PRISONER MENTAL HEALTH CARE TASKFORCE

Final Report

March 2019

Department of Health
Department of Justice

Tasmanian Government

Date: March 2019

This Final Report has been prepared by the Prisoner Mental Health Care Taskforce (Taskforce) to provide the Minister for Health and the Minister for Corrections with advice on ways in which the delivery of mental health services to prisoners and detainees in Tasmania can be improved.

The Taskforce takes no responsibility for the accuracy, completeness or relevance of the information provided in this Final Report and people using it for whatever purpose are advised to verify it with the relevant State government department or other source and to obtain any appropriate advice. The Crown, its officers, employees and agents do not accept liability however arising for any loss resulting from the use of or reliance upon the information.

The observations, findings and recommendations set out in this Final Report are the observations, findings and recommendations of the Prisoner Mental Health Care Taskforce and may not reflect the views of the Crown in right of Tasmania.

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1. Introduction

On 13 September 2018, the Supreme Court of Tasmania found that Mr Daryle Wayne Cook was not guilty of the murder of Ms Voula Delios by reason of insanity.

Ms Delios was a popular North Hobart grocer who died after being stabbed at her grocery store on 23 July 2016. Court proceedings associated with the matter noted that Mr Cook had been suffering psychotic symptoms before his release from prison, which occurred the day before Ms Delios died.

As a result the Minister for Corrections and the Minister for Health asked the Secretary, Department of Justice and the Secretary, Department of Health to:

- urgently examine processes and procedures relating to prisoner mental health care and assessment and prisoner release
- identify options for ensuring that prisoner mental health care assessment and prisoner release processes are as rigorous as they can be, and
- provide advice to the Ministers for Corrections and Health, through the Secretaries, Department of Justice and Health on ways in which the delivery of mental health services to prisoners and detainees can be improved.

The Prisoner Mental Health Care Taskforce (the Taskforce) was established on 18 September 2018 to progress this work. The Taskforce Terms of Reference are extracted at Appendix 1.

This Final Report represents the culmination of six months' work by the Taskforce. It outlines the Taskforce's observations and findings on the delivery of mental health care to prisoners and detainees. It also makes a number of recommendations about the resources, information management mechanisms, processes and documentation required to improve the delivery of mental health services to prisoners and detainees and suggests reporting mechanisms to ensure ongoing momentum towards change.

The Taskforce notes that an inquest is currently underway inquiring into the death of Ms Delios. As requested by the Coroner, it is the intention of the Taskforce to provide a copy of this Final Report to assist with those inquiries.

2. Methodology

The Taskforce met on seven occasions over a six-month period commencing in early October 2018. A summary of meetings that occurred and the matters discussed is at Appendix 2.

In completing this Report, the Taskforce:

- identified and considered documentation and processes relating to the provision of mental health services to prisoners and detainees in Tasmania Prison Service (TPS) custody or being held in the Wilfred Lopes Centre (WLC)
- considered processes relating to prisoner access to mental health service providers, with consideration for:
    - demand for mental health services verses appointments (workflow)
    - timeframes for service delivery, and
    - high-risk offender management
- assessed tools used to record and retain information about prisoner and detainee referrals

- considered processes for communicating information about prisoner mental health matters between key stakeholders, Correctional Primary Health Services (CPHS), the TPS and other mental health service providers
- evaluated available resources, infrastructure and capacity for service provision, and
- consulted with relevant mental health and related service providers.

The Taskforce also considered the extent of care and treatment received by Mr Cook from the Tasmanian Health Service (THS) prior to and following Mr Cook's release from prison, the Custodial Inspector's Inspection of Adult Custodial Services in Tasmania, 2017 *Care and Wellbeing Inspection Report* (the Custodial Inspector's Report) and the Department of Justice and Department of Health's responses to that Report.

The Office of the Custodial Inspector was established in 2016 by the *Custodial Inspector Act 2016* (Tasmania). The Custodial Inspector's functions are set out in the *Custodial Inspector Act* and include conducting mandatory and occasional inspections and reviews of custodial centres in Tasmania and reporting to the Minister for Corrections and Parliament on inspections and any issues or general matters relating to his or her functions.

The Custodial Inspector's Report was produced in October 2018 following inspections by the Custodial Inspector of TPS facilities and provided to the Minister for Corrections in accordance with the requirements of the *Custodial Inspector Act.* The Report was tabled in Tasmanian Parliament shortly thereafter.

The Custodial Inspector engaged Professor James Ogloff AM FAPS, Director, Centre for Forensic Behavioural Science at Swinburne University of Technology and Director, Psychological Services and Research at the Victorian Institute of Forensic Mental Health (Forensicare) as an expert consultant to assist with the mental health-related aspects of the Custodial Inspector's Report. Professor Ogloff's Report (the JRPO Report) is appended to the Custodial Inspector's Report, at Appendix 3.

The Department of Justice and Department of Health's responses to the Custodial Inspector's Report are also appended to the Custodial Inspector's Report, at Appendix 8 and Appendix 9 respectively.

The Custodial Inspector's Report and the Appendices to it can be accessed from the Custodial Inspector's website www.custodialinspector.tas.gov.au

3. Organisational Context

3.1 Tasmania Prison Service

The TPS, a part of the Department of Justice, is responsible for providing care and custody, at various levels of security, for prisoners and people remanded in custody in Tasmania[1].

The TPS provides services from the following facilities:

- The Risdon Prison Complex (RPC). RPC is located at Risdon and comprises maximum and medium security precincts. The maximum security precinct is designed to house 103 prisoners and detainees while the medium security precinct is designed to house 196 prisoners and detainees.
- The Ron Barwick Minimum Security Prison (RBMSP). RBMSP is located at Risdon and is a minimum security facility. It is designed to house 296 prisoners and detainees.

1 For the purpose of this report, people remanded in custody in Tasmania are referred to as detainees.

- The Mary Hutchinson Women's Prison (MHWP). MHWP is located at Risdon and is designed to house 63 prisoners and detainees.
- The Hobart Reception Prison (HRP). HRP is located in Hobart and is designed to house 36 prisoners and detainees.
- The Launceston Reception Prison (LRP). LRP is located in Launceston and is designed to house 26 prisoners and detainees[2].

The TPS Therapeutic Services Unit provides support services for prisoners and detainees in TPS custody who are in need of immediate assistance. The Unit coordinates crisis support services and psychological and risk assessments for prisoners and detainees identified as at risk of suicide and self-harm, and with other vulnerabilities and complexities[3]. The Unit also provides basic support services to prisoners and detainees in custody, including helping them adjust to prison life and equipping them to deal with anxiety and depression.

The Unit works with the THS to identify and co-manage prisoners and detainees who are at risk of suicide or self-harm and who have identified mental health issues. The Unit does, however, not provide assessment or treatment services in regards to significant mental illness – instead, prisoners and detainees with significant mental illness who are considered to require assessment and treatment are referred to the THS for this purpose.

These functions are consistent with the broader TPS Offender Management Framework, which focusses on the safety, security, health (physical and mental) and welfare needs of prisoners and detainees[4].

3.2 Tasmanian Health Service

The THS, a part of the Department of Health, is responsible for delivering health services to prisoners and detainees. Services are provided in accordance with a Service Agreement in place between the Department of Justice and Department of Health (formerly the Department of Health and Human Services) and consist of primary health services, and mental health services.

The THS provides services to prisoners and detainees through two service arms: CPHS and Forensic Mental Health Services. Prisoners and detainees may also seek access to external mental health services providers. Appointments of this kind are booked through the TPS.

3.2.1 Correctional Primary Health Services

CPHS provides primary health services and some mental health services to prisoners and detainees at each TPS facility.

