels over the course of the Program period between 29 March 2020 and 11 July 2020.⁸⁴ Only one of those hotels was the subject of an outbreak.⁸⁵ There is simply no evidence that the outbreak was caused by a security guard acting in breach of their duties. Given the submissions of Counsel Assisting in relation to the set-up of that hotel being a red hotel, that is, in Unified Security’s submission, not a surprising outcome.⁸⁶ By way of example, MSS only provided services to five quarantine hotels (which was subsequently reduced to three) during the period 6 April 2020 to 10 July 2020.⁸⁷ This included the Stamford, which was not a red hotel and was the site of the second outbreak in circumstances that may have included “person-to person contact”.⁸⁸ Further, Counsel Assisting notes that after the Stamford Plaza outbreak it was found that MSS was not adequately educated with

⁸² Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2220, lines 32-33; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2221, lines 34-39; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2265, lines 37-38. The position advanced by Counsel Assisting in relation to the notion of Unified Security being allocated further hotels in the Program on the basis of a reliance on “personal professional connections” was rejected by Simon Phemister who confirmed that the feedback he received from DJPR representatives about Unified Security was exclusively performance-related and work was allocated to Unified Security on the basis of qualitative factors. See, for example, Transcript of Inquiry, 22 September 2020, p 1845, lines 9-31; Transcript of Inquiry, 22 September 2020, p1844, lines 9-34.

⁸³ Indeed, Unified Security received a significant amount of positive feedback during the performance of its security services in the Program. A summary of the correspondence Unified Security personnel received for its performance during the course of the Program is found at Exhibit 70, USG.0001.0012.0018 (**Annexure A**); Exhibit 69, USG.9999.0001.0001, [153].

⁸⁴ Exhibit 69, USG.9999.0001.0011, [73].

⁸⁵ Exhibit 69, USG.9999.0001.0022, [130]-[150].

⁸⁶ In this respect Unified Security agrees with Counsel Assisting. See Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2237 lines 1-2; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2238, lines 4-9; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2239, lines 11-31; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2240, lines 43-45; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2266 lines 37-47; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p2267, lines 1-3.

⁸⁷ Exhibit 65, MSS.0001.0014.0002, [91], [109], [117].

⁸⁸ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2267, lines 12-5.

regard to hand hygiene, PPE, zones for safe containment or social distancing.⁸⁹ This is inconsistent with the previous submissions of Counsel Assisting which purports to draw an unfair comparison between Unified Security and MSS.

3.32 The reference to MSS in this manner is in no way a criticism of MSS. It is merely used to demonstrate that there should not be unfair comparisons made between security companies.

4 **PART 3 – Personal Protective Equipment and cleaning – Information and guidance provided to Unified Security**

4.1 Much has been said in this Inquiry about the use of PPE by security staff.⁹⁰ Unified Security reiterates Council Assisting's submission that the contracts with hotels and security staff should not have placed the responsibility for PPE and infection control on contractors and that the presence of those contractual arrangements did not remove the State's responsibility to ensure that the Program operated as an effective infection prevention and control mechanism.⁹¹ Against this backdrop, it is important to contextualise the evidence in relation to PPE.

4.2 Firstly, the evidence shows that the requirements with respect to security staff wearing PPE were contradictory and changed over the course of the Program.⁹² For example:

(a) The first official PPE advice prepared by the DHHS specific for security in the Program setting was received by Unified Security on 12 May 2020 (6 weeks after the commencement of the Program).⁹³ This was several weeks after PPE advice was provided by DHHS to hotel-based

⁸⁹ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2256, line 45.

⁹⁰ See, for example, Exhibit 104, DHS.0001.0036.0145, p 13; Exhibit 135, DHS.9999.0015.0001, [40]; Exhibit 153, DHS.9999.0002.0001, [217]; Transcript of Inquiry, 20 August 2020, pp 133-4, lines 36-47 and 1-14; Transcript of Inquiry, 20 August 2020, pp 135-6, lines 46-7 and lines 1-31; Transcript of Inquiry, 20 August 2020, pp 209-10, lines 41-7 and 1-7.

⁹¹ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2266.

⁹² Exhibit 72, USG.0001.0001.2955; Exhibit 72, USG.0001.0001.2946; Exhibit 72, USG.0001.0001.3788; Transcript of Inquiry, 2 September 2020, p 724, lines 29-32; Transcript of Inquiry, 2 September 2020, p 728, lines 11-4; Transcript of Inquiry, 2 September 2020, p 752, lines 24-46; Transcript of Inquiry, 3 September 2020, pp 830-1, lines 28-47 and 1-12; Transcript of Inquiry, 3 September 2020, pp 867-9, lines 45-47 and 1-47 and 1-20; Exhibit 52, URM.0001.0001.0204, [42]; Exhibit 65, MSSS.0001.0014.0002, [90], [103], [145]; Exhibit 67, MSSS.0001.0014.0001, [70].

⁹³ Exhibit 69, USG.9999.0001.0001, [107], [121]; Exhibit 70, USG.0001.0001.3783; Exhibit 70, USG.0001.0001.2955.

health care workers on 22 April 2020.⁹⁴ Merrin Bamert, who approved this first advice for security on 5 May 2020, was unable to provide any explanation as to the delay in the provision of the advice.⁹⁵ This was the PPE advice that was in place at the Rydges at the time of the outbreak.⁹⁶

- (b) A second advice was approved by DHHS on 8 June 2020 and provided to Unified Security on 11 June 2020.⁹⁷ Professor Grayson gave evidence that this advice (which was in very similar terms to the 5 May 2020 advice) was *"inappropriate"*⁹⁸. The advice provided generally that when a distance of 1.5m could be maintained, no PPE was required. Professor Grayson discussed the difficulties with the 1.5m rule and suggested that PPE is always needed as there is *"a level of unpredictability of that 1.5m suddenly becoming less..."*⁹⁹ Further, this advice directly contradicted the advice that Unified Security was providing its staff that PPE was to be worn at all times.¹⁰⁰ When concerns were raised about the adequacy of the advice by Mr Nagi of Unified Security, he was informed by a DHHS representative that his concerns had been forwarded to the *"Commander and deputy commander to respond."*¹⁰¹ On 18 June 2020, the DHHS representative was still following up on a response for Mr Nagi,¹⁰² which was never received.
- (c) The PPE advice seems to have been prepared by a consultant from Infection Prevention Australia.¹⁰³ The consultant is a registered nurse

⁹⁴ Exhibit 69, USG.9999.0001.0001, [120]; Exhibit 70, USG.0001.0001.2959; Exhibit 70, USG.0001.0001.2960.

⁹⁵ Transcript of Inquiry, 11 September 2020, p 1334, line 7 – p 1336, line 1.

⁹⁶ The evidence is that the processes and advice in place at the Rydges did not change upon the hotel being designated as a hot hotel: Transcript of Inquiry, 28 August 2020, p 575, lines 1-7; Transcript of Inquiry, 11 September 2020, p 1283, lines 21-8; Transcript of Inquiry, 28 September 2020, p 2237, lines 42-7; Transcript of Inquiry, 28 September 2020, p 2238, lines 1-9.

⁹⁷ Exhibit 69, USG.9999.0001.0001, [124]; Exhibit 70, USG.0001.0001.3788; Exhibit 70, USG.0001.0001.2966.

⁹⁸ Transcript of Inquiry, 17 August 2020, pp 69-70, lines 28-47 and 1-38.

⁹⁹ Transcript of Inquiry, 17 August 2020, p 70, lines 34-8.

