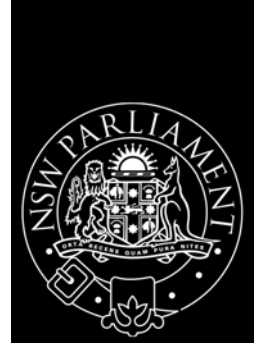


LEGISLATIVE ASSEMBLY



Public Accounts Committee

REPORT ON EXAMINATION OF THE AUDITOR-GENERAL'S PERFORMANCE AUDITS TABLED JULY 2006 TO MARCH 2007

Condition of State Roads
Educating Primary School Students with Disabilities
Major Infectious Disease Outbreaks: Readiness to Respond
Helping Older People Access a Residential Aged Care Facility
Attracting, Retaining and Managing Nurses in Hospitals
Distributing Legal Aid in New South Wales
Addressing the Needs of Young Offenders

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Terms of Reference

Public Finance and Audit Act 1983

57 Functions of Committee

(1) The functions of the Committee are:

...

(c1) to examine any report of the Auditor-General laid before the Legislative Assembly,

(d) to report to the Legislative Assembly from time to time upon any item in, or any circumstances connected with, those financial reports, reports or documents which the Committee considers ought to be brought to the notice of the Legislative Assembly...

Chair's Foreword

This is the first report arising from the Committee's new process for examining the Auditor-General's performance audits. Previously, performance audits were primarily the domain of the Audit Office, with little further input from the Public Accounts Committee except for occasional follow-up inquiries on particular audits. The process of extended review has now been strengthened by further involvement of the Committee in the post-audit phase.

Twelve months after each audit, the Committee is now seeking information from audited agencies on their response and seeking comment on that response from the Auditor-General. The Committee may then proceed to a public hearing with the agency's chief executive officer and the Auditor-General to clarify any issues arising from the information received.

This process brings together the professional expertise of the Auditor-General and the public accountability function provided by the Committee. In the course of a performance audit, the Auditor-General will make a range of recommendations in accordance with relevant legislation and standards by drawing on the expertise of the Audit Office. Agencies will then respond to these recommendations in light of their operational constraints and understanding of how best to achieve their outcomes. Such responses may include adopting, adapting or rejecting those recommendations.

The Public Accounts Committee, as a committee of elected representatives, is able to provide an assessment of whether an agency's response is in line with community expectations and report to Parliament on any further action it considers should be taken. This process also provides a public forum where the audit recommendations can be tested as to their practicality and their conformity with Parliament's expectations.

This provides public accountability for agencies' responses to audit recommendations, public assurance that recommendations of value are not being neglected and feedback on the effectiveness of the Auditor-General's performance audits.

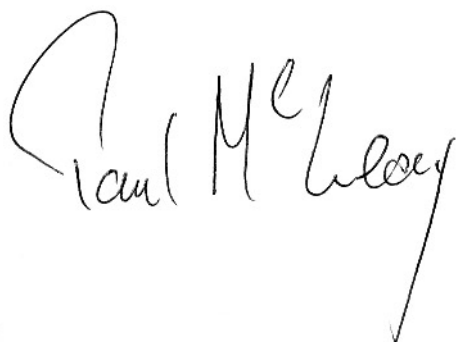
The responses examined in this report have indicated that the audits' recommendations have provided useful suggestions for improving the effectiveness and efficiency of service delivery and that agencies are working towards implementing those suggestions.

I extend my thanks to the officers of the Department of Education and Training, NSW Health, the Legal Aid Commission, the Department of Juvenile Justice and the NSW Police Force for their professional responses to the Committee's requests and their ongoing commitment to the optimal delivery of services. The Auditor-General selects the most challenging areas of service delivery for auditing. One could imagine those working to deliver those services with finite resources not being overjoyed when first the Audit Office and then the Committee take their time in order to tell them how they can do better. Nevertheless, the officers involved have responded positively and used the opportunity to improve their processes.

I am also grateful to the Auditor-General and his officers for the assistance they have provided to the Committee. My thanks also go to the Members of the Committee who have approached their work in a diligent and bi-partisan manner with a view to achieving the best

Chair's Foreword

outcomes for the people of New South Wales. Finally, I would like to thank the Committee secretariat for its support.

A handwritten signature in black ink that reads "Paul McLeay". The signature is written in a cursive style with a long, thin tail on the letter 'y'.

Paul McLeay
Chair

List of Recommendations

CHAPTER ONE - INTRODUCTION

CHAPTER TWO - PERFORMANCE AUDITS NOT SUBJECT TO PUBLIC HEARINGS

CHAPTER THREE - ATTRACTING, RETAINING AND MANAGING NURSES IN HOSPITALS

Recommendation 1

The Committee recommends that NSW Health develop and implement measures of the impact of nurse numbers on patient care.

