PARKLEA CORRECTIONAL CENTRE

Review of the application of COVID-related policies and procedures, and associated matters, during the COVID-19 (Delta outbreak) August to October 2021

December 2021

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Review of the application of COVID-related policies and procedures, and associated matters, during the COVID-19 (Delta outbreak) August to October 2021

This Review relates to the management of the COVID-19 response within the custodial environment in New South Wales specific to the operations at the Parklea Correctional Centre around the period of what I describe as the 'Delta outbreak' from August to October 2021. The Review was initiated following criticism of custodial practices by a Justice in a NSW Supreme Court bail application on 8 October 2021 and by a Judge in a NSW District Court sentencing case on 15 October 2021. Both cases involved inmates from Parklea Correctional Centre, in an attempt to influence the court outcome, alleging that they had been kept in adverse COVID-19 conditions. These allegations, which were not challenged by the Crown, in one case resulted in the bail application being successful and in the other a reduction in sentence. Details of the alleged claims and actual conditions relevant to the court cases are discussed later in this paper.

The judicial criticism created some media attention and political comment. According to senior corrections staff, some of that criticism was based on a lack of awareness of the comprehensive response that had been and continued to be provided by the collective expertise from various corrections and health entities. This appears to have resulted from a breakdown in communication which I will later discuss in this paper. The judicial reporting also generated correspondence expressing concern from the NSW Bar Association to the Ministers for Corrections and Health and to the Attorney General. Naturally these concerns required a response from within the NSW custodial environment. On 21 October 2021 the Minister for Corrections, the Hon. Anthony Roberts MP, instructed the NSW Department of Communities and Justice to initiate an independent inquiry and to report back to him as soon as possible. This paper is that report for the Minister.

Engagement, Terms of Reference and Privacy Issues

On 26 October 2021 the Department of Communities and Justice provided a letter of engagement with the Terms of Reference (ToR) which were listed as:

1. *Investigate the application of COVID-related policies and procedures at Parklea Correctional Centre prior to and at the time of the first positive COVID case outside of quarantine.*
2. *Investigate the circumstances outlined in the cases of R v Zerafa and R v Michael Brown related to the management of COVID risk.*
3. *Consider whether appropriate COVID risk management processes and health advice, as applicable at that time, were followed in the cases of R v Zerafa and R v Michael Brown.*
4. *Consider the respective roles and responsibilities of Corrective Services NSW, the Justice and Forensic Mental Health Network, the Parklea Correctional Centre operator, MTC-Broadspectrum and health provider, St Vincent's Hospital Network in relation to the cases of R v Zerafa and R v Michael Brown.*
5. *Make any appropriate recommendations for improvements.*

Included with the ToR were instructions on maintaining confidentiality which among other things informed of the need to protect the identity and privacy of individuals whilst conducting my Review. I am not to disclose private information unless necessary to perform the service, unless the information is already within the public knowledge, or if it is required by law. I was also reminded of the need to comply with the *Privacy and Personal Information Protection Act 1998*. As such, in the interest of maintaining the confidentiality requirements I will not in this paper identify people by name or by a specific title or dedicated position, unless of course the issue being addressed cannot be explained without reference to a person or position.

During the course of this Review I was also reminded of the need to maintain the privacy of patients' health status and records. As can be found in the two court cases, which were the catalyst for this Review, there are details published about the health condition of the inmates appearing in those cases. Those health details were used by the inmates in their submissions to the court to assist their arguments to achieve the favour of the court. Although already in the public arena, I do not see it necessary to make detailed reference to those health records in this paper, especially bearing in mind the genuine need to assist in maintaining the inmates' health privacy. The focus of this Review is not to question the health status of the individuals nor do I have any expertise to do so. And where I find it necessary to briefly mention the inmates' health, I only do so by reference to comments made by those qualified to do so.

Sources of facts and opinion

This report is based on interviews and discussions with fifteen people from various organisations. They include the senior members of the secretariat of the Department of Communities and Justice (DC&J), executive members of Corrective Services NSW (CSNSW), executive members of Parklea Correctional Centre (PCC), management and medical practitioners from St Vincent's Correctional Health Team (SVCH), senior medical practitioners and executive members of clinical operations from St Vincent's Health Network (SVHN), executive members of clinical operations from Justice Health and Forensic Mental Health Network (JH&FMHN) and medical practitioners from NSW Health. You can see by the general position descriptions that the individuals with whom I have engaged are a formidable group of experienced and expert people in their respective fields. As such I value what they say as carrying significant weight in facts and opinion.