¹⁰⁰ Exhibit 69, USG.9999.0001.0001, [107]-[108], [111]; Transcript of Inquiry, 3 September 2020, pp 867-8, lines 45-7 and 1-5; Transcript of Inquiry, 3 September 2020, p 869, lines 18-20. See also the Terms of the Agreement for Professional Services between Unified Security and the State of Victoria (through DJPR), which required that *"the Service Provider Personnel...wear all necessary personal protective equipment (that complies with the relevant public health standards including but not limited to in relation to COVID-19) at all times while performing of the Services"* (Exhibit 70, USG.0001.0001.3941, cl 6.2(d)).

¹⁰¹ Exhibit 70, USG.0001.0001.2966; Exhibit 69, USG.9999.0001.0001, [125].

¹⁰² Exhibit 70, USG.0001.0001.2957; Exhibit 69, USG.9999.0001.0001, [125].

¹⁰³ Exhibit 136, DHS.5000.0053.1869; Transcript of Inquiry, 11 September 2020, p 1334, lines 7-28.

with a Graduate Diploma in Infection Control. A review was conducted by the consultant on 5 May 2020. In that review, which consisted of 3 pages¹⁰⁴, the consultant noted:¹⁰⁵

*“On entry to the hotel, security staff were not wearing PPE as is the recommendation. **This is a major improvement.** They greeted me and asked for identification and the appropriate documentation as being maintained for any drop offs. Appropriate PPE and hand sanitiser was available for them if it were required.”* (emphasis added)

- (d) On 23 September 2020, Kym Peake gave evidence that, in her view, the advice provided by the Infection Prevention Australia consultant in relation to how to stand up services within the hotel (in particular in relation to the red hotels) constituted a “*risk assessment*”.¹⁰⁶ It plainly was not a risk assessment.

4.3 Secondly, and crucially, PPE is the last barrier of defence in any system.¹⁰⁷ The primary obligation in relation to Program design lay with the Victorian Government,¹⁰⁸ in Unified Security’s submission, particularly with DHHS as the control agency.¹⁰⁹ That obligation was to design a Program that eliminated the risk of COVID-19 transmission, and if elimination was not reasonably practicable, to have minimised that risk so far as was reasonably

¹⁰⁴ Only two of which were substantive.

¹⁰⁵ Exhibit 136, DHS.0001.0021.0020, p 2; Exhibit 135, DHS.9999.0015.0001, [40].

¹⁰⁶ Transcript of Inquiry, 23 September 2020, p 2022, line 44 – p 2024, line 18. An Infection Prevention Australia consultant conducted a walk-through of the Rydges site on 11 April 2020 to “*flag any issues that required attention and...the topic of training was raised with the consultant*” (Exhibit 203, DHS.9999.0020.0001, [89]). While recommendations were produced, by the consultant as a result of that walk-through, the documentation before the Board does not comprise what would be considered a risk assessment in the context of health and safety management systems: Exhibit 204, DHS.5000.0128.7672.

¹⁰⁷ See, for example, the discussion on pages 12-14 of WorkSafe Victoria, ‘A Handbook for workplaces: Controlling OHS hazards and risks’, Edition No. 2, June 2017 at <https://content.api.worksafe.vic.gov.au/sites/default/files/2018-06/ISBN-Controlling-OHS-hazards-and-risks-handbook-2017-06.pdf>. Notably, the WorkSafe Victoria handbook states that administrative controls and PPE as methods of risk reduction are “*unreliable because it relies on people acting as expected*” and that these methods alone do “*nothing to change the risk itself*” (p 14) [NB: not exhibited].

¹⁰⁸ Exhibit 177, DPC.0017.0001.0001, [65]; Exhibit 178, DPC.0001.0001.6766, p 13; Exhibit 218, PREM.0001.0001.0001, [1], [3].

¹⁰⁹ Exhibit 131, DHS.0001.0027.0108, pp 7-1, 7-3; Exhibit 145, DOJ.501.001.9224, 2.4; Exhibit 177, DPC.0017.0001.0001, [65]; Exhibit 178, DPC.0001.0001.6766, p 13; Exhibit 218, PREM.0001.0001.0001, [1]; Transcript of Inquiry, 21 September 2020, p 1801, lines 17-23.

practicable¹¹⁰ in accordance with the usual and well understood hierarchy of controls as follows:¹¹¹

- (a) Substitution;
- (b) Isolation;
- (c) Engineering controls;
- (d) Administrative controls; and
- (e) PPE.

4.4 Understood in that hierarchy, there were a number of controls that were available and reasonably practicable for the Victorian Government, and particularly, DHHS, to provide in order to ensure the health and safety of workers in the Program and provide a safe environment. These included:

- (a) appropriate ventilation or airflow in the hotels;¹¹²
- (b) HEPA¹¹³ filters in the air conditioning system;¹¹⁴
- (c) HEPA filtered vacuum cleaners;¹¹⁵
- (d) perspex barriers in the green zones to permit safe use of the space;¹¹⁶
- (e) separating different cohorts of workers;¹¹⁷
- (f) a COVID-19 testing regime for all workers;¹¹⁸ and

¹¹⁰ See *Occupational Health and Safety Act 2004* (Vic) s 4 which outlines various principles of health and safety protection including the risk management principle at s4(2) and requiring proactivity in taking all reasonably practicable measures to ensure health and safety in the conduct of undertakings at s4(3). Reasonable practicability is defined in the concept of ensuring health and safety, set out in the *Occupational Health and Safety Act 2004* (Vic), s 20. See also WorkSafe Victoria, 'A Handbook for workplaces: Controlling OHS hazards and risks', Edition No. 2, June 2017 at <https://content.api.worksafe.vic.gov.au/sites/default/files/2018-06/ISBN-Controlling-OHS-hazards-and-risks-handbook-2017-06.pdf> (pp 2, 12-14) [NB: not exhibited].

¹¹¹ See the discussion on developing control measures on page 15 of WorkSafe Victoria, 'A Handbook for workplaces: Controlling OHS hazards and risks', Edition No. 2, June 2017 at <https://content.api.worksafe.vic.gov.au/sites/default/files/2018-06/ISBN-Controlling-OHS-hazards-and-risks-handbook-2017-06.pdf> [NB: not exhibited].

¹¹² Transcript of Inquiry, 17 August 2020, p 40, lines 38-41; Transcript of Inquiry, 17 August 2020, p 56, lines 6-9 and lines 17-26; Transcript of Inquiry, 17 August 2020, p 58, lines 4-7 and lines 19-21 and lines 36-47; Transcript of Inquiry, 17 August 2020, p 60, lines 18-23; Exhibit 200, HQI.0001.0030.0001, p 9.

¹¹³ High efficiency particulate air filters.

¹¹⁴ Transcript of Inquiry, 17 August 2020, p 67, lines 31-41.

¹¹⁵ Exhibit 203, DHS.9999.0020.0001, [60].

¹¹⁶ Transcript of Inquiry, 17 August 2020, p 46, lines 2-9; Transcript of Inquiry, 17 August 2020, p 59, lines 36-47.

¹¹⁷ Exhibit 98, DHS.5000.0105.5936, p 2; Exhibit 190, DHS.5000.0106.2686, p 33.

