

## QUESTION TAKEN ON NOTICE

**ADDITIONAL ESTIMATES HEARING : 27 February 2017**

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

**(AE17/022) - Escapes - Failure to notify - Programme 1.3: Compliance and Detention**

Senator McKim, Nick (L&CA 48) asked:

Senator McKIM: So, in the current circumstances on Manus Island, we are funding garrison services. We have an MOU with the Papua New Guinea government that covers some aspects of how the centres are managed. Do you have advice on whether or not those situations would mean that the duty of care in the particular case that we are talking about here and the failure to notify of two escapes would mean that your department actually does have a responsibility in this case to, as far as is practicable, ensure the health and safety of other persons—for example, detainees?

Mr Pezzullo: You are asking whether I have advice to that effect?

Senator McKIM: Yes.

Mr Pezzullo: The answer is no, I do not.

Senator McKIM: Would you seek that advice?

Mr Pezzullo: Given that you have raised it now both before and after the break, I will take some advice on that question.

Senator McKIM: Thank you. And my time has expired. I will put that question in writing to you, because there are a couple of other subquestions that I would also like you to take on notice, but I will provide those in writing.

Mr Pezzullo: Which flow from the escape and the—

Senator McKIM: And failure to notify. Thank you.

*Answer:*

Section 19(2) of the WHS Act imposes on the Department an obligation to ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the Department's undertaking.

The escape of a detainee does not form part of the conduct of the Department's undertaking. Notification and management of an escape is the responsibility of PNG authorities. This is not a matter for the Department or its service providers.