CHAPTER FOUR - DISTRIBUTING LEGAL AID IN NEW SOUTH WALES

Recommendation 2

The Committee recommends that the Commission extends its reporting to include the number of services delivered against targets.

Recommendation 3

The Committee recommends that the Commission do a cost benefit analysis to determine whether it should measure and report the time taken to process cases.

Recommendation 4

The Committee recommends that the Attorney General introduce amendments to the *Legal Aid Commission Act* to enable appeals from refusals of grants of legal aid to be reviewed by a panel member rather than the Legal Aid Review Committee.

CHAPTER FIVE - ADDRESSING THE NEEDS OF YOUNG OFFENDERS

Recommendation 5

The Committee recommends that the Department of Juvenile Justice include in its annual reports trends in re-offending for each young offender group, both against the State Plan target and using the one- and two-year follow-up periods.

Recommendation 6

The Committee recommends that the NSW Police Force include in its annual reports trends in the number and proportion of young offenders diverted from the Children's Court and trends in re-offending for young offenders receiving cautions.

Chapter One - Introduction

OVERVIEW

- 1.1 This is the Public Accounts Committee's first report of its systematic examination of the Auditor-General's performance audits, commencing with audits tabled from July 2006.
- 1.2 In examining these audits, the Committee has looked into what the responsible agencies have done in response to the recommendations and sought feedback on the recommendations and the audit process generally.
- 1.3 The Committee was pleased to find that significant work had occurred to address the issues raised in the audits. It is apparent that agencies have taken the audits seriously and instigated processes to implement those recommendations that were accepted.
- 1.4 Many of the recommendations will take years to implement. The Committee encourages agencies to follow through on the work started and commitments made so the potential benefits from the audits will be realised.
- 1.5 Effective performance reporting was a clear theme to emerge from the Committee's examination. Nearly all the Committee's recommendations for further action relate to the measuring and reporting of performance. In almost all other areas the Auditor-General's recommendations were accepted and being implemented. There was some reluctance, however, to adopt recommendations relating to performance reporting. In most cases, agencies were open to implementing the recommendation if the Committee so requested.
- 1.6 Performance reporting is becoming a greater feature in public sector management as the emphasis moves away from managing for outputs to managing for outcomes. The Committee strongly supports this trend.
- 1.7 The move towards performance reporting is most evident with the NSW State Plan, under which the Government reports performance against a range of targets for the whole State. This has been the subject of another inquiry by the Committee. It has become apparent to the Committee through that inquiry that reporting at the State Plan level needs to be complemented by more detailed reporting by agencies as many vital issues cannot be brought out at such a high level.
- 1.8 The recommendations in this report reflect the need for agencies to report outcomes at the program level to enable their effectiveness to be evaluated and provide incentives for improvement.

INQUIRY PROCESS

- 1.9 In September 2007, the Committee commenced a process whereby it examines the responsible agencies' responses to each of the Auditor-General's performance audits 12 months after the tabling of the audit.
- 1.10 The process for these examinations includes:

Introduction

- inviting a submission from responsible agencies 12 months after the tabling of the audit;
 - referring agencies' submissions to the Auditor-General for comment; and
 - inviting agency CEOs and the Auditor-General to a hearing to respond to questions from the Committee.
- 1.11 As this was a new process for New South Wales, the Committee implemented it gradually, starting with calling for submissions and seeking the Auditor-General's comment. The audits covered in this report are the first for which the Committee proceeded to public hearings.
- 1.12 There were four audits for which the Committee sought submissions but did not proceed to public hearings. An overview of the responses to these audits is in Chapter Two. These audits were:
- Condition of State Roads (NSW Roads and Traffic Authority);
 - Educating Primary School Students with Disabilities (Department of Education and Training);
 - Major Infectious Disease Outbreaks: Readiness to Respond (NSW Health); and
 - Helping Older People Access a Residential Aged Care Facility (NSW Health).
- 1.13 There were three audits for which the Committee proceeded to more detailed examination, including a public hearing on 11 June 2008. Consideration of these audits and consequential recommendations is in Chapters Three to Five. Details of the evidence gathered for each audit is in Appendix A.

Chapter Two - Performance Audits not Subject to Public Hearings

- 2.1 The Committee commenced its new program of reviewing responses to performance audits by seeking submissions from the responsible agencies and the Auditor-General for audits tabled from 1 July 2006. As the Committee was at that time developing the new process and familiarising agencies with its new approach, it did not undertake a full examination of the responses to the first four audits by proceeding to public hearings. However, the main issues arising from the submissions are outlined below. The submissions are available from the Committee's website.