(g) effective surface cleaning procedures for the entire hotel environment.¹¹⁹

- 4.5 In relation to the use of PPE, the Board can find on the evidence in Unified Security's submission that Unified Security enforced the use of PPE, notwithstanding contradictory instruction from DHHS and DJPR on this issue.¹²⁰ As set out above, it is notable that the infection control consultant found on 5 May 2020 that PPE usage by security guards at the Rydges was a "*major improvement*" on the basis that security guards were not wearing masks on entry to the hotel.¹²¹
- 4.6 The reason why PPE is regarded in health and safety systems as the last order of controls is because of the recognition that humans are prone to error and if the system relies heavily on compliance with the use of PPE, then it is vulnerable to human frailty and therefore is ineffective. Any proper system design must anticipate this vulnerability and appropriately cater for it through the use of multiple controls higher in the hierarchy of controls.¹²² The evidence before the Board indicates that the health and safety of workers in the Program was not in the contemplation of those designing the Program and was not adequately addressed,¹²³ save as to attend to delegate that responsibility to contractors and hotel operators.¹²⁴

¹¹⁸ Exhibit 60, DJP.110.002.6974, p 2; Exhibit 72, USG.0001.0001.2861; Exhibit 153, DHS.9999.0002.0001, [235]; Exhibit 215, DOJ.516.001.0001, [51]; Transcript of Inquiry, 16 September 2020, p 1461, lines 11-14; Transcript of Inquiry, 16 September 2020, p 1462, lines 4-10; Transcript of Inquiry, 16 September 2020, p 1482, lines 34-5; Transcript of Inquiry, 28 August 2020, p 514, lines 21-38; Transcript of Inquiry, 2 September 2020, p 730, lines 33-47. In relation to testing quarantine guests, see also Exhibit 153, DHS.9999.0002.0001, [186]; Transcript of Inquiry, 17 August 2020, pp 43-4, lines 26-47 and 1-4.

¹¹⁹ Exhibit 104, DHS.0001.0036.0145, p 16, 19; Exhibit 131, DHS.5000.0001.9636; Exhibit 131, DHS.5000.0076.4849; Exhibit 161, DHS.0001.0001.0720; Transcript of Inquiry, 17 August 2020, p 60, lines 7-16; Transcript of Inquiry, 17 August 2020, p 61, lines 18-43; Transcript of Inquiry, 17 August 2020, p 62, line 7; Transcript of Inquiry, 17 August 2020, p 63, lines 8-37; Transcript of Inquiry, 17 August 2020, p 67, lines 12-26; Transcript of Inquiry, 17 August 2020, p 68, lines 32-45.

¹²⁰ Exhibit 71, WIT.0001.0036.0001, [77]-[80]; USG.0001.0001.3478 [NB: not exhibited]; USG.0001.0001.2411 [NB: not exhibited].

¹²¹ Exhibit 136, DHS.0001.0021.0020, p 2; Exhibit 135, DHS.9999.0015.0001, [40].

¹²² WorkSafe Victoria, 'A Handbook for workplaces: Controlling OHS hazards and risks', Edition No. 2, June 2017 at <https://content.api.worksafe.vic.gov.au/sites/default/files/2018-06/ISBN-Controlling-OHS-hazards-and-risks-handbook-2017-06.pdf> (p 12) [NB: not exhibited].

¹²³ Transcript of Inquiry, 4 September 2020, pp 944-6, lines 47 and 1-47 and 1-8; Transcript of Inquiry, 17 September 2020, p 1657, lines 8-37; Transcript of Inquiry, 21 September 2020, p 1801, lines 17-32; Transcript of Inquiry, 22 September 2020, pp 1857-8, lines 36-47 and 1-2; Transcript of Inquiry, 23 September 2020, p 2019, lines 20-39; Transcript of Inquiry, 23 September 2020, pp 2021-4, lines 46-7 and 1-47 and 1-47 and 1-30; Transcript of Inquiry, 24 September 2020, p 2105, lines 20-41. Unified Security notes that the agenda minutes for a number of the Victorian Government's Operation Soteria Meetings, expressly includes an agenda item titled 'Health and Wellbeing (staff and travellers)'. A review of 30 of these minutes shows that 24 are blank in relation to this agenda item, which reflects Counsel Assisting's submission that this Program was perceived more as a

- 4.7 Had a proper risk assessment been undertaken at the design of the Program and in any event, once the decision was made to engage contractors (including security) in the Program,¹²⁵ the risk assessment would have identified various controls, consistent with the hierarchy of controls that could have been deployed to afford the relevant workers with the highest level of protection given the hazardous environment. This is particularly the case in relation to the standing up of the red hotel at Rydges.¹²⁶
- 4.8 Whatever may be said of the need for agility and haste in the standing up of the Program as at 28 March 2020,¹²⁷ as time passed and the decision was made, for convenience, to accommodate all COVID-19 positive international

logistics Program than a public health program by those in the Victorian Government who were tasked with implementing the Program. See: DHS.0001.0005.0195; DHS.0001.0005.0206; DHS.0001.0005.0211; DHS.0001.0005.0216; DHS.0001.0005.0220; DHS.0001.0005.0224; DHS.0001.0005.0228; DHS.0001.0005.0233; DHS.0001.0005.0237; DHS.0001.0005.0241; DHS.0001.0005.0251; DHS.0001.0005.0272; DHS.0001.0005.0276; DHS.0001.0005.0280; DHS.0001.0005.0284; DHS.0001.0005.0288; DHS.0001.0005.0292; DHS.5000.0005.2103; DHS.5000.0005.8674; DHS.5000.0005.8819; DHS.5000.0006.2747; DHS.5000.0010.0573; DHS.5000.0010.0582; DHS.5000.0019.3277; DHS.5000.0024.0412; Exhibit 133, DJP.102.007.3061; DJP.102.007.3629; DJP.102.007.3927; DJP.103.002.6155; Exhibit 79, VPOL.0002.0001.0018_R. [NB: Other than where indicated, many of the agenda minutes are not exhibited.]

¹²⁴ Exhibit 70, USG.0001.0001.3941, cl 7; TRAV.0001.0001.0076, Clause 2.1(h) [NB: not exhibited]; CML.0001.0009.0154_R, Clause 2.1(h) [NB: not exhibited]; DJP.104.001.7979, Clause 2.1A [NB: not exhibited]; SHER.0002.0001.0056, Clause 2.1(h) [NB: not exhibited]; DJP.104.005.3372, Clause 2.1A [NB: not exhibited]; Exhibit 48, STAM.0001.0001.0304, Clause 2.1(h); Exhibit 48, STAM.0001.0001.0150, Clause 2.1(h); Exhibit 48, STAM.0001.0001.0161, Clause 2.1A; Exhibit 46, RYD.0001.0010.0003, Clause 2.1(h); RYD.0001.0001.0252, Clause 2.1A [NB: not exhibited]; Exhibit 127, WIT.001.0027.0018_R, Clauses 6.1, and 7.2; Exhibit 62, WILS.0001.0005.0905_R, Clause 5.1(6)(a)(iv), Clause 7.7, Annexure A Clause 3.12, Annexure B Clause 7.3.

¹²⁵ Which, the evidence demonstrates, did not occur: Transcript of Inquiry, 4 September 2020, pp 944-6, lines 47 and 1-47 and 1-8; Transcript of Inquiry, 17 September 2020, p 1657, lines 8-37; Transcript of Inquiry, 21 September 2020, p 1801, lines 17-32; Transcript of Inquiry, 22 September 2020, pp 1857-8, lines 36-47 and 1-2; Transcript of Inquiry, 23 September 2020, p 2019, lines 20-39; Transcript of Inquiry, 23 September 2020, pp 2021-4, lines 46-7 and 1-47 and 1-47 and 1-30; Transcript of Inquiry, 24 September 2020, p 2105, lines 20-41. Unified Security did perform a risk assessment with respect to its involvement in the Program. See Exhibit 70, USG.0001.0001.3965.

