

BOARD OF INQUIRY INTO THE COVID-19 HOTEL QUARANTINE PROGRAM

AFFIDAVIT OF DR FINN ROMANES

Date of document: 3 November 2020

Filed on behalf of the Department of Health and Human Services

Prepared by:

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Reference RLB 1305953

I, **DR FINN ROMANES**, of 50 Lonsdale Street, Melbourne in the State of Victoria, Deputy Public Health Commander, Department of Health and Human Services (the **Department**), affirm and say:

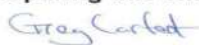

1. I am a Deputy Public Health Commander and am currently the Executive Director – COVID-19 Strategy and Policy - Public Health in the Department.
2. This affidavit is true and correct to the best of my knowledge and belief.
3. I make this affidavit based on matters within my knowledge and documents and records of the Department.
4. I make this affidavit to the Board of Inquiry in response to a notice to produce dated 28 October 2020, NTP-170, which requires the provision of this affidavit answering 8 questions.
5. This affidavit has been prepared with the assistance of lawyers and Departmental officers.
6. I have already made a statement to the Board, dated 9 September 2020 (**my Statement**), addressing 16 questions put to me by Notice to Produce 138. My statement is exhibit 113.
7. Now produced and shown to me marked **FR-1** is an index detailing each of the documents and emails referred to in my affidavit. I understand that those documents which have not been previously produced to the Board will be produced to the Board in the usual manner.

QUESTIONS

EXHIBIT 229 (DHS.5000.0133.6518)

Question 1(a). Exhibit 229 includes an email sent by you on 1 April 2020 at or about 8:03 PM (1 April 2020 email). This email describes a strict chain of command for all policy and oversight of people in detention.


a. In preparing this email did you have regard to:


.....
 (signature of authorised affidavit taker).....(signature of person swearing or affirming the affidavit)

i. any document? If so, please provide details and copies of any such documents;

ii. any discussions or other communication with any, and if so what persons? If so, please provide details of those communications including the views expressed in those discussions and/or communications and by whom they were expressed.

8. In preparing the 1 April 2020 email, I had in mind the then draft Physical Distancing Plan dated 26 March 2020 (the **Plan**), as a document which could be used to articulate the chain of command for decisions about grant of leave from detention and matters relating to exemptions from detention (see DHS.5000.0119.0156).
9. I had been drafting the Plan prior to the announcement of hotel quarantine and in that document, I had worked to articulate a chain of decision-making about compliance and exemptions and physical distancing rules in general for COVID-19 Directions that applied across Victoria at that time under the *Public Health and Wellbeing Act 2008* (Vic) (**PHWA**).
10. I was on leave on the weekend of 28 and 29 March 2020 and I returned to work on 30 March 2020.
11. As can be seen from the beginning of the email chain in exhibit 229, on 30 March 2020 at 5.23pm, Mr Hogan emailed me about developing a policy for allowing smoking at hotels. There were already many people in quarantine and so the question of how to lawfully allow them to leave their rooms was urgent. He said this needed to be considered with Authorised Officers 'on the ground', which I took to mean, working at the hotels and how it could be operationalised.
12. In response to Mr Hogan's email to me on 30 March 2020, I started to consider an appropriate approach. This culminated in me sending the 1 April 2020 email (which I also describe as "**my email**" in this affidavit).
13. From Monday 30 March 2020 onwards, I started to put in place documentation for smoking and fresh air breaks. There were many potential parties with views as to the optimal management of nicotine withdrawal or provision of leave for a smoking break, from tobacco policy officers, providers of health and welfare for people in detention, Authorised Officers and leaders within the Compliance function. I recall that I considered it important for a safe and clear process to be agreed, documented and followed consistently.
14. I had developed the 'chain of command' referred to in my email prior to any awareness of a likely hotel quarantine program and had emailed Ms Naidu, Mr Cleaves, Ms Skilbeck and other Department staff about "the chain of command for matters relating to physical distancing" on 26 March 2020.
15. As part of considering the issue for hotel quarantine in response to Mr Hogan's email on 30 March 2020, I recall then discussing the issues with Ms Naidu in her role as Director of Health Regulation and Reform, in which she was responsible for compliance and determining

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 (signature of authorised affidavit taker)

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 (signature of person swearing or affirming the affidavit)

exemptions and the question of how people could lawfully leave their room, being the place of detention under the Direction and Detention Notice.

