

# TRANSCRIPT

## PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

### Inquiry into the Victorian Government's Response to the COVID-19 Pandemic

Melbourne—Wednesday, 26 August 2020

*(via videoconference)*

#### MEMBERS

Ms Lizzie Blandthorn—Chair

Mr Richard Riordan—Deputy Chair

Mr Sam Hibbins

Mr David Limbrick

Mr Gary Maas

Mr Danny O'Brien

Ms Pauline Richards

Mr Tim Richardson

Ms Ingrid Stitt

Ms Bridget Vallence



**WITNESSES**

Ms Jill Hennessy, MP, Minister for the Coordination of Justice and Community Safety: COVID-19, and

Ms Rebecca Falkingham, Secretary, Department of Justice and Community Safety;

Mr Colin Radford, Chief Executive, WorkSafe Victoria;

Dr Emma Cassar, Commissioner, Corrections Victoria; and

Ms Louise Anderson, Chief Executive Officer, Court Services Victoria.

**The CHAIR:** I declare open this hearing of the Public Accounts and Estimates Committee. I would like to begin by acknowledging the traditional Aboriginal owners of the land on which we are meeting. We pay our respects to them, their culture, their elders past, present and future, and elders from other communities who may be joining us in some way today.

Welcome, Attorney-General, and welcome to your officials to the second series of public hearings for the Public Accounts and Estimates Committee Inquiry into the Victorian Government's Response to the COVID-19 Pandemic. The committee will be reviewing and reporting to the Parliament on the responses taken by the Victorian government, including as part of the national cabinet, to manage the COVID-19 pandemic and any other matter related to the COVID-19 pandemic. Members are attending remotely from home and from their electorate offices, and we ask that people note that members are not required to wear a face covering if they are working by themselves in an office under the stay-at-home directions of 6 August, part 2, section (7)(i).

All evidence taken by this committee is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you repeat the same things outside of this meeting, including on social media, those comments may not be protected by this privilege. You will be provided with a proof version of the transcript for you to check. Verified transcripts, presentations and handouts will be placed on the committee's website as soon as possible.

We invite you, Attorney, to make a very brief opening statement of 8 minutes, no more. We ask that you state your name, position and the organisation you represent for broadcasting purposes. This will then be followed by questions from the committee. Thank you.

**Visual presentation.**

**Ms HENNESSY:** Good morning, Chair, and thank you, and good morning to all members of the committee. My name is Jill Hennessy. I am the Attorney-General of Victoria. Can I thank you for the opportunity to be with you this morning.

As members will recall, our corona omnibus emergency measures legislation was designed to support the ongoing functioning of many parts of civic society as well as the justice system during the pandemic, including the courts and the broader needs of the justice sector and the justice system. The emergency legislation remains in place, providing some key measures, and I will just briefly speak through those. Those emergency key measures have included the power to enable judge-alone trials for some criminal matters; more flexibility in relation to the service of documents; more court matters determined on the papers, to reduce the need for face-to-face interactions; the use of audiovisual links for more court matters; and, very importantly, the making of regulations to temporarily modify processes and particularly process regulation in justice legislation. An example of that might be to suspend or to alter legislated time frames in relation to court proceedings that cannot reasonably be met in a COVID-19 environment. The first set of those regulations was made on 12 May this year, and they dealt with the urgent issue of electronic signing and witnessing of documents. A second set of regulations were issued on 2 June, and they covered other matters that were unable to be included in the Act due to the urgency of getting the most critical reforms developed and enacted, as outlined during the debate on that particular Bill.

When it comes to the legal assistance sector, both that sector and agencies such as the Office of the Public Advocate are experiencing really significant demand as people respond to the demands of COVID-19. The

government have been very focused on trying to respond to those needs with both large and small investments right across Victoria to support additional services, advocacy and support and the equipment in order to deliver those services in a safe way.

Since the start of the impact of COVID-19 the justice system as a whole has responded collectively to ensure that much of it continues to operate despite some incredibly significant challenges. And we are providing funding to support, for example, VCAT to drive enhanced changes to digital services—so things like the planning and environment list and other critical lists have been able to continue to be heard via an audiovisual link or by phone.

The emergency measures Act supported the introduction of online Magistrates' Court, and that has allowed and will continue to allow matters to be heard remotely. The Magistrates' Court is also piloting the use of technology in family violence matters. And the Chief Justice advised me two Fridays ago that the Supreme Court ran a full Friday list, which is normally the busiest day of the week in courts, with no judges and no lawyers in the courtroom. And they were able to run the entire proceedings through just using technology and the remote processes. So what we are seeing, despite all of the very significant challenges, is our justice system adapt, notwithstanding the many limitations that are placed on our functions in this environment.

When it comes to Aboriginal justice, the government has established a \$10 million Aboriginal community response and recovery fund, and that is aimed at supporting Aboriginal Victorians to deliver community-led initiatives to respond to the impacts of corona. And in addition, through justice specifically, we are supporting dedicated Aboriginal men's and women's family violence services in order to ensure and support the expansion of remote service delivery to Aboriginal Victorians during the pandemic.

When it comes to corrections, over the course of the pandemic 23 Victorian prisoners and six staff have tested positive for corona. Two of the staff had not worked during the period in which they were potentially infectious, and all prisoners have been isolated. There was no prisoner-to-prisoner transmission.

In the youth justice system, over the course of the pandemic 19 young people in custody, five people who were supervised by youth justice in the community and four staff in custodial settings have tested positive for corona. Three of those staff had not worked in the period during which they were potentially infectious. And as members will recall from my last presentation and our last conversation, a 14-day protective quarantine measure is in place for all prisoners entering custody.

There are specific corona screening processes and temperature checking measures. They remain in place for all prisoners, staff and all of the professional visitors that are entering facilities. Prisons and facilities have maintained enhanced cleaning procedures and reinforced personal hygiene instructions, physical distancing protocols and the use of personal protective equipment. Health services continue to be delivered in prisons and facilities, with an increased use of telehealth where it is possible and appropriate. And other services are being delivered remotely where possible or in other ways that support physical distancing. And so that includes things like the drug and alcohol programs and some of the education and behavioural change programs that are run in the system.

I know time is running out, but if I could just touch very quickly on tenancies, the temporary rental laws that are currently in place to protect Victorian tenants and landlords in the rental market from the impact of the pandemic have been extended until the end of the year, and that has extended the prohibition on evictions, the suspension of rent increases and the access to the new rental dispute resolution scheme.

And we are supporting businesses in the hospitality industry with fee waivers and refunds and other delays in charges and tax payments, recognising that those industries are significantly really adversely impacted by corona. Other licensed businesses and registrants have requested and received fee waivers to survive the corona pandemic where allowed for under the law.

Workplace safety I know is a topic we might talk some more about. I am conscious of the time, Chair, but certainly as members would be aware Chief Health Officer directions pertaining to workplaces and industries outline very strong but necessary measures to keep workers safe. There are a range of metrics for the purposes of informing the committee of what that activity has been and where that has been. The numbers are obviously from earlier in the week, and they would be slightly higher now, but certainly as part of the workplace compliance blitz WorkSafe inspectors have conducted over 821 physical inspections. They have issued

71 compliance notices, and the demands for advice and support on the WorkSafe advisory line certainly continue.

There are a range of other reforms—

**The CHAIR:** I am sorry to cut you off there, Attorney-General.

**Ms HENNESSY:** I am happy to talk about these issues some more, Chair.

**The CHAIR:** Excellent; thank you. I will hand the call firstly to the Deputy Chair, Mr Richard Riordan, MP.

**Mr RIORDAN:** Thank you very much, Chair, and good morning, Minister. Thank you for coming along this morning. Attorney, did you or your department provide advice to the Premier to extend the state of emergency out for a maximum of 18 months? And if so, in addition to the proposed 12-month extension, were there any other options considered?

**Ms HENNESSY:** Mr Riordan, good morning to you, and thank you very, very much for your question. The proposed extensions to the potential to declare a state of emergency arise under the *Public Health and Wellbeing Act*, and that is a piece of legislation under the responsibility more broadly of the Minister for Health. The solicitor-general, which is a resource that is normally attached to the Department of Justice and Community Safety, of course provides whole-of-government advice on many matters, so I am not in a position to rule in or out what the activity of the solicitor-general may have been. The solicitor-general has been very active over the course of corona, providing legal advice on the terms of directions and the declaration of a state of emergency and a state of disaster. But in terms of the specific advice that our department has provided we have obviously had an input into the broader whole-of-government consideration. So no, the piece of legislation and the state of emergency declaration is not a department of justice Bill, if I can put it in those terms to you.

**Mr RIORDAN:** Okay. I accept it is not your Bill. You are the Attorney-General, so I guess we as a Parliament expected that you would have provided that advice. Can you provide that advice to the committee?

**Ms HENNESSY:** Well, Mr Riordan, I just explained that this is a Bill that comes under the Department of Health and Human Services, and hence the Department of Justice and Community Safety does not have responsibility to it. Perhaps I could invite the Secretary to confirm or clarify if the solicitor-general provided that advice, because that is advice that is occasionally provided in a whole-of-government sense, and I do not want to rule that in or out because I am unaware. So I will just ask the Secretary.

**Mr RIORDAN:** Just before we go to the Secretary, Attorney, are you telling the committee that as the chief law person in this government overseeing this, with a state of emergency that would come in that would clearly affect every aspect of your portfolio, you personally have not been involved in that advice?

**Ms HENNESSY:** Mr Riordan, the legislation is legislation that comes from the Department of Health and Human Services, and it is the solicitor-general, not the Attorney-General, who provides whole-of-government advice. I know there has been a campaign for those who oppose the extension. That campaign has mistakenly named the Attorney-General and not the solicitor-general as the chief adviser on these matters.

**Mr RIORDAN:** But it is under your portfolio; the advice comes from your portfolio.

**The CHAIR:** Mr Riordan, could you allow the Attorney to answer the question and perhaps also her Secretary, as she requested, to complement her answer, please?

**Ms HENNESSY:** Thank you. Secretary, I do not know if you are in a position to provide any other illumination on the role the solicitor-general has played in the development of this Bill.

**Ms FALKINGHAM:** Sure. Thanks, Attorney. The solicitor-general has provided advice to the Department of Health and Human Services in support of the amendment, so that advice is best sought from the Department of Health and Human Services.

**Mr RIORDAN:** Why can't you provide that to the committee?

**Ms FALKINGHAM:** Because it is advice provided directly from the solicitor-general to the Department of Health and Human Services. It is not advice to me; it is advice to the Secretary of the Department of Health and Human Services.