CONDITION OF STATE ROADS (NSW ROADS AND TRAFFIC AUTHORITY)

- 2.2 This audit made the following 14 recommendations around ensuring the adequate up-keep of the State's roads.

The Auditor-General recommended that the RTA:	
	Determine the gap between actual and appropriate condition
1	Complete by 2008 its work on specifying appropriate condition standards for roads, and by 2009 for bridges (page 28)
2	Assess if a gap exists between the actual condition of roads and bridges and appropriate condition standards (page 29)
3	Determine what it needs to do to lift the network to appropriate condition standards, and long term funding needs (page 29)
	Improve methods and systems
4	Finalise its current research and develop by 2008 a more rigorous and reliable method to assess the expected remaining life of roads (page 19)
5	Develop by 2009 a more rigorous and reliable method to assess the future structural condition of bridges (page 22)
6	Ensure regions use a consistent approach to assess risks and determine maintenance priorities and treatments (page 34)
7	Investigate and implement improved systems to help staff identify the best maintenance solutions (page 36)
8	Prepare a submission to the Minister outlining the costs and benefits to the community of closing roads or lanes for an extended period to allow rebuilding, compared to the current approach of undertaking work in the middle of the night (page 36)
	Address deferred rebuilding
9	Extend the planning horizon for asset management and maintenance to at least ten years (page 37)
10	Investigate and implement potential models to quantify the risks to current and future road safety and reliability of travel, as well as the cost of repair, for various funding levels (page 37)
11	Give higher priority to the rebuilding program to achieve long-term sustainability at minimum whole of life cost (page 39)

Improve advice to Government, Parliament and the public	
12	Complete its new road network management plan, setting out the funding required to maintain the road network at minimum whole of life cost, including risks, any gap between appropriate and actual condition and rebuilding needs, and report this to the Minister and Treasury (page 40)
13	Report in its Annual Report any gap between appropriate and actual condition, and how it plans to address it (page 40)
14	Report in its Annual Report deferred rebuilding, the progress of its road rebuilding efforts, the proportion of the network past the end of its expected life, and the risks this represents (page 40)

2.3 The RTA accepted these recommendations. In its submission to the Committee, the RTA stated that there were three streams of action occurring in response:

1. The RTA action plan to implement the recommendations was well advanced and it expected to deliver them in a timely manner.
2. The RTA fully supported the Government's reforms to mainstream Total Asset Management into the management of infrastructure including the budget process.
3. The Minister for roads had written to the Deputy Prime Minister and Minister for Transport and Regional Services seeking inclusion of a new specific program for pavement rebuilding under the Auslink program.

2.4 The Auditor-General noted that the RTA submission to the Committee:
does not contain sufficient detail for us to make any assessment of the progress of the Authority in implementing each recommendation...

2.5 He further suggested that the Committee:
may wish to consider asking the Chief Executive Officer to provide further information on the status of each recommendation, the outcomes that the changes are intended to achieve, progress against milestones, who has responsibility for implementation and how progress is monitored.

2.6 While the Committee welcomed the RTA's acceptance of the Auditor-General's recommendations and the assertion that the action plan to implement them was well advanced, it was disappointed that the RTA did not outline any details to substantiate this claim.

EDUCATING PRIMARY SCHOOL STUDENTS WITH DISABILITIES (DEPARTMENT OF EDUCATION AND TRAINING)

2.7 The Department of Education and Training (DET) has a policy of 'inclusion' for students with disabilities, which provides the right to attend neighbourhood schools where appropriate. Special education programs support these students in regular and special classes. The Department also provides special schools for students where attendance at neighbourhood schools is not appropriate.

- 2.8 This audit examined special education programs in primary schools for students assessed as having moderate or severe levels of disability. The aim was to determine whether the Department:
- met demand for special education;
 - provided services that meet individual needs; and
 - could gauge the success of its special education programs.
- 2.9 The key findings of the audit were that:
- there were problems responding to changes in demand for services;
 - personalised learning plans for students were inconsistent in application and quality;
 - documentation was sometimes poor, making it difficult to judge effectiveness;
 - it was difficult to judge whether special education services were improving learning outcomes for the students as a group, but the schools monitored individuals;
 - the Department was implementing changes to special education programs such as monitoring educational outcomes through statewide tests;
 - no formal feedback was obtained from students, parents or carers on the quality of special education services; and
 - only limited feedback was sought from principals and teachers.
- 2.10 The Auditor-General made 16 recommendations for the Department to:
- monitor demand for special education services;
 - review service models;
 - improve services;
 - monitor and review services;
 - improve accountability and reporting on results; and
 - obtain and use feedback to improve services.
- 2.11 DET accepted all of the Auditor-General's recommendations.
- 2.12 The Department's response included a comprehensive table that clearly stated progress towards each recommendation. The table included:
- the overall outcome resulting from implementation;
 - each step to be taken;
 - target completion date;
 - current status; and
 - the section within the Department that was responsible for implementation.
- 2.13 The Auditor-General was pleased DET accepted all 16 recommendations and noted actions proposed or undertaken were consistent with the intent of the recommendations.