16. I recall discussing with her how decisions as to smoking breaks should be made and we agreed that Mr Cleaves (the senior AO) would report to Ms Naidu and she would seek authorisation from me – when appropriate – as the effective delegate of the Public Health Commander.
17. I cannot recall whether I had these discussions before or after I sent my email.
18. While Ms Naidu and I had agreed how we thought grants of leave should be determined, it was not a final position. I was indicating a view that because the detention of people arose through a detention order under the PHWA, it should be the chain of command for the decision-making about exemptions and grants of leave from detention.
19. I do not recall discussing the content of the email with Mr Cleaves prior to sending it.
20. Prior to sending the email, I believe that I may have also discussed the issues with Dr van Diemen, but I do not recall the detail or content of my conversations with her.
21. I do recall later speaking to Mr Cleaves and **REDACTED** (infection control consultant) in the days after my email – possibly on 4 April 2020, when I sent an instruction on the policy for safely escorting a person - in order to establish if it was feasible – and with what rules – to enable a strict method for a person to leave for a smoking break. I address this in my Statement.

Question 1(b). Did you ever receive any response or acknowledgement to this email, either:

i. By way of reply email or other documentation; or

ii. Verbally?

Please provide details of all such responses or acknowledgements, including copies of any documentary responses, or if the responses were not in documentary form, please provide details (as best you can recall) of who such responses were from, the contents of the response(s), when they were received and by whom they were expressed.

22. I do not recall receiving any reply to this email and have searched my inbox and have not found any replies. I have asked the Department to conduct an electronic search of its email system, and if that search locates any response or acknowledgment to my email of 1 April 2020, it will be produced to the Board.
23. Other than as I explain in answer to question 1, I do not recall if I had other conversations specifically in response to the 1 April 2020 email.

Question 2. As far as you are aware:

a. as at 1 April 2020; or

b. any other, and if so which, other time(s), were the views, including the need for a "strict

..... *Greg Corbett*

(signature of authorised affidavit taker)

..... *Floman*

(signature of person swearing or affirming the affidavit)

chain of command" and adherence to it as expressed in the 1 April 2020 email shared by anyone else? If so, as far as you are aware, who shared which views and when?

24. In relation to smoking breaks and the granting of exemptions or permission to leave, as far as I am aware and on the times that I was involved in decisions relating to exemptions, I believe those decisions were generally taken in accordance with the chain of command in my email 1 April 2020.
25. From the discussions I refer to above in paragraphs 15 and 16, I was aware that Ms Naidu agreed it was an appropriate chain for decision-making around exemptions.
26. This chain of command I outline in my email was only intended to refer to the legal process and accountability of detaining people and allowing exemptions from that process.
27. I recall that Dr van Diemen, with whom I principally interacted to seek guidance or direction for matters I could not progress at my level, agreed that this kind of chain of command was appropriate.
28. I do not recall discussing my email with the Chief Health Officer.

Question 3. At any (and if so which) times in the Hotel Quarantine Program was:

- a. policy; and/or
- b. oversight,

of people in detention handled in the chain of command set-out by you in the 1 April 2020 email? Why? Why not?

29. I refer to my answer to questions 1 and 2.
30. As at 1 April 2020, I did not know how governance operated more broadly in Operation Soteria, including what other chains of command were in existence.
31. By 9 April 2020, I was advocating that a chain of command should be articulated more broadly. I address this in my Statement.
32. By 9 April 2020, I had some awareness of the nature and role of the Deputy State Controller – Health for Operation Soteria, held by officers of the Department of Environment, Land, Water and Planning, and had attended some emergency management meetings that had a certain focus on logistics and accommodation.
33. By 9 April 2020, I do not recall that I had seen the Operation Soteria Plan and did not know how it addressed command or governance generally.