3.2.2 Forensic Mental Health Services

Forensic Mental Health Services provides specialist mental health services to prisoners and detainees. Services provided include specialist psychiatric assessment and "in-reach" treatment services, and Community Forensic Mental Health Services.

In certain circumstances, prisoners and detainees may be transferred to WLC for the purposes of assessment and/or treatment with respect to mental illness or disability.

WLC was purpose-built to accommodate forensic patients who, until the Centre opened in 2006, had been housed within Risdon Prison. It is Tasmania's only secure mental health unit.

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2 Figures provided are accurate as at 18 March 2019.
3 Tasmania Prison Service, *Therapeutic Services Handbook*, Version 2, 2018, page 1.
4 Ibid.

The Centre is located near to Risdon Prison but is not a part of the prison complex. The Centre's establishment followed recommendations made by Coroner Tennant arising from the Deaths in Custody Inquest in 2001 that consideration be given to establishing a dedicated forensic unit independent of the custodial environment. The intention was to shift to a health-based model focusing on the rights of patients to be treated for their illness while being detained outside of a prison environment. This model is in-keeping with the National Statement of Principles for Forensic Mental Health[5].

The Centre is specifically intended as the primary facility for the provision of treatment and care to a range of people with mental illness or disability.

The primary avenue for admission to the Centre is on the basis of a "restriction order" made under the provisions of the *Criminal Justice (Mental Impairment) Act 1999* (Tasmania) or the *Sentencing Act 1997* (Tasmania). Under section 18 of the *Criminal Justice (Mental Impairment) Act,* a defendant who is found not guilty of an offence on the grounds of insanity may be placed on a restriction order. A restriction order is an order requiring the person to whom it applies to be admitted to and detained in a secure mental health unit until the order is discharge by the Supreme Court. Restriction orders are not time limited and as such most restriction order admissions are lengthy.

The Centre also accommodates:

- people who are placed on a supervision order under the provisions of the *Criminal Justice (Mental Impairment) Act* or *Sentencing Act* and who breach the order may be apprehended under section 31 of the *Criminal Justice (Mental Impairment) Act* and admitted to the unit in certain circumstances
- people whose fitness to stand trial is reserved for investigation under the *Criminal Justice (Mental Impairment) Act* may be detained in a secure mental health unit if this is ordered by the court
- people made subject to an Assessment Order under the *Sentencing Act* requiring the person's admission to and detention in a secure mental health unit to enable an assessment to be made of the person's suitability for a Treatment Order, supervision order or restriction order
- people who are remanded or otherwise committed to a secure mental health unit under the *Criminal Justice (Mental Impairment) Act, Criminal Code Act 1924* (Tasmania), *Justices Act 1959* (Tasmania), *Sentencing Act* or *Youth Justice Act 1997* (Tasmania)
- people who are prisoners or detainees and who are removed to a secure mental health unit under section 36A of the *Corrections Act 1997* (Tasmania)
- people who are youth detainees and who are removed to a secure mental health unit under section 134A of the *Youth Justice Act*, and
- people subject to an Assessment Order or Treatment Order made under the *Mental Health Act 2013* (Tasmania) whose admission has been authorised by the Chief Forensic Psychiatrist under section 63 of that Act.

[5] Australian Health Ministers' Advisory Council Mental Health Standing Committee National Statement of Principles for Forensic Mental Health 2006, www.aihw.gov.au/getmedia/e615a500-d412-4b0b-84f7-fe0b7fb00f5f/National-Forensic-Mental-Health-Principles.pdf.aspx viewed 18 March 2019.

The Chief Forensic Psychiatrist has discretion to admit involuntary patients, prisoners and detainees and youth detainees to the Centre. However, no such discretion exists with respect to Court-ordered admissions. For members of this group discharge will also only occur when the person is well enough for this to be permitted. This is generally progressive and dependent on clinical improvement and reduction in assessed risk.

As at 28 February 2019, of the 16 patients admitted to WLC:

- the majority were subject to a restriction order
- one quarter were involuntary patients who had been admitted to the Centre under section 63 of the *Mental Health Act*, and
- approximately six per cent (one in 16) were prisoners or detainees who had been admitted to the Centre under section 36A of the *Corrections Act*.

The Centre consists of:

- A High Dependency Unit (HDU). The HDU is designed to accommodate up to 12 people with acute mental illness.
- An Extended Care Unit (ECU). The ECU is designed to accommodate up to 18 people who require a less restrictive environment and can participate in rehabilitation activities.
- A Semi-Independent Living Unit (SILU). The SILU is a purpose-built unit designed to accommodate up to five people who are preparing for discharge into the community. The living arrangements in the SILU are intended to allow patients to live a more independent lifestyle than that available in the HDU or ECU.

Both the HDU and ECU contain de-escalation suites. These consist of three seclusion rooms, a lounge and courtyard.

Both the HDU and ECU can also be configured to contain "swing units". These are sometimes necessary to accommodate vulnerable people including young people and females.

The broader legislative context in which TPS facilities and WLC operate is set out at Appendix 3.

Community Forensic Mental Health Services provides specialist mental health services to people in the community with mental illness who have come into contact with the criminal justice system. This includes people who have been remanded but not yet transferred to RPC, RBMSP or MHWP, people who have been granted bail, people have been released from prison, and people who are subject to community-based sentences.

4. Observations, Findings and Recommendations

The Taskforce's observations, findings and recommendations are outlined below. For ease of reading, the Taskforce's recommendations are also extracted at Appendix 4.

4.1 Resources

The Taskforce considered the resources, infrastructure and capacity to deliver services to prisoners and detainees across TPS facilities.

In terms of resources for the provision of mental health services to prisoners and detainees in TPS custody, the Taskforce noted and echoed the Custodial Inspector's findings that:

- Prisoner and detainee numbers have increased by nearly one third across all population groups in the past ten or so years (from 514 on 30 June 2008 to 681 on 20 March 2019) and prisoner and detainee numbers fluctuate daily. There is no indication that this situation is likely to change[6].
- Prisoner and detainee numbers have increased and extra beds have been installed without a proportional increase in corresponding health infrastructure, staffing levels, processes and services[7].
- The increase in prisoner numbers places increased pressure on the health system, leading to longer waiting times and, in some cases, results in the health needs of prisoners not being met[8].
- There are serious impediments to prisoners accessing health services generally. CPHS' capacity to service scheduled appointments is compromised when operational lockdowns delay or prevent prisoners or detainees from accessing parts of TPS facilities from which health services are provided. The capacity for TPS staff to coordinate and facilitate prisoner and detainee movements to and from scheduled appointments is also a factor and results in a perpetual list of prisoners and detainees whose appointments need to be rescheduled[9].
- There are issues with the mix of nurses employed by CPHS and insufficient mental health trained nurses to service the mental health needs of the prisoner and detainee client group[10].
- There is a relative lack of resources for delivery of primary and mental health services to prisoners and detainees in comparison with other Australian States and Territories, and that the number of CPHS staff is below or significantly below what should be expected[11]. For example, there is usually only one CPHS staff member available in the HRP and LRP to conduct Tier 1 Health Assessments. This can result in delays particularly where multiple prisoners or detainees are received into TPS custody simultaneously.
- There is a lack of leadership, strategic planning and coordination of mental health services to prisoners and detainees[12].
- The provision of mental health services is fractured by virtue of being provided through separate service arms (CPHS and Forensic Mental Health Services)[13].
- There are issues with facilities from which healthcare services are delivered. Existing facilities are insufficient for existing numbers of prisoners and detainees, and the Risdon Prison Health Centre has outgrown itself with only one consulting room for doctors. There is also a significant lack of quiet, safe spaces in which to deliver mental health services[14].