**Mr RIORDAN:** All right. So we have got another situation where yet another department cannot provide to the committee who has been asked to look into this on behalf of the Parliament, the advice that is clearly going to affect every Victorian for the next 12 months.

**Ms HENNESSY:** Well, Mr Riordan, the facts of the matter are that it is a piece of legislation that is under the remit and under the administrative order, and as a matter of law, of the Department of Health and Human Services, and so your questions are—

**Mr RIORDAN:** But it affects every element of our legal system.

**Ms HENNESSY:** When you say ‘your system’, I am not quite sure what you are referring to, because the state of emergency is in fact a health response and so they are to enable—

**Mr RIORDAN:** But it affects every element of the legal system.

**The CHAIR:** Mr Riordan, could you refrain from speaking over—

**Ms HENNESSY:** They are there to enable directions of the Chief Health Officer, so they are in respect of Chief Health Officer directions and they arise under the *Public Health and Wellbeing Act*, both of which are activities that sit within the remit of the Department of Health and Human Services.

**Mr RIORDAN:** All right. We will take that as: you will not answer. So, Attorney, according to—

**The CHAIR:** Mr Riordan, that is putting words in people’s mouths.

**Mr RIORDAN:** Well, we have not got the answer. We have asked for the advice; we are not getting the advice, and Victorians will not get the advice that has been given.

Attorney, according to government orders released recently, you have now taken over responsibility for hotel quarantine from the health department. You are giving them the advice to do the state of emergency, but you are now in charge of hotel quarantine. Can you confirm that you took that responsibility over from Minister Mikakos?

**Ms HENNESSY:** The relevant provisions of the *Public Health and Wellbeing Act* were transferred from the responsibility of Minister Mikakos to me. There were other services. As has been traversed in the course of this committee many times, there has been a multi-agency response, and so some of those legal powers and authorities were transferred from the *Public Health and Wellbeing Act* to me for the purposes of hotel quarantine, and some of the services that were provided by other agencies Corrections Victoria have now stepped into. And so there is a variety of agencies involved—

**Mr RIORDAN:** Okay. So you have handed legal responsibility for the consequences of the state of emergency to the health department—

**Ms HENNESSY:** No, I mean, that is not—

**Mr RIORDAN:** and the health department has given you the health response in hotels.

**The CHAIR:** Mr Riordan!

**Mr RIORDAN:** I am just trying to clarify, Chair.

**The CHAIR:** Well, Mr Riordan, you are talking over the—

**Mr RIORDAN:** It is not your question time. You guys have three times more time than everybody else. Please let the minister answer the question. And I am trying to clarify for the committee’s benefit: has now the Attorney-General transferred her state of emergency advice to the health department? And the health department seems to have transferred back to her the responsibility for hotels. We just want a yes or no answer.

**The CHAIR:** And perhaps you could allow her to answer, Mr Riordan.

**Mr RIORDAN:** She could answer if you stop wasting time, Chair. Attorney, a yes or no on that, please.

**Mr D O'BRIEN:** I think the Attorney is frozen again.

**Mr RIORDAN:** Can we stop the clock, please?

**The CHAIR:** I have stopped the clock for you, Mr Riordan, while we get the Attorney back online.

**Mr RIORDAN:** It looks like she has transferred her responsibility as well—out of the questions.

**The CHAIR:** Mr Riordan, you can refrain from commentary in between time.

**Mr RIORDAN:** Well, no, I can say—

You know, Chair, we are all in country towns in our country offices; our internet works. Where the heck is the Attorney? This is ridiculous—gone again. I mean we have—

**The CHAIR:** Mr Riordan, the commentary is unnecessary. We are all making the best of a difficult situation. If you could wait a moment while we give the Attorney the opportunity to get back online, that would be appreciated.

**Mr RIORDAN:** No wonder we do not have confidence in them to be able to keep people in hotels when we cannot even get government buildings to have connections that work properly. There is a theme.

**The CHAIR:** Mr Riordan! Can the secretariat confirm that we are seeking to get the Attorney back online?

**Mr RIORDAN:** Seems, Chair, every time we have difficulties—

Chair, it is not appropriate that you mute us just because you are trying to protect your ministers. It is—

**The CHAIR:** Mr Riordan, the committee—

**Mr RIORDAN:** This has been a recurring problem for these hearings.

**The CHAIR:** Mr Riordan! You are being rude. The committee does not need a commentary while we wait for the Attorney to get back online.

**Mr RIORDAN:** Well, we need an answer why senior ministers in buildings worth billions of dollars cannot get their internet to work properly. That is a question, and that could be something this committee could look at—if we are going to operate in a new COVID normal with Zoom meetings all the time, they should be working.

**The CHAIR:** Sorry, Mr Riordan, it is not helpful to the technological systems here that need to happen if you continue to talk over the top. The Attorney-General needs to reconnect, and she is just coming into the waiting room. Okay, I think we have her camera back. We have the Attorney back. Thank you, Attorney-General.

**Ms HENNESSY:** My apologies, Mr Riordan. You and I were both just warming up, so my sincere apologies. Chair, I am not quite sure how far we got into that answer, but I am happy to continue.

**Mr RIORDAN:** We will move on.

**The CHAIR:** Mr Riordan, would you like to ask another question? I am starting your clock again now. You have 5 minutes and 45 seconds.

**Mr RIORDAN:** Thank you, Chair. Attorney, as a member of the COVID cabinet, what role did you play in the sign-off on the use of private security for the government's botched hotel quarantine program?

**Ms HENNESSY:** Mr Riordan, I was not involved in any decision around the early days. Of course hotel quarantine activities were put in place arising from a national cabinet decision before the corona cabinet

committee commenced. Obviously hotel quarantine commenced in late March and the CCC commenced in early April, and hotel quarantine had already commenced by that point in time.

**Mr RIORDAN:** If the crisis cabinet was not determining how we went about hotel quarantine, who was? What was the process?

**Ms HENNESSY:** Mr Riordan, I did not bear any ministerial role in the establishment of hotel quarantine, and so I cannot really speak to those early decisions.

**Mr RIORDAN:** So what you are saying is that no advice was sought from your office about the legality of detaining people in hotels, putting them on buses with security guards or ADF—none of these legal issues about obligations and human rights, none of that was run past your office?

**Ms HENNESSY:** I was not briefed or involved in any decision about whether or not to ask or use the ADF to play a role in hotel quarantine.

**Mr RIORDAN:** Just to be very clear then, no legal advice was sought by the Premier or whoever—we will assume the Premier—made the decision to use hotel quarantine, no legal advice was sought from the Victorian government's Attorney-General?

**Ms HENNESSY:** Mr Riordan, just to make something absolutely crystal clear so there is no misapprehension or misunderstanding, there are a range of legal resources that sit right across government that people take legal advice from. The decisions around hotel quarantine emanated from national cabinet, and that was in late March, as you would be aware.

**Mr RIORDAN:** So just to be really clear, no advice was sought from you on the legalities of running hotel quarantine in Victoria. Which seems strange.

**Ms HENNESSY:** Mr Riordan—

**Mr RIORDAN:** Next question—

**Ms HENNESSY:** Mr Riordan, I just do not want to be verbally on that answer and miscreate an impression. I am happy to again invite the Secretary, but if you asked did I personally or did my office personally provide that advice, the answer to that question is no.

**Mr RIORDAN:** Is no. Yes, so we can—

**Ms HENNESSY:** That does not mean legal advice was not sought. That is the point that I am trying to make.

**Mr RIORDAN:** But certainly it was not done in any consultation with you, so does that mean then it was just the Premier that made that decision?

**Ms HENNESSY:** Ultimately, they are not questions I cannot answer because I was not involved in the establishment of those programs.

**Mr RIORDAN:** But you are a senior cabinet minister.

**Ms HENNESSY:** Well, I know that we have been here before, but cabinet ministers do not pierce the cabinet veil in this forum. Other ministers have not done it and—

**Mr RIORDAN:** You have made it really clear that you gave no advice, so we assume that—

**Ms HENNESSY:** No, no, Mr Riordan—

**Mr RIORDAN:** even if you were in cabinet—

**The CHAIR:** Mr Riordan, can you allow the Attorney-General to answer the question without you putting words in her mouth, please?

**Ms HENNESSY:** Mr Riordan, I was not the minister responsible for that, hence I did not provide advice, and I am happy to ask the Secretary to provide any further illumination on that matter.

**Mr RIORDAN:** Okay. So moving on, you were involved—

**The CHAIR:** Sorry, Mr Riordan. Secretary, did you have something to add to that?

**Mr RIORDAN:** Well, sorry, I am moving on. It is not up to you to decide my questions, Chair. You get a fair go, a fair suck of the sauce bottle on this one. And moving on—

**The CHAIR:** Mr Riordan, I think the Attorney-General is indicating that the Secretary may have something that would complement the answer to the question—

**Mr RIORDAN:** Chair, please stop wasting my time. This is a deliberate action. I am asking the questions. It is my time. Please let me move on, Chair.

**The CHAIR:** Mr Riordan, you are wasting your own time, and you are not getting a fulsome answer.

**Mr RIORDAN:** I have got the answer I want. I am moving on to an answer the Attorney can answer. Attorney, you were in crisis cabinet and you were providing advice by 24 June, correct?

**The CHAIR:** I am sorry to cut you off there, Mr Riordan. Your time has expired. The call is now with Mr Gary Maas, MP.

**Mr MAAS:** Thank you, Chair, and good morning, Attorney-General.

**Ms HENNESSY:** Good morning, Gary—Mr Maas. My apologies for my overfamiliarity.

**Mr MAAS:** No, no, no, all good. Just for the benefit of Hansard, I might advise that I have had my red cordial this morning. Attorney-General, I might take you to workplace safety; you made reference to that in your presentation. Workplaces have been major sources of infection but I was hoping that you would be able to explain what steps have been taken by WorkSafe to ensure that Victorians remain safe at work during the pandemic.

