

TRANSCRIPT

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into the Victorian Government's COVID-19 contact tracing system and testing regime

Melbourne—Wednesday, 18 November 2020

(via videoconference)

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Mr Lee Tarlamis

Ms Sheena Watt

WITNESSES

Ms Julia Kretzenbacher, President, and

Dr Monique Mann, Vice-President, Liberty Victoria.

The CHAIR: Hello, good afternoon, and welcome back. I am very pleased that the committee is now joined by Liberty Victoria, represented by President Julia Kretzenbacher, and Dr Monique Mann is Vice-President. Is that correct? Terrific. Today joining us on the committee we have Deputy Chair Tien Kieu, Dr Matthew Bach, Mr Enver Erdogan, Ms Georgie Crozier, Mr Lee Tarlamis, Ms Kaushaliya Vaghela, Ms Wendy Lovell and Ms Melina Bath. And as I said, I am Fiona Patten.

Just to let you know, all the evidence taken at this hearing is protected by parliamentary privilege as provided by our constitution and the standing orders of the Legislative Council. Therefore the information that you provide today is protected by law. However, any comment repeated outside may not have the same protection. Any deliberately false or misleading of the committee may be considered a contempt of Parliament. As you would be well aware, this is being recorded as well as broadcast. You will receive a proof transcript of today's hearing, and I will encourage you to check that to make sure that we have represented you accurately today.

Again, thank you so much for providing your time to us today. As you know, we are looking into contact tracing and testing, and no doubt there are some civil liberty issues that surround those two very important issues at the moment. Would one or both of you like to make some opening remarks before we open it up to the committee? One of you is going to have to.

Ms KRETZENBACHER: We have an opening statement which both Monique and I will read. I will start off and then hand over to Monique.

The CHAIR: Terrific. Thanks, Julia.

Ms KRETZENBACHER: Thank you. Thank you to the committee for giving Liberty Victoria the opportunity to contribute to the inquiry today. My name, as Ms Patten has said, is Julia Kretzenbacher. I am the President of Liberty Victoria, and I appear with Dr Monique Mann, who is one of our vice-presidents. Liberty Victoria is a peak civil liberties and human rights organisation in Australia, and we have worked to defend and extend human rights and freedoms in Victoria since 1936.

It is almost trite to say that we are living in unprecedented times, due to COVID-19, at the moment. It presents a huge challenge to our existing public health systems and the way in which we balance public health with human rights. Liberty Victoria has always supported the implementation of public health measures which are necessary and proportionate to the risk proposed by COVID-19. Victorians' human rights, as we all know, are protected under the charter, and particularly relevant, in our view, to the inquiry, which has its focus on contact tracing, is the right to privacy, reputation and non-discrimination. Every Victorian has a right not to have their privacy, family home or correspondence unlawfully or arbitrarily interfered with and not to have their reputation unlawfully attacked. In our view human rights must be at the centre of the response to the pandemic.

From media reports and the contact-tracing review conducted by Dr Alan Finkel, we know that contact tracing has a number of aspects. There is the personal contact tracing through interviews with contact tracers, and increasingly there are various forms of digital contact tracing. Both of these aspects engage the right to privacy and the responsibility for the system to ensure that people's privacy is protected. Now, contact tracing will require some interference with the right to privacy. However, we are of the view that we need to ensure that that interference is proportionate to the risk and necessary in achieving public health objectives. As is noted in the *National Contact Tracing Review* by Dr Finkel and his colleagues, only the minimum information necessary to complete contact tracing should be gathered, and it should be used only strictly for the purposes of contact tracing and only retained for the requisite time required in achieving public health objectives.

In personal contact tracing—that is, interviews with contact tracers—we cannot ignore that there is a human element to the process. There is fear, there is embarrassment and for some people there is distrust in the process, and that might negatively impact the effectiveness of the process itself. In particular we are of the view that people need to feel comfortable with being open and honest with contact tracers in order to divulge all of

the information of where they have been, who they have talked to or been with and what they have done. In particular we know that anecdotally there are some individuals concerned about divulging information about where they have worked. They might be on a visa that restricts their work rights or how much they can work and they might be concerned about information being shared with the Australian Border Force or other law enforcement agencies.