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[6] Australian Bureau of Statistics, 45170DO002_2018 - Prisoners in Australia, 2018, www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4517.0Main+Features12018?OpenDocument viewed 18 March 2018, and Tasmanian Custodial Inspector *Inspection of Adult Custodial Services in Tasmania, 2017 Care and Inspection Report,* October 2018, pages 5 and 19.

[7] Tasmanian Custodial Inspector *Inspection of Adult Custodial Services in Tasmania, 2017 Care and Inspection Report,* October 2018, page 65

[8] Ibid.

[9] Ibid, page 66.

[10] Ibid, page 6.

[11] Ibid, Appendix 4, pages 5 and 6.

[12] Ibid, Appendix 4, page 7.

[13] Ibid, Appendix 4, page 6.

[14] Ibid, page 75 and Appendix 4, page 8.

- The under-resourcing has led to a level of assessment and treatment more akin to that of a general practice with an overall absence of specialist mental health services for people with severe mental illness.

In respect of WLC, the Taskforce observed that:

- The Centre's design accommodates up to 35 people but is currently funded to service only 23 people.
- The SILU is not used and has not been used for several years.
- It has been difficult to recruit and retain qualified staff, particularly forensic psychiatrists and there is now a critical lack of resources available to service a fully operational, highly specialised mental health inpatient unit.
- Security services – including perimeter security - are provided by contracted security providers.

The Taskforce was unable to identify clear rationales for the funding model applied to WLC and for the failure to use SILU to accommodate patients.

In terms of security, the Taskforce noted and endorsed comments from stakeholders suggesting that a lack of "in-house" security services may impact on the Centre's willingness to admit and detain prisoners and detainees with high needs.

In terms of the resources required within the TPS, the Taskforce noted the need for custodial officers to be provided with education, training and support to properly understand and manage people with mental health issues[15]. The Taskforce observed that the TPS has adopted Suicide and Self Harm (SASH) awareness training and that SASH-related work consumes a large amount of time for staff of both the TPS Therapeutic Services Unit and CPHS. Despite this clear commitment to equipping custodial officers to deal with incidents of suicide and self-harm the Taskforce found it difficult to gain a clear understanding of whether the SASH approach is effective to prevent or reduce incidents of self-harm or suicide. This is particularly relevantly given the time required from TPS Therapeutic Services Unit and CPHS staff to administer it.

The Taskforce was also provided with information about Connecting with People (CwP), an internationally recognised, evidence-based suicide and self-harm awareness, mitigation and prevention program. The Taskforce noted the recent adoption of the CwP approach towards suicide and self-harm by the THS for staff, and the positive progress that has been made in adopting the approach. More information about CwP can be found at Appendix 5.

Overall, the Taskforce found a clear deficit in the resources available to deliver mental health services to the existing prison and detainee population, and in the infrastructure from which to deliver such services. The Taskforce also found a need to reconsider the education and training provided to TPS and THS staff to equip them to properly understand and manage people with mental health issues.

[15] Ibid, Appendix 4, page 9.

4.1.1 Recommendations

- Recommendation 1: It is recommended that the THS develops and implements a model of care that takes into account current and projected future demand for mental health services from the prison population as a priority. The model of care should be developed taking into account the Custodial Inspector's Report, including the JRPO Report appended to it.
- Recommendation 2: Noting the Government's existing commitments to capital investment in TPS facilities, it is recommended that the TPS and THS actively investigate options for:
    - additional infrastructure and accommodation for prisoners and detainees with mental health needs who do not meet the criteria for transfer to WLC, and
    - additional infrastructure from which to deliver health services to prisoners and detainees.
- Recommendation 3: It is recommended that the THS reviews the funding model applying to WLC with a view to better realise the Centre's design capacity and accommodate a greater number of people including prisoners and detainees who meet the criteria for admission to the Centre.
- Recommendation 4: It is recommended that the TPS and THS consider the SILU and how it can best be utilised.
- Recommendation 5: It is recommended that the THS reviews the security procedures in place at WLC with a view to increasing the involvement and improving the response timeliness of the contracted security provider.
- Recommendation 6: It is recommended that the TPS continues to consider processes to permit CPHS staff to safely and securely access prisoners and detainees requiring assessment or treatment during periods of lockdown and without the need for escort by a TPS staff member as a means of increasing service delivery to prisoners and detainees in TPS custody.
- Recommendation 7: Noting the Government's investment in CwP training as part of the Tasmania Suicide Prevention Workforce Development and Training Plan for Tasmania, it is recommended that:
    - the THS continues to adopt the CwP approach to suicide and self-harm across Statewide and Mental Health Services and identifies CPHS and Forensic Mental Health Services staff as early priorities, and
    - the TPS considers adopting the CwP approach to assessment of suicide and self-harm as either an alternative or an accompaniment to the existing SASH approach.

4.2 Information Management

The Taskforce considered the sufficiency of tools used to record and retain information about prisoner and detainee access to mental health services. The Taskforce also considered the sufficiency of systems in place to record, store and share information between the TPS, THS and other stakeholders.

The Taskforce was unable to clearly identify:

- the number of referrals from or on behalf of prisoners or detainees for access to mental health services
- the time between referral and appointment, or
- the number of referrals that result in appointments,

due to a lack of data recording and reporting mechanisms associated with these matters. This impacted on the Taskforce's capacity to assess the adequacy of mechanisms that exist currently for prisoners and detainees to access mental health services while in custody.

The Taskforce observed significant dysfunction in the way that the TPS, CPHS and other parts of the THS manage information about prisoners and detainees. The Taskforce found this to be a result of a lack of a clear protocol for the sharing of information and the use of information systems that do not interface with each other.

In relation to information exchange, the Taskforce was provided with a copy of Memorandum of Understanding – Information Exchange between the TPS and CPHS. The document provided to the Taskforce is in draft form and dated December 2009. The Taskforce was unable to identify the status of the document and in the absence of any other information concluded that it was never formalised or implemented.

In terms of prisoner and detainee release from custody, the Taskforce noted the existence of processes in place within CPHS that may facilitate the flow of information about the prisoner or detainee's mental health to other Government Agencies or non-government stakeholders. The Taskforce was however unable to identify any documentation or protocols supporting these processes.

In terms of information systems, the Taskforce observed the use of separate information systems by WLC, Community Forensic Mental Health Services, the TPS, CPHS and Community Mental Health Services, as follows:

- WLC and Community Forensic Mental Health Services each use the TrakCare information system (TrakCare) to record information about patients. The system records case management notes, details of interactions and observations, risk assessments, incident summaries and details of upcoming appointments as well as information about a patient's legal status.
- The TPS uses the Custodial Information System (CIS).
- CPHS uses the Prison Health Pro (PHP) system.
- Community Mental Health Services, Community Forensic Mental Health Services, WLC, CPHS and each of the major hospitals use the Digital Medical Record (DMR).

Advice provided to the Taskforce suggested limited, if any, capacity for each of the systems to interface with each other. The Taskforce found that as a result, information relating to the condition or treatment of persons with mental illness is not readily accessible to all relevant stakeholders and that this is likely to have an impact on the timeliness and quality of services that are delivered, and on the coordination of those services.

The Taskforce noted the existence in nearly all mainland jurisdictions of a mental health clinical information system that provides real time access at all points of care and that in the majority of jurisdictions this system can allow limited access to non-health staff if protocols exist to facilitate this[16].

The Taskforce also noted a project initiated by the Department of Justice (Justice Connect) to address the shortcomings of existing technology in key justice business systems within that Department and to redevelop and replace these systems with a new system that enhances efficiencies and improves outcomes through better information sharing, access to timely and trusted information and integration across government. The Taskforce noted that $2.5 million in funding has been allocated for this purpose.