¹²⁶ Unified Security notes the email from Breandan Hogan, DHHS Agency Commander, on 7 April 2020 to Dr Finn Romanes, DHHS Deputy Public Health Commander, and copied to Chris Eagle, [REDACTED], Pam Williams and Merrin Bamert, proposed that a "suitable model of care" be adopted while cohorting COVID-19 positive guests in one hotel. In that email, Mr Hogan sought endorsement and advice on standing up such an arrangement (Exhibit 138, DHS.5000.0131.0503). This email was the subject of examination during the course of the Inquiry. Even though the question was raised by Mr Hogan, it appears as though no DHHS personnel actively turned their minds to whether a particular model of care ought to be adopted in that context. Unified Security also notes the evidence of the COVID-19 Accommodation Commander, Ms Williams, who had (along with Ms Bamert in the twinned role) among other duties, the responsibility for ensuring a "safe detention environment at all times" under paragraph 2.3 of the Operation Soteria Plan (Exhibit 145, DOJ.501.001.9224, 2.3). In response to a question about whether DHHS should have considered using a public health service to provide a comprehensive model earlier than May, Ms Williams opined that: "But I think that would have been a very good service. Would it have been available if we had started talking to them in April? Probably not." (Transcript of Inquiry, 11 September 2020, pp 1274-5, lines 25-47 and 1-17). It appears that active exploration of whether such a comprehensive clinical based model could be adopted for the Program, particularly for the red hotel, was not conducted by DHHS as the control agency prior to the outbreaks at both the Rydges and the Stamford.

¹²⁷ Transcript of Inquiry, 22 September 2020, pp 1825-6, lines 38-47 and 1-3.

travellers in one hotel,¹²⁸ the onus was on the Program designers and the relevant Commander of Operation Soteria¹²⁹ to ensure that effective controls were put in place to protect relevant workers. Regrettably, this only occurred after the two outbreaks when Alfred Health was brought in to implement a comprehensive clinical based model for the red hotel.¹³⁰ In Unified Security's submission, those steps should have been taken prior to the standing up of the red hotel. Had this occurred, Unified Security workers and other workers would not have been exposed to risks to their health through contracting COVID-19.

Cleaning

- 4.9 With respect to the submissions by Counsel Assisting that security "*were responsible for cleaning communal areas*",¹³¹ that is not available on the evidence in relation to Unified Security. Hotel staff and cleaners had responsibility for cleaning in the hotel.¹³² The Rydges hotel manager, Mr Menezes gave evidence to the Board that security personnel did not clean lifts or lift buttons.¹³³ Rather, security personnel acting as escort were simply to be the individuals who touched lift buttons and handles during the performance of the fresh air walks. These were activities that security

¹²⁸ Exhibit 113, DHS.9999.0013.0001, [56]-[61], [63]; Exhibit 114, DHS.5000.0054.9039; Exhibit 114, DHS.5000.0131.0503; Exhibit 160, DHS.9999.0017.0001, [136]; Transcript of Inquiry, 28 August 2020, p 553, lines 15-24.

¹²⁹ Exhibit 145, DOJ.501.001.9224, 2.3-2.4; Exhibit 113, DHS.9999.0013.0001, [56]-[61], [63]; Exhibit 114, DHS.5000.0054.9039; Exhibit 114, DHS.5000.0131.0503; Exhibit 160, DHS.9999.0017.0001, [136].

¹³⁰ Exhibit 99, ALFH.0001.0001.0001, [34], [38], [58], [64]; Transcript of Inquiry, 8 September 2020, pp 1027-8, lines 26-47 and lines 1-45; Transcript of Inquiry, 8 September 2020, pp 1029-30, lines 32-47 and 1-27; Transcript of Inquiry, 8 September 2020, p 1030 line 36 – p 1033 line 47; Transcript of Inquiry, 8 September 2020, p 1047, lines 26-35.

¹³¹ See Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2235, lines 6-8.

¹³² The evidence before the Board indicates that, at the time of the outbreak at Rydges, hotel staff members were responsible for cleaning common areas, including the lift used to transport positive cases, but that terminal cleaning and sanitisation of rooms after guests completed their quarantine was contracted to IKON Services. After the outbreak, cleaning contractors were also engaged to clean communal areas. Security staff did not have the responsibility for cleaning: Exhibit 104, DHS.0001.0036.0145, p 10; Exhibit 215, RYD.0001.0001.0618, [3], [4(c)]; Exhibit 45, RYD.0001.0023.0001, Appendix; Transcript of Inquiry, 28 August 2020, pp 557-8, lines 11-47 and 1-2; Transcript of Inquiry, 28 August 2020, pp 561-2, lines 24-47 and 1-17; Transcript of Inquiry, 28 August 2020, pp 581-2, lines 26-47 and 1-14; Transcript of Inquiry, 28 August 2020, p 583, lines 30-45; Transcript of Inquiry, 4 September 2020, pp 972-3, lines 15-47 and 1-2; Transcript of Inquiry, 4 September 2020, pp 977-8, lines 25-47 and 1.

¹³³ Transcript of Inquiry, 28 August 2020, pp 581-2, lines 26-47 and 1-14.

personnel were directed to perform by the Victorian Government¹³⁴ under its Exercise and Fresh Air Implementation Plan.¹³⁵

4.10 The Rydges Outbreak Management Plan expressly noted:¹³⁶

"Cleaning of common areas (including the lift used to transport positive cases) is currently performed by hotel staff (including the [redacted])... Terminal cleaning of hotel rooms (following exit of a case) is contracted out to a cleaning company called Ikon."

Further, the Rydges Outbreak Management Plan went on to state:

"Noted that the [redacted]'s duties include cleaning of common areas and the lift used to transport COVID-19 cases".¹³⁷

5 PART 4 – The outbreak at Rydges

5.1 As noted by Counsel Assisting, the decision to cohort COVID-positive detainees in one location was a crucial one.¹³⁸ The genomic sequencing indicates that the source of the outbreak from Rydges was a family of four.¹³⁹ There is no transmission event that links the family to the hotel staff member, the 6 security guards and night nurse who contracted novel coronavirus, SARS-CoV-2. As Counsel Assisting indicates in their submission, there was a *"high likelihood of fomite spread"*, with environmental transmission the most likely explanation for the transmission of the disease to the workers at Rydges, rather than person to person contact.¹⁴⁰

5.2 No transmission event has been identified¹⁴¹ and indeed, the evidence is that the direction of transmission is not identifiable in relation to the outbreak

¹³⁴ Exhibit 71, WIT.0001.0036.0001, [33]-[36]; Transcript of Inquiry, 3 September 2020, p 854, lines 5-19.

¹³⁵ Under the Operation Soteria Exercise and Fresh Air Implementation Plan, Version 1: 15 April 2020, the COVID-19 DHHS Physical Distancing and Public Health Compliance and Enforcement Plan stated that the procedure for the security escort was for security to: *"be the person who touches all surfaces if required such as the lift button, handles"*. See Exhibit 72, USG.0001.0001.3653; Exhibit 71, WIT.0001.0036.0001, [33]-[36]; Exhibit 206, DHS.0001.0111.0016, p 2.

¹³⁶ Exhibit 104, DHS.0001.0036.0145, p 10.