**Ms HENNESSY:** Thank you very much, Mr Maas, and can I just also acknowledge that Mr Radford from WorkSafe is participating in this hearing as well and may be able to supplement anything. But of course responding to COVID-19 and particularly in the context of stage 4 restrictions, that has been very, very challenging. We know that those restrictions have had an impact not just on the way in which Victorians have had to live but also how they have had to work. Employers and employees have a fundamental duty around ensuring safe and healthy workplaces, and in the era of corona-19 that means addressing health and safety risks of workers that are exposed to coronavirus. So we have got WorkSafe inspectors. They are visiting workplaces right across Victoria to make sure that employers understand their obligations. They take compliance and enforcement action where appropriate. There are public health directions. They continue to be enforced through spot checks by Victoria Police through the use of the emergency powers that authorised officers have to secure compliance with the public health directions. One of the things that I think has been really important has been the cooperation between bodies such as WorkSafe, Victoria Police, the DHHS authorised officers, working together to inform Victorians about those CHO directions and to help participate in some of the compliance activities.

WorkSafe: there is a coronavirus outbreak joint intelligence unit, and that unit has been established to support what I would say is a pretty comprehensive response to outbreaks, to be able to manage and identify those outbreak risks. So what they effectively do is they coordinate information and intelligence sharing, and the purpose of that is really about making sure people are getting information as quickly as possible. From WorkSafe's perspective that then enables investigations of potential employer duties.

WorkSafe has got a memorandum of understanding with DHHS to make sure that WorkSafe is notified by DHHS around corona risk, or where there has been a transmission identified they are responding to DHHS notifications by making inquiries to determine compliance with OH&S laws to complement the information they received through the MOU. Last month the government obviously introduced regulations. What they did was they required employers to notify WorkSafe immediately on becoming aware that an employee or an

independent contractor or a contractor's employee had received a confirmed coronavirus diagnosis and had attended the workplace during the infectious period. Self-employed people are also required to directly inform WorkSafe immediately upon receiving a confirmed corona diagnosis if they have attended the workplace during an infectious period, and failing to notify WorkSafe of that is now the subject of some pretty significant fines. Prevention is always the really important work, and prevention in the corona context is essentially about ongoing education coupled with the potential threat of inspections and fines if people are found to be in breach.

Earlier this year WorkSafe published some material called 'Preparing for a pandemic', and that provides kind of some detailed advice on measures about social distancing in the workplace. The point about workplace guidance material is it has a legal enforceability as well, so it starts to inform what the law of employer, contractor and employee obligation is. The really important work which has been done with industry is the very specific industry guidance, and that has been done right across, and of course some of the high-risk industries—health care, meat processing, construction—all of those industries were identified because they are high risk. It is very challenging for employers at the moment, but we are really keen for employers to be able to keep up to date with that changing material as well.

One of the great challenges I suppose about the virus is that eliminating the risk completely from workplaces is almost nigh impossible and there are certain workplace activities that need to continue—health care, food production, some of the distribution, all of those things. So working to try and make sure that we are putting in place measures, and employers are putting in place measures, that make it as safe as possible whilst also acknowledging some of the realities of how we work and human foibles has been very important.

We have had about 130 WorkSafe claims, Mr Maas, for people that have contracted corona at work. The other significant area has been mental injury, so people who have not necessarily contracted corona but have made a claim on the basis of mental injury associated with their exposure or the demands of work in this environment. Mental injury claims are of course the fastest growing rate of all WorkCover claims, and that is certainly the case when it comes to corona as well.

**Mr MAAS:** Thank you. I take you to the WorkSafe blitzes that have been taking place. Would you be able to provide us some information on how they are going in the workplace?

**Ms HENNESSY:** Sure. Mr Radford might want to supplement some of those, but obviously looking at high-risk places, high-risk workforces, looking at social distancing, PPE, some of the observations I suppose have been a bit not surprising but things like on construction sites having access to fresh running water to wash hands, so some of the most basic requirements, particularly in the earlier days of the blitz, were seen to be a little bit absent.

I wonder, Mr Radford, if you would like to provide any other insights about some of the observations around corona. I think whilst there are always people that do the wrong thing and commercial imperatives and the pressures of this time certainly make things difficult, a lot of people want to do the right thing. Because sometimes the standards and the information about what the right thing to do changes, trying to keep up with that and to do it effectively, you know, it is a bit of a challenge for some people understandably. Mr Radford, have you got some illumination you would like to, through the Chair, provide the committee about what the blitz has kind of taught us?

**Mr RADFORD:** Thank you, Minister. I would. Our visit numbers update overnight, and I have not got the numbers as of this morning as yet; we normally get them around the middle of the morning. But as of yesterday the visits to high-risk industries—what is generally referred to in the media as our blitz of high-risk industries—there have been 873 of those visits in the last four and a half weeks, 870 visits. I imagine that when I get the numbers today that will be very close to 900. We have issued 196 notices related to COVID-19.

I think the important thing to discuss here is that when our inspectors visit a workplace they look at the whole system of work. So the approach that our inspectors take is a risk-based approach and there is a hierarchy of controls. I will not go into all of the detail and take up too much time, but the first control that you always try to achieve is to remove the risk—eliminate the risk—and then there is a range of other controls that inspectors and most workplaces are generally familiar with. In the case of COVID-19, our inspectors rely on the advice that has been given—the public health advice. So they look for issues around social distancing, appropriate use of PPE, appropriate cleaning et cetera. What I can share with the committee is: in terms of those notices that have

been issued, ‘systems of work’, which is that overall kind of approach, 22 per cent of those notices have related to overall systems of work. Seventeen per cent have related to cleaning. Fourteen per cent have related to physical distancing. More than half of those notices issued have been in metro Melbourne—so 53 per cent in metro Melbourne, the remainder in the regions. And the industries—not surprisingly, because these are the industries that have continued to operate and are also those industries where we are focusing our activities—are predominantly across regional trade and manufacturing, health care, as the Minister has mentioned, public administration and local construction, and manufacturing includes food processing within that. So I hope that adds some additional answers to your question.

**Mr MAAS:** Terrific. Thank you very much. I might take you now to our courts. Your presentation touched upon that. Like all institutions in Victoria, they have been impacted by COVID-19. Now, I was hoping you would be able to inform the committee what that actual impact has been and what the government has done to support the courts to ensure that critical matters are heard.

**Ms HENNESSY:** Thank you very much, Mr Maas, and it has had a critical impact obviously right across the court system, from in the early days having to suspend jury trials to looking at what we could put in place to support what we would call our high-volume courts—the Magistrates Court and obviously things like VCAT; they go to how people live their everyday lives—so initiatives that help support that activity, along with some of the more high-profile activity that our other jurisdictions do. Obviously making investments around audiovisual support has been very, very important, getting those upgrades in place—

**The CHAIR:** Sorry to interrupt you there, Attorney-General.

**Ms HENNESSY:** We could talk some more about that.

**The CHAIR:** The member’s time has expired, and I will pass the call to Mr David Limbrick, MLC.

**Mr LIMBRICK:** Thank you, Chair, and thank you, Attorney-General, for your appearance this morning and your presentation. One of the things that is core to my philosophy is the rights of the individual, and what we have seen is a massive, massive impost on the rights of the individual since these emergency powers have been used. We have seen disappear freedom of movement and freedom of assembly. We have police able to search and seizure without warrant. We have lost the right to work. This whole series of rights is not recognised by law anymore, right now, under stage 4 restrictions. Can the Attorney-General please describe what rights are left that are still recognised by law?

**Ms HENNESSY:** Thank you, Mr Limbrick, and I think it obviously goes to the heart of some of the great debates that the response to this pandemic has engendered. In terms of what are people’s rights, I would make a couple of really important points. When the state of emergency was first put in place an important part of that response was not to suspend the charter of human rights in Victoria. You might ask: well, why is that significant? I would say that that is significant because what remains, irrespective of what a person who brings your perspective to the government’s response to the pandemic, is the ability for people to be able to enforce and argue those rights. None of those rights have been suspended in terms of people’s capability to go and enforce those in a court of law. The Victorian charter sets out a range of rights. I would also argue things like the right to good health care, the right to try and live your life free of disease—all of those things are important rights that need to be balanced as government makes decisions in terms of how they respond.

So I think the first really important point is that people still enjoy an ability to go and legally take and hold the government to account in the event that they believe that a particular right has been unfairly fettered. They can do that under the Victorian charter. They can also use all of the decisions of government that have been made; they are all subject to judicial review. Again, you do not necessarily have to even argue that it is a breach of human rights, but if you think you have been denied natural justice, you can go and challenge a decision.

One of the things that is interesting, I think, is around the imposition of fines. I know that the police minister and the chief commissioner are before you later on this afternoon. The rate of people potentially saying that actually they would like to challenge something in court is slightly on the increase to normal, and so there definitely is, I think, a view by some that they do want to challenge the use of state power. In terms of—

**Mr LIMBRICK:** Have there been any challenges in court on any of these fines?

**Ms HENNESSY:** On the fines? I will just ask. I am not aware. There was an initial challenge by a prisoner who sought an order from the court to be released on the basis of the risk that corona might expose him to in the prison system. Initially there was an interim order. So before the main case had been argued there was an order about doing an audit, and that was using the charter.

In terms of fines and people challenging those fines, there is definitely a higher rate of people seeking review and then a higher rate of people indicating that they wish to go and argue the toss in court, as I would describe it—perhaps in a too familiar or informal manner.

Certainly when the chief health officer has to make directions, one of the things they have to do is be conscious that they have to take the various rights listed in the charter into consideration. So a person could challenge that. There has got to be what in legal terms we call a ‘proximity’ or a ‘proportionality’ between what you are seeking to do with a government action and what the problem is. So if it is not significantly or sufficiently linked to the health risk, the greater the legal risk of it being challenged, is essentially where the law sits on these matters. I just might ask the Secretary if she is aware of any. I am not aware of any cause of action against the state except for the matter of the prisoner that ultimately the court has dismissed. I think there was one other case that was ultimately dismissed as well from a prisoner. But I will just ask the Secretary to advise me if she is aware of anything else that may have been filed in the courts in recent days that I am not aware of.

**Ms FALKINGHAM:** Thanks, Attorney, and thanks, Mr Limbrick. To go to your question in relation to fines, we have obviously kept all the safeguards in place. So the same review mechanisms apply. If a fine is at an infringement stage, that person can then apply to the enforcement agency—in this case it would be Victoria Police—for an internal review. At 25 August we had over 1108 people applying for an internal review, and if the fine is registered through Fines Victoria for enforcement, a person can apply to Fines Victoria for an enforcement review. At 25 August people have applied for an enforcement review of 53 fines—

**Mr LIMBRICK:** That was not my question, though. The question was: have they actually gone to court?

**Ms FALKINGHAM:** So right now I am not aware of any having reached court, but it is important to go to the fact that most are resolved through the review stage—

**Mr LIMBRICK:** Yes, they are.

**Ms FALKINGHAM:** and that is why we have those important checks and balances in place. So people, particularly vulnerable cohorts of people, can go through that process and have their fine withdrawn.