During this Review I have been given unedited access to:

- court transcripts
- relevant emails
- reports in response to COVID-19 related issues
- correspondence from the NSW Bar Association
- PCC records of inmates who tested positive to COVID-19
- PCC reports relating to COVID-19 positive notifications
- PCC business plan, *The Parklea Way*
- chronological records of COVID-19 related actions within the NSW correctional environment
- Commissioner's Instructions involving COVID-19 issues from 14 October 2020 through to 30 September 2021
- relevant briefing notes prepared by PCC executive members
- minutes of the 11am Stakeholder meetings which commenced daily from 28 August 2021 and formalised from 30 August through to 20 October 2021
- correspondence from the CEO SVHN covering comprehensive information about the health support provided to PCC

I believe I have been provided with all relevant documents and source information which have been very helpful with my Review.

The Parklea Correctional Centre

The Parklea Correctional Centre in Sentry Drive, in the north-western Sydney suburb of Parklea, is one of a number of privately operated correctional centres funded by the NSW Government. It has an operational capacity up to 1,350 inmates. The vast majority of population are remand inmates staying on average about six weeks. The Centre regularly receives 30 inmates a day. This means they have up to 10,000 receptions per year. The privately operated centres are subject to Corrective Services NSW performance monitoring. On any one day, at least two uniformed officers from the Office of Performance and Monitoring Branch circulate throughout Parklea Correctional Centre. Because the Centre is privately operated, it does not draw its health services from Government entities, like the Justice Health and Forensic Mental Health Network which services government correctional centres. As such, the privately operated Centre needs to seek its own health support and those services are contracted to an external provider. That provider is St Vincent's Health Network and the health services are provided by St Vincent's Correctional Health Team reporting directly to the Network. There is more discussion later in this paper about the provision of health services.

The Centre's operators MTC-Broadspectrum commenced running Parklea Correctional Centre on 1 April 2019. In the Centre's 2020 – 2021 business plan, '*The Parklea Way'*, their vision clearly espouses 'Safety and Decency' among other pillars. From this author's perspective gained whilst conducting this Review, the Parklea Correctional Centre appears to be a well-run operation balancing humanity with security.

The majority of MTC-Broadspectrum's time at Parklea has involved managing a correctional centre since the beginning of the coronavirus pandemic in early 2020. That brought with it the unexpected responsibilities of running a quarantine regime, which at times limited prisoner movement. That also brought with it the extra tension within its population which materialises when the freedom of movement of prisoners is restricted. Even so, from the business plan, it appears that the Centre has achieved significant outcomes. The St Vincent's Correctional Health team within the Parklea Correctional Centre was the first correctional health team to test every inmate for COVID-19. That commenced in mid-2020. Initially over 1000 inmates were able to be tested at the Centre in one single day. That was made possible by the comprehensive support by St Vincent's Health Network.

One of the Centre's key performance indicators (KPIs) was to implement Chronic Health Plans for inmates who have ongoing serious diseases or conditions which need managing. The Centre met that KPI target of 85%. I think this is relevant in assessing the Centre's performance especially when, in this paper, I later refer to the reported serious health status of two inmates. In their respective court hearings, each inmate was able to achieve the favour of the court by questioning the Centre's ability to provide them appropriate health care.

The ‘Delta Outbreak’ and health advice

The COVID-19 ‘Delta outbreak’ at the PCC created an emergency response. As a result the various experts in corrections and health came together every day over seven weeks at 11am via a teleconference, with the exception of one weekend and a couple of days at the end of the emergency. I emphasise the existence of these meetings and importantly their minutes, because the discussions and advice emanating from them came from what I recognise as a pre-eminent group of experts rarely brought together, if ever, to manage a health response in a custodial environment.