¹³⁷ Exhibit 104, DHS.0001.0036.0145, p 15.

¹³⁸ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2238, line 7.

¹³⁹ Exhibit 8, DHS.9999.0001.0001, [81], [94]; Transcript of Inquiry, 18 August 2020, p 103, lines 25-47.

¹⁴⁰ Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2235, lines 8-10; Exhibit 104, DHS.0001.0036.0145, p 13.

¹⁴¹ Exhibit 8, DHS.9999.0001.0001, [115]-[118]; Exhibit 153, DHS.9999.0002.0001, [257]; Transcript of Inquiry, 18 August 2020, pp 108-9, lines 38-47 and 1; Transcript of Inquiry, 18 August 2020, p 110, lines 9-15.

at Rydges.¹⁴² Furthermore, there is no transmission event between any of the relevant workers and other members of the public that have contracted COVID-19 in the outbreak.¹⁴³ Given what is now known about the mode of transmission, and the lack of any evidence about the inappropriate conduct of private security with guests that has been widely reported in the media,¹⁴⁴ it is appropriate in the circumstances that the Board make a positive finding that Unified Security did not cause the Rydges outbreak.

6 PART 5 – The Nature of COVID-19

6.1 It is trite to observe that COVID-19 is a highly infectious disease. The community has seen that play out in high numbers of infections of healthcare workers across healthcare and aged care facilities in Victoria. A 25 August 2020 DHHS document, *'Protecting Our Healthcare Workers'*, indicated that as of 23 August 2020, there were 2,497 positive cases of COVID-19 acquired by healthcare workers in Victoria between 1 January and 19 August 2020.¹⁴⁵ Of those healthcare worker cases contracted in the first wave, 22% were acquired at work. However, at least 69% of healthcare worker cases were contracted at work in the second wave of the virus. In addition, while 42% of second wave cases involved workers in aged care settings, 32% were attributed to healthcare workers in hospitals.¹⁴⁶

6.2 The DHHS document went on to indicate:¹⁴⁷

"there are a number of emerging risk factors for acquisition and secondary transmission in hospital settings, including multiple coronavirus (COVID-19) positive patients in the same clinical space, in addition to older ventilation systems that are less effective at recirculating air, thereby reducing optimum air flow.

¹⁴² Exhibit 5, DOHE.0001.0001.0001, [57], [61]-[62]; Exhibit 8, DHS.9999.0001.0001, [47]-[48]; Exhibit 153, DHS.9999.0002.0001, [257]; Transcript of Inquiry, 18 August 2020, pp 97-8, lines 34-47 and 1-3; Transcript of Inquiry, 18 August 2020, p 98, lines 16-8; Transcript of Inquiry, 18 August 2020, p 110, lines 9-15.

¹⁴³ Transcript of Inquiry, 16 September 2020, p 1495, lines 5-9.

¹⁴⁴ By way of examples, see Mark Buttler, Grant McArthur, Matthew Johnston, "Ghosts" spooked system' *Herald Sun* (2 July 2020); Tamara Thiessen, 'Australia: New Coronavirus Lockdown Melbourne Amid Sex, Lies, Quarantine Hotel Scandal' *Forbes* (7 July 2020); Paul Sakkal, 'Leaked emails show Victoria's hotel quarantine system was stretched, cobbled together' *The Age* (4 August 2020); John Ferguson, 'Nation in turmoil over one failed policy' *The Australian* (6 August 2020); Andrew Bolt, 'How Victoria's race policies helped cause virus disaster' *Herald Sun* (18 September 2020).

¹⁴⁵ See Exhibit 200, HQI.0001.0030.0001, p 2.

¹⁴⁶ Exhibit 200, HQI.0001.0030.0001, p 2.

¹⁴⁷ Exhibit 200, HQI.0001.0030.0001, p 9.

This has clear implications for the cohorting – putting coronavirus (COVID-19) patients together in the same ward – and care of patients with the virus.

In addition, healthcare workers are contracting coronavirus (COVID-19) when putting on PPE, and when interacting with other health workers outside of patient care (for example, in tea rooms when PPE is not work) and movement between facilities."

- 6.3 As discussed above, those factors are relevant to the Program facilities. These were all matters for the Victorian Government, and in particular, DHHS to consider, as part of the Program's design, given its roles as control agency and its expertise in relation to public health matters.¹⁴⁸
- 6.4 Notably, with respect to the Alfred Health "health hotel" quarantine facility, it has recently been reported that nine workers have contracted coronavirus, whilst working in the very setting that the Inquiry has heard offers an exemplar model for the establishment of a comprehensive clinical based approach to a quarantine facility for COVID-19. According to news reports, the nine staff infected at Alfred Health include five Spotless staff, two Alfred Health staff members, one DHHS staff member and one Victoria Police staff member.¹⁴⁹ However, it is only workers who are performing security services (or in the nomenclature of customer service or floor monitor roles in the context of the Alfred Health) who appear to be the subject of negative media commentary and targeted for victim blaming.
- 6.5 If it is the case that even Victoria Police members have contracted the virus, it lends credence to the notion, first articulated by Jane Halton of the National COVID-19 Coordination Commission in an interview on the ABC's 7.30 program on 13 July 2020, that:¹⁵⁰

¹⁴⁸ Exhibit 131, DHS.0001.0027.0108, pp 7-1, 7-3; Exhibit 145, DOJ.501.001.9224, 2.4; Exhibit 177, DPC.0017.0001.0001, [65]; Exhibit 178, DPC.0001.0001.6766, p 13; Exhibit 218, PREM.0001.0001.0001, [1]; Transcript of Inquiry, 21 September 2020, p 1801, lines 17-23; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2201, lines 43-7; Counsel Assisting Closing Submissions, Transcript of Inquiry, 28 September 2020, p 2204, lines 43-7.

¹⁴⁹ By way of examples see, Osman Faruqi, 'Exclusive: New COVID-19 cases among staff in hotel quarantine', *The Saturday Paper* (26 September 2020); Chloe Booker, 'Police step in at quarantine hotel as infection-control fears emerge', *The Age*, (30 September 2020); Josh Taylor, 'Contract staff pulled from roles at Victoria quarantine hotels after COVID cases', *The Guardian* (1 October 2020).

¹⁵⁰ ABC 7.30 program, "'We have to get this under control": Jane Halton on the NSW coronavirus outbreak' (13 July 2020).

"it's not a question of what kind of uniform you wear to be honest with you. I think the issue is: are people who are providing security or other services really well-trained in managing hygiene and infection control." (emphasis added)

7 Conclusion

- 7.1 At the time Unified Security was engaged to perform security services in the Program, no one in the Victorian Government described the operation as *"high risk"*, whether in public or behind closed doors. Not the Premier. Not the former Minister for Health. Nor the officers of their respective Departments. Success in Government it seems has many parents, but failure remains, stubbornly, an orphan.
- 7.2 Operational decisions, including the decision to use security guards instead of members of Victoria Police or officers of the Australian Defence Force, were made by the Victorian Government. Security guards, and the companies which engage them, did not make the decision to use hotels as the location for a mass quarantine operation. They were not consulted on the decision to ratchet up the risk profile of their workplace and effectively place them on the frontline during a global pandemic. Nor were their families. Nor were their households and social contacts. They were not even warned about the increased likelihood of exposure by those in the Victorian Government that had the relevant knowledge and expertise.
- 7.3 Unified Security was not consulted on the decision to choose the Rydges as the *locus in quo* of this operation. It was not consulted on the decision to conduct this operation while other guests were still staying in the hotel. Unified Security was not responsible for the delay in conducting a full clean of the Rydges Hotel once the outbreak had been identified.¹⁵¹
- 7.4 Unified Security relied on the DHHS for advice on infection prevention and control. This is the only prudent and appropriate approach during a public health crisis.