4.2.1 Recommendations

- Recommendation 8: It is recommended that the TPS and CPHS explore options for recording matters associated with referrals, including the number of referrals made, the number of appointments made and attended, and the time between referrals and appointments, as a matter of priority.
- Recommendation 9: It is recommended that the TPS and THS develop:
    - new protocols for the timely and appropriate sharing of information between relevant Government Agencies and with other non-government stakeholders, and
    - mechanisms to monitor compliance with any new protocols that are developed.
- Recommendation 10: Noting the Department of Justice's recently announced Justice Connect project, it is recommended that the TPS and THS considers options for:
    - facilitating better access by TPS, WLC, CPHS staff and Community Forensic Mental Health Services staff to information systems, noting systems in place in other jurisdictions and subject to appropriate protocols, and
    - mechanisms to enable WLC, CPHS staff and Community Forensic Mental Health Services staff to access information about prisoners and detainees that may be held by within the THS more broadly in a timely and effective manner.

4.3 Processes

The Taskforce considered processes in place within TPS and the THS relating to prisoner and detainee access to mental health services with a focus on referral pathways, mechanisms for obtaining prisoner and detainee health information and for prioritising prisoner and detainee mental health needs, and processes for managing high-risk offenders.

The Taskforce was unable to identify any mechanisms for identifying whether people who enter TPS custody are subject to Assessment or Treatment Orders made under the *Mental Health Act.* The Taskforce was also unable to identify any protocols or processes for ensuring that prisoners and detainees who are subject to such Orders are assessed and/or treated in accordance with the Order. The Taskforce additionally noted a lack of clarity amongst some stakeholders around the status of Orders for people in custodial environments.

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[16] Queensland Centre for Mental Health Research, Griffith Criminology Institute – Griffith University and the University of Melbourne, *Prison Mental Health Services – A Comparison of Australian Jurisdictions* (Undated), qcmhr.uq.edu.au/wp-content/uploads/2018/04/PMHS-NATIONAL-SURVEY-FINAL_20180416.pdf, visited 19 March 2019, page 36

In terms of referrals, the Taskforce identified a number of mechanisms for referring prisoners and detainees in TPS custody for assessment or treatment by mental health services. These include:

- referral by Community Forensic Mental Health Services staff
- referral following completion of the Tier 1 Health Assessment Tool
- self-referral, or referral by family, friends and other people who know the prisoner or detainee
- referral by TPS staff including following completion of the SASH risk assessment process, and
- referral by Community Forensic Mental Health Services staff generally results from contact between a person who becomes a prisoner or detainee, and a member of the Community Forensic Mental Health Service Court Liaison Unit.

Court Liaison Officers receive referrals to see people who are progressing through the court system from various sources including prosecutors, members of Tasmania Police, the person's family or friends, other parts of the THS and external health service providers. This may result in the person being referred to CPHS following reception into custody. For people who do not enter custody referral may be to another part of the Community Forensic Mental Health Service, to another part of the THS or an external mental health services provider.

Tier 1 Health Assessments are carried out by CPHS staff within 24 hours of a person's entry to TPS custody. The Health Assessment is carried out in conjunction with a Tier 1 Custodial Assessment conducted by correctional officer and includes physical examination, review and assessment of a person's general health, and review and assessment of a person's mental health.

The mental health component of the Health Assessment is undertaken using PHP. PHP generates an automatic system "prompt" for the health practitioner performing the Tier 1 Health Assessment. PHP then generates a "score". Certain scores indicate that further assessment is needed and in such cases the prisoner or detainee who has been assessed is automatically referred to CPHS.

Prisoners and detainees seeking an appointment with CPHS can initiate this directly with CPHS staff during daily medication rounds. Prisoners and detainees can either make a verbal request during daily medication distribution rounds, or complete a "Patient Request Form" which is then handed to CPHS staff again during daily medication distribution rounds in prison accommodation units.

As noted earlier in this document, the TPS Therapeutic Services Unit has a role in assessing people who are at risk or potentially at risk of suicide or self-harm and referring members of this group to CPHS.

The TPS Therapeutic Services Unit also refers prisoners or detainees who are believed to be exhibiting signs of mental illness but who have not been identified as being "at risk" to CPHS in accordance with the Service Agreement between the Department of Justice (Corrective Services Division) and Department of Health and Human Services (Correctional Health – Primary Health, Forensic Mental Health Services – Wilfred Lopes Centre) Version 1.0 dated 27 February 2006.

The Taskforce noted that while there are a number of processes and mechanisms for prisoners and detainees to access mental health services, there were also a number of process issues, as follows:

- The Community Forensic Mental Health Services Court Liaison Unit has no documented process for referring people who are progressing through the court system and identified as suitable for referral. Conversely, there is no standardised method for referring people who are progressing through the court system to a Court Liaison Officer. Referrals to or from Court Liaison Officers are instead "ad hoc" and generally occur by phone or email. This is considered insufficient.

- Use of the automated PHP system to process referrals received via Tier 1 Health Assessments has potential to result in unnecessary referrals to CPHS.
- While CPHS staff access the THS' Digital Medical Record (DMR) when assessing prisoners and detainees referred through the Tier 1 Health Assessment process this tends to occur only when the information provided by prisoners or detainees is insufficient. The DMR may contain useful information about a prisoner or detainee's past engagement with mental health services and failing to routinely access the system may see some prisoners or detainees "fall through the cracks". There is also a risk that the DMR may not be a complete record of services provided by the THS. This is because in some instances the DMR only contains a sub set of clinical information. For example, the Emergency Departments of each of the State's major hospitals use a distinct clinical information system called TrakED. While TrakED interfaces electronically with the DMR this does not always occur in "real time" and generally involves only the transfer of a clinically determined relevant subset of the information available.

The Taskforce noted the risk that sensitive medical information that the prisoner or detainee may ordinarily wish to remain confidential, may be disclosed to TPS staff or other prisoners or detainees whilst a prisoner or detainee is conveying details of a medical condition or answering follow up questions from CPHS staff about a condition during medication distribution rounds.

The Taskforce noted concerns about the sufficiency of the Tier 1 Health Assessment tool and how it is administered, including:

- concerns about the narrow focus of the screening tool
- the lack of any audit or quality evidence to determine how reliably or validly the tool is completed
- the limited nature of mental health information covered through the screening process, and
- that the tool is not always completed by a mental health nurse and the implications of this including that more people may be referred than is strictly necessary[17].

The Taskforce also noted the Custodial Inspector's suggestion that CPHS consider formalising the Tier 1 Health Assessment process by using a dedicated and validated mental health screening form, and engaging qualified mental health nurses to conduct the screening process[18].

In terms of prioritisation, CPHS assesses referrals from prisoners or detainees for appointments at morning briefings following assessment of the information provided by the prisoner or detainee in the "Patient Request Form". Recourse is had to a prisoner or detainee's documented medical records but only when the completed Patient Request Form provides insufficient information to identify the prisoner or detainee's health needs. The Taskforce was however unable to identify a standardised process for obtaining a prisoner or detainee's documented health history.

The Taskforce noted the practice of discussion between CPHS staff of scheduled appointments and assessments at a daily Morning Briefing, in which the order of patient access to services was subjectively prioritised by participants. The Taskforce was however unable to identify any empirical process or mechanism by which referrals from prisoners and detainees for access to health services is prioritised. For example, on this point no recognised triage tool is used to support prioritisation. The Taskforce agreed with commentary in the Custodial Inspector's Report regarding the process and content of CPHS' approach to triaging prisoners with mental illness and the need to move towards a more systemic and formalised approach.

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[17] Ibid, Appendix 4, pages 9 and 10.

[18] Ibid.

The Taskforce noted the existence of regular meetings involving TPS and/or CPHS staff to discuss the care of prisoners and detainees with mental illness or who have been identified as at risk of suicide or self-harm, and who are in TPS custody. These include:

- Custodial Primary Health Services Multi-Disciplinary Team Meetings, and
- Tasmania Prison Service Risk Intervention Team Communication Forum Meetings.