- 2.14 One recommendation had been implemented, nine had progressed satisfactorily and six were delayed. For each delayed recommendation, DET provided action plans and revised completion dates. All recommendations were to have been implemented by the end of 2008.
- 2.15 The Auditor-General noted that DET's approach to monitoring the implementation of recommendations met the Audit Office's better practice standards.
- 2.16 The Committee was pleased to note that all recommendations were accepted, with progress made towards implementing each recommendation. It also noted that in all cases where implementation was delayed the Department provided action plans and revised target dates.
- 2.17 The Committee also found that the format for DET's submission was very useful as it clearly set out what the Department had undertaken to do for each recommendation, when it planned to do it by, the current status of the response, and who was responsible for its implementation. The Committee continues to suggest this format to agencies making submissions on their response to a performance audit.

MAJOR INFECTIOUS DISEASE OUTBREAKS: READINESS TO RESPOND (NSW HEALTH)

- 2.18 The key questions the audit addressed were:
- is the public health system well organised to respond to an emergency;
 - is the public health system preparing to respond to a full range of emergencies;
 - is there likely to be sufficient and timely advice to all in cases of major infectious disease outbreaks; and
 - is there likely to be sufficient capacity in the health system?
- 2.19 The audit found significant work being done to prepare for a pandemic but many areas still required further work. It made 13 recommendations, all of which NSW Health accepted.
- 2.20 NSW Health's submission to the Committee showed progress on all of the recommendations, with four of the 13 being completed.
- 2.21 The table below sets out the Auditor-General's recommendations and his comment on their status, as advised in NSW Health's submission to the Committee.

Audit Office recommendation		Audit Office comment on reported status
	Strengthen organisational arrangements	
1	Conclude agreements with private health providers, specifying roles and expectations in the case of an infectious disease pandemic (page 17)	Continuing. Progress satisfactory
2	Establish a timetable to finalise all emergency and contingency plans (page 22)	Completed

3	Consider building on influenza pandemic preparedness planning to develop broader contingency plans to address the emergence of other new, highly transmissible and/or severe infectious diseases (page 22)	Continuing. Considerable work remaining
4	Apply the lessons learnt from <i>Exercise Cumpston</i> to further improve preparedness for major infectious disease emergencies (page 25)	Completed
5	Formally establish and oversight a comprehensive program of training, testing and evaluation of plans at the state, area and facility level (page 25)	Continuing. Progress satisfactory
6	Establish a performance management framework with targets and indicators to assess progress in preparing for infectious disease emergencies (page 25)	Completed
	Develop systematic risk assessment processes	
7	Consider a more structured and systematic approach to the planning and risk assessment of major infectious diseases to assist transparency and decision making (page 31)	Completed
	Assess and address the need for improved information systems	
8	Continue to develop and test its surveillance systems for early detection of infectious diseases (page 38)	Continuing. Progress satisfactory
9	Continue to develop and test the capability of its contact tracing system to deal with a public health emergency (page 38)	Continuing. Progress satisfactory
10	Continue to improve communication mechanisms with those, such as GPs, likely to be affected in major infectious disease outbreaks (page 41)	Continuing. Communications with GPs still reliant on fax
11	Continue to develop systems to bring all the information relevant to the surge in demand for health resources together in real time (page 41)	Continuing, with further developments expected in 2008
	Assess and address the need for surge capacity	
12	Continue to develop plans to respond to the surge in demand for diagnostic tests and for laboratory personnel (page 47)	Continuing
13	Develop distinct surge capacity plans within each Area Health Service to manage emergency staffing needs, isolation facilities, intensive care units, assisted ventilation services, hospital beds and medical supplies (page 52)	Continuing

2.22 The Auditor-General noted:

- the submission advises NSW Health's plan to implement all the recommendations is well underway;
- the submission does not contain sufficient detail to make a detailed assessment of the progress of NSW Health in implementing each recommendation; and
- the Committee may wish to consider asking the Director-General to provide further information on the status of some of the recommendations, particularly 12 and 13 regarding surge capacity.