We also know anecdotally that people are concerned about divulging that they might have breached the chief health officer's directions or committed another minor offence and whether that information will be shared with Victoria Police. An absence of protection and an assurance that that information is only provided for the purpose of contact tracing and is just used for that might have implications for the trust that is built with the community and might limit the efficacy of the contact-tracing system.

The Premier has said publicly a number of times that people should not be fearful of being open and honest with contact tracers, and those public statements are to be commended. However, when it comes to finding information about what happens to what you tell a contact tracer or how long that information is kept, there is nothing that can be readily found online about that. We have tried, and we have not been able to find any readily available information.

In preparation for appearing at this inquiry, we decided to look on the DHHS website and at other government resources and ask ourselves the question: 'If I were to test positive, or if I were a close contact, how does contact tracing work?'. Unfortunately we have not been able to find any information to clearly answer that question. We have not been able to find information, for example, which confirms that, firstly, the information that you tell a contact tracer will only be used by DHHS and will not be disseminated to other state or federal government agencies, in particular police or border force, and secondly, on how the information that you give to contact tracers is stored, how long it is stored for and really how securely it is stored as well, and on how and when that information is destroyed.

We have not been able to locate any written statements from DHHS which echo what the Premier has said publicly in respect of people not needing to be fearful about being open and honest with contact tracers in divulging information for contact-tracing purposes. We have also not been able to find any English or other language resources provided by DHHS which clearly explain the contact-tracing process to those who are being traced and what will happen with their information.

It is concerning to Liberty Victoria that there is no clear statement in respect of the right to privacy and what happens to the information that is collected by contact tracers. In order to build trust with communities and make people feel safe in divulging private information, there needs to be clear communication about how a person's right to privacy is fostered and protected. Another concerning aspect of the contact-tracing system that we have become aware of through media reports is that it seems that a person being contact traced might be speaking to a number of different people in the process. And they might have to repeat information that they have already divulged. Where there is little information available about what happens to what you tell a contact tracer, this process might hamper the building of rapport and trust between contact tracers and individuals. I will hand over to Dr Mann now.

Dr MANN: Excellent. Thank you, Julia. So the second aspect that we wanted to speak to in our opening statement and the second aspect of contact tracing that is relevant is the emergence of a range of digital tools used to collect data by businesses and governments alike. As Victoria reopens, we see businesses using a range of third-party QR apps to gather information about those who attend their premises. However, there is very little information available to individuals about what happens with that data; who is collecting it; what it is being used for; how it is being shared; where it is being stored, including overseas potentially; and how long it is stored for. There have indeed also been reports that this information is being used for marketing purposes. There need to be enhanced protections concerning the collection, use and retention of personal information collected by businesses for the purposes of contact tracing. For example, like the protections that were introduced under the *Privacy Amendment (Public Health Contact Information) Act* at the commonwealth level supporting the [Zoom dropout] COVIDSafe app, including data deletion after a period of 21 days and restrictive committed use of data that is limited to contact tracing by health departments, with associated criminal penalties for non-compliance. This is important for community trust.

There are also a number of different digital systems emerging to help with data gathering and contact tracing for the purposes of, for example, quarantine enforcement. These include things such as facial recognition apps that we have seen in Western Australia and elsewhere, GPS monitors for returned travellers have been proposed, workplace attendance registers, smartphone apps, and again QR codes. Each of these raise a range of important human rights concerns, and we need to ensure that these systems have appropriate privacy safeguards and governance structures supporting them. Further, we need to ensure that new forms of or enhanced surveillance measures and the associated powers are rolled back at the appropriate time—that is, when they are no longer required for public health.

In addition, we need to ensure that the benefits and public health objectives are realised for all members of our community. In designing contact-tracing processes, we have to consider preferred language, for example, and also issues of the digital divide, particularly regarding accessibility to smartphones and the use of apps. Individuals should be able to interact with systems and processes without discrimination nor encounter any adverse consequences if they cannot. We are also of the view that there needs to be a focus of the contact-tracing system on supporting individuals in accessing information and ensuring that they are well informed about their health, their rights and how their information is safeguarded. Clear, open and transparent processes will help foster trust in institutions and make individuals feel more comfortable with sharing their information to help contact-tracing efforts. Thank you.