¹⁵¹ Transcript of Inquiry, 4 September 2020, p 972, lines 15-33; Transcript of Inquiry, 4 September 2020, p 985, lines 23-47; Transcript of Inquiry, 4 September 2020, p 986, lines 1-47; Transcript of Inquiry, 4 September 2020, p 987, lines 1-3.

- 7.5 Unified Security was not responsible for establishing emergency management frameworks or assigning a chain of command on the ground for the Program.
- 7.6 Many of these “system-wide” failures were foreseeable at 8.20pm on 25 January 2020 when South China Air flight CZ321 touched down at Tullamarine Airport after a seven hour flight from Guangzhou, bringing to Victoria and Australia their first case of novel coronavirus. It is clear that there was no real pandemic planning in the Victorian Government and, in particular, by DHHS at this time. This led to decisions on the run. Poor planning was always going to lead to poor outcomes in a public health crisis.
- 7.7 The Victorian Government were on notice regarding the use of subcontractors and a casualised workforce¹⁵² in the security industry before it engaged private security to provide services to the Program. The Victorian Government had in fact called its own inquiry into the security industry in 2018.¹⁵³ Further, the DJPR had knowledge that subcontractors were being used by Unified Security.¹⁵⁴ The attempt to assert that there was no knowledge that contractors were being used is at best erroneous and at worst historic revisionism.
- 7.8 Unified Security and the guards it deployed were frontline workers in a pandemic. They were not qualified clinicians. They did not exercise police

¹⁵² It ought to be noted that a casualised workforce is not limited to the security industry. Many of the workforces deployed for the purposes of supporting the Program are also dependent upon casualised labour (this would include cleaning and nursing personnel contracted to support the Program). However, that has not received the same attention in the Inquiry or in the media reporting of the outbreaks as the involvement of security services in the Program.

¹⁵³ Transcript of Inquiry, 25 September 2020, p 2145, lines 20-40.

¹⁵⁴ Exhibit 59, DJP.050.004.0001, [37]. While Ms Currie could not recall the substance of any conversations with security contractors during the various engagement discussions on the weekend of 28 March 2020 during her evidence to the Inquiry, Mr Millward of Unified Security indicated to Ms Currie during a telephone conversation on 29 March 2020 at 6.03pm that no organisation would have the capacity to directly employ the guard numbers the Victorian Government needed in this surge capacity setting. Indeed, given the text exchange between Ms Currie and Mr Millward on 7 April 2020 where Ms Currie states, *"Hi David --- can you call me when you get a moment please? Want to talk to you about ISS Security and potential for you sub-contracting to them and/or potentially redeploying some of their airport security staff,"* the DJPR in fact encouraged Unified Security in subcontracting security services in the Program: Transcript of Inquiry, 27 August 2020, p 477, line 32 – p 480, line 19; USG.0001.0001.2789 [NB: not exhibited]. Further, Unified Security would also submit that the requirement to seek approval for subcontractors in clause 26 of the Agreement for Professional Services only became known to Unified Security on 9 April 2020, 11 days into the provision of security services to the Victorian Government: Exhibit 70, USG.0001.0001.2766; Exhibit 70, USG.0001.0001.2688; Exhibit 70, USG.0001.0001.3941. By that stage, each of its subcontractors had already commenced providing services in the Program. Unified Security sought approval for additional subcontractors that were sought to be engaged by Unified Security from that point on (see the request for approval of the use of ISS in the correspondence at Exhibit 59, DJP.050.004.0001, [44]; Exhibit 60, DJP.110.004.1158).

powers, nor did they exercise the powers of AOs in the context of the powers of detention under the *Public Health and Wellbeing Act 2008* (Vic). Many had to face the trauma of exposing their loved ones to this virus. All were egregiously defamed in some of the commentary by politicians and others that has accompanied the second outbreak. This Board must set this wrong right by making findings that clear Unified Security and the guards it deployed of causing the outbreak at the Rydges. It was simply a false assertion, either based on wrong advice or an attempt to deflect attention from failure by Government. Either way it should not have happened.

7.9 In the final analysis, it is worth repeating the observations of Franklin Delano Roosevelt that:¹⁵⁵

"The success or failure of any government in the final analysis must be measured by the well-being of its citizens. Nothing can be more important to a state than its public health; the state's paramount concerns should be the health of its people."

In truth, what occurred in relation to the Program is this: the Victorian Government failed to ensure public health including the health of the contractors which it recruited to be on the frontline for dealing with the pandemic.

Arthur Moses, SC
Jaye Alderson of Counsel

October 2020

¹⁵⁵ Dr Greger, M, supra, note 6.

Annexure A

Hotel Quarantine Program

Positive Feedback received by Unified Security from other Hotel Quarantine Program Stakeholders

No.	Date and Time	Document ID	Description
1.	29 March 2020 11:30pm	[USG.0001.0001.2234]	Katrina Currie (DJPR) emails David Millward (Unified Security): <i>"Firstly, thank you to you and the Unified teams for providing such a prompt and professional service to deliver support to the Government's Working for Victoria initiative and specifically in assisting in the provision of quarantine services to support the wider Victorian community".</i>
2.	3 April 2020 8:49am	[USG.0001.0001.2753]	██████████ (DJPR) replies to David Millward's (Unified Security) email: <i>"Thanks for reaching out to me David. We definitely appreciate your team's support in mobilising so quickly to assist us with this".</i>
3.	3 April 2020 10:11am	[USG.0001.0001.2318]	██████████ (DJPR) emails Nigel Coppick (Unified Security): <i>"[...] Reports that I have received on the work of your team have been great [...]"</i>
4.	4 April 2020 11:26pm	[USG.0001.0001.2328]	Karl Leitner (Unified Security) emails Nigel Coppick (Unified Security), relaying positive feedback from a "government global staff member": <i>"She has also mentioned that they have been putting in numerous complaints about Wilson and how uncooperative they have been for the Government Global team. She has also stated that this is why they are continually coming back to the two Crown locations – this is because of the service levels you guys are supplying so again thank you [...] Take care ad keep the great work up".</i>
5.	8 April 2020 11:54am	[USG.0001.0001.2737]	██████████ (DJPR) emails David Millward (Unified Security) about the contract and invoicing: <i>"We are very appreciative of the work you've done for us to date and I will do my best to expedite payment of invoices".</i>
6.	10 April 2020 5:30pm	[USG.0001.0001.2226]	Tim Sullivan (DJPR) emails Karl Leitner (Unified Security) regarding the easter egg surprise to guests: <i>"[...] thanks for your help with the egg delivery stuff today".</i>
7.	11 April 2020 3:18pm	[USG.0001.0001.2669]	██████████ (DJPR) emails Karl Leitner (Unified Security): <i>"Thank you for your help to procure toy items to meet immediate needs [...] Thanks team!"</i>
8.	13 April 2020 10:23pm	[USG.0001.0001.3345]	Gonul Serbest (DJPR) replies to Nigel Coppick's (Unified Security) email which stated "you and your team are doing an amazing job": <i>"And a huge thanks you and your team for all the fabulous support, we can't do it without you guys! Definitely a big team effort".</i>
9.	14 April 2020 8:58pm	[USG.0001.0001.2627]	██████████ (DJPR) emails various DJPR officials, copying in Mo Nagi (Unified Security), in response to ██████████ (DHHS) sharing "nice feedback on social media re the Easter gifts": <i>"Looping in the rest of the team who helped make this happen across all sites, with a special shout out to [...] the boys at Unified Security for distributing an delivering across all the sites [...] You guys are amazing and those efforts didn't go unnoticed. Well done all"</i>
10.	14 April 2020 9:06pm	[USG.0001.0001.2634] [USG.0001.0001.2641]	Felicia Cousins (DJPR) emails various DJPR officials, copying in Mo Nagi (Unified Security), in response to ██████████ (DHHS) sharing "nice feedback on social media re the Easter gifts": <i>"Thanks to all who made this real on the ground – it is appreciated ☺ you're all doing the most amazing job".</i>
11.	14 April 2020	[USG.0001.0001.2634]	Rachaele E May (DJPR) emails various DJPR officials, copying in Mo Nagi (Unified Security) and Karl Leitner (Unified Security), in response to ██████████ (DHHS) sharing "nice feedback on social media re the Easter gifts":