EXHIBIT 243 (DHS.5000.0111.8323)

Question 4. The Board has received an email chain headed "Re: smoking policy – Operation

..... *Greg Corbett* *Ronan*
 (signature of authorised affidavit taker) (signature of person swearing or affirming the affidavit)

Soteria", which includes an email ostensibly drafted by you, dated 1 April 2020 at 19:50:09 hrs.

a. Why did you prepare this email?

b. In preparing this email did you have regard to:

i. any document? If so, please provide details and copies of any such documents;

ii. any discussions or other communication with any, and if so which persons? If so, please provide details of those communications including the views expressed in those discussions and/or communications and by whom they were expressed.

c. Did you send this email? If not, why not?

34. I have searched my outbox and sent items of my Outlook email folder and cannot locate a copy of this email.
35. It is not my practice to send almost identical copies of emails to the same people and I do not believe I sent it. I think it is a draft of my email that was sent at 20:03hrs.

Question 5. Exhibit 234 as provided to the Board indicates, in relation to the final email in the chain, BCC addressees included Prof Brett Sutton and Dr Annaliese van Diemen, however, the version of the 1 April 2020 email (part of Exhibit 229) does not reveal BCC addressees. Did you send a copy of the 1 April 2020 email to:

a. Prof Brett Sutton; and/or

b. Dr Annaliese van Diemen,

at any, and if so what time? Why? Why not?

36. My email records indicate I blind copied my email of 1 April 2020 to Prof. Brett Sutton and Dr Annaliese van Diemen.
37. When appropriate, I will copy a person in a role of authority if I am emailing to indicate a view that affects or asserts to define their position on a matter. However, it is not always necessary for everyone involved to see that the relevant person in authority is being made aware, especially if such authority is not in question. Here, I was emailing people that were generally at a similar level to me or who reported to people who were at a similar level to me within the COVID-19 response and on an issue that I recall I did not think would be controversial or in doubt or question.
38. Then (and now) I did not think it was controversial that a grant of leave from detention – or a policy to guide the consistent granting of such leave - would be determined in the chain of command set out in my email.
39. For this reason, I did not carbon copy in Prof. Sutton or Dr van Diemen to the email. However, I gave them the opportunity to be aware of my email, by use of the blind copy. At the time, I recall I was in the habit of attempting to reduce the considerable email burden on senior colleagues like





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(signature of person swearing or affirming the affidavit)

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Prof. Sutton and Dr van Diemen which can be further increased should people 'Reply All' to emails written to a large number of people when they are in copy.

DISCUSSIONS REGARDING CHAIN OF COMMAND GENERALLY

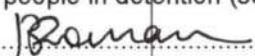
Question 6. At or around late March – mid April 2020, were you involved in any, and if so what communications and/or discussions, other than the communications and/or discussions detailed in your statement dated 9 September 2020, concerning:

- a. the 1 April 2020 email, or its contents; and/or
- b. the concept of chain of command generally in regard to people in hotel quarantine detention?

If so, please provide details of each those communications and/or discussions, including copies of all emails, notes, correspondence and records of such.

40. I discussed the decision-making hierarchy for exemptions with Dr van Diemen around this time.
41. As I address in answer to question 1 and in my Statement, prior to my 1 April email, I was preparing a Physical Distancing Plan which was to be used more broadly than in the hotel quarantine program.
42. I had included in the Plan a command structure relevant to the escalation of questions relating to compliance with physical distancing Directions made under the PHWA (for example, mass gatherings).
43. On 1 and 2 April 2020, I continued to progress drafting the Physical Distancing Plan, including on the command structure. I was conscious that any command structure in the plan required input from other areas of the Department and there was not an agreed position. Now being provided to the Board is an email chain ending in an email from Ms Benson to Ms Naidu and me dated 2 April 2020 in relation to my seeking comments on the draft Plan (see DHS.5000.0073.9878).
44. On 3 April 2020, I sent an email to Ms Austin proposing a streamlined approach to the efficient triaging and approvals of exemption requests for inclusion in the draft Physical Distancing Plan. My view was that following the chain of command when considering requests could help resolve requests in an effective way and could lead to consistent decision-making about exemptions. The exemptions process I proposed included all exemptions from detention including those arrivals in Victoria seeking not to be placed into mandatory hotel quarantine (see DHS.5000.0075.2251).
45. As to the chain of command generally, I also came to the view that there should be a broader chain of command set out in a single plan. I give evidence about this and my email of 9 April 2020 in my Statement.
46. On 31 March 2020, I sent an email to Ms Naidu, Ms Bamert and other Department staff setting out proposed governance structure relating to directions and exemption. This email remained focused on exemptions but also captured my early understanding of the roles that were leading provision of healthcare and welfare for people in detention (see DHS.5000.0054.4560).