The CHAIR: Thank you very much. You have raised some great points. I must say that it is quite disturbing to think that you just could not find that information around contact tracing, and certainly, ‘Recommendation 1: provide information’. This goes towards allaying those fears, but, Monique, I just wanted to start with maybe looking at what is happening in the QR code area and the QR area where, you are right, we are going to be compelling businesses to maintain those registers. If they are small businesses, they are not captured under most of our privacy legislation. Do you have any thoughts on how we can ensure that information is only kept for a certain period of time and is not shared with other groups? I am particularly concerned, I guess, when we are using third-party apps that may not even be Australian apps, they may not get protected. Are there any solutions that Liberty Victoria has thought about that could further create that protection for Victorians?

Dr MANN: You are certainly correct in that the commonwealth *Privacy Act* has a number of exemptions in relation to small and medium enterprises with an annual turnover of less than \$3 million, which a lot of small business operators would fall under. In relation to some of the guidance around QR codes, the Office of the Australian Information Commissioner did issue guidance in August around the use of QR codes, so I would refer you to that. However, there are also questions of enforceability, given the resourcing implications of this, and particularly also if data is collected and stored overseas.

Looking internationally there are some other examples. I believe the UK has an NHS app which also allows QR code check-ins at premises, and also there is a similar style app in New Zealand. Similarly, I am aware that New South Wales also has a more centralised version of a QR-style app that they are using as well. So I think that there are a range of different measures and there are a range of different approaches that could be taken learning from these international or indeed domestic examples such as the New South Wales case.

I think that there are also both advantages and disadvantages to consider in things such as a decentralised or a centralised design. And there it is I think very important to also speak with public health experts about this, because in some instances a centralised design actually may be better in terms of achieving public health objectives for the purposes of contact tracing and so forth. But also there are various other decentralised measures that you could adopt—for example, with information stored securely encrypted on a person’s smartphone and then later uploaded if required. So that is the kind of range of options that are available.

The CHAIR: Yes, and I think other groups have voiced some concerns about centralising that data and the risk that that enormous amount of data that you have in one place can pose. In Liberty Victoria’s position, would something like the applications that you mentioned in the UK and New Zealand probably be a preferred model where really the information is maintained until it is required in contact tracing, maintained with the person?

Dr MANN: With the individual, yes. I think anything that we are proposing needs to be, again, just broadly proportionate and justifiable—necessary—and also underpinned and supported by medical advice and evidence. So in that case if it is necessary for the purposes of contact tracing and we have appropriate

safeguards in place—it is time bound, the data is deleted after a period of days, whether that be 21 or otherwise—that would be an avenue to explore. And that would probably be a preferred approach than having a number of different third-party QR providers collecting a whole range of information that is not necessarily required for the purposes of contact tracing, such as email address or date of birth. Indeed that information can be aggregated and connected with other information and also stored extraterritorially to the Australian jurisdiction.

The CHAIR: Thank you. Deputy Chair, Tien Kieu.

Dr KIEU: Thank you, Chair. Thank you, Julia and Monique for the presentation today on behalf of Liberty Victoria. We all guard our freedom and privacy jealously, and in my case because of freedom I left a communist country on a boat, so I understand that very well. We also know that for the purpose of protection of the public or sovereignty, then certain privacy and the freedom of the individual would have to be given up. So I agree totally that information collected should be minimum and just fit for purpose—how it is collected, where it is distributed, how it is stored in terms of cybersecurity and how long it is retained and so on. But the question I would like to pose to you is about trust. It is a very important factor, and no matter how we try, the government or some of the authorities try to encourage people to take part in certain contact tracing or vaccination for that purpose. How could we build and maintain that, particularly in the present situation with a lot of disinformation in the media, social media and the like, and also a lot of conspiracy theories? Even now some people do not believe that COVID-19 is true—that it is only a hoax and that vaccination is there for world domination by some individuals and so on and so forth. So what is your view about how to build and maintain trust so that we can work together and tackle the problem together, not just in contact tracing but contacting of people?

