INFECTION FIGHTERS

Before Covid-19 caused such disruption across the hospitality industry there were other infection traps for the unwary or careless. **John Cornyn** FCSI (EM) reminds us of the eternal need for vigilance and education

The Covid-19 virus has been the top news story of the year, if not the decade. While there is a multitude of expert opinions as to the precise source of the virus, one fact appears consistent in most of the theories, food in some form might have been or was the Wuhan Province-based infection agent.

This is a friendly reminder to all FCSI design and MAS consultant members of their implied, if not now very real, obligation to educate their clients on the risk management aspects of operating a fully compliant foodservice operation. As much as we would like it, the challenges associated with the process in which food is handled from the point of origin to the plate has been and will continue to be a moving target. Hopefully, all such movements will have a positive outcome.

Among other serious consequences of the Covid-19 pandemic, there is general agreement that there will be sustained, special attention paid to the way food is grown/raised, processed, stored, transported, prepared and served. If nothing else, this pandemic has reinforced our worst fears on how quickly and devastating lethal viruses can take hold and spread.

The cruise ship industry, much to its distress, is still dealing with norovirus infections along with countless passenger and crew Covid-19 incidents. While they were newsworthy, there are way too many situations where food was in fact, or suspected to be, a virtual petri dish of exposures.

Here is a case study to illustrate the kinds of food preparation and service problems that could negatively impact your design or MAS clients.

It concerns a correctional facility with 1,200 inmates. The foodservice at this facility was contracted to a third-party company with prior correctional facility experience. All meals were served on insulated trays, placed on carts and delivered to the housing modules holding from 40-80 inmates each.

As required by the contract, sample

trays from all meals were to be held under refrigeration for 72 hours.

Inmate workers were permitted to assist with, but not have any direct involvement with the food preparation process. Once prepared, the hot-food portion of the meal was placed in standard size six-inch-deep hotel pans and placed in a warmer until service.

Mechanically separated chicken was widely used as the primary protein source. This product arrived, and was held, frozen in 40-pound blocks. The contractor's standard operating procedures called for this product to be placed in a walk-in refrigerator three days prior to service to defrost.

Dependent on the daily inmate count, the recipe would call for four or five 40-pound blocks to be placed in a steam-jacketed kettle for cooking and adding the additional ingredients.

One day, within three hours of service, approximately 300 inmates were struck with severe abdominal pain and all sorts of ugly results for several hours.

An in-depth incident investigation immediately followed, which included government and expert consultant assistance, here is what they figured out what happened:

- The food samples were immediately sent to a local food testing laboratory.
- There, it was determined that the chicken in the meals showed evidence of clostridium perfrigens.
- A detailed assessment of where the sick inmates were housed, was found to be random. That is, some housing units had no incidents while the impacted housing units had scattered results. There was never a situation where over half the inmates in a housing module were sickened.

As part of the investigation, the contractor's food handling procedures were closely monitored over the period of two weeks. Here is a summary of those findings from the investigation:

- The 40-pound blocks of mechanically separated chicken were, at best, partially defrosted. There were several instances where the entire block was still frozen rock-hard when it was placed in a large steam-jacketed kettle.
- The cook used a commercial kitchen size whisk for hand stirring and to break up the clumps of chicken meat.
- Before the meat had been completely cooked the other ingredients were added, making it difficult to visually assess whether the chicken meat had been completed cooked. Despite assurances that temperature readings were taken, there were no written records produced for verification.
- Once the food was panned several samples were pulled and checked for proper preparation and suitability. At this point in the process it became obvious as to the source of the clostridium perfrigens. There were clumps of chicken meat up to two inches in diameter that were still raw in the center.
- In addition to the demand for increased cook training and supervision, the contractor was forbidden to purchase mechanically separated chicken in any size block exceeding 10 pounds.

The Centers for Disease Control and Prevention (CDC) report also noted >

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produce as a major source of food poisoning, citing recent E. coli outbreaks tied to romaine lettuce. It said outbreaks tied to produce also contributed to a big jump in infections from a parasite called Cyclospora cayetanensis.

The Food and Drug Administration, which oversees fruits and vegetables, said in a statement that a recently developed test is helping it detect the parasite in produce. The agency is also implementing new regulations for produce, though food safety experts note the inherent risk with fruits and vegetables that are grown in open fields and eaten raw. Another, less gracious, way to say this is: do not grow produce where livestock drink and poop.

Unfortunately, the foodservice industry has been a major source of food poisoning or contamination incidents resulting in severe illness or death.

There is ample documentation to support the dire impacts of deliberate or accidental contamination. The CDC estimates one in six Americans will experience some form of food poisoning each year.