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 (signature of authorised affidavit taker)

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 (signature of person swearing or affirming the affidavit)

47. On 7 April I sent an email to Mr Hogan, Ms Bamert, Mr Eagle and others in the Department regarding the roles of leaders in the oversight of mandatory quarantine. This represented my understanding at the time of where leadership of additional aspects was being exercised, including for transportation and accommodation arrangements (see DHS.0001.0011.0085).

DHS.0001.0126.0076

Question 7. An email recently provided to the Board, dated 30 March 2020, which appears to have been sent by you at or around 18:36:06 hrs reads:

"Hi [REDACTED]

Can you add a policy proposal intention that positive COVID-19 cases are moved to a dedicated hotel for people found to be positive. This idea of cohorting positive cases (and not requiring they stay near others in quarantine) is potentially necessary and we should all discuss it.

Finn."

a. To your knowledge was the idea of establishing a dedicated COVID-19 positive hotel:

i. raised; or

ii. otherwise discussed,

with Prof. Sutton? If so, when and who was involved?

48. As I said in my Statement, I indicated support for the idea of COVID-19 positive individuals within the program being moved to a dedicated hotel, as that would be a sound public health approach. I considered that support for the idea would be an uncontroversial position for a public health command function to provide to the COVID-19 response.
49. Accordingly, as also stated in my Statement, I passed on recommendations from public health command relating to a case on 31 March 2020 including a recommendation that 'the Chief Health Officer has advised cohorting of positive COVID-19 cases in hotels should ideally be in one hotel, or if necessary, on one floor of a hotel'. I do not recall public health command being asked formally for a position on establishing a dedicated COVID-19 positive hotel.
50. I do not recall specifically if I raised or discussed the idea of establishing a dedicated COVID-19 positive hotel with Prof. Sutton. I also do not recall if I ever formally or informally briefed Prof. Sutton as to my preferred position on whether or not there should be a dedicated COVID-19 positive hotel. I have not identified any email from me to Prof. Sutton that provides such a briefing or sought endorsement for such a position. I observe that the absence of formal documents or briefings is in keeping with my evidence that public health command was not the decision-maker as to whether there was a dedicated COVID-19 positive hotel or not.

DISCLOSURE OF RELEVANT MATERIAL TO THE INQUIRY

Question 8. To the best of your knowledge are there any documents (including emails) which you consider relevant to:

a. the Board's Terms of Reference;

..... *Greg Lambert*
(signature of authorised affidavit taker)

Finn
(signature of person swearing or affirming the affidavit)

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- b. the contents of your statement;
- c. other issues raised before the Board,

which you believe have not been produced to the Board?

If so:

- i. Insofar as those documents are in your possession or control, please produce those documents; and
- ii. Insofar as you are aware of the existence of those documents but they are not in your possession or control please identify them as best you can by way of description (including, where possible, the title of the document, the author of the document, the recipient(s) of the document, the date on which it was generated and the person or entity in whose possession you believe it to be).

51. No.

The contents of this affidavit are true and correct and I make it knowing that a person making a false affidavit may commit an offence.

This document was electronically signed by audio-visual link in accordance with the COVID-19 Omnibus (Emergency Measures) (Electronic Signing and Witnessing) Regulations 2020.

This document was witnessed by audio-visual link in accordance with the COVID-19 Omnibus (Emergency Measures) (Electronic Signing and Witnessing) Regulations 2020.