Ms KRETZENBACHER: Thank you, Dr Kieu, for that question. I think that it is a really important question, a really important consideration. I think information for the public so that they are well informed is really the first step. It is that there is really clear and accessible and easy to find information in plain English or in a number of different languages to explain to people, ‘This is what contact tracing is. This is how it works. These are the kinds of things that we ask you, and that information is not going to go any further or be used for any purpose other than contact tracing’. I think that there have been clear public statements to that effect that have been made, but as we said in our opening statement, it is really hard to find that information available on the DHHS website—I am not sure whether it is on the DHHS website. I think the way in which the FAQs have been done in respect of directions and that information about what restrictions are is quite well done. That information is pretty easy to find—if you want to look up ‘Where I can exercise’ or ‘Where I can travel to’. I think a dedicated contact-tracing page, where information can be found by people to explain the process and to explain to them what will happen with their information, is really important. People will feel more empowered if they feel that everyone or that authorities are being open and honest with them and providing them with answers to questions that they might have about the process.

There are always going to be some people who will fall by the wayside. Irrespective of that information they might not trust government for whatever reason, and we are never going to be able completely remove that human element from the process. But the vast majority of people, I think, will feel comfortable if there is information that is clearly provided and explained to them and that there is somewhere they can go and ask questions. An example is that I went and had a COVID test a few months ago because I had the sniffles, which was negative, but even when I went to do my test I did not get a text to say, ‘Here’s some information about what you need to do now’—I think I did my test in August—‘Here is where you can go if you test positive. Here is what you need to do’. There was not much information given to me, even about the information I gave to the nurse who took the test. I think ongoing, open communication and information is going to be a way in which that trust can be built and maintained.

The CHAIR: Great. Thank you. Georgie Crozier.

Ms CROZIER: Thank you very much, Chair. And thank you both very much for presenting to the committee this afternoon. I am not sure if you were listening to Monday’s evidence. The office of the information commissioner actually spoke about the COVIDSafe app. Mr Bluemmel spoke about the federal legislation, how it was very strong and how the federal government had looked into this issue very clearly and very carefully because of those issues that you raise around privacy. I am just paraphrasing here—I wrote some notes at the time—but he basically said that the legislation was done well and that the government was

committed to ensuring as much privacy could be undertaken as possible. They also made observations around the various acts—the health privacy acts, health records and that sharing of information.

Of course here in Victoria we are still under the state of emergency. There were some of us who wanted to be in the Parliament every month while we were under a state of emergency understanding some of these privacy issues and the restrictions that we are all under and continue to be under or are potentially under. My point is, and the question I have to you is: we have had drones flying over our head, we have had restrictions in place, we have lost a lot of our liberties and freedoms throughout this process in the interests of public health, so where do you draw the line? We saw the towers locked down very quickly. Where do you draw the line in the interests of public health as to those privacy concerns that everybody is concerned about? Nobody wants our data shared. We want it kept safe and private.

Dr MANN: I can respond to you. Julia?

Ms KRETZENBACHER: Thank you, yes.

Dr MANN: During a state of emergency, such as the current situation, some limitations on human rights may be required. The Victorian charter does require that any restrictions on our human rights are demonstrably justified, proportionate and necessary and indeed also time bound, again underpinned and supported by medical advice and evidence. That is really important. There also needs to be a consideration of any less restrictive means being reasonably available to achieve the purposes that the limitations set out to achieve. So under the Victorian charter there is a very clear outline of this calculus that is made in terms of consideration of a range of relevant factors, also issues of transparency and subject to ongoing scrutiny. I would also add that there is a need for additional safeguards for vulnerable communities, and you mentioned the towers being locked down as well, and I think that is a really clear example and case study of some additional safeguards and protections being required there as well. I would also just finally add that people should be able to understand and participate when their rights are impacted for the measures that are required infringing on their rights. In terms of the federal COVIDSafe supporting legislation, I am not sure to what extent you want me to speak to that. But in terms of the substantial question that you asked, that is the kind of rationale.

Ms CROZIER: Well, I was just making the point that the OVIC thought there was strong legislation. I would also say that, to go to your point about the proportionality, we have got no cases at present and we are still under a state of emergency and that is ongoing until March. So there are questions around the demonstrable liberties that have been taken away from all of us that are being applied to us under this health crisis. I think there has obviously got to be a fine balance, but I think the proportionality issue is a very good one to point out as well in terms of the current situation and how we need to be obviously flexible but understand that we do not want our liberties and freedoms taken away from us unnecessarily either.