The ‘11am Stakeholder’ group consisted of medical practitioners, infectious disease and control specialists and clinicians from St Vincent’s Hospital, SVHN, SVCH, NSW Health, Ministry of Health Public Health Response Branch, State Health Emergency Operations, JH&FMHN, the Clinical Excellence Commission, the Kirby Institute for epidemiological Review, and senior CSNSW and PCC members. This group was originally referred to as the ‘Public Health Response Branch’ minutes and later titled the ‘Teleconference; Parklea Correctional Facility – Daily meeting’. Throughout this paper I will refer to these meetings as the ‘11am Stakeholder’ meetings.

I was informed and noted from the ‘11am Stakeholder’ meeting minutes that senior operations management from PCC were not involved in the first few meetings. When checking the minutes I noted that it wasn’t until the sixth meeting when PCC management first attended. The medical team from SVCH within the PCC were included from the beginning but of course they could not represent the operational management of the Centre. It was quickly realised that the absence the PCC management was an oversight, and they were formally invited through the CSNSW chain of command. I acknowledge that the PCC management were involved from the outset in other response group discussions, in particular the CSNSW COVID-19 Command Post activity, however not in the expert health group. Although I believe an oversight, I still think it worthwhile to emphasise the need for the operational management of an establishment suffering a health emergency, like the PCC experienced, should have been a standard inclusion from the outset in any emergency response planning. Accordingly, I make the following Recommendation.

Recommendation 1: That procedures be implemented to ensure that operational management of a correctional centre is included from the outset in any expert stakeholder group established to respond to a health crisis within that centre.

The Court cases

In order to report holistically on all the issues relevant to the Review, I feel the need to spend some time discussing the two court cases, which in reality, were the catalyst for this Review.

1. R v Michael Brown [2021] NSWSC 8/10/2021

Application for Bail: The applicant Michael Brown had been charged with a number of serious firearm and explosive related offences. He had been bail refused from the lower courts since his arrest and charging on 20 July 2021. On the 8 October 2021 he made a bail application to the Supreme Court. Through his legal representative he stated a number of things in relation to his personal health which appeared to be very serious in their nature. The applicant also claimed that he had been unnecessarily kept in a cell with a cellmate who had tested positive for COVID-19 and his underlying health condition was increasing the risk associated with that close contact. The presiding Justice, prior to making judgement, asked the Respondent to request information from the custodial environment in which the applicant had been held. For reasons unknown, no information was presented to the court in relation to the custody conditions of the applicant relevant to the COVID-19 issues. Without any information contrary to what the applicant had said, the Justice allowed the applicant conditional bail. It is the author's opinion that bail may not have been given if all the custodial facts and the capability of the correctional centre's health provider had been presented to the court.

2. R v Storm Zerafa [2021] NSWDC 15/10/2021

Sentencing: The prisoner Storm Zerafa was charged with a number of serious firearm and threatening type offences. He had been arrested and charged on 23 July 2020 and had been in custody ever since. On the 15 October 2021 he appeared for sentence. Through his legal representative he claimed that he was unnecessarily held in a cell with a cellmate who had tested positive for COVID-19 and stated a number of issues in relation to his personal health which was said to compound the risk in relation to that close contact. The presiding judge, prior to making judgement, asked the Crown to request information from the custodial environment in which the prisoner had been held. Again, for reasons unknown, no information was presented to the court in relation to the custody conditions of the prisoner relevant to the COVID-19 issues. As a result, the Judge referred to the conditions in which the prisoner had been detained as 'extra curial punishment', and sentenced the prisoner to a term, which in the author's opinion may have been longer if all the custodial facts about the correctional centre's operations had been provided to the court.

The failure to have all the relevant information presented to the courts is subject to further discussion in this paper and I make a recommendation appropriate to the circumstances.

Contrary facts relative to inmates' custody

I now turn to the issues concerning the allegations made by Michael Brown and Storm Zerafa.