.....
(signature of authorised affidavit taker)



.....
(signature of person swearing or affirming the affidavit)

Affirmed by DR FINN ROMANES at
Melbourne

in the State of Victoria

on 3 November 2020



Dr Finn Romanes

Before me



(signature of authorised affidavit taker)

on 3 November 2020

Gregory John Carfoot of 525 Collins Street, Melbourne VIC 3000 An Australian Legal Practitioner
within the meaning of the Legal Profession Uniform Law (Vic)

19(1) of the ***Oaths and Affirmations Act 2018*** to take an affidavit.

BOARD OF INQUIRY INTO THE COVID-19 HOTEL QUARANTINE PROGRAM

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 3 November 2020

Filed on behalf of: The Department of Health
and Human Services

Prepared by:

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Reference RLB 1305953

This is the exhibit marked 'FN-1' now produced and shown to DR FINN ROMANES at the time of affirming the person's affidavit on 3 November 2020.

Before me




(signature of authorised affidavit taker)

(signature of deponent)

on 3 November 2020

Gregory John Carfoot of 525 Collins Street, Melbourne VIC 3000 An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (Vic)

A person authorised under section 19(1) of the **Oaths and Affirmations Act 2018** to take an affidavit.

This document was electronically signed by audio-visual link in accordance with the COVID-19 Omnibus (Emergency Measures) (Electronic Signing and Witnessing) Regulations 2020.

This document was witnessed by audio-visual link in accordance with the COVID-19 Omnibus (Emergency Measures) (Electronic Signing and Witnessing) Regulations 2020.

Exhibit FR-1
Index detailing each of the documents and
emails to be produced to the Board

Exhibit FR-1

Index detailing each of the documents and emails to be produced to the Board

Paragraph No.	Document Description	Document ID	Previously produced?
6, 21, 31, 41, 46, 49, 50	Witness Statement of Dr Finn Romanes of 9 September 2020	Exhibit 113	Yes
8 - 21	Email from Dr Finn Romanes to Noel Cleaves, Braedan Hogan and other Department staff on 1 April 2020 titled 'Information – Chain of command – people in detention'	DHS.5000.0133.6518, Exhibit 229	Yes
8	Physical Distancing Plan dated 26 March 2020	DHS.5000.0119.0156	No
34 – 35	Draft email from Dr Finn Romanes to Maria Bubnic, Noel Cleaves and Braedan Hogan, copied and blind copied to other Department staff on 1 April 2020 titled 'RE: Smoking policy – Operation Soteria'	DHS.5000.0111.8323	Yes
36 - 39	Email from Dr Finn Romanes to Maria Bubnic, Noel Cleaves and Braedan Hogan, copied and blind copied to other Department staff on 1 April 2020 titled 'RE: Smoking policy – Operation Soteria'	DHS.5000.0111.8323 Exhibit 234	Yes
44	Emails between Dr Finn Romanes, Meena Naidu and other Department staff on 2 April 2020 titled 'RE: COVID-19 Draft Physical Distancing Plan'	DHS.5000.0073.9878	No
45	Email from Dr Finn Romanes to Sandy Austin on 3 April 2020 titled 'Streamlining permissions, exceptional circumstances requests, advice on physical distancing'	DHS.5000.0075.2251	No
47	Email exchange between Dr Finn Romanes, Merrin Bamert and Meena Naidu on 31 March 2020 titled 'RE: Governance of mandatory detention implementation'	DHS.5000.0054.4560	Yes
48	Email from Dr Finn Romanes to Braedan Hogan, Merrin Bamert, Chris Eagle, Meena Naidu and another Department staff member on 7 April 2020 titled 'Leads for mandatory quarantine – clarifying'	DHS.0001.0011.0085	No
49 - 51	Email exchange between Dr Finn Romanes, REDACTED Merrin Bamert and other Department staff on 30 March 2020 titled 'RE: Smoking policy – Operation Soteria'	DHS.0001.0126.0076	Yes
51	Board's Terms of Reference	N/A	N/A