Dr MANN: No, and it is really important to engage with public health experts around that and that need. In terms of the commonwealth legislation supporting COVIDSafe, it is a really strong attempt to improve and I think gain community trust in relation to the use of the COVIDSafe app. I would also just refer the committee to comprehensive analyses conducted by Professor Graham Greenleaf and Dr Katharine Kemp at the University of New South Wales that have written quite extensively on that and they do outline the strengths but also some of the weaknesses of that legislative package.

Ms CROZIER: Thank you. I think it goes to trust here in Victoria too for exactly the same reasons you point out. Thank you.

The CHAIR: Thank you. Enver Erdogan.

Mr ERDOGAN: I might ask a question a little bit later actually if that is okay, Chair.

The CHAIR: Thank you. Lee?

Mr TARLAMIS: I do not have a question at this stage either, Chair.

The CHAIR: Great. Thank you. Wendy Lovell.

Ms LOVELL: Thanks very much, Fiona, and thanks for the presentation, Monique and Julia. You said that it has been hard to find anything in writing to say that things will be rolled back or they will not be used

inappropriately. You said the Premier has made some public statements but there is absolutely nothing that you can find on the DHHS website et cetera. So I just wonder, as Liberty Victoria is the leading civil liberties group in the state, what assurances have you sought from the government in writing that things like QR codes will be wound back and also that the government will not use other tracking options that are available to them, such as Myki cards, to fine us for being more than 5 kilometres away from our home if we were to go into a further lockdown?

Ms KRETZENBACHER: Thank you, Ms Lovell, for that question. Specifically in answer, we have not yet sought any assurances from the government, and it is also still early days in terms of, I think, we are all learning a lot of lessons from what has happened over the past few months and how best to respond to it. Given that we are a bit unclear at the moment about what is proposed going forward with those things, we have not yet responded to those things. We really wanted to see what is being proposed and then we are able to respond to that.

We have spoken out a number of times about the importance of ensuring that any response from the government is underpinned by public health, and I can express now that we would be very concerned about data being used for policing purposes in particular. We have spoken out about that before as well in terms of ensuring that in order for people to be open and honest with the contact tracers and for the system to work, I think it is really important that it is made clear that that information is not going to be used further, to be able to foster that trust. So we have not specifically sought any assurances but we are also in a position where we really weigh into the scene with what is being proposed, and I think that this inquiry is going to make some recommendations that will be quite useful with how things will work going forward.

Ms LOVELL: Thank you very much. You say, like, it is early days, but we have actually been through two lockdowns, we have had towers where people have been detained in their own homes, and I think it is time that we did make sure that the government are not going to use this to actually infringe on our civil rights and liberties.

Ms KRETZENBACHER: And we have made a submission to the COVID-19 inquiry where we talk about some of the matters that we are concerned about. We made that submission a few months ago, and we have also spoken publicly about our concerns with the way in which Victoria Police exercise their discretion, with the confusion that can be done with the directions, and we have spoken out about those issues. We agree that there are real civil liberties and human rights issues, and our position has always been that steps taken by government to respond to COVID-19 have to be underpinned by public health first and be proportionate to what is necessary in responding to COVID-19.

The CHAIR: Thank you, Julia; thank you, Wendy. Ms Kaushaliya Vaghela.

Ms VAGHELA: Thanks, Chair. Thanks, Julia and Dr Mann, for your submission and for your time today. According to you, is there any app or any platform out there, whether it is interstate or internationally, that you think will remove many of the concerns you have raised about the use, the collection, the storage, the accessibility and the destruction of data that we could look at? The way that Victoria has been able to overcome the second wave has been internationally recognised as an incredibly successful response and outcome. Can you reflect on this and talk to the committee about how systems like the contact tracing as well as behaviour changes have ensured we have been able to achieve this outcome?

Dr MANN: Yes, I will take that question, and it is a really good one. In terms of the empirical evidence, there is really quite scarce empirical evidence in relation to the use of apps or digital contact-tracing methods and their effectiveness. I think that is a real risk and a real area in which more attention and research need to be focused from a range of perspectives, public health perspectives and also the social sciences as well. So I will just really start off and emphasise that. I know that that was a point that was also raised in Dr Finkel's national review of contact tracing; he made that point.