The Brown case: The applicant Michael Brown had been in custody since July 2021. In preparation for his application for bail he instructed his solicitor about his custody conditions and health status. With that information the solicitor swore an affidavit which was presented to the court on behalf of the applicant. In the affidavit it was alleged that the applicant had been held at the PCC in a dual occupancy cell for six (6) days with his cellmate, after his cellmate had tested positive to COVID-19. There was also an abundance of information about what appeared to be serious underlying health issues which are commonly known to increase the risks associated with being infected with COVID-19. In response, the Justice requested the Respondent to '*shed any light'* on the issue about those alleged six days and how the '*authorities, that is Corrective Services and Justice Health, proposed to respond to the treatment needs of the applicant'*. Interesting to note that, although subpoenas were issued and responded to, the Justice said that the Respondent was '*not in a position to contradict the applicant's allegation … to the effect that he was left in a cell with a cellmate who tested positive for Covid-19 for a period of six days'*.

After having interviewed executive members of the PCC, it is clear that the Centre was not asked to provide any information to the court in relation to the alleged six-day incarceration with the COVID-19 infected cellmate. If the Centre has been asked, they would have been able to refute that allegation by stating the that the applicant had only spent four days in the same cell with his COVID-19 infected cellmate. The applicant, upon being advised by a medical practitioner from the SVCH team that he needed to be moved to the Centre's isolation clinic, refused to leave that cell. It was not until the next day that he acquiesced the transfer. His time in that dual cell could have been reduced to three days, which in the author's opinion would have been reasonable in the difficult circumstances under which PCC was managing the 'Delta outbreak'. It is important to note that the Centre had no power or right to forcibly remove the applicant for health reasons and they had no choice but to leave him there until he agreed to be moved. And it was not optimal to remove the infected cellmate. There is further discussion later in this paper about those difficult circumstances.

As to the Justice's second question about how the custodial environment would be able to respond to the treatment needs of applicant, that question, apparently directed by the court to CSNSW and the JH&FMH Network, never made its way to the PCC for the SVCH team to respond. The SVCH team are of the view, knowing the extent of the applicant's health status, that they could have assured the court that he could have been treated appropriately whilst in custody.

In the expert opinion of the SVCH team, Brown misrepresented to the court the seriousness of his health. Even so, if the applicant had reached the stage where he needed hospitalisation, PCC's direct contractual arrangements through the SVCH team with the SVHN meant that they had immediate access to the expertise and care provided at St Vincent's Hospital, Darlinghurst.

In correspondence received from the CEO of the SVHN, PCC have access to comprehensive health care which includes primary, health, mental health, drug and alcohol, chronic disease management, Aboriginal health care, communicable diseases, dental, radiology, podiatry, optometry, pharmacy and physiotherapy services. Also, the PCC's health provider, SVCH, is accredited by the Australian Council of Health Care Standards, and adopted St Vincent's Hospital, Ministry of Health and JH&FMHN policies and procedures in relation to healthcare delivery in a correctional setting. The information received from the CEO is powerful advice which evidences the capability of the PCC management and the SVCH team.

The Zerafa case: The prisoner Storm Zerafa had been in custody since his arrest in July 2020. In preparation for his sentencing on 15 October 2021 he swore an affidavit in relation to his custody conditions and health status. In the affidavit the prisoner alleged '*I was kept in a cell with my COVID-19 positive cellmate for approximately four weeks until he* (the cellmate) *was released from custody*'. He also complained about the conditions of being kept in an isolation area referred to as the '*ICU wing*' and '*Area 6C*' for a lengthy period, even though he never tested positive to COVID-19. There was also information presented to the court about what appeared to be the prisoner's underlying health issues which are commonly known to increase the risks associated with being infected with COVID-19. This information had been presented to the presiding Judge prior to the sentencing date. In response, the Judge gave the Crown an opportunity to take instructions concerning the prisoner's allegations about the alleged four-week dual cell occupation with the COVID-19 infected cellmate. However, at sentencing, the Judge said *'The Crown did not ask for any adjournment to check the accuracy of what you said … In these circumstances, the contents of the affidavit are unchallenged and on that basis I accept the statements in it as being true'.*

When I interviewed the executive members of the PCC, I found that the Centre had been contacted by a solicitor from the Office of the Director of Public Prosecutions seeking advice about Zerafa's claims. In a response email, the PCC briefly explained that the prisoner's allegation of the four-week co-habitation with his cellmate who had tested COVID-19 positive was a fabrication. Once the cellmate tested COVID-19 positive, the prisoner had co-habited in the same cell for only three (3) days. In the author's opinion that period was reasonable in the difficult circumstances under which PCC was managing the 'Delta outbreak'. There is further discussion later in this paper about those difficult circumstances.