The Taskforce also identified the existence of several regular meetings involving primarily WLC staff to discuss admissions to and discharges from the Centre. These include:

- Wilfred Lopes Centre Pending Admission Meetings
- Wilfred Lopes Centre Multi-Disciplinary Team Meetings, and
- Wilfred Lopes Centre Discharge Planning Meetings.

The Taskforce was unable to identify finalised Terms of Reference to guide the conduct of any of the regular meetings. The Taskforce also found inconsistent membership and minuting processes associated with regular meetings. The Taskforce was subsequently provided with information suggesting that work is occurring to develop Terms of Reference with a view to address these deficiencies.

The Taskforce commended the collaborative approach achieved through the regular meetings but queried the extent to which this adequately provided for a truly shared approach to the management of high-risk offenders.

To this end the Taskforce recognised approaches in place in other jurisdictions to support a multidisciplinary approach to the management of high-risk offenders in custody and on transition from prison. The Taskforce noted in particular the Corrections Victoria High Risk Management Advisory Panel and the South Australian Government's Offender Management Program[19].

The Taskforce found there is an opportunity to improve the delivery of mental health services to prisoners and detainees through consideration of processes associated with referrals and discharges, and the adoption of a multi-agency response to the management of high-risk offenders.

4.3.1 Recommendations

- Recommendation 11: It is recommended that the TPS and THS work together to develop and implement processes to ensure that people who enter TPS custody and who are subject to an Assessment or Treatment Order made under the *Mental Health Act* are identified so that such people can be assessed or provided with treatment in accordance with their Order.
- Recommendation 12: It is recommended that the TPS and CPHS work together to identify and implement referral pathways that are comprehensive and coordinated and that allow prisoners and detainees to convey information about their health directly to CPHS staff.
- Recommendation 13: It is recommended that CPHS implements a process to routinely seek consent from prisoners and detainees who self-refer, or who are referred for an appointment with CPHS, to:
    - collect relevant histories, and

[19] Australian Broadcasting Corporation, *Victoria Corrections Statement Data*, Undated, www.abc.net.au/cm/lb/10230668/data/corrections-victoria-statement-data.pdf, viewed 19 March 2019 and Victorian Ombudsman, *The Death of Mr Carl Williams at HM Barwon Prison – Investigation into Corrections Victoria*, April 2012, www.ombudsman.vic.gov.au/Publications/Parliamentary-Reports/The-death-of-Mr-Carl-Williams-at-HM-Barwon-Prison, viewed 19 March 2019, pages 16 and 39.

- disclose relevant histories for prisoners and detainees to other relevant Government Agencies and service providers including on the prisoner or detainee's release from custody.

- Recommendation 14: It is recommended that CPHS develops a protocol to guide prioritisation of appointments for prisoners and detainees who self-refer, or who are referred for an appointment with CPHS.
- Recommendation 15: It is recommended that the TPS and CPHS commit to a shared approach to the management of prisoners and detainees with mental illness and that to this end the TPS and CPHS work to develop and finalise Terms of Reference for any regular meetings convened to discuss the care of prisoners and detainees with mental illnesses, and admissions to and discharges from WLC, with a view to ensuring the provision of effective mechanisms through which patient needs, as well as reception and discharge processes, may be discussed between all relevant stakeholders.
- Recommendation 16: It is recommended that the TPS, THS, other Government Agencies and key non-government stakeholders give consideration to establish a forum comparable to those that exist in other jurisdictions to ensure a multi-disciplinary, multi-Agency approach to the management and discharge of prisoners and detainees with mental illness who are considered to present a risk to the community on release from prison.

4.4 Documentation

The Taskforce considered the sufficiency of documentation in place to support prisoner and detainee access to mental health services and the management by the TPS and THS of prisoners and detainees with mental illness. The Taskforce also considered the sufficiency of documentation underpinning:

- the operational relationship between the TPS and THS, and
- the service delivery environment itself.

The Taskforce noted that CPHS assesses referrals from prisoners or detainees for appointments at morning briefings following assessment of the information provided by the prisoner or detainee in the "Patient Request Form".

Many prisoners and detainees are from disadvantaged backgrounds featuring low educational achievement and poor literacy and numeracy. Many may also have had limited regular contact with health services before entering prison. The Taskforce queried the extent to which this may impact on the capacity for a prisoner or detainee to self-refer, or to identify that they have a need for mental health services let alone describe their symptoms accurately enough to result in meaningful referrals.

The Taskforce also noted lack of space on the "Patient Request Form" for a prisoner or detainee to identify the level of urgency associated with their need for an appointment.

The Taskforce was provided with a copy of a Service Agreement between the Department of Justice (Corrective Services Division) and Department of Health and Human Services (Correctional Health – Primary Health, Forensic Mental Health Services – Wilfred Lopes Centre Version 1.0 dated 27 February 2006. The Taskforce noted work commenced by the TPS in late 2018 to negotiate a new Service Agreement with the THS, and commended the TPS for this initiative.

Lastly, the Taskforce was unable to identify up to date manuals, policies and procedures guiding the manner in which CPHS delivers services to prisoners and detainees. This includes documentation to guide decision-making around prisoner and detainee admissions to WLC and documentation to support discharge processes for prisoners and detainees and provision of relevant information about the

prisoner or detainee's mental health to Community Forensic Mental Health Services or external service providers.

The Taskforce however noted advice from the THS suggesting that work to update guiding documentation has commenced.

4.4.1 Recommendations

- Recommendation 17: It is recommended that the TPS and THS:
    - continue to work to finalise a new Service Agreement to replace the Service Agreement between the Department of Justice (Corrective Services Division) and Department of Health and Human Services (Correctional Health – Primary Health, Forensic Mental Health Services – Wilfred Lopes Centre) Version 1.0 dated 27 February 2006, and
    - implement mechanisms to monitor compliance with the new Service Agreement.
- Recommendation 18: It is recommended that CPHS continues to review all forms, manuals, policies and procedures, including the Patient Request Form, to ensure that they are up to date and fit for purpose.

4.5 Reporting

The Taskforce noted the longitudinal nature of many of the Taskforce's recommendations and the need for mechanisms to update Ministers and Secretaries on progress towards improvements in the delivery of mental health services to prisoners and detainees.

4.5.1 Recommendations

- Recommendation 19: It is recommended that the TPS and THS:
    - convene regular meetings to review progress towards achievement of the above-mentioned recommendations, and
    - report progress towards achievement of the above-recommendations to the Secretaries, Department of Justice and Health on a six-monthly basis commencing 1 October 2019.

5. Conclusion

It is generally accepted that prisoners and detainees have greater health needs than the general population with the prisoner and detainee population experiencing high levels of mental illness, chronic and communicable diseases, injury, poor dental hygiene and disability than the community population[20].

Of most significance is the substantially higher rate of the most severe mental illness in particular patients. Australian data on the mental health of prisoners indicates that almost half of all people entering prison (49 per cent) report having been told by a health professional that they have a mental disorder and that more than one in four people entering prison report currently being on a medication for a mental health disorder[21]. This complements research conducted in NSW suggesting that more

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[20] Ibid. See also Australian Institute of Health and Welfare, *The Health of Australia's Prisoners 2015,* 2015, page 65 and Tasmanian Custodial Inspector *Inspection of Adult Custodial Services in Tasmania, 2017 Care and Inspection Report,* October 2018, Appendix 4, page 1.