There are a range of different options, and I mentioned some of them previously, looking at the UK, New Zealand and New South Wales, specifically concerning the QR codes, but in terms of contact-tracing applications, there are many. I mean, we have TraceTogether in Singapore, which the Australian COVIDSafe was modelled on, and many other iterations of this. I think it is really important that these apps are evaluated, the use of them is evaluated and that those findings and metrics are transparent and disclosed publicly for

assessment so we can make these types of informed decisions, but also they need to be evaluated in context. I know, for example, from what I have seen reported in media in the context of the second coronavirus outbreak in Victoria there was, you know, very limited use, if any use, of the COVIDSafe data, and in New South Wales, for example, it has only been able to successfully identify 17 contacts that were not already identified through forms of manual contact tracing. So I think again the distinction in context is really important given in Victoria at that time we were all locked down whereas New South Wales has been more opened up. So I think this form of ongoing evaluation is very important in terms of being able to assess proportionality and necessity in achieving public health objectives. I am going to really keep coming back to that because that is, you know, as per the charter.

The other thing that I would just also stress is the time-bound nature of this as well and ensuring that we have a kind of sunset on these powers in terms of information collection and sharing. So I know that I do not directly answer your question, but I think it is more complicated than just being able to recommend one app, for good reason.

The CHAIR: Thank you. Absolutely, it is complicated. Lee has ceded his question to Tien, so I will just go to Tien. Then we will go to Melina, then Catherine, then Matthew.

Dr KIEU: Just very quickly, we will need the testing and contact tracing at least until we have a vaccine that is workable and the take-up rates are high enough, but across Australia we have different states and each of them has different legislation and the amount of information collected is different. I have heard that people have suggested using iris scanning or facial recognition. I think it is over the top. Nevertheless, there is still, for example, use of the first name or the phone number. Some of the states may have more information to be collected. How do we deal with the varied legislation across the borders so that we can have a trusted, adopted and accepted contact-tracing app or other means of trying to protect public health?

Dr MANN: I can use this as an opportunity to advocate for a national human rights charter perhaps.

The CHAIR: Hear, hear!

Dr MANN: Maybe that is a bit opportunistic. But certainly there are issues in terms of Australia's system of federation and the cross-jurisdictional nature of information sharing and travel, and that will be certainly something that will need to be resolved moving forward and also when we think about this internationally as well.

I just also wanted to add one other thing in relation to the question before. What is really important is how all of this talk of the digital and so forth actually interacts or operates within manual contact-tracing systems as well, because all of the new technology that we are using or that is being developed is to support rather than to replace existing efforts of human contact tracers, and the technological solutions can also introduce their own problems that we need to be cognisant of. So again, I do not have a simple solution to your answer. I do note that there have been proposals for a national data exchange, again referring to the review by Dr Finkel and colleagues, and I think a lot more work around this does need to be done.

Ms KRETZENBACHER: If I can just add on to what was said. In terms of what information is to be gathered, I think that really we should be guided by public health advice as to what do they need the information for and how much information do they need to be able to do their job. I think, given that people's private information is of course very personal to them, if we can, we should try to keep the amount of information we gather to the minimum that is necessary to enable the contact-tracing process to go. So in terms of facial recognition and iris scans, I tend to agree with you, Dr Kieu. Why would we need to take that extra step? If the purpose of contact tracing is to isolate cases and quarantine cases and to inform people that they might be a close contact, I cannot see why we would need to know what people's irises look like or store their personal biometrics to be able to do that. I think that that information can be more simple. I mean, of course the less information there is, the less of a risk there is if that information is somehow disseminated, whether by an attack on an app or other ways. The less information that might be disseminated in some way, the better to be able to protect people as well.

Dr KIEU: Thank you.

The CHAIR: Thank you. Melina Bath.