It concerns me that for some unknown reason the facts relevant to each inmate's custodial conditions and health care did not find their way to the respective court hearings. I am satisfied that if better processes were adopted, PCC and the SVCH team could have provided the necessary information to the courts. My ToR do not include pursuing the reason why that information was not presented to the courts, however I still feel the need to highlight the issue. Accordingly, I make the following Recommendation.

Recommendation 2: That correctional centres' processes are reviewed to ensure that timely relevant information, which is required for judicial purposes, reaches the requesting Court for appropriate adjudication.

Contrary facts relative to inmates' custody

As part of the material that caused this Review to take place, the inmate Storm Zerafa complained about being unnecessarily confined to his cell. Whilst in COVID-19 mandated isolation he alleged he was never allowed out of this cell. To the contrary, the Centre's records show the inmate used the OTS (telephone system) to ring family, friends or legal advisors 31 times over 25 days between 3 and 28 September 2021. That was whilst he spent three days in the dual cell with his infected cellmate and the remaining days alone in a single cell. Most of these telephone calls had been facilitated by his removal from his cell under health restricted processes and escorted to the OTS telephone bank where he made those calls.

This process was permitted, although considered not optimal, within the health restrictions the Centre was experiencing. The inmates' use of the OTS telephone process was later adjusted to reflect a safer health environment. A portable cordless telephone system was adopted and taken around to each cell from which the inmates could make their calls. Of course, this was not satisfactory to the inmates as it provided another reason why they could not leave their cells, however it was necessary whilst the Centre was experiencing the lockdown period.

Dual cell occupancy

I found that the period of time in which both inmates were kept with their COVID-19 positive cellmate was reasonable in the difficult circumstances under which the PCC was managing the 'Delta outbreak'. I base my opinion on the various statements and recorded minutes which appear in the '11am Stakeholder' teleconference meetings. The majority of cells in the PCC are dual occupancy. From the beginning of the teleconference discussions there was reference to the necessary practice of keeping an inmate who tested positive to COVID-19 together in his cell with his cellmate, who was obviously a 'Close Contact'. As is commonly known this is considered the contact at greatest risk of contracting the virus and a senior medical practitioner from NSW Health stated it is recognised as the same risk within 'household close contacts'.

Obviously I don't need to remind readers about the continued discussions and practices adopted and regularly updated in relation to handling the 'Close Contact' cohort within the general population. That was complicated enough for many months following the pandemic outbreak two years ago. When you have the pandemic occurring within a custodial environment, the complications are compounded by the existence of a captive population in a confined space. It was for that reason that the unprecedented gathering of the health experts and corrections operators came together to manage the 'Delta outbreak' in the PCC. And it was on no less than six occasions during the early stages of the outbreak that the members of the '11am Stakeholder' meetings did not push back or criticise the PCC's practice of keeping cellmates together where one had tested positive to COVID-19. It was accepted practice that when an existing PCC inmate reported symptoms consistent with COVID-19, they were isolated in their cell with their cellmate and both were PCR tested. It was also recognised that it was highly likely that the 'Close Contact' cellmate was already infected. But that was not the only reason for the continued cohabitation – at the height of the outbreak there was not enough single cell accommodation available to separate and isolate every affected inmate. In the following section I describe the circumstances that led up to a lack of single-cell capability within the PCC.

There was concern about a transfer of an inmate from the PCC to another correctional Centre after the 'Delta outbreak' had emerged. I understand transfers of inmates between all NSW centres are scheduled by CSNSW Strategic Population Management and facilitated by CSNSW transport. There has been genuine concern about this inmate because he later acquired COVID-19 and passed away whilst in custody - he had refused vaccination. A NSW Health senior practitioner expressed concern about transferring this inmate who was thought to be classified as a close contact. The practitioner thought it was an error, and contrary to a decision, made at the beginning of the 'Delta outbreak', not to transfer COVID-19 infected or close contact inmates across different centres. To the contrary, I have since found that the inmate, who had tested negative prior to his transfer from the PCC on 27 September 2021, was not known to be a close contact at the time of his transfer because his cellmate returned a positive test two days later at the PCC.