**Mr LIMBRICK:** Yes, it is almost like the government does not want them to go to court. Another question for the Attorney-General.

**Ms HENNESSY:** Sure.

**Mr LIMBRICK:** With regards to the way that the emergency powers under the *Public Health and Wellbeing Act* have been used, do you have any concerns about the principles involved with the application of those powers? I will give you some examples. One of the principles that is meant to be applied under the emergency powers is the idea of least restrictive response—so the methods of restriction that the government is meant to come up with via the CHO are the least restrictive response. Now, I can give you an example of something I do not believe is the least restrictive response: masks. When masks were deemed to be necessary by the government, the government went straight to them being mandatory and fining people. We have seen in other countries—I can bring up Japan—they did not do that; they launched an advertising and education campaign and they sent people masks in the mail, but there were no fines. That seems like the least restrictive response, and yet we have gone straight to this mandatory thing. And that is just one example; there have been many examples of this where I do not feel and many people in the community do not feel that the government has taken the least restrictive response. Do you have any concerns about the application of these powers?

**Ms HENNESSY:** Well, look, I think whenever you exercise a power it is important that it is proportionate to the problem that it is responding to. You might say that that was disproportionate in terms of the penalty, whereas I would perhaps argue that—

**Mr LIMBRICK:** ‘Is it the least restrictive response?’ is the question. That is what the legislation says.

**Ms HENNESSY:** Well, I think it would be argued that the medical advice justified that as a response and then that if you did not enforce it, if you did not have an enforcement mechanism—we can come up with rules and regulations, and you might not like that. You might think that is overreach at the hands of the state. But the great challenge for Victoria Police, then, is: how do you enforce that? And how do you enforce that in a way that is fair and consistent and transparent—

**Mr LIMBRICK:** Well, if it is not mandatory, the police do not need to enforce it. In fact when the Premier stood up at a press conference—this was the day before they became mandatory—I think he estimated 80 per cent of people were wearing masks already. So the government already had a bunch of people—the vast majority of people—who had voluntarily chosen to wear masks, according to the statement by the Premier himself, and yet we still went down this mandatory route. We did not even try any sort of voluntary compliance with the community. We did not try to get people on board. The government just went straight for mandatory compliance. This is definitely not the least restrictive response.

**Ms HENNESSY:** Well, I would argue that with the use of masks the health circumstances warranted it and that the least restrictive response in terms of enforcement and compulsion—that simply the state of the pandemic absolutely warranted having the tools available to ensure that people were required to comply. Now, your argument is: well, people were not given a chance to comply or not comply. I think the government's response to that would be that it would be an indulgent opportunity to wait to see whether or not people were complying when we had such high levels of transmission occurring within the community and workplaces.

**Mr LIMBRICK:** But only weeks before the government were saying that masks were not necessary and they were advising people not to wear them. Surely you can see the confusion in the community here. You go from this position where you advise people not to wear masks, and then all of a sudden you jump straight into mandatory compliance and give out fines to people. Isn't there somewhere in between that the government can take?

**Ms HENNESSY:** Look, I think the government would say that following the medical advice and following the guidance that the Chief Health Officer gives—and you will see even internationally the World Health Organization and the expert advice has changed. These are uncharted waters. And so when some of the medical evidence changes—

**Mr LIMBRICK:** Not every country sought mandatory compliance on these things.

**Ms HENNESSY:** Well, I would argue that whether or not mask wearing is mandatory under different circumstances, it is all kind of dependent upon what the context has been. If it is in a workplace where there are high risks, if it is where people have great challenges around social distancing, we know just from what we are seeing in the transmission rate if people relax and they take their mask off that is when the risk of infection rises.

**Mr LIMBRICK:** But mandatory compliance means that—

**The CHAIR:** Mr Limbrick, I am sorry to interrupt you, but your time has just expired, and I will give the call to Mr Danny O'Brien MP.

**Mr D O'BRIEN:** Thank you, Chair. Good morning, Attorney.

**Ms HENNESSY:** Good morning, Mr O'Brien.

**Mr D O'BRIEN:** You have made it very clear in response to previous questions that you were not responsible for hotel quarantine. Which minister was?

**Ms HENNESSY:** Sorry? The responsibility for hotel quarantine does now sit with me and has since the administrative order was in place. In terms of what was the broader response, there were of course multiple agencies that were involved as part of the state control team. There was a state controller health that reported through to the secretary of DHHS. There were other departments involved in the provision of services into the hotel quarantine program. So as part of that multi-agency response there were a number of bureaucracies and hence ministers that were involved.

**Mr D O'BRIEN:** But, Attorney, we have heard from yourself, from the minister for jobs, from the minister for transport, from the Minister for Education that none of them was the minister ultimately responsible. It is a fairly simple question: who was the minister ultimately responsible?

**Ms HENNESSY:** Mr O'Brien, as I answered to your question, I now have responsibility for that but previously there were a number of different agencies that did different operational pieces that worked through, and ultimately those agencies worked with different ministers. I accept that you are not satisfied with that response, but that is my response. I am not quite sure where else I can take that for you.

**Mr D O'BRIEN:** So you are solely responsible for it now. Who was solely responsible for it before? I mean, Attorney, your government is asking Victorians to trust them with another 12 months of state of emergency provisions yet you cannot answer a simple question as to how we got into this state, as to who was responsible for the program that put us in the place we are in now.

**Ms HENNESSY:** I have outlined for you the structure that is used around multi-agency responses for class 2 health emergencies that was in place at the time. That has obviously changed, and I am in a position to be able to talk to those changes, but I am not in a position to illuminate things that I was not responsible for at the time.

**Mr D O'BRIEN:** Attorney, have you received legal advice from the solicitor-general or other external legal advisers about liability of the state government and indeed ministers with respect to failures in the hotel quarantine program, and any other program run by the government in relation to COVID, with respect to both OH&S and workplace manslaughter laws?

**Ms HENNESSY:** There are a lot of elements to your question there. Obviously the government seeks legal advice on many matters. In respect of workplace manslaughter exposure, no, that would not be appropriate. WorkSafe are independent regulators and so they make decisions about who it is they may investigate, who it is that they might take enforcement action against and who it is that they might seek to prosecute. Government has no influence on any of those issues in terms of legal exposure on those matters. They are not matters that I have sought advice on.

**Mr D O'BRIEN:** Okay. Can I follow up questions to Mr Radford if I could, please. Which government departments and agencies are being investigated for COVID-related safety breaches?

**Mr RADFORD:** Mr O'Brien, there are currently 20 active investigations underway in relation to COVID. They go across a number of—

**Mr D O'BRIEN:** In the government departments, sorry?

**Mr RADFORD:** I beg your pardon? What investigation looks at is any duty holder, so the investigation will look at a particular workplace and then there may be more than one duty holder in that workplace.

**Mr D O'BRIEN:** Okay. You are aware of the evidence provided to the hotel quarantine inquiry last week by Mr Luke Ashford, who was Parks Vic and seconded to DHHS as an authorised officer, who said he was given no PPE and no training on infection control. Is that a breach of workplace health and safety, prima facie?

**Mr RADFORD:** I am not prone to speculate, Mr O'Brien. As I said, there are a number of investigations that are currently underway right across multiple industries and workplaces. Our focus is entirely on the *Occupational Health and Safety Act* and potential breaches there. An employer does have a responsibility to provide a safe work environment, and that is what our investigations will look into. I am not in a position to speculate where those investigations may lead.

**Mr D O'BRIEN:** Can you just confirm for us though that government departments and ministers are able to be prosecuted under both OH&S and industrial manslaughter laws?

**Mr RADFORD:** Government departments are. All duty holders carry responsibilities under the OHS Act and therefore are subject to penalties under that Act.

**Ms HENNESSY:** And certainly, Mr O'Brien—and this was a matter that I was at great pains to emphasise under the workplace manslaughter laws that were not supported by your side of politics—the Crown is not

immune. That means that there can be ministerial responsibility in respect of that legal action, and that was a decision that the government proactively took in that legislation. And I do not quibble with that at all.

**Mr D O'BRIEN:** Okay, thank you for that clarification, Attorney. Can you therefore explain what processes you put in place to ensure any investigation by WorkSafe, whether it is or OH&S or workplace manslaughter, is conducted entirely independently of you and any other ministers in the government, particularly if there are questions of ministerial culpability?

**Ms HENNESSY:** Well, I might ask Mr Radford—I am only aware that WorkSafe are investigating a range of duty holders. I am not briefed or advised on anything more than that, nor would it be appropriate for me to be so. They are an independent regulator. WorkSafe does not brief us or me about such matters, and they make those decisions entirely independently.

I do not know if Mr Radford has anything further to add, but to give you the assurance: I am not advised, I do not seek information and there is no information provided. And I know if a person is being prosecuted usually at the same time that you know a person is being prosecuted, Mr O'Brien. I enjoy no special rights or entitlements.

**Mr D O'BRIEN:** I understand that, Attorney, but obviously if ministers are being investigated, at some point they may be questioned. They may be interviewed. They might be sent a request for information. I am just trying to an assurance from you that there is a process in place to ensure that there is no influence on WorkSafe investigators, as part of that process, who might be investigating ministers of the Crown.

**Ms HENNESSY:** Mr Radford might wish to outline how investigators enjoy independence and protection from any form of alleged interference. And just to make the point in case you are not aware, WorkSafe inspectors are not employees under the public sector administration Act. There is a different regime, and I will just allow Mr Radford to perhaps speak to give you the assurances and the basis of the assurances—whilst rejecting that anyone would try and do that—just from a structural perspective what the answer to your question and some of the protections that exist are.

**Mr D O'BRIEN:** I think you have answered that, unless you have got something very briefly to add, Mr Radford.

**Ms HENNESSY:** Mr Radford?

**Mr RADFORD:** I would confirm what the minister has said: that we do not brief the minister or in fact any minister on investigations either before or during or until they have concluded. Our inspectors and our investigators are appointed and authorised by me.

**Mr D O'BRIEN:** Mr Radford, just another question: is WorkSafe assisting the coroner or any other authorities with criminal investigations into COVID-related fatalities?

**Mr RADFORD:** Not that I am aware of, Mr O'Brien. No.

**Mr D O'BRIEN:** Okay. You have previously advised that WorkSafe was investigating the Cedar Meats outbreak. I think that started in May 2020 and we have heard nothing since. Could you give us an update on whether an investigation is at?