Ms BATH: Thank you very much, ladies, for your presentation. We did have Dr Alan Finkel in today, and he spoke of the difference between risk minimisation and risk elimination. Minimisation allows Australians to return home, he spoke of work and travel et cetera rather than risk elimination. I just want your opinion on that. But I overlay it, I guess, with this context—and you mentioned the public health response—in my office we have seen a lot of cases present with mental health issues because of this extended, six-month lockdown, and particularly also in regional Victoria where we have had low case numbers but we have still had people very much trapped and fearful in their homes. So I am interested in your opinion on, say, minimisation rather than elimination and also Liberty Victoria's opinion on the mental health status. We have also had issues around more presentations to ED and anecdotally in our centres.

The CHAIR: Melina, given that we have got a very short period of time, I just wonder if we can direct it, very much keeping it in contact tracing and testing. I think it does go there, but possibly if we can keep it within that scope.

Ms BATH: Well, let us look at this in relation to it, and that is why I quoted Dr Finkel, because it actually spoke about minimisation versus elimination.

The CHAIR: Yes, that is right, absolutely. I am just trying to keep the answers within the scope of the review.

Ms KRETZENBACHER: I should just note that I do not want to go outside of my area of expertise. Obviously, the review and what evidence was given this morning is very much based on expertise that people have, that I certainly do not have in terms of what is better—harm minimisation—sorry, I think it is risk minimisation or harm minimisation; I might have confused those. It shows that it is probably better for me to defer to those who have the requisite public health experience to answer the question. I do not think that is something that we are able to really give evidence on, as it is really out of the scope of what we know and what we are able to give any guidance on.

Ms BATH: Fiona, if I might, could I ask Liberty Victoria in relation to the extended concerns around, certainly in the past, contact-tracing issues, what impact Liberty Victoria felt that you had on the mental health of our citizens, and what are some improvements that you would like to see in support of our mental health, because I think there has been a substantial weighing down of our mental health in terms of the lockdown?

Ms KRETZENBACHER: I agree with you, and I think, again, information and keeping people informed. Uncertainty can have a real impact I think on how people feel about the future and about what is happening, so I think information is very helpful there. Clear communication, constant communication and information that is easily attainable, and I think of course we need to be able to invest in mental health to respond to the way in which people are dealing with social support and mental health. It is counselling services as well as of course there might be a way which might lead into the justice system as well, with people having more issues. So I think there has to be support in that to be able to respond to those issues, but I think in terms of the contact tracing, about what is happening, the information is really one of the most important things, that people feel comfortable about what is going on and what will happen to them.

The CHAIR: Thank you. Catherine, do you mind if we go to Matthew? I understand that Matthew has to leave in the next second.

Dr BACH: Thanks, Chair, very much, and thanks, Catherine. Thank you both for your presentation. I was really interested to hear about your deep concerns regarding the security of data that government has come by as a result of efforts to trace the contacts of those who have tested positive for COVID-19, and I share your deep concerns. You spoke, and indeed you have spoken in your testimony throughout the course of our time together, about how it is less than optimal that there have been multiple systems.

We have heard as a committee that of course at the outset we had the Stone Age pen and paper and fax machine system, so to come to the actual point you were making just before, Dr Mann, data was then being collected in that way. Then we transitioned to a hybrid model, if you like, where much data was being collected in a manual way; however, there was a nascent electronic system being developed as well. Now there are efforts, finally, to move to a fully electronic system. I am pleased that Liberty Victoria is really pushing this, because I think given all that we have heard—again, to come back to another point that you were making earlier regarding errors,

whereby multiple contact tracers have been contacting the same person with differing advice—it is clear to me that there is huge scope for data insecurity in all of this.

Now really that is just a comment to say that I think that surely all Victorians of goodwill would share your really deep concerns, and I think given the nature of the systems that we have seen, it is something that we all need to stay on and to continue to watch really closely for a significant period of time. You can take that as a comment if you would like or provide some response.

Ms KRETZENBACHER: Well, I think that there is a lot to learn is really our main response. We do in a lot of respects have the benefit of hindsight here. I think that we know what things work well and what things do not work well, and I think in particular in terms of information security and communication with the public to increase trust, those things need to be looked at.

Dr BACH: Thank you. Thank you, Chair.

The CHAIR: Thank you. We will go to Dr Cumming and then we have got Enver Erdogan.