Single-cell issues and capability

It is now known that the COVID-19 'Delta Outbreak' at PCC commenced on 18 August 2021, when SVCH identified an inmate in Area 6 Alpha had tested positive for COVID-19 on day one of their 14-day isolation period, confirming the infection was community acquired. That inmate was housed in the SVCH clinic until being transferred to the Metropolitan Remand and Reception Centre at Silverwater (MRRC). This movement was as per Commissioner's Instructions which required custodial COVID-19 'patients' to be transferred through NSW correctional centres with a 'buddy' to the MRRC. Whilst waiting transfer, this inmate, and subsequent COVID-19 positive inmates, were housed in the SVCH clinic in single cells, with no cellmate.

By 25 August 2021, thirteen (13) COVID-19 positive cases had been identified in Area 6 Alpha, all of whom had been transferred from the PCC to the MRRC. At that time, at the direction of CSNSW, Area 6 Alpha was placed into lockdown to attempt to prevent spread to other areas in the PCC. It was a standing instruction that COVID-19 positive inmates were to be transferred and housed at specific correctional centres, including the MRRC. It was the 'Delta outbreak' at the MRRC that caused the loss of a large number of staff unable to work at that Remand Centre. This of course was the reason for the Remand Centre's sudden inability to accept infected inmates, as mentioned in the next paragraph.

On 27 August 2021, two new COVID-19 positive inmates were identified, this time in Area 6 Charlie. Area 6 Charlie was then placed into lockdown. It was later that day the MRRC informed PCC that it had no capacity to accept further COVID-19 positive inmates from the PCC. The CSNSW then issued a direction for PCC to lockdown all its areas. This caught the PCC management and SVCH team by surprise as there had been no forewarning of the possibility of the MRRC closing down its COVID-19 receptions. Should there have been forewarning? Should PCC have considered this contingency? I believe those questions could be debated endlessly but without a definitive answer. The coronavirus pandemic, as we all now know, created unprecedented circumstances in which health, law enforcement, custodial practices, transport, crowded place management etc. were continually challenged with 'wicked problems' requiring day-to-day changes to practices and health advice. And then the 'Delta' variant compounded the problem. At the time there was no standard operating procedure to follow. With the advantage of lessons learnt, I believe there is an opportunity to explore the development of appropriate procedures. I defer to a recommendation later in this paper.

By 28 August 2021 there were 15 COVID-19 positive inmates being housed in Areas 6 and 7. Some PCC staff were in isolation because of being close contacts to positive inmates. A meeting was held between PCC management and the SVCH team at which it was found that the Centre was at capacity and further single-cell placement for COVID-19 positive inmates and their cellmates was not an option. A joint decision was then made to assign Area 6 Charlie as the COVID-19 wing for confirmed cases with their close contact cellmates and suspected cases.

It was on that same day that the first '11am Stakeholder' meeting occurred and the issue of cell placement was discussed. That expert health group noted the following facts. The PCC CCTV surveillance showed a lot of physical contact between known COVID-19 positive inmates and their close contacts, so separation of the positives from negatives was not possible. The MRRC was no longer receiving COVID-19 positive transfers. There was no other space available to manage the suspected COVID-19 and close contact inmates. The operational capacity of the Centre's workforce was challenged due to at least 17 staff members now on isolation because they were close contacts.

The '11am Stakeholder' meeting two days later on 30 October 2021, this time with the additional attendance of more health experts, again discussed cell placement. It was agreed that all COVID-19 positive case inmates would be relocated to a concentrated wing of Area 6 Charlie which would be a central point for managing positive cases until the MRRC recommenced accepting receptions from PCC. It was agreed that all confirmed positive cases were to be moved to Area 6 Charlie with their cellmate, even if their cellmate was currently testing negative for COVID-19. The same points as listed in the previous paragraph were repeated, together with advice from the Ministry of Health Public Health Branch, that the close contact cellmates were highly likely to test positive for COVID-19 in the short-term even if they were separated.