[21] Australian Institute of Health and Welfare "Mental Health of Prison Entrants", *The Health of Australia's Prisoners 2015*, 2015, www.aihw.gov.au/reports/prisoners/health-of-australias-prisoners-2015/contents/mental-health-of-prison-entrants, visited 19 March 2019.

than three quarters of prisoners in that jurisdiction had a mental health problem. It is also well known that people with mental illness are significantly more likely to enter prison than those without mental illness[22]. This, within and of itself mandates the need for a specialist mental health component of health services provided to prisoners and detainees[23].

Many prisoners are from disadvantaged backgrounds featuring high levels of unemployment, low educational achievement, drug and alcohol issues, lack of secure housing and poor literacy and numeracy and many have limited regular contact with health services before entering prison[24].

Mental illness in prisoners has also been linked to poor physical and mental health outcomes, greater substance use, and inequity in health access for prisoners once released[25].

Imprisonment provides an important opportunity to improve prisoner and detainee mental health and community outcomes[26]. Challenges to fulfilling this opportunity generally include the nature of the restrictive environment in which services are delivered, security considerations and the mobile nature of prison populations[27]. As identified in this Final Report of the Taskforce, resourcing, information management, process and document-related issues can also have an impact.

This Final Report makes 19 recommendations across five domains. Each of the recommendations is designed to facilitate improvements to the way in which mental health services are delivered to prisoners and detainees so that tragic events such as those associated with Ms Delios' death do not recur.

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[22] Mental Health Commission of New South Wales, *Living Well A Strategic Plan for Mental Health in NSW 2014 – 2024*, 2014, page 80.

[23] Queensland Centre for Mental Health Research, Griffith Criminology Institute – Griffith University and the University of Melbourne, *Prison Mental Health Services – A Comparison of Australian Jurisdictions* (Undated), qcmhr.uq.edu.au/wp-content/uploads/2018/04/PMHS-NATIONAL-SURVEY-FINAL_20180416.pdf, visited 19 March 2019.

[24] Australian Medical Association, "Health and the Criminal Justice System – 2012", ama.com.au/position-statement/health-and-criminal-justice-system-2012, viewed 19 March 2019.

[25] Tasmanian Custodial Inspector *Inspection of Adult Custodial Services in Tasmania, 2017 Care and Inspection Report,* October 2018, Appendix 4, page 1.

[26] Ibid.

[27] Ibid, Appendix 4, page 2.

Appendix 1 – Prisoner Mental Health Care Taskforce Terms of Reference

Prisoner Mental Health Care Taskforce

Terms of Reference

Background

The Prisoner Mental Health Care Taskforce was established on 18 September 2018 following a request from the Minister for Corrections and the Minister for Health to the Secretary, Department of Justice and the Secretary, Department of Health to urgently examine processes and procedures relating to prisoner psychiatric care assessments and prisoner discharges.

The Ministers' request noted tragic events associated with the death of Ms Voula Delios.

Ms Delios was a popular North Hobart grocer who died after being stabbed 22 times at her grocery store on 23 July 2016. Mr Daryle Wayne Cook was found not guilty of Ms Delios' murder by reason of insanity on 13 September 2018.

Media reporting of court proceedings associated with the matter noted that Mr Cook had been suffering psychotic symptoms before his release from jail, which occurred the day before Ms Delios died.

The Custodial Inspector's Care and Wellbeing Inspection Report is also expected to note significant issues associated with the provision of mental health care to prisoners and people remanded in custody. It is a requirement of the *Custodial Inspector Act 2016* that the Report be tabled in Parliament.

The TPS is responsible for providing care and custody for prisoners and people remanded in custody in Tasmania with responsibility for healthcare provision to prisoners and people who are remanded resting with Correctional Primary Health Services. Prisoners and people who are remanded may be transferred to Tasmania's secure mental health unit the Wilfred Lopes Centre in certain circumstances. The Centre is staffed by specialist mental health nurses, psychiatrists, allied health professionals and others and is operated by Forensic Mental Health Services. Forensic Mental Health Services also provide limited specialist services to prisoners and people who are remanded in custody and who are being detained at a correctional facility.

The TPS is a part of the Department of Justice while Correctional Primary Health Services and Forensic Mental Health Services are a part of the Department of Health. Addressing issues associated with provision of health services to prisoners and people remanded in custody requires a coordinated and joint response.

Purpose

The Taskforce will examine processes and procedures relating to prisoner mental health care and assessments and prisoner release and identify options for ensuring that prisoner mental health care assessments and prisoner release processes are as rigorous as they can be. This includes options relating to prisoner release directly from courts and other custodial settings.

The Taskforce will provide advice to the Ministers for Corrections and Health, through the Secretaries, Department of Justice and Health on ways in which delivery of mental health services to prisoners and people who are remanded can be improved.

Role and Function

The scope of the Taskforce's role is defined by the Ministers' request to urgently examine processes and procedures relating to prisoner mental health care and assessment and prisoner release.

The Taskforce will consider whether there are issues associated with Mr Cook's discharge from Risdon Prison and the Custodial Inspector's Care and Wellbeing Inspection Report and will consult with relevant staff including Tasmanian Prison Service and Correctional Primary Health Service and Forensic Mental Health Service staff as required.

The Taskforce may convene Working Groups as required to progress the Taskforce's work.

Reports will be provided on progress to both Ministers each quarter commencing 31 December 2018

Membership

Co-Chairs: Director of Prisons, Tasmania Prison Service, Department of Justice
Chief Psychiatrist, Office of the Chief Psychiatrist, Department of Health

Membership: Senior representatives from:

- Department of Justice
    - Director, Corrective Services
    - Performance and Compliance Manager , Tasmania Prison Service
    - Chief Superintendent, Tasmania Prison Service
    - Senior Manager, Integrated Offender Management, Tasmania Prison Service
    - President, Mental Health Tribunal
- Department of Health
    - Medical Director, Statewide and Mental Health Services
    - Clinical Executive Director – Mental Health Services
    - Nursing Director – Group Director – Forensic, Correctional Health and Alcohol and Drug Services
    - Head of Department - Forensic Mental Health Services
    - Clinical Director, Correctional Primary Health Services
    - Director of Nursing – Forensic Health Services
    - Co-morbidity Clinical Nurse Consultant, Correctional Primary Health Services
    - Assistant Director of Nursing, Forensic Health Services

Secretariat: Office of Chief Psychiatrist, Department of Health

Member Roles

The Co-Chairs are responsible for:

- conducting the business of Taskforce meetings
- acting as media spokespeople if required, and
- briefing their respective Secretaries and Ministers on any matters relevant to the Taskforce as appropriate

Members are responsible for:

- having input to and providing support for the work of the Taskforce
- briefing senior managers, and staff, on the work of the Taskforce
- undertaking agreed actions, and
- providing advice on urgent matters out of session when necessary

Meeting Times

Meetings will be held at agreed times and will occur at least once every month.

Members may be required to attend to matters out of session.

The intention is for the Taskforce to conclude its work by March 2019.

Meeting Protocols

A quorum for the meeting will be half the membership plus one member and must include at least one of the Co-Chairs or the Co-Chair's proxy.

Members of the Taskforce shall nominate a proxy to attend a meeting if the member is unable to attend. The nominated proxy shall provide relevant comments and feedback to the member they are representing.

All members are expected to contribute papers to the meeting via the Taskforce Secretariat.

Meeting papers including agendas will be distributed as soon as possible before the meeting.

Meeting papers will be clearly identified as *In-Confidence, For Endorsement, For Discussion, For Action* or *For Information.*

Meeting minutes and actions will be distributed as soon as possible after the meeting.

A Co-Chair may agree to defer listing an item on the agenda but members may raise an item under "other business" if necessary and as time permits.

A Co-Chair may invite others to attend meetings on agreed agenda items with the advance permission of the other Co-Chair.

The meeting will receive regular updates from Members on activities.

Failure to provide feedback on out of session items will be taken as an indication of assent.