Dr CUMMING: Thank you, Julia and Monique. Were you really concerned about the liberties of healthy people, that they could not actually move around for months on end as well as just the way that we were actually locked down and just denied our right to even drive around or any of those things? These were the liberties of healthy people, let alone the liberties of the unwell—

The CHAIR: As it relates to contact tracing, Catherine.

Dr CUMMING: Yes, that is exactly right, yes, absolutely. So the difficulties of moving around and the severe lockdown that we actually all went through.

Ms KRETZENBACHER: Well, in respect of contact tracing and I guess—

Dr CUMMING: And testing. And obviously that response. I understand, because I have heard all the responses so far. And yes, you are concerned about privacy and the capture of information and as we go forward with WorkSafe and, you know, stepping out of course people with names. It would be great to know with DHHS what information they wanted everyone to have because everyone seems to have been gathering different kinds of information, from emails to phone numbers to addresses to all kinds of things. It would be great to have that information, what is only needed during this time, for everyone, to actually continue to trace people or for purposes of contacting them if there was an outbreak. But I am also concerned, because we are talking about previously the contact tracing and testing, but my largest concern has been around the liberties and us being locked down, seeing that other presenters here were saying that Victoria has done a great job of locking down their community. I have got grave concerns about the way that we went about it and the liberties that we were denied.

Ms KRETZENBACHER: In terms of what directions were made, our view has always been that any directions made have to be supported by public health advice. So that has always been our view in terms of—

Dr CUMMING: But that information was not given out to everybody, so nobody really knew.

Ms KRETZENBACHER: As we have said a number of times, and this is a cliché, but information is power, and I think it is really important to foster trust between authorities and the community and to be able to provide that information. A real concern—and it is probably a little bit outside of the scope—has been the enforcement of the directions, in particular—

Dr CUMMING: And the heavy fines.

Ms KRETZENBACHER: fines, heavy fines, fines that have disproportionately affected more disadvantaged communities, and also issuing of fines. It seems, at least from what we have seen in the media, that has perhaps been in situations where what has happened has not actually been in breach of the directions. There have been a number of reports. So we have been very concerned about the way in which discretion has been exercised and the effect it has had on people. In terms—

Dr CUMMING: And Julia, I would be guessing that you would have the same concerns if these were kind of heavy-handed fines if it was, say, around a needle exchange or if that was a health response—

The CHAIR: Catherine, I am sorry. Your time has expired here and our time is expiring fast as well. So I will go to Enver Erdogan, please.

Mr ERDOGAN: Thank you. I notice that both of you have mentioned proportionality and necessity. Our previous GP we had as a witness stated that he liked the idea that whenever someone goes for a COVID test their GP should be notified of the result, regardless of if it is positive or negative. Would Liberty Victoria support such a move?

Ms KRETZENBACHER: I think as long as the person consents and has informed consent about that and that of course there is then an assurance that that information—obviously there are already limits in place in terms of what doctors can share—is kept safe. I think that if the public health advice is that would be useful in the effectiveness of contact tracing, we would support that as long as there is informed consent from the person and that they have the information they need to be able to make that decision.

Mr ERDOGAN: It seems to be that your view is that liberties can be circumvented as long as there is public health advice to that effect. Is that what you are saying?

Ms KRETZENBACHER: ‘Circumvented’ might not necessarily be the right phrase. It is that liberties really can be—any right is not an absolute right and there might be some limitation on rights and liberties. When you have these kinds of unprecedented times, it is understandable that there are going to be some limitations on people’s rights. But those limitations, in our view, need to be proportionate to what the public health risk is. They need to be supported by public health advice and also only be in place for as long as is necessary to respond to the risk. That is really our view in terms of the way in which we can respond to this pandemic and the way in which liberties might be limited in some ways.

Mr ERDOGAN: Thank you, Julia, for that answer.

The CHAIR: Great. Thank you, Julia and Monique. This has been really informative, and I think that note that information is power—it is power to obviously to citizens but it is also powerful in keeping this virus at bay and protecting us as well. I think really great information. Thank you so much for being with us today. As I said, you will receive a proof transcript of this. Please just ensure that we have not misrepresented you in any way. Again, thank you so much for your contribution. It will definitely play a role in the deliberations in our report.

Witnesses withdrew.