No.	Date and Time	Document ID	Description
	10:29pm		"Fantastic! Well done to you all. No doubt you have lifted our guests spirits for the remainder of their stay".
12.	17 April 2020 7:22am	[USG.0001.0001.3349]	Gonul Serbest (DJPR) emails Nigel Coppick (Unified Security) in response to Nigel Coppick's email about an incident at Novotel on Collins: "Thanks for the feedback [...] Thanks for taking all the appropriate steps and supporting the guests. Much appreciated".
13.	17 April 2020 5:11pm	[USG.0001.0001.2791]	Katrina Currie (DJPR) texts David Millward (Unified Security): "Thanks for your email earlier this week. Unified continues to be a star performer. I was chatting with Victorian Trades Hall (Union peak) today and singing your praises".
14.	18 April 2020 11:10am	[USG.0001.0001.2375] [USG.0001.0001.2621]	Gonul Serbest (DJPR) emails Nigel Coppick (Unified Security) and Karl Leitner (Unified Security) that the DJPR is commencing operations at the Marriott and Holiday Inn: "Thank you for all the fantastic work to date. It has been a pleasure working with you and your teams and we look forward to bringing on these hotels with your support".
15.	6 May 2020 7:51pm	[USG.0001.0001.2810]	Sandra Smith (Holiday Inn Melbourne on Flinders) emails Nigel Coppick (Unified Security) and Karl Leitner (Unified Security): "[...] We like to take this opportunity herewith to provide some really positive feedback in these challenging times. Your security leaders Vuna, Kruger and the rest of the team here at the hotel are very professional, collaborative, effective and very responsive. Our collaboration was smooth and effective and transparent communication assisted to make it a successful collaboration; especially with so many parties involved. A big thank you to you and your leaders/team for a safe and professional three weeks of collaboration. We, as Holiday Inn Melbourne on Flinders, hope to have another intake of guests soon and we hope to collaborate with you and your leaders/team again".
16.	7 May 2020 9:07am	[USG.0001.0001.3485]	██████████ (DJPR) emails Nigel Coppick (Unified Security) in response to positive feedback from Holiday Inn Melbourne on Flinders: "Brilliant! Well done to you and the team".
17.	7 May 2020 3:10pm	[USG.0001.0001.3027]	Allie Jarvis (DJPR) replies to Nigel Coppick's email providing information regarding ██████████ COVID-19 result: "Thank you so much for responding to the request, and for working with Robynne, while I was on RDO ... We appreciate your support of the staff and the project work [...] The Unified team are always so polite and thoroughly check we have identification and PPE before we come onto site . (they keep us honest) the team an Pan Pac were great this week and assisted my new started with a bit of an overview of the Food Delivery inbound process for their perspective. They were gracious with explaining the process to us. Please pass on my thanks".
18.	8 May 2020 4:32pm	[USG.0001.0001.2810]	Sandra Smith (Holiday Inn Melbourne on Flinders) replies to Karl Leitner's (Unified Security) email: "Thank you for your note and for your co-operation. We look forward to hopefully work with you and your team in the close future".
19.	11 May 2020 4:39pm	[USG.0001.0001.2773]	██████████ (DJPR) emails Nigel Coppick (Unified Security) regarding concerns about security at Rydges on Swanston: "Your quick response and decisive action on this has been appreciated. We look forward to receiving a report on your investigation".
20.	12 May 2020 11:42am	[USG.0001.0001.3403]	██████████ (DJPR) emails Nigel Coppick (Unified Security) regarding the new security team at Rydges on Swanston: "The new security team have been lovely and the team here have expressed how encouraged they have been by the department's swift response".
21.	12 May 2020 10:30pm	[USG.0001.0001.3904]	REDACTE (DHHS) replies to Nigel Coppick's (Unified Security) email stating that he will ensure that Unified Security will follow the process of transferring guests from Rydges: "Many thanks for your timely response and supporting this process moving forward".
22.	13 May 2020	[USG.0001.0001.2312] [USG.0001.0001.2671]	██████████ (DJPR) replies to Nigel Coppick's (Unified Security) email regarding action on Rydges on Swanston: "Hi Nigel – I have discussed this response with my team leader and we agreed that it represented an acceptable response. Thank you for your quick and decisive