At this point I should acknowledge that Commissioner's Instructions were not being strictly followed in relation to single cell mandates. Before the 'Delta outbreak', instructions had initially been decreed that an inmate testing positive to COVID-19 needed to be completely isolated into a self-contained single cell which sufficiently separated them from other inmates and limited close contact with correctional staff. As you can see from the preceding paragraphs that instruction was not being followed. However, you can also see from the circumstances with which the PCC found itself, that it was impossible to comply with that instruction. Although a technical breach, I find there can be no fault attributed to the Centre, especially when you consider their actions were completely supported by the health fraternity. However, I do see the need for correctional centres to consider the need for more clarity in the use of single and dual cell occupancy during a health crisis, and accordingly I make the following Recommendation.

Recommendation 3: That correctional centres consider the need for standard operating procedures involving the use of single and dual cell occupancy during a health crisis.

The previous few paragraphs clearly explain that the PCC did the best they could in managing the 'Delta outbreak'. Although the Centre's efforts with the COVID-19 management were not just about the two inmates Brown and Zerafa, I see the need to highlight that both inmates' custodial conditions were appropriate under the circumstances. Brown's cellmate tested positive on 30 August 2021 and Zerafa's cellmate tested positive on 4 October 2021. Unfortunately, both of them were held in custody in the midst of the 'Delta outbreak'.

Bona-fide custodial activity

During my Review I found a number of issues with which I considered worthy of including in my report. They each help to show that the PCC was doing its best under the unprecedented pandemic circumstances.

During the 'Delta outbreak' certain business as usual practices needed to be maintained. One obvious practice was the release of inmates into the community when required to do so by law, eg. on bail. There was genuine concern among all, especially the health stakeholders, that any release needed to be managed very carefully, especially when the inmate being released was infected with COVID-19, was a close contact or suspected of having COVID-19.

During a number of '11am Stakeholder' meetings it was discussed whether such inmates' release could be delayed, citing the danger they may have when exposed to the general community, which as we know was suffering the problem with the 'Delta' variant. Although a genuine concern, it was made clear that retention in custody could not be done simply due to the health status of a releasee. For this reason PCC went to significant lengths to carefully process the release of those inmates. There was genuine concern in the early stages of the outbreak about the length of time it was taking to receive a COVID-19 test result. The SVCH team were able to negotiate a quicker test turn-around with an analysis provider. A Health NSW representative was able to arrange a quick PCR result capability, a portable laboratory known as 'Point of Care LIAT' which was positioned at PCC and could give a result in 15-20 minutes. This was especially useful for inmates being released into the community. On occasions the Centre found accommodation on behalf of inmates, provided the inmates with a mobile phone so they could maintain contact with health services, then provided transport to the inmates' accommodation. Through the direct connection with SVHN, the SVCH team on at least one occasion were able to negotiate temporary accommodation at St Vincent's Hospital, Darlinghurst in their COVID-19 ward.

Once an inmate was tested positive to COVID-19, the PCC in consultation with its SVCH team, mandated a process in which family or nominated persons were contacted and informed of the inmates' condition. A pro-forma was developed by the PCC and later used widely in other correctional centres. Contrary to what was suggested by some early public commentary, I did not see any evidence there was a cover-up of the existence of the virus in the Centre.

Leading up to the 'Delta outbreak', the PCC had already mandated staff COVID-19 testing processes, commonly known as 'surveillance testing for essential workers'. They did this from July 2021, especially taking into account the government decreed LGAs of concern where many staff lived.

Also, during the 'Delta outbreak' the PCC made the difficult decision to make vaccination compulsory for all staff. That action was supported by the Union. This decision did not come without push back and unfortunately a small number of staff have left the Centre's employment because of their unwillingness to comply with this directive. At the height of the infectious spread in early October 2021, the Centre was able to obtain one of the highest vaccination rates for inmates in NSW correctional centres. That was achieved even though the Centre decided it could not mandate vaccination - which was in-line with what is expected of the general community. Of course, that does bring with it the extra concerns about the potential for further viral transmission which the Centre and its SVCH team need to continually navigate.

Business as Usual – Not!