**Mr RADFORD:** That investigation is ongoing, Mr O'Brien.

**Mr D O'BRIEN:** Can you give us a time line? What is—

**Mr RADFORD:** Similar to, I guess, what the minister was explaining, one thing I very deliberately never do is interfere with an investigation. I would never suggest to an investigator or our legal team that they hurry up or do anything other than report to me on the conclusion.

**Mr D O'BRIEN:** Okay. We are aware that a number of public sector employees have lodged WorkSafe claims related to COVID-19. Can you provide a breakdown of the WorkCover claims lodged per government department since March 2020?

**Mr RADFORD:** I do not have that at my fingertips, Mr O'Brien. I will see what information I can provide. Obviously there are privacy provisions around individuals.

**Mr D O'BRIEN:** Of course.

**Mr RADFORD:** So I would have to ensure that no individual could be identified, but I will take that question on notice if that is appropriate.

**Mr D O'BRIEN:** Simply a list by department of the number of claims both lodged and approved, Mr Radford, if we could.

The Attorney referred to the fact—and I think you did as well—that WorkSafe has put out guidance on employer obligations relating to COVID-19. Are you aware of any workers who have tested positive that have not informed their employers?

**Mr RADFORD:** I am not aware of that, no. The mandatory notification that came into effect last month and also the latest Chief Health Officer directions do impose an obligation on employees to notify their employer if they have had a positive test.

**Ms HENNESSY:** The source, Mr O'Brien, of obligation is mandatory notification. There is a whole range of things that there are mandatory notification obligations on employers for, so corona has now been added to that list. Via a CHO direction, which get updated at different intervals, one of the additions to a CHO direction—how long ago was it, Mr Radford? Every day feels very long. I want to say a month ago, but it could be a week ago for all I know.

**Mr RADFORD:** I think it was 5 August, Minister, from memory.

**Ms HENNESSY:** Okay, it puts an obligation on an employee for that corollary obligation to notify, and it is just about making sure that we try and close those information loops. Again there are always people that do the wrong thing, but I think our experience around introducing mandatory notification for employers has been people want to know what it is that they have got to do, what are the rules, and most people want to comply. Most people just want to do the right thing, but they do want to know what it is and when they are meant to do it and how they are meant to do it, and we have sought to do that.

**The CHAIR:** Sorry to interrupt you there, Attorney. The member's time has expired. Ms Pauline Richards, MP, has the call.

**Ms RICHARDS:** Thank you, Attorney-General, and your officials, for appearing before us this morning. I would like to segue from the discussion you were having earlier with Mr Maas, particularly as it relates to the use of audiovisual equipment and technologies in the court system. I understand the government has invested in previous budgets in AV technology for the courts, and I am hoping that you can provide the committee with an update and some insights into the number of hearings involving prisoners that are using the AV technology.

**Ms HENNESSY:** Terrific. Thank you very much, Ms Richards. People often think about trials or some of the more well known junctures of hearings, but the criminal justice processes and procedures—you know, there is a whole range of different hearings at different points about different matters. So being able to utilise AVL is important not just to try and keep the wheels of justice going; it also significantly reduces a lot of the transmission risks. Things like not having to transport prisoners to and from courts takes a range of different points in the system away and treats those risks as being potential infection points, so the use of AVL has been very, very important.

Just to give you some kind of insight as to the growth in those areas, I can advise the committee that in July there were nearly 3260 hearings, so about 96 per cent of matters involving prisoners were listed via video link. And if you measure that against about the same time last year, about 56 per cent—so really a significant increase. I know Ms Anderson from Court Services Victoria is here. People have worked so incredibly hard to try and get things stood up as quickly as possible, and they have been very, very cooperative. From the perspective of prosecutors, the courts, Victoria Police, the defence counsel, getting these systems in place has been really important, and to rapidly get that technology in place and to troubleshoot all of the inevitable issues

when you are establishing these things so very, very quickly has been incredibly important. I am very, very grateful for the work that everyone has done.

Again, I know we all dream of a post-corona future, but one of the important things will be the discussion at the right point in time about: what are the things that we should be entrenching in a system that, but for the pressures of corona, perhaps we would never have made the decisions on or made the investments in in the way in which we have had to drive that change?

**Ms RICHARDS:** Thank you, Attorney. Further to that, we know that COVID has meant that business as usual for any organisation is completely different and I know for institutions to get back to some sort of normality is going to take time, so can you give us a sense of the backlog that courts are facing and the measures that have been put in place to make sure that justice is well served?

**Ms HENNESSY:** Yes. Look, there is no sugar-coating; there will be backlogs, and the courts are all very, very focused on the sorts of things that we can do to minimise those backlogs. It is a matter of how to prioritise in corona. Obviously the matters that have been prioritised have been family violence matters and all of the things that are urgent for very self-apparent reasons, but doing things like scaling up remote hearings has been really critical. Once we got some treatments in place, then it was about trying to systematise and, in a sense, normalise those. But if you think about the Magistrates Court, I mean, the Magistrates Court at Melbourne usually has about 2000 people a day going through it, so that is a really significant number. We know that we have got to do things like run the lists better and be more efficient in the way in which we are using the technology, using a case management approach. A case management approach is not usually as well utilised in the justice system. There are some great examples of it being used in a pilot sense, but actually the way in which we use it in family violence—running that right out around a bunch of civil and other criminal matters as well has been really important. Alternative dispute resolution—again this has been a real feature in the civil space around tenancies as well. Resolve matters quickly, do it fairly and really focus on the pragmatics of issues.

And just again to give you some sense, between March this year and June this year the Magistrates Court heard over 35 000 criminal events. There were nearly 6400 family violence intervention order cases and about 1400 personal safety intervention order cases. So I think, really importantly, what we have done is establish an online Magistrates Court. That kind of started on 1 May, so that is now really, really starting to ramp up and is using our resources right across the state to try to take some of the pressure off the system. I am told that all court venues statewide are now capable of using the online Magistrates Court, so what that means is that if you are living in a remote area and you can get a remote court venue, you are able to do things like apply for your family violence intervention order and do it all online, whereas previously having that capacity, particularly for rural and remote communities, has been a bit of a challenge as well.

I think the other important part of what has helped us make this as successful as it can be in these sorts of circumstances is the practitioners. It is tough. I know that people do not like to hear that life is tough for lawyers, but they are having to kind of change the way in which they work—they have had to, like everybody else—and really try and adjust the way in which they run their practices as well.

Another important intervention is that the Supreme Court is now fast-tracking all homicide cases. What courts have done—and again it is about trying to come up with pragmatic solutions without compromising the essential requirements of justice—is that they have ceased doing things like committals at a Magistrates Court level but are doing the cross-examination of the witnesses at the Supreme Court and fast-tracking homicide cases so they are not sitting there waiting for a committal process at a Magistrates Court level. The protection is that the witness examination that ordinarily would not occur at the Supreme Court is occurring. So I think that has been a really important innovation as well.

The courts have been using Professor John Catford and a range of other experts for advice around how it is that they can work, because there are some matters that do require physical presence—and there is kind of no escaping that—but doing that safely. After jury trials were suspended there was hope that we would return to a limited form of jury trial. Then, as you might recall, Ms Richards, 10 postcodes went into lockdown, and there was this interesting debate with the juries commissioner. If you have got 10 postcodes that are not available for a jury pool, does that still comply with the law if you are pulling a jury together? We were just trying to work

our way through that issue when the stage 4 Melbourne metropolitan restrictions were put in place. So the hope to return to jury trials did not occur at that point in time.

But the courts have made really significant investments around all the kind of PPE, hand sanitisers and the like. Ms Anderson is with us. I do not want to deny you an opportunity, Ms Anderson, to talk about any of the challenges or great successes, as everyone has kind of scrambled to try and now mainstream how on earth we keep the system going in this environment. But there have just been some really extraordinary successes.

Chair, with your indulgence, if I could invite Ms Anderson to outline any of those issues.

**The CHAIR:** Thank you.

**Ms ANDERSON:** Thank you, Attorney-General. I am Louise Anderson, CEO of Court Services Victoria. I will amplify the Attorney's comments, and that is that since, really, the declaration of the pandemic all courts started to scale up the use of technology, whether by telephone or audiovisual, and you have heard quite a bit of the compelling data. The courts have really embraced that, and again I really amplify the Attorney's comments that the Supreme Court is reflective of almost all courts and VCAT and has been running matters almost predominantly online during the stage 4 restrictions and has reduced in-person attendance to only critical and priority matters.

The backlog: we often refer to it more as 'pending cases'. All courts have cases that are pending, requiring a further hearing date or finalisation. But, yes, there is no denying that that has increased due to the number of adjournments of non-urgent matters. Each court is really forensically examining the nature of those cases and applying proportionate case management techniques to respond to them to ensure that they get a final hearing date. We are doing quite a bit of work around that, as the Attorney has mentioned, whether it is looking to leverage all of the resources that sit across the state, in the Magistrates Court in particular, and ensuring that they are focused on those cases that need to get finalised as matters of priority, looking to matters that can be heard on the papers, and certainly again, as the Attorney mentioned in her opening statement, that is provided under the omnibus Act. But there is an increase of numbers of matters being heard on papers, particularly where it is in the interests of justice to do so.

There are a number of other arrangements where we are looking at judicial registrars, reserve judges, reserve magistrates. Every tool available to the courts is being pulled in and leveraged to ensure that we continue in the administration of justice and it is fair and proportionate. Thank you.

**Ms RICHARDS:** Thank you both for those insights. I think on that I am out of time. Is that right, Chair?

**The CHAIR:** Just about; 10 seconds. I will pass the call to Mr Sam Hibbins, MP.

**Mr HIBBINS:** Great. Thank you, Chair, and thank you, Minister and secretaries, for appearing before the inquiry today. I want to ask about the extension to the rental evictions moratorium and just the time frame for that expiring on 31 December this year. Why has only a three-month extension been given? Don't you think it is going to be a bit unfair for renters who are unemployed or have lost significant income to be worried during Christmas time and new year, sitting around having Christmas lunch, about potential evictions on 1 January 2021?