No.	Date and Time	Document ID	Description
	5:17pm		action".
23.	14 May 2020 9:46am	[USG.0001.0001.3405]	<p>██████████ (DJPR) emails ██████████ (DJPR):</p> <p>"I spoke to Nigel Coppick last night to say thank you for providing the report and the expediency of the actions implemented. The nursing and hotel staff, provided very positive feedback of how quick risk controls were implemented by Nigel on Monday 11 May and the meeting on Tuesday 12 May. I do not think that there is any further actions required by Nigel Coppicks' (Unified Security) team, to be implemented. He has put in other measures with his team as well [...]"</p>
24.	16 May 2020 6:24pm	[USG.0001.0001.3015]	<p>Allie Jarvis (DJPR) emails Nigel Coppick (Unified Security) and ██████████ (DJPR):</p> <p>"Nigel thank you for the heads up this morning re the DHHS staff incident at the Marriott and for supporting your amazingly capable team in getting some much-needed assistance for the Injured AO [...] I spent some time in the hotel today and was delighted to be treated by Unified familiar faces and smiles from your team and their respectful engagement with me and my colleagues. Please thank the team that was on site. And again, thank you for your support".</p>
25.	20 May 2020 1:13pm	[USG.0001.0001.2435]	<p>██████████ (DHHS) emails Mo Nagi (Unified Security):</p> <p>REDACTED</p> <p>"The security Team Leader Mohammad Ibrahim has asked I email you and provide feedback on his and by reflection his teams (Unified Security) performance in their duties at Rydges Hotel Swanston St [...] I can add that in my dealing with Mohammad and his team I have found them to be professional, courteous and very attentive. Mohammad is responsive and exacting in his duties and provides good 360 deg feedback on the functioning security and how this can best coordinate with the functions of the detention and the hotel. Mohammad attends twice daily on site briefings with the team and is a valued contributor. Thanks for your responsiveness in making this whole thing work".</p>
26.	20 May 2020 1:30pm	[USG.0001.0001.3863]	<p>██████████ (DJPR) takes minutes at a meeting regarding health safety incidents at Rydges on Swanston and notes the following comment from Melody A Bush (DHHS):</p> <p>"Mo (Unified Security/mgr), was commended on his support in the hotel Very positive feedback was provided by Melody about the new security guards".</p> <p>"Nigel was commended on his expediency of his actions from Monday 11 May onwards. Very positive feedback has been provided by DHHS management, nurses and hotel staff. An email is going to be forwarded to Nigel's manager to provide positive feedback by DHHS, Hotel and I".</p>
27.	20 May 2020 2:48pm	[USG.0001.0001.3862]	<p>██████████ (DJPR) emails Nigel Coppick (Unified Security) and various DHHS and DJPR officials following a meeting regarding health safety incidents at Rydges on Swanston:</p> <p>"Thanks everyone for being so efficient in supporting each other and working together as a team, to resolve the issues so quickly [...] Nigel Coppick has kindly provided the attached documentation, ie WHS induction powerpoint, Policy, BHD, Letter, from Nigel in addressing the concerns raised with more proactive versions that have been implemented. Nigel you have been amazing in your management and expediency in your actions. Very positive feedback has been provided by DHHS, nurses and hotel staff".</p>
28.	20 May 2020 4:32pm	[USG.0001.0001.2808]	<p>██████████ (Arts Centre Melbourne) forwards Pan Pacific Hotel personnel (copying in Mo Nagi (Unified Security)) positive feedback from a guest and notes:</p> <p>"I just wanted to share this lovely feedback from one of our recent guests and speaks of everyone's wonderful care and attention [...] thank you as always for all your continued efforts in taking such tremendous care of all our guests".</p>
29.	25 May 2020	[USG.0001.0001.2580]	<p>██████████ (DJPR) sends Karl Leitner (Unified Security) a letter titled 'Very positive feedback – Nigel Coppick (Victoria State Manager)':</p> <p>"I would like to share with you some great feedback on the performance of Nigel Coppick that we have received from DHHS and Rydges Hotel. Melody Bush (Director Emergency Management and Health Protection at DHHS) and Rosswyn Menzes (General Manager at Rydges) have both taken the time to express their gratitude for the way Nigel responded and investigated a serious report of poor behaviours by security personnel at Rydges Hotel."</p> <ul style="list-style-type: none"> • Feedback from Rosswyn Menzes: <ul style="list-style-type: none"> ○ "[...] was very pleased on how the security incident was handled. Nigel Coppick from Unified Security. Nigel was very quick in responding to the issue and took stern actions to rectify our concerns. These actions were required since some of the actions/behaviours of the previous contractors were not appropriate. My team was very pleased with the outcome and the new team in place, are more co-operative and pleasant. I would like to thank Nigel for his prompt response. Thank you very much for taking the time to pass on my compliments to Nigel and the team at Unified". • Feedback from Melody Bush: <ul style="list-style-type: none"> ○ "[Nigel had...]" <ul style="list-style-type: none"> ▪ Highly professional approach and open to hearing negative comments about his staff on the ground, with limited evidence

No.	Date and Time	Document ID	Description
			<ul style="list-style-type: none"> ▪ Highly responsive and very quick to implement quality improvement strategies and ensure safety for all people involved ▪ Impressive work to get one large group of staff out of the work environment and stand up a whole new group of staffing ▪ Quick and effective response to the sensitivity of the situation, information and individual staff ▪ Very easy to work with at all times, professional and very responsive". <p>"Karl, I would like to also pass on my thanks to Nigel and the Unified team for the way you have responded to these matters. Nigel was expedient in his response. The hotel staff and nurses were so appreciative of actions implemented on Monday 11/5/20. Nigel is to be commended in his support, professionalism and communication".</p>
30.	25 May 2020 4:43pm	[USG.0001.0001.2579]	<p>██████████ (DJPR) emails Karl Leitner (Unified Security):</p> <p>"Please see the attached letter, addressed to you regarding the very professional management of Nigel regarding the Rydges Hotel HS issues. Nigel was fantastic in his expediency of his actions, which is outlined in the letter. He is a great member to have in your team".</p>
31.	25 May 2020 4:57pm	[USG.0001.0001.2739] [USG.0001.0001.3834]	<p>██████████ (DJPR) forwards ██████████ (DJPR) email and letter containing positive feedback about Nigel Coppick (Unified Security) to David Millward (Unified Security):</p> <p>"I thought you would appreciate this feedback on the performance of Nigel and his team in dealing with the issues at the Rydges Hotel. All stakeholders are happy with how the situation was dealt with, which makes my life easier, which makes me very happy!".</p>
32.	25 May 2020 5:56pm	[USG.0001.0001.3439]	<p>██████████ (DJPR) replies to Nigel Coppick (Unified Security) regarding her positive feedback about him:</p> <p>"It was so important to pass on the great work you have helped us with. Rosswyn also gave positive feedback in the letter as well. Again so well deserved".</p>
33.	25 May 2020 6:03pm	[USG.0001.0001.2622]	<p>██████████ (DJPR) replies to Karl Leitner (Unified Security), who thanks her for the positive feedback about Nigel Coppick (Unified Security) and the new security team at Rydges on Swanston:</p> <p>"It is absolutely our pleasure on behalf of the team. I so believe in passing on positive feedback for anyone as it is so, important for the individual/s. Let me know if there is anything we can do to help support your team and look forward working with you".</p>
34.	5 June 2020 11:07am	[USG.0001.0001.2813]	<p>██████████ (DJPR) emails Mo Nagi (Unified Security) about completing incident reports for each guard:</p> <p>"I really appreciate your time, when you are really busy [...] Thanks for the letter from the dept confirming that both of the guards were negative".</p>
35.	5 June 2020 2:18pm	[USG.0001.0001.2852]	<p>██████████ (DJPR) replies to Mo Nagi's (Unified Security) email which contains the relevant documents for completing incident reports for each guard:</p> <p>"You are amazing, thanks very much for being so efficient. It is really appreciated. I have so many positive things to say about the Unified Team. It is great to work together".</p>
36.	10 June 2020 4:53pm	[USG.0001.0001.2868]	<p>██████████ (DJPR) replies to Mo Nagi's (Unified Security) email containing the required incident report:</p> <p>"Thanks again for your very quick work and is appreciated".</p>
37.	17 June 2020 8:36pm	[USG.0001.0001.2582]	<p>Kevin McEvoy (DHHS) emails Mo Nagi (Unified Security):</p> <p>"Great to talk Mo; like you, we're flat out trying to juggle multiple balls so really appreciate the agility you've shown".</p>
38.	30 June 2020 4:08pm	[USG.0001.0001.2771]	<p>██████████ (DJPR) emails David Millward (Unified Security):</p> <p>"And a big thanks to you and your team for your responsiveness and flexibility throughout what has been an incredibly complex operation David. Hope all goes well with the transition to DHHS".</p>
39.	2 July 2020 10:40am	[USG.0001.0001.2812]	<p>██████████ (DJPR) emails Nigel Coppick (Unified Security) and Mo Nagi (Unified Security):</p> <p>"Just wanted to say it has been great working with you both. Mo, you have been so professional and supportive when answering my calls".</p>

No.	Date and Time	Document ID	Description
40.	11 July 2020	[USG.0001.0001.2803]	<p>██████████ (DJPR) texts a Unified Security staff member:</p> <p><i>" [...] I can speak on behalf of our whole team including Tim, we are so thankful to you both and your team – I will send an official email to Nigel too. We could not have even began this program without unified's support and I feel like we have made some amazing friendships for life from this interesting program. Thanks so much for all the laughs and sorting out a million issues".</i></p>