The NSW custodial environment, up until the 'Delta outbreak', appears to have managed the COVID-19 response very well. Before the 'Delta outbreak' in August 2021, there had only been one COVID-19 positive case in NSW correctional centres. I didn't see it necessary to research such statistics from other Australian jurisdictions, but I think it is worth noting that there is much open-source information about the custodial environment in the USA suffering over 2700 coronavirus related deaths, which may have triggered millions of cases within the closely connected communities. In NSW, there has been one COVID-19 related prisoner death, which further supports the success of the custodial response. It is worth noting that the deceased prisoner had been a close contact who refused vaccination. Also, across NSW correctional centres there have only been six inmate hospitalisations throughout the pandemic response period. In relation to PCC's inmate population, 15-16% of the population was infected by the 'Delta' virus. These statistics are insignificant when compared to the USA environment where there are anecdotal reports of up to 98% of the prisoner population becoming infected by COVID-19.

Throughout the COVID-19 pandemic the PCC has had to conduct its business whilst navigating the impact of the pandemic. All custodial centres around Australia obviously experienced the same problem but none more so than those in NSW, in particular the PCC during the 'Delta outbreak'. The highest number of COVID-19 cases in any one day was 144 and the total number of cases through the Centre was 166. This number does not include the close contacts and suspected COVID-19 cases.

The PCC had to conduct its custodial and health care business whilst experiencing heightened tensions within the inmate population due to lockdowns in cells, the increased risk of mental anguish resulting in the risk of cell fires and other forms of protests (forcing staff to remove inmates), self-harm, and aggression towards other inmates and staff. During all this the Centre conducted extra training for staff in relation to infectious disease control and the adaptation of Personal Protective Equipment.

Conclusion

I believe that this Review may not have been necessary if the appropriate timely and accurate information about the custodial conditions of the two inmates Storm Zerafa and Michael Brown was presented to the courts adjudicating upon the respective bail application and sentencing hearing. Even so, there has been value in undertaking this Review and in my opinion the operators at the PCC performed a job well done under difficult circumstances.

During my interviews and discussions with a number of experienced corrections and health experts, they complimented the actions of the operators of the PCC. An executive level health clinician acknowledged that the 'Delta outbreak' was fast paced, an ongoing learning process, a hard situation to navigate, and that PCC's response was incredible. Another senior health clinician felt that the Centre did what they could under the difficult circumstances. That clinician concurred with other health practitioners about the decisions and necessary actions which continued the dual cells where one of the inmates had tested positive to the virus.

A senior medical practitioner from NSW Health acknowledged that the 'Delta outbreak' was a very difficult problem to manage in a custodial environment. A correctional centre clearly does not have the options of space and alternate accommodation which are available in the general community. Needless to say, the 'Delta outbreak' multiplied the difficulty of the problem. Unlike in the general community in which the counter COVID-19 policy could only be minimisation or suppression, the policy in correctional centres needed to be elimination. This was obviously a different challenge than the health experts had been experiencing in the general community, and clearly an unprecedented situation with no specific standard operating procedures to follow. The practitioner concluded by saying that once the health experts provided advice, the operator of the PCC quickly acted on that advice, and commended their responsiveness.

A senior NSW corrections officer opined that the PCC duly followed the health advice and acted accordingly, was impressed with the Centre's ability to adapt to the impact of the 'Delta outbreak' and that the Centre did a good job under the difficult circumstances.

I found, besides the three Recommendations, if any other learnings materialised during the response to the 'Delta outbreak', they were learnt by the PCC (and CSNSW) on the job and do not require any further consideration.

RECOMMENDATIONS

1. That procedures be implemented to ensure that operational management of a correctional centre is included from the outset in any expert stakeholder group established to respond to a health crisis within that centre.

2. That correctional centres' processes are reviewed to ensure that timely relevant information, which is required for judicial purposes, reaches the requesting Court for appropriate adjudication.

3. That correctional centres consider the need for standard operating procedures involving the use of single and dual cell occupancy during a health crisis.

AUTHOR

Peter Dein

14 December 2021

GLOSSARY

PCC	Parklea Correctional Centre
DC&J	NSW Department of Community & Justice
CSNSW	Corrective Services NSW
SVCH	St Vincent's Correctional Health
SVHN	St Vincent's Health Network
JH&FMHN	Justice Health & Forensic Mental Health Network
MRRC	Metropolitan Remand and Reception Centre