**Ms HENNESSY:** Thanks, Mr Hibbins, for your question, and I know your very genuine long-term interest in housing matters. I am an advocate on this issue. I might invite the Secretary, if I can, in respect of Consumer Affairs Victoria to talk through the time frames around the extension—I know we were all very desperate to get the extension and the moratorium around rent evictions in place—in terms of what informed where the line was kind of drawn for residential tenancies. I think this applies to both commercial and industrial tenancies as well. But a lot of that has also been linked in with what some of the federal commercial or payment benefits are. Obviously wherever you draw the line it is unhappy for those that fall on the other side of it. Why specifically the line was drawn here I am just going to seek from the Secretary, who has much closer proximity to the work of CAV than I do, to see if there is something more illuminating that we can provide you with.

**Ms FALKINGHAM:** Thanks, Attorney, and thanks, Mr Hibbins. You will recall that on 1 January the residential tenancy reforms come into operation, so that is why the current extension goes to 31 December. We are working really closely with the sector and with all our vulnerable groups to make sure that there is no

hardship experienced. It is worth noting that since the scheme has been in place we have had over 186 000 visits to the website. We have registered over 28 000 reduced-rent agreements, with an average of 27 per cent of reduction for weekly rent payable. We have provided information and advice to over 36 000 contacts. We have closed down over 10 000 matters. So it gives you a sense of how our team is working around the clock. We want to ensure the best protections are in place from both perspectives and make sure that anyone who is experiencing hardship can be referred to us for further advice and support. So that is the correlation between 1 January and 31 December.

**Mr HIBBINS:** Sorry; just to clarify, how will the new rental reforms actually assist a renter who is in financial distress and is actually unable to afford their rent?

**Ms FALKINGHAM:** Obviously under the reforms there are a whole range of complementary measures that go to the escalation process and how disputes are resolved under those reforms. As I said, we are closely monitoring those changes. The time line also mirrors the commercial extension as well. But in terms of those changes, I guess that we are building those and we are hardwiring those into the system longer term through our residential tenancy reforms.

**Mr HIBBINS:** Okay, thank you. One of the issues is the fact that a lot of renters are not actually getting the reduction—their landlords are not actually prepared to negotiate a reduction, or it is a very lengthy process, for many months, in which they are still having to pay full rent. Are you looking to strengthen the scheme to ensure that more renters can actually get the help that they need?

**Ms HENNESSY:** Mr Hibbins, I know, having been the beneficiary of a conversation about this very issue, that there are two priorities over the next couple of months—that is, to lift the awareness that tenants have of the scheme and what might be available to them, and the other issue is to improve the enforcement and the enforceability of it. I know there are a range of activities to support it to that end. Again I might, with the indulgence of the Chair, seek the support of the Secretary in talking through the specifics of what those are. But one of things that I know the department is very aware of is how knowledgeable people are of what support might be available, particularly for CALD communities. And again, you know, how is it that we understand? We know who might be using alternate mediation services. What is happening off grid, in a sense, between tenants and landlords and what exploitative practices or unfairness might be occurring in that environment is something that we want to improve the line of sight that we have got on, which I think substantiates your point. But I am just going to ask the Secretary to talk through how that is intended to be rolled out over the next couple of months.

**Ms FALKINGHAM:** Thanks, Attorney. As I mentioned, we have got a team that is working around the clock to bring down wait times. So we have managed to get it down in relation to resolving disputes from an average at peak of 13 days to three days. We have also managed that when things reach our formal mediation or conciliation service, they do take about 33 days. But it is important to note that we have managed to negotiate for those tenants in 60 per cent of cases a retrospective application of that reduction in rent. So that is what we are working through, through those processes—to make sure that we get a beneficial outcome for both parties and we can have continuity of tenancies. So we will continue to keep rolling those out.

We are obviously looking at ways to strengthen, particularly around improved communication. We often hear a lot of stories about people not being able to reach a settlement with their landlord, and often they have not come through our services, so obviously we have got to do a lot of work to make sure everyone is aware of the services that are available. Obviously the support of the legal assistance sector has also been boosted through the pandemic as well, which has assisted in this regard. But we are doing everything to make sure that particularly the most vulnerable in our community are aware of what services we can provide, because once we get them into our services we are able to get them a good outcome. So we will continue to do that over the course of the rest of the year.

**Mr HIBBINS:** Can I ask: just in terms of the initial mediation that occurs, I have been hearing that renters are not actually allowed to have representation as part of that mediation; is that correct?

**Ms FALKINGHAM:** Sorry. You just broke up a bit there then.

**Mr HIBBINS:** Are renters allowed to have a person representing them within that initial mediation?

**Ms FALKINGHAM:** That is a matter for them obviously, but they obviously are the party to the dispute process. We obviously have also a dedicated hotline for CALD communities, and we do provide any assistance for, as I said, those most vulnerable communities. But the parties are obviously the tenant and landlord.

**Mr HIBBINS:** So is the landlord allowed to have someone representing them at that mediation?

**Ms HENNESSY:** Do you mean is the landlord allowed to and there is a prohibition on the tenant being represented?

**Mr HIBBINS:** Correct.

**Ms HENNESSY:** I do not think that is the case. I am being affirmed that that is not the case by the Secretary. And if we have misled you, Mr Hibbins, hopefully someone will be passing a note to the Secretary or texting her very shortly so we can confirm the veracity of what we have just said to you.

**Ms FALKINGHAM:** Thanks, Attorney. It is a matter for the parties who represent them. If you are aware of any cases where that has not happened, please let me know because I am really happy to follow it up and make sure that in that case we do rectify it.

**Mr HIBBINS:** Sure. Thank you. I just want to move on to the justice system now, Minister, and the significant reduction in the number of people being held on remand. One of the reasons for that is that now what has been used as a compelling reason or an exceptional circumstance is actually the potential court delays and time on remand. Can I ask how the government is managing the increased numbers of people out on bail because of this reason?

**Ms HENNESSY:** Certainly, and again we have got Dr Cassar and the Secretary here. I think you have drawn what I would say is an incorrect nexus terms of cause and effect. Our understanding and insight around what might be driving some of the reduced remand figures—and again, the jurisprudence kind of does not bear out, I suppose, the assertion that you have made—is that generally what has happened, and I am sure the police minister or commissioner will speak to this this afternoon, is that as people are restricted in their movement there has been a drop in crime. That in our view is what is probably the most significant driver to the reduction in remand, and I think that is borne out in the crime figures.

I do know that one of the areas—and again, without straying too heavily into what is material I am sure the police minister will cover—is things like Operation Ribbon. To continue our great fear around family violence, there are people in homes that are observed that are not able to access services or reach out for support because they are being watched by a person who is manipulating them or who is in fact the perpetrator. So as police have put Operation Ribbon in place, one of the things that has been identified is a range of people who have been in breach of intervention orders. Police certainly speak to a growth in that remand cohort.

I might just ask the Secretary from a perspective of those figures and Ms Cassar from Corrections Victoria in terms of those that may be the subject of other community corrections orders, for example, if they have any other specific observations. But the jurisprudence—whilst I know that there is some reportage of these matters, the bail laws have not changed. There have been a couple of judicial comments, but that in no way bears any kind of proportionate resemblance to what is happening around crime data. I might ask the Secretary to provide some comments about what we know about our remand community—or Ms Cassar if she is better placed to.

**Ms FALKINGHAM:** Thanks, Attorney. As you have obviously mentioned, the courts have prioritised bail applications. In relation to remandees, we obviously make sure we work closely with Victoria Police and through our community corrections staff and a whole range of other service providers to make sure we have wraparound services available to anyone who needs those services, and as you know—

**The CHAIR:** I am sorry to cut you off there, Secretary, but the member's time for questions has expired. I will pass the call to Ms Ingrid Stitt, MLC.

**Ms STITT:** Thank you, Chair. Good morning, Attorney, and good morning to the officials that are here with us. I wanted to ask you about the corrections system. I think the last time you were before PAEC you spoke about the measures that have been put in place to mitigate against the risk of COVID in our prison system, and I think in your presentation you actually touched on the numbers of prisoners that are currently or have to date

tested positive. I wondered whether you might be able to give us an update on how those positive cases are being managed in the prison system.

**Ms HENNESSY:** Sure. Thank you, Ms Stitt. As I said, I went through the data and one of the things that I just again want to really highlight to the committee is that when you move into the management of a pandemic you have got to make really difficult decisions, and there were a range of real difficult decisions made around how corrections are managed to reduce those risks. I know there are a variety of views around how one responds, from decarceration to other measures that are used to ensure that you did not get infection through the systems, and I suppose that is a longwinded way of really wanting to thank and honour the work that our corrections officers have done in the system, because it is a tough job and it has been extraordinarily tough in these circumstances managing prisoners and remandees in this environment and keeping corona out of the prison, despite the fact that we do have people coming to prisons that are positive and to youth justice.

What I am going to do is I am going to ask Ms Cassar, who, along with her team, has been doing a really spectacular job on the actual practice of what happens. So I might just get her to talk through the process that is currently being used around that response to the management of those prisoners that come in and that are positive or that might come in on remand. There is quite a bit of breath holding at every point when we know that we have got a positive prisoner or remandee, but there has been just such extraordinary work done by Corrections Vic staff, and before I hand over to Ms Cassar I just did not want to lose the opportunity to put my extraordinary appreciation for their work on the record.

**Dr CASSAR:** Thank you, Attorney, and may I echo the Attorney's comments about how well Corrections Victoria have managed the strategies that we put in place in March this year.

The protective layers that we are talking about are the established quarantine units, so we now have four types of quarantine. We have protective quarantine, which is the mandatory 14 days as someone comes into the system. We have a quarantine process for those who become unwell within prison. We have isolation units for those who are COVID positive, and now we have established transfer quarantine, so that is for prisoners who are going between the system or through the system, to ensure that when they arrive at the future destination they are COVID free. These are the strategies that we put in place to protect the system, and I am really pleased to say that the great work that the Corrections Victoria team have done has kept the system safe. We have had the 23 positive cases. That includes the four inconclusive results from Hopkins, and all of these have come in through community transmission. That means that the strategies put in place are doing exactly what they were planned to do.

**Ms STITT:** Thank you for that answer. So there is testing obviously when prisoners are entering the system, but once they are in the system are there any additional measures that Corrections Victoria have put into place? Obviously we have seen some fairly horrendous scenes overseas where prison populations have had high levels of infection, so what are the things that have been put in place once prisoners are in the system to manage the virus?