The Taskforce Secretariat will be the point of contact for Taskforce Members and the coordination of identified and agreed actions.

Review of Terms of Reference

The Terms of Reference will be reviewed and updated quarterly.

Appendix 2 – Taskforce Work Program

Meeting Schedule

The Taskforce met on seven occasions:

- Monday 8 October 2018
- Monday 12 November 2018
- Monday 10 December 2018
- Monday 21 January 2019
- Wednesday 13 February 2019
- Friday 8 March 2019, and
- Monday 25 March 2019

A summary of the matters discussed at each meeting follows.

Meeting of Monday 8 October 2018

The meeting of Monday 8 October 2018 discussed:

- The Taskforce Terms of Reference, including the Taskforce's Purpose, Role and Function and Membership.
- The Taskforce's role. The meeting agreed that the Taskforce's role is to consider processes and procedures relating to prisoner psychiatric care assessments and prisoner discharges at the whole of systems level, taking into account the findings of those investigations.
- The Custodial Inspector's Inspection of Adult Custodial Services in Tasmania, 2017 *Care and Wellbeing Inspection Report* and potential for this to provide a useful starting point for considering what a good model of mental health care for prisoners might look like.

The Taskforce also:

- noted work being progressed by the TPS to consider matters relating to the provision of mental health services to prisoners and detainees and asked the TPS to report progress to the Taskforce in due course, and
- asked the THS to collate and assess all policies, procedures and other resources relating to prisoner psychiatric care assessments and prisoner discharges and to report progress and outcomes to the Taskforce Co-Chairs.

Meeting of Monday 12 November 2018

The meeting of Monday 12 November 2018 noted progress made by TPS in considering matters relating to the provision of mental health services to prisoners and detainees and work occurring within the Department of Health to establish a Mental Health Advisory Panel under the *Tasmanian Health Service Act 2018* to provide the Secretary of the Department of Health with advice on the extent of care and treatment received by Mr Cook prior to and following his release from Risdon Prison.

The meeting also noted progress by the THS towards collating and assessing policies and procedures relating to prisoner psychiatric care assessments and discharges.

Meeting of Monday 10 December 2018

The meeting of Monday 10 December 2018 noted initial findings from work being progressed by the TPS to consider matters relating to the provision of mental health services to prisoners and detainees.

The meeting also noted:

- the Mental Health Advisory Panel's formation, membership and work plan
- work occurring within the THS to assess policies and procedures relating to prisoner psychiatric care assessments and discharges, and
- that the Custodial Inspector's Inspection of Adult Custodial Services in Tasmania, 2017 *Care and Wellbeing Inspection Report* was tabled in Tasmanian Parliament on 29 November 2018. The meeting particularly noted the importance of considering findings and recommendations of the Taskforce in light of the findings and recommendations set out in the Report.

Meeting of Monday 21 January 2019

The meeting of Monday 21 January 2019 noted:

- work undertaken by the THS to assess policies and procedures relating to prisoner psychiatric care assessment and discharges, and
- work progressed by the THS to identify issues impacting on prisoner psychiatric care assessment and discharges and steps taken to date to address these issues.

Meeting of Wednesday 13 February 2019

The meeting of Wednesday 13 February 2019 noted the Taskforce's work program and the work remaining to be completed by the TPS and the THS with a view to the Taskforce concluding its work by the end of March 2019.

The meeting also:

- discussed issues associated with information technology and data sharing
- noted progress towards completion of the TPS' consideration of matters relating to the provision of mental health services to prisoners and detainees, and
- considered the Taskforce Final Report and how best to progress this.

Meeting of Friday 8 March 2019

The meeting of Friday 8 March 2019:

- noted work progressed by the THS to identify resource requirements associated with any new model of care that is recommended, and
- discussed draft recommendations for inclusion in the Taskforce's Final Report.

Meeting of Monday 25 March 2019

The meeting of Monday 25 March 2019 noted and endorsed the Taskforce's Final Report, subject to inclusion of information about issues associated with identification of people entering TPS custody who are subject to Assessment and Treatment Orders made under the *Mental Health Act 2013* (Tasmania).

Appendix 3 – Legislative Context

The TPS and WLC operate in accordance with legislation. This includes the *Corrections Act 1997* (Tasmania), the *Mental Health Act 2013* (Tasmania), the *Criminal Justice (Mental Impairment) Act 1999* (Tasmania) and the *Sentencing Act 1997* (Tasmania).

Corrections Act 1997

The management and security of prisoners and the welfare of prisoners and detainees is regulated in Tasmania by the *Corrections Act*.

The *Corrections Act* provides for a Director of Corrective Services and makes the Director responsible to the Secretary, Department of Justice for the care and direction of all prisons, prisoners and detainees and for the order and control of all prisoners and detainees.

Under the *Corrections Act,* every prisoner and detainee has the right to have access to reasonable medical care and treatment for the preservation of health and, if the prisoner or detainee is intellectually disabled or mentally ill, the right to have reasonable access within the prison or, with the approval of the Director or his delegate, outside the prison to such special care and treatment as a medical officer considers necessary or desirable in the circumstances.

In this context the *Corrections Act* provides the Director of Corrective Services with the power to direct a prisoner or detainee to be removed from prison to a hospital or other institution, or in the case of a prisoner or detainee with mental illness, to a secure mental health unit.

The circumstances in which a prisoner or detainee may be transferred to a secure mental health unit are limited and closely regulated by the legislation. In particular, the Director may direct that a prisoner or detainee with mental illness be removed to a secure mental health only if:

- either:
    - the prisoner or detainee has requested the transfer, or
    - the Director has determined that it is in the best interests of the prisoner or detainee or others in the prison facility to be removed to a secure mental health unit, and
- the Chief Forensic Psychiatrist is satisfied that the prisoner or detainee is suffering from a mental illness, that the admission of the prisoner or detainee is necessary for his or her care or treatment, and that adequate facilities exist at the secure mental health unit for the appropriate care and treatment of the prisoner or detainee.

With respect to a prisoner or detainee who has a disability, the Director may direct that the prisoner or detainee be removed to a secure mental health unit only if:

- the Director considers it necessary to remove the prisoner or detainee for his or her own health, wellbeing or safety or for the protection of other people, and
- the Director considers that appropriate treatment, care, rehabilitation or other services cannot be provided in the prison, and
- the Chief Forensic Psychiatrist is satisfied that admission of the detainee is necessary for his or her care or treatment and that adequate facilities exist at the secure mental health unit for the appropriate care and treatment of the prisoner or detainee.

The period for which a prisoner or detainee who has been transferred to a secure mental health unit may be detained in the unit is also regulated by the *Corrections Act*. Under the Act:

- A prisoner or detainee who has been admitted to a secure mental health unit may be detained in the unit for no longer than the period specified in the transfer direction.
- A prisoner or detainee who has been admitted to a secure mental health unit may be returned to prison at any time if the Chief Forensic Psychiatrist considers that the prisoner or detainee would no longer benefit from being in the unit.

***Mental Health Act 2013* (Tasmania)**

The *Mental Health Act* provides for the assessment and treatment of people with mental illness. The legislation regulates the establishment and management of secure mental health units and for the admission, custody, treatment and management of forensic patients.

The *Mental Health Act* confirms the capacity for a prisoner or detainee to be admitted to the secure mental health unit as a forensic patient. The legislation also confirms that a forensic patient who is admitted to the secure mental health unit and who has not been discharged from the unit is taken to be in the custody of the Secretary, Department of Health for the period of his or her detention.

A forensic patient may be provided with treatment with the patient's informed consent or if the treatment is authorised by the Mental Health Tribunal or, in certain limited circumstances, by an approved medical practitioner. Authorisation of treatment issued by the Mental Health Tribunal for a forensic patient automatically becomes a Treatment Order on the patient's discharge from the secure mental health unit. This ensures continuity of authority to provide treatment to prisoners and detainees on discharge from the unit.