To place that into numerical context, there are 128,000 hospital experiences and 3,000 deaths each year. It is impossible to estimate the number of incidents that go unreported due to the symptoms not being that severe or simple reluctance to submit a formal report with local health authorities.

With food in whole or part (ie, ingredients) being sourced from all over the world, there are obvious time and physical limitations on what government inspectors can accomplish. The whole farm-to-fork and local sourcing movement has added additional due diligence obligations for the simple reason that many of these growers do not have access to the same diagnostic tools the large corporate entities have.

From a consultant client perspective, the ultimate determination must rest with knowledgeable and experienced operators. The consultant's responsibility is ensuring the client makes informed

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decisions regarding how the facility is designed, the right (not necessarily the cheapest) equipment is specified and the requisite operating policies and procedures have been developed and implemented. Food poisoning incidents have been, and will continue to be, a reason for business failure.

Food poisoning incidents are not just a small business risk. Here is a sampling of companies that have found themselves in court and, then perhaps, facing bankruptcy due to a fundamental failure to follow legal and ethical mandates.

Peanut Corporation of America Salmonella as a result of gross sanitation and processing violations. This company is now bankrupt and its principal officers are in prison.
Cargill Had to recall 36 million pounds of ground turkey as a result of bacteria-resistant salmonella.
Taco Bell Suspected contaminated lettuce.
Jimmy John's E. coli from raw sprouts.
Odwalla E. coli from unpasteurized juices
Sizzler Cut cantaloupe on the salad bar infected with E. coli. The suspected cause? The same cutting board that had been used to cut fresh beef was used to cut the cantaloupe.

As of April 24, 2020, Blue Bell Creameries agreed to $20m in fines in addition to other major settlements as a result of a 2015 listeria outbreak that resulted in a major recall effort.

And, last, but not least, there is the 1993 Jack in the Box hamburgers case. Four people in Washington and California died from eating contaminated meat from Jack in the Box. Hundreds of >

other customers also fell ill. This caused a national panic, nearly resulting in the end for the fast-food chain. The outbreak led to stronger government regulations on food handling.

It is at this point we introduce Bill Marler, the managing partner of the Seattle-based law firm specializing in food contamination incident lawsuits, Marler Clark.

The firm was established in 1998 by the top food attorneys for the plaintiffs and defendants in the landmark litigation arising from the 1993 Jack in the Box E. coli outbreak.

It has six full-time attorneys, eight paralegals and one epidemiologist as well as several support staff. The firm has

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since represented thousands of victims of foodborne illness outbreaks across the country. Marler Clark is now the nation's leading law firm representing victims of foodborne illness outbreaks.

If you have not been exposed to what this firm does in terms of proactively addressing serious procedural and legislative flaws in the food production and service industries, you owe it to yourself and clients to do so.

Marler Clark is like so many law firms that represent the plaintiffs or defendants in cases that either get settled or go to trial. Typically, the law firm retains a portion of settlement or jury award in return for its representation, but there's more.

It is important to know this firm goes out of its way to educate all food industry segments on relevant law, regulations and best practices.

Essentially, there are two ways to learn about the Seattle, Washington-based law firm; either you or your client could be on the defendant end of a lawsuit or you could take advantage of the numerous educational opportunities offered at no charge.

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Bill Marler and his associates have dedicated significant amounts of time and money to educate and advocate all who will listen on what needs to be done to prevent future lawsuits. Simply, it is a law firm that could end up working itself out of business. There are no other law firms that do this.

Here are some key pro-consumer actions taken by Bill and his team:

- Helped to pass the 2010-11 Food and Drug Administration (FDA) Food Safety Modernization Act.
- Has been, and continues to be, a strong advocate for Hepatitis A inoculations for all foodservice personnel.
- Is working diligently to require the USDA to have Salmonella (especially antibiotic-resistant) be declared an adulterant and, if found, have the product (raw chicken for example) recalled.
- A pro bono advocate for a safer food supply via numerous articles and numerous invitations to speak at industry group functions.
- Sponsors *Food Safety News*, a free online subscription publication published seven-days a week.

It is important to remember that, regardless of how due diligence and HACCP compliant the client might be, bad things can still happen.

In one case of a major campus foodservice program, an employee with undisclosed Hepatitis A caused 270 persons to become violently ill. The only good news is that none of them died.

So, when you see a headline such as: *Chipotle agrees to pay $25m federal fine for role in some outbreaks*, know that it can happen in highly regimented organizations, especially those known for fresh preparation and sustainably raised/grown ingredients. ■