**Dr CASSAR:** Yes, so a range of strategies. I would have to say that the stepped up cleaning regime is probably one of the highest regimes that we have seen to prevent infection from staff coming in. The attorney spoke about the assertive screening which is still in place, so that is all staff and contractors coming into the facilities, whereby they are temperature checked and they are asked a range of questions to make sure that they are not symptomatic, which has protected the system very well. But there are also the requirements that we have put in around exclusivity to workplaces. This is so that if we have a staff member who is COVID positive and not symptomatic, we do not have a mass outbreak and we can contain it very quickly. But you are right—the stats globally are horrifying. They have got globally 171 000 prisoners in 97 countries and 1980 prisoners have died from COVID, so when you look at the Victorian performance of 23, which have all come in through the community, the team are doing an incredible job.

**Ms STITT:** Thank you for that. Attorney, or one of your officials if that is more appropriate, I just wanted to ask about what kind of medical care prisoners get access to if they are a positive case?

**Ms HENNESSY:** Yes, I might ask Dr Cassar to speak to this in more detail, but committee members may or may not be aware that every prison has a healthcare centre in situ and we also have St Vincent's that provide a range of other acute health services. I might get Dr Cassar to talk through the model of care that we have got in

place, because of course transfer equals transmission risk, and we have got to make sure that we are able to treat people so we do not get an outbreak, but also we have got to minimise the risk of transmitting the virus as we are transferring people to be able to access healthcare facilities. So I might just get Dr Cassar to talk through what the model is in place in situ. And of course for anyone that is very, very acutely unwell, St Vincent's is the provider. They have got a 10-bed secure ward that is used not just specifically for corona, but more generally that is utilised by the corrections system.

**Dr CASSAR:** Thanks, Attorney. Yes, you are right, every prison has good primary health and primary mental health services operating throughout. What we did early in this pandemic was we also set up what we would call mini hospitals that we could stand up within seven days and convert parts of the medical centres at the front end of our facilities into hospitals. We have not needed to do that, which is great news, and I am really pleased to say that all of the cases that have been positive have remained and been treated successfully in prison.

**Ms STITT:** Okay, thank you. Attorney, I might now just ask you about the births, deaths and marriages registry. Obviously that particular area covers or deals with some of the most important legal documents that people deal with in people's lives. What is going on with the registry in terms of managing their work during COVID? Are you able to give us a bit of an understanding?

**Ms HENNESSY:** Yes, I am. Obviously their work has been, you know, like all other workplaces and workforces, having to find other ways to work, but moving to a lot of online registration services has been very, very critical, obviously trying to focus on particularly those that require death certificates. That is often largely managed by funeral directors and families, so putting in place processes so they are able to get support online or talking to a real human being has been really important. So they are fully functional online. There is a call number where people can be called back.

I am seeing a big yawn from Mr O'Brien. I am sorry to perhaps contribute to your need for a sleep.

Births, deaths and marriages also are really important around providing marriage registration as well, and lots of people get married at the registry. I think early on in the pandemic I remember asking if people could lawfully get married on Zoom or via Teams—or whatever your preferred platform is in the state of Victoria—and the answer is: no, you cannot; you have to be physically present to get married. Of course there have been a range of weddings that have been planned that have had to be deferred. I mean, BDM did some really extraordinary things early on about trying to get people married as quickly as possible, knowing that the restrictions were coming, but they are getting those marriage certificates registered.

In terms of birth certificates, a lot flows from a birth certificate in terms of Medicare entitlements as well as personhood and the joy of officially registering your baby as well. And so BDM have put in place some processes.

I think we have got about 800, I think was the last report I saw, weddings that have been suspended, I suppose, that were planned to occur at the registry—as opposed to registering a marriage—but the ceremonies have had to be suspended there. I know, as we have often gone to Parliament to see the glorious photo shoots occurring around the Old Treasury buildings, it will be a good day when that comes back. But they have done a really fantastic job.

The reality is it is like during the bushfires. One of the things that we learned, or I certainly learned, after this year's bushfires was the critical importance of those documents for people, whether they have lost them in the fire or they are having difficulty finding a bit of bureaucracy that can help them move things along, and just how critical they are for accessing entitlements, being able to prove who you are, dealing with banks—passports is kind of a moot point for us now—but being able to do that and do that quickly and efficiently.

The challenge for government I think is always reminding ourselves that not everyone has internet access and not everyone feels a great degree of confidence using online mechanisms and creating yet another account and trying to remember yet another password—so trying to make sure always that our systems, without being inefficient or unrealistic to the challenges of the time, also have a mechanism where we can try and connect a real person to a real person. You know, we are not always great at that, but I absolutely think that we are getting better at that, and that has been I think really important—

**The CHAIR:** Sorry to interrupt you, Attorney, but the member's time has expired and Ms Bridget Vallence, MP, has the call.

**Ms VALLENCE:** Thank you, Chair, and thank you to the Attorney and her team for appearing.

**Ms HENNESSY:** Good morning.

**Ms VALLENCE:** Good morning. My questions are to Mr Radford. Mr Radford, there have been several reports in the media and also before the Coate inquiry that security guards were engaged to provide hotel quarantine services yet were not provided with any PPE or any training to undertake their duties.

Can you advise if WorkSafe has begun any investigations into these potentially hazardous and unsafe work practices?

**Mr RADFORD:** Yes. Yes, we have.

**Ms VALLENCE:** And have you sought to contact any of the security guards themselves who are potentially victims of these unsafe work practices?

**Mr RADFORD:** I am not able to answer that question, Ms Vallence, because I do not know. We are investigating some of the activities as they pertain to the *Occupational Health and Safety Act*, and the duty holder in that case would be the security companies. So yes, absolutely, we are investigating whether they have complied with their responsibilities under the Act.

**Ms VALLENCE:** Okay. You said you do not know; can you take that on notice for the committee?

**Mr RADFORD:** I can.

**Ms VALLENCE:** Thank you. How many investigations are there involving private security guards or the security companies?

**Mr RADFORD:** There are eight worksites that are the subject of investigation, and where the duty holders are the security companies they would form part of that investigation.

**Ms VALLENCE:** Okay. Can you provide the names of the eight worksites on notice?

**Mr RADFORD:** I can endeavour to find out if I am able to do that, I think is the best answer. I would need to talk to our investigators.

**Ms VALLENCE:** Thank you. You mentioned earlier that 20 workplaces are under investigation, and specifically you have referred again to duty holders. Can you tell the committee if any government departments or agencies are being investigated and, if so, which ones?

**Mr RADFORD:** In terms of the duty holders, yes—DHHS and DJPR.

**Ms VALLENCE:** Are they the only government departments or agencies being investigated?

**Mr RADFORD:** As far as I am aware, yes.

**Ms VALLENCE:** Okay.

**Ms HENNESSY:** Ms Vallence, there are often—and I think it speaks to the independence of WorkSafe—investigations in respect of where there have been high-risk issues. More generally, if you put COVID aside, health care is again one of the highest ranked occupational health and safety areas of risk. So government is not immune from occupational health and safety laws; government is investigated when there is a suggestion or a complaint or a potential assertion of a breach of a duty, and that is the way it should be.

**Ms VALLENCE:** Yes; thank you. You have mentioned DJPR and DHHS, Mr Radford. You have said you would check if there are any others. If there are, could you take that on notice and provide it to the committee?

**Mr RADFORD:** As far as I am aware, Ms Vallence, there are not, but I will confirm that for the committee.

**Ms VALLENCE:** Thank you so much, Mr Radford. I would like to pass my questions now to Dr Cassar, corrections Commissioner. Commissioner, in total how many days of lockdown have been served in Victorian prisons during the COVID-19 pandemic?

**Dr CASSAR:** Thanks, Ms Vallence. I do not have those figures in front of me, but I am happy to take that on notice.

**Ms VALLENCE:** Thank you. How many emergency management days have been applied to Victorian inmates to date?

**Dr CASSAR:** I also do not have those figures in front of me. I am happy to take that on notice. But I can talk to the benefits of the strategy and some of the positives that we have seen throughout the system, which are that this is a strategy that has been used for decades to keep the system safe in these emergency times, and in this case it has done that.

**Ms VALLENCE:** Thank you.

**Dr CASSAR:** We have seen the lowest levels of prisoner-on-prisoner assaults that we have had in six years, which is incredible, and the number of incidents across the system in the April–June quarter has dropped by over 17 per cent, which is an outstanding achievement. This is the intention of emergency management days—to keep our people safe and our prisoners safe.

**Ms HENNESSY:** And we have not seen outbreaks of riots and things like that, which is often one of the great challenges when you are trying to manage the transmission around these things. Victoria has, I think, done a really important job around keeping the staff safe, and we were talking about occupational health and safety.

**Ms VALLENCE:** Sure.

**Ms HENNESSY:** So we have got to really make sure we are protecting our corrections staff, and that is another important part of EMDs—again, a longstanding policy under your government and ours, but it has been a really important part for occupational health and safety especially.

**Ms VALLENCE:** Thank you. Commissioner, on 21 July this year six prisons were sent into lockdown following a positive COVID case with a prison officer in Ravenhall Correctional Centre. How many emergency management days have been applied in relation to those lockdowns—and if you could take that on notice if you do not have it—and will they be awarded at a one-for-one rate?

**Dr CASSAR:** Sorry, I will have to come back to you in terms of the exact number for the Ravenhall matter. At this stage they continue, as I previously briefed, on the one-to-one.

**Ms VALLENCE:** Sorry, you just cut out there. So they will be awarded on a one-for-one rate?

**Dr CASSAR:** At this stage that has been the strategy.

**Ms VALLENCE:** What is the number of staff hired, Commissioner, and total staff budget for the hotel quarantine program under Corrections Victoria management?

**Dr CASSAR:** The total staff numbers—are you talking about resident support workers?

**Ms VALLENCE:** The total number of staff hired and the total budget specifically for the hotel quarantine program under Corrections Victoria management.

**Dr CASSAR:** I will have to confirm the numbers: 1498 residential support workers who have been recruited at a rapid rate for our step in of security and supervision from the period of 2 July to 11 July.

**Ms VALLENCE:** And how many prison officers, either public or private, have been seconded to work into Victoria's COVID quarantine hotels?

**Dr CASSAR:** We had around 100 staff that were taken into the hotel quarantine program to provide that expertise and leadership going into supervision functions. During this time we have sent about 60 per cent back

to Corrections Victoria, noting that there is the gap around the two-week safe period to ensure that we are not contaminating workforces.

**Ms VALLENCE:** So the specific number if you could provide that on notice to the committee.

**Ms HENNESSY:** And of course, Ms Vallence, the important point is flights being suspended at the moment, so it is also about planning for the future once international flights resume at some point in the future.