The Mental Health Tribunal also has responsibility for granting leave for certain forensic patients and for reviewing decisions to admit, or not admit, patients to the unit.

The *Corrections Act* and *Mental Health Act* jointly regulate the period for which a prisoner or detainee may be detained in the secure mental health unit. In the case of prisoners who have been admitted to the secure mental health unit under authority of the *Corrections Act* this is the end of the period agreed to, the end of the 48 hour period immediately after the Chief Forensic Psychiatrist requires the patient to be removed from the secure mental health unit, when the patient is released from prison on parole, when the patient completes his or her sentence of imprisonment or when the order remanding or otherwise committing the patient to prison ends.

The *Mental Health Act* establishes the independent statutory office of Chief Forensic Psychiatrist. Under the Act the Chief Forensic Psychiatrist has the power to issue Standing Orders and Clinical Guidelines. A person exercising responsibilities in respect of a matter for which Standing Orders have been issued must comply with those Orders. Failure by a person to comply is not an offence but does constitute proper grounds for instituting professional, or as the case may be, occupational disciplinary action against the person. Failure to comply with Clinical Guidelines may also lead to professional or occupational disciplinary action but only if the failure leads to unfavourable patient outcomes or if there is a history of such failure.

Appendix 4 – Taskforce Recommendations: Summary

Recommendation 1: It is recommended that the THS develops and implements a model of care that takes into account current and projected future demand for mental health services from the prison population as a priority. The model of care should be developed taking into account the Custodial Inspector's Report, including the JRPO Report appended to that Report.

Recommendation 2: Noting the Government's existing commitments to capital investment in TPS facilities, it is recommended that the TPS and THS actively investigate options for:

- additional infrastructure and accommodation for prisoners and detainees with mental health needs who do not meet the criteria for transfer to WLC, and
- additional infrastructure from which to deliver health services to prisoners and detainees.

Recommendation 3: It is recommended that the THS reviews the funding model applying to WLC with a view to better realise the Centre's design capacity and accommodate a greater number of people including prisoners and detainees who meet the criteria for admission to the Centre.

Recommendation 4: It is recommended that the TPS and THS consider the SILU and how it can best be utilised.

Recommendation 5: It is recommended that the THS reviews the security procedures in place at WLC with a view to increase the involvement and improve response timeliness of the contracted security provider.

Recommendation 6: It is recommended that the TPS continues to consider processes to permit CPHS staff to safely and securely access prisoners and detainees requiring assessment or treatment during periods of lockdown and without the need for escort by a TPS staff member as a means of increasing service delivery to prisoners and detainees in TPS custody.

Recommendation 7: Noting the Government's investment in CwP training as part of the Tasmania Suicide Prevention Workforce Development and Training Plan for Tasmania, it is recommended that:

- the THS continues to adopt the CwP approach to suicide and self-harm across Statewide and Mental Health Services and identifies CPHS and Forensic Mental Health Services staff as early priorities, and
- the TPS considers adopting the CwP approach to assessment of suicide and self-harm as either an alternative or an accompaniment to the existing SASH approach.

Recommendation 8: It is recommended that the TPS and CPHS explore options for recording matters associated with referrals, including the number of referrals made, the number of appointments made and attended, and the time between referrals and appointments, as a matter of priority.

Recommendation 9: It is recommended that the TPS and THS develop:

- new protocols for the timely and appropriate sharing of information between relevant Government Agencies and with other non-government stakeholders, and
- mechanisms to monitor compliance with any new protocols that are developed.

Recommendation 10: Noting the Department of Justice's recently announced Justice Connect project, it is recommended that the TPS and THS considers options for:

- facilitating better access by TPS, WLC, CPHS staff and Community Forensic Mental Health Services staff to information systems, noting systems in place in other jurisdictions and subject to appropriate protocols, and
- mechanisms to enable WLC, CPHS staff and Community Forensic Mental Health Services staff to access information about prisoners and detainees that may be held by within the THS more broadly in a timely and effective manner.

Recommendation 11: It is recommended that the TPS and CHPS work together to develop and implement processes to ensure that people who enter TPS custody and who are subject to an Assessment or Treatment Order made under the *Mental Health Act 2013* are identified so that the Order can be complied with and the person assessed or provided with treatment in accordance with the Order.

Recommendation 12: It is recommended that the TPS and CPHS work together to identify and implement referral pathways that are comprehensive and coordinated and that allow prisoners and detainees to convey information about their health directly to CPHS staff.

Recommendation 13: It is recommended that CPHS implements a process to routinely seek consent from prisoners and detainees who self-refer, or who are referred for an appointment with CPHS, to:

- collect relevant histories, and
- disclose relevant histories for prisoners and detainees to other relevant Government Agencies and service providers including on the prisoner or detainee's release from custody.

Recommendation 14: It is recommended that CPHS develops a protocol to guide prioritisation of appointments for prisoners and detainees who self-refer, or who are referred for an appointment with CPHS.

Recommendation 15: It is recommended that the TPS and CPHS commit to a shared approach to the management of prisoners and detainees with mental illness and that to this end the TPS and CPHS work to develop and finalise Terms of Reference for any regular meetings convened to discuss the care of prisoners and detainees with mental illnesses, and admissions to and discharges from WLC, with a view to ensuring the provision of effective mechanisms through which patient needs, as well as reception and discharge processes, may be discussed between all relevant stakeholders.

Recommendation 16: It is recommended that the TPS, THS, other Government Agencies and key non-government stakeholders give consideration to establish a forum comparable to those that exist in other jurisdictions to ensure a multi-disciplinary, multi-Agency approach to the management and discharge of prisoners and detainees with mental illness who are considered to present a risk to the community on release from prison.

Recommendation 17: It is recommended that the TPS and THS:

- continue to work to finalise a new Service Agreement to replace the Service Agreement between the Department of Justice (Corrective Services Division) and Department of Health and Human Services (Correctional Health – Primary Health, Forensic Mental Health Services – Wilfred Lopes Centre) Version 1.0 dated 27 February 2006, and
- implement mechanisms to monitor compliance with the new Service Agreement.

Recommendation 18: It is recommended that CPHS continues to review all forms, manuals, policies and procedures, including the Patient Request Form, to ensure that they are up to date and fit for purpose.

Recommendation 19: It is recommended that the TPS and THS:

- convene regular meetings to review progress towards achievement of the abovementioned recommendations, and
- report progress towards achievement of the above-recommendations to the Secretaries, Department of Justice and Health on a six-monthly basis commencing 1 October 2019.

Appendix 5 – Connecting with People (CwP)

Connecting with People (CwP) is an internationally recognised, suicide and self-harm awareness and prevention training program which includes an integrative, evidence based framework for suicide mitigation and delivers an approach that combines compassion and governance with the aim of improving the assessment and response to people at risk of suicide by enhancing the quality, consistency and documentation of assessments, care plans and co-producing Safety Plans. The CwP approach also tackles stigma around mental health.

CwP promotes a role for all in suicide prevention, and in supporting emotional well-being. It aims to ensure that everyone trained is able to make well-informed interventions within their level of expertise and competence. Central to the whole approach and ethos is the importance of compassion and collaboration.

The training consists of seven modules: Suicide Prevention, Self-Harm Awareness, Self-Harm Response, Suicide Response Parts 1 and 2, Emotional Resilience and Compassion at Work. The modules can each be delivered in less than three hours.

Tasmania has invested in CwP training as part of the implementation of the Tasmania Suicide Prevention Workforce Development and Training Plan for the State. The CwP approach has been endorsed by Tasmania's Chief Psychiatrist Dr Aaron Groves.

Tasmanian Government

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