**Ms VALLENCE:** Thank you, Attorney. We are just after the numbers. Commissioner, since Corrections Victoria assumed management of the hotel quarantine program, how many guests have there been across all facilities? I understand there has been less flights, but just how many guests in total have been under management since Corrections Victoria have taken over?

**Dr CASSAR:** We would have to come back to you with the figures for hotel quarantine.

**Ms VALLENCE:** On notice, that would be great.

**Dr CASSAR:** Yes, of course.

**Ms VALLENCE:** It has been reported also that a number of staff working in the hotel quarantine program have been placed on standby. Are they receiving full pay due to a lack of work at the moment? How many staff have been placed on standby if that is the case, and what is the average length of their contract?

**Ms FALKINGHAM:** I might jump in there, Ms Vallence. As Dr Cassar has mentioned, most staff have returned to Corrections Victoria. We have redeployed many of those staff to other COVID pandemic priorities, so that would be assisting our colleagues in DHHS around contact tracing and other really important work. As you would know, only two weeks ago national cabinet made the decision to continue the suspension of flights. We stand on standby ready to be able to return our hotel quarantine program under the rigour and practice of Corrections Victoria into the future.

**Ms VALLENCE:** So have they been stood down? Is anyone not on any duties but still receiving full pay?

**Ms FALKINGHAM:** There will be some people who are absolutely on standby. As we have in any other correctional facility, Ms Vallence, we always have to be ready for surge capacity. If flights came back tomorrow, I am sure that everyone would want us to have the most rigorous hotel quarantine program ready to go. So absolutely, consistent with other normal practices.

**Ms VALLENCE:** Understood. So some are stood down but still on full pay. Commissioner, back to you. Are prisoners with COVID being transferred at all to the Hopkins Correctional Centre?

**Dr CASSAR:** Sorry, Ms Vallence, you cut out there. Can I have the question again?

**Ms VALLENCE:** Commissioner, are any prisoners with COVID being transferred to the Hopkins Correctional Centre?

**Dr CASSAR:** No.

**Ms HENNESSY:** No. An important part of Dr Cassar's response has been about the provision of health care in place. Now, that is not always possible, but that is our absolute priority, and as I think has been outlined to the committee, not even having to transfer people for treatment into other health services, because we know that transfers are a cause of risk. So our current practice has been to avoid, at all costs, that. Dr Cassar, I think there has not—certainly not to my knowledge—been a transfer to Hopkins because of a COVID-positive reason, but if you could just verify that if I am not correct.

**Dr CASSAR:** Ms Vallence, as I said before, we would not take risks in transferring positive cases throughout the system. That is why we established that specific transfer quarantine, which is a quarantine period of up to eight days, which is on the advice of the CHO, to ensure that when we are moving people it is in the safest possible way to do so.

**Ms VALLENCE:** Thanks, Commissioner. I refer to a \$422 697 DJCS contract for the purchase of five stationary and one mobile aerospace G8 drone detection units for the emergency. How do these items relate to Corrections Victoria's response during the pandemic?

**Dr CASSAR:** The drone detection is a really important piece of equipment for Corrections Victoria. As you would be aware, since we have stopped visits prisoners will go to great lengths to try and look at ways to bring contraband in, and one of those ways is drones and drone-dropping—

**The CHAIR:** Sorry to cut you off there, Commissioner, but the member's time for questions has expired. I will pass the call to Mr Tim Richardson, MP.

**Mr RICHARDSON:** Thank you, Attorney-General and departmental representatives here today, and Commissioner, thank you for your time. Can I take you to Aboriginal justice, particularly focusing on during the pandemic and importantly interrelating with self-determination. I understand, Attorney-General, that in July you and Minister Hutchins attended the Aboriginal Justice Forum, which was held during the pandemic online for the very first time in history. Can you tell us about what was discussed with the members of the Aboriginal Justice Caucus and why it is important to continue hearing directly from Aboriginal communities during this pandemic?

**Ms HENNESSY:** Thank you, Mr Richardson. Again, corona has been tough on all sorts of communities, and Aboriginal Victorians are no different in terms of some of the very unique challenges that corona has presented. We as a government have made a commitment to self-determination and supporting self-determination, and one of the things that I always enjoy about our engagements with the Aboriginal Justice Caucus is that it is a community that is full of ideas and aspirations and that it continues to teach government about what self-determination really means—about how we do things and why we do them. In the context of corona, some of the issues that have been significant corona has made even more acute.

The really significant over-representation of Aboriginal people in the justice system, whether that is the youth justice system or the adult justice system, is a matter that continues to be a very firm focus for Aboriginal Victorians. There are some extraordinary interventions and pieces of work that have been done right across the state, and again the thing that I continue to learn is that when you enable people with resources to help solve some of their local problems, they are usually very, very good at it and often much better at it than what government could do in terms of a statewide rollout of things. But there are still a number of issues—things like access to Aboriginal-controlled healthcare services have been really significant. I think one of the important issues is around trying to educate people about the risks of corona and getting tested—actually having Aboriginal-controlled health services do that and actually having Aboriginal leaders do that rather than, with the greatest of respect, the Chief Health Officer—and making sure that you have got good responses from people that understand their local community. That is particularly important I think in the Aboriginal community. Also because of the health status of many Aboriginal Victorians some of the risks of contracting corona are even more acute.

Other time-honoured issues that corona makes more important are things like treaty, that are very important to Aboriginal Victorians. It is very frustrating for Aboriginal Victorians that things have taken such a long period of time—that corona does cause delay and there is just no debate about that. I think that is a matter of some concern to many Aboriginal Victorians—all of these really important initiatives underway and now trying to find different ways of doing them. The Aboriginal Victorian community are very collaborative, and self-determination takes time. It means people have got to be together, and whilst, again, there is some extraordinary innovation in terms of the practice, it can sometimes diminish the quality of that collaboration and that engagement.

One of the other issues that is really important is, again, justice for the stolen generation community in Victoria. We have made a commitment around that, but again self-determination means empowering and enabling Aboriginal leadership in order to help design the practice of any such scheme. Corona puts time pressures on those issues. Decades too late was our commitment to finally introduce law reform around some of the recommendations to the Royal Commission into Aboriginal Deaths in Custody. I will soon be getting advice on the report around the decriminalisation of public drunkenness, but again they are always really significant matters for the Aboriginal community.

I would say that the very strong message is for us to make sure that just because of the time pressures around corona there is a dual frustration. We have got to get on with it, but we must not sacrifice the practice of self-determination, and we have got to resist the temptation to tell Aboriginal Victorians how it should be done because of the pressures we feel bureaucratically and from the perspective of pace and timeliness of decisions.

Having said that, no-one knows more than the Aboriginal community in Victoria. They have waited a long time for many of the justice reforms that they seek. But it is important that we do things and do things right, but there is absolutely no doubt that the impact of corona on Aboriginal Victorians has been really significant in terms of the ability of community to support community to try and keep services running.

They have done just amazing things in regional and rural Victoria. Things are obviously more challenging in metropolitan Melbourne; things like, as I said, the over-representation of Aboriginal Victorians in the prison system. When people cannot be visited you have got to use iPads and things like that. What does that mean for Aboriginal prisoners? What does that mean for Aboriginal kids who want to see Mum or Dad? The practice of all of those things and making sure that government can get aligned with the advice of many of the Aboriginal Victorians, that has been something that was sometimes clunky at the best of times, but we are absolutely dedicated and committed to trying to improve those things.

The moment you think you have worked out what is a sensible response to a problem, that is usually the time that you have forgotten or that you get lazy about actually listening to community and reminding yourself and opening yourself to being reminded from community about what real self-determination looks like. I would say that has probably been a little bit of a challenge for us in this period despite the best of intentions from everyone involved.

Things like traditional owner settlements, there is a process underway at the moment around reviewing traditional owner settlement processes. People might be familiar with the Tennant Creek decision of the High Court, which essentially around traditional owner settlements imports this concept of how do you account for spiritual and cultural loss around land.

*Interruption.*

**Ms HENNESSY:** I do not think you should tell your young lady to shoosh at all. She is always welcome. The little people are always an important part of life and community. That is of course if it is a little person.

But things like we were doing this review around traditional owner settlements with Aboriginal Victorians, and how do we kind of keep the pace up on those matters when it has been such a long time? The reason we started obviously a traditional owner settlement scheme here in Victoria is that the native title processes—the federal scheme around native title—just took so long and were often caught up in these intractable court battles in the federal and commonwealth jurisdictions. We are going to have challenges to the way that we are working, so we have got to make sure that we do not just put these things in the too-hard basket but do not sacrifice the importance of doing it through the prism of self-determination and not having government impose these solutions. The traditional owner settlement process has been another important one that we have got to get on the move.

Spent convictions, again another important one to the Aboriginal community. They have made it very, very clear to me how important that work is, and I know that members of the upper house Legal and Social Issues Committee have been involved in the design of the scheme. That has again been something that Victoria is the outlier on, and the Aboriginal community have been so disproportionately impacted by carrying some of these convictions. Kids, members of the stolen generation, who were charged for the crime of running away from the family that they were placed with when they were stolen from their biological and cultural family had to carry those convictions around all of their life, an inability to do things like get access to employment and all of the other costs incurred.

There is a lot for us to get things right, and I think the important thing for government is to continue to be open to learning and to continue to have processes and forums in place where the Aboriginal community can remind you that that is not what self-determination looks like, this is what it looks like. As politicians and bureaucrats, we have got to get more agile and more open about the way in which we respond and our openness to engage about those things. That is obviously a real privilege but also a constant learning for me about the way in which we have got to better engage.

The priorities are still the priorities. Sometimes I do feel concerned about the impact of time. We are having the debate about the Parliament and the Parliament opening up and all those things. No-one wants the opportunity to try and get reform done more than the members of the Victorian Parliament and all of the issues that we collectively or individually feel very passionate about. So I am very eager for us to be able to move on those reforms, but corona has meant trying to ensure that self-determination and Aboriginal-lead responses are given their rightful place. We have got to make sure that we do not short shrift that because of the pressure we feel around timing, and that has certainly been a challenge for me.

**The CHAIR:** And I am sorry, on that note, to cut you off there, but timing is of the moment. We thank you very much for appearing before the committee today, and thank you to your officials as well. The committee will follow up on any questions which were taken on notice in writing, and responses will be required within five working days of the committee's request. The committee will now take a very short break before consideration of its next witness, but thank you all for your time today.

**Ms HENNESSY:** Thank you, Chair. Thank you, committee members. Take care.

**Witnesses withdrew.**