2.23 The Committee was pleased with the positive response by NSW Health and the progress made, although it would have like to have received more detailed information regarding some of the recommendations.

HELPING OLDER PEOPLE ACCESS A RESIDENTIAL AGED CARE FACILITY (NSW HEALTH)

2.24 The audit examined how well NSW Health assisted older people to access residential aged care facilities (RACF). It included the Aged Care Assessment Teams (ACAT), and how those people who have to wait in hospital following an assessment are cared for.

2.25 The audit found that:

- the assessment processes varied depending on the ACAT and whether the patient was in hospital;
- the time taken for ACATs to first see clients was slightly slower than the national average, time individual ACATs took to complete an assessment varied from one day to several weeks, and clients in hospital were seen faster than those of the same priority in the community;
- it was unclear whether ACATs had sufficient resources for their work in addition to assessments; and
- the management of patients in hospital waiting for RACF varied between hospitals.

2.26 The table below sets out the Auditor-General's recommendations and his comment on their status, as advised in NSW Health's submission to the Committee.

	Audit Office recommendation	Audit Office comment on reported status
1	Ensure that all clients are assessed and treated in accordance with Commonwealth guidelines whether they are in hospital or living at home (page 20)	Most actions implemented: scheduled for completion mid 2008
2	Survey clients, carers, referrers and service providers to gauge satisfaction with services and identify improvement opportunities (pages 21 and 26)	Implementation commenced: initial results due June 2008
3	Clarify the duties that ACATs should perform and ensure they have sufficient resources to meet this workload (page 22)	Implementation commenced: scheduled for completion June 2008
4	Improve the consistency and accuracy of data for performance management (page 25)	Implementation commenced: scheduled for completion June 2008
5	Ensure that consistent assessment approaches are adopted by all ACATs so that assessments completed by different ACATs produce consistent recommendations (page 26)	Implementation commenced: initial results due June 2008
6	Publish ACAT performance (including the number of assessments and waiting times for assessment) in its annual report (page 27)	Implementation commenced: to be included in 2007-08 annual report and thereafter
7	Evaluate approaches used by different types of hospitals for managing inpatients awaiting residential aged care to identify better practices and encourage their wider adoption (page 31)	Not clear whether actions taken will address the issue identified by the audit
8	Review existing data collections to provide more timely information on the number of older people waiting in hospital for entry into residential aged care (page 31)	Implementation commenced: initial results due August 2008

- 2.27 The Auditor-General noted that NSW Health reported material progress in addressing the recommendations, but had given insufficient data to substantiate the reported progress.
- 2.28 Again, the Committee was pleased to see a positive response from NSW Health and the progress made but would have liked to have seen data indicating the level of progress.

Chapter Three - Attracting, Retaining and Managing Nurses in Hospitals

INTRODUCTION

- 3.1 New South Wales appears to be facing a chronic nursing shortage. To address this shortage, NSW Health will need to take increased action to attract and retain nurses and effectively manage its nursing workforce.
- 3.2 The Auditor-General made 14 recommendations that focussed on understanding the scope of the problem, improving workforce management and planning, and reducing resignations.
- 3.3 NSW Health had responded positively to the audit and was in the process of implementing the majority of its recommendations. However, the Committee remained concerned that the lack of indicators of the impact of nurse numbers on patient care could weaken NSW Health's capacity to manage nurse shortages most effectively.

THE PERFORMANCE AUDIT

Audit Objectives

- 3.4 The audit examined 10 general wards at four hospitals to find out if:
 - nursing resources are well managed; and
 - hospitals effectively attracted and retained staff.
- 3.5 The audit also wanted to find out how well the Department of Health was addressing the risk of a future shortage of nurses in public hospitals.

Audit Conclusions

- 3.6 The audit found that the Department had done well to attract and retain nurses, with an average annual increase of nurse numbers of 4% (although the large number of part time nurses made it difficult to quantify whether there had been a net gain in resources). Strategies used by the Department included:
 - improving wages;
 - recruiting over 1,000 overseas nurses;
 - recruiting over 1,500 ex-nurses;
 - creating more flexible rosters; and
 - providing greater access to professional development.
- 3.7 The public health sector was also working to better manage its nurses. The Department was moving to manage nurse workloads in a more transparent, consistent and consultative way and hospitals were moving to determine the number

of nurses on a ward according to patient load, reviewing the work of nurses and employing more enrolled nurses.

- 3.8 There were, however, indicators that there may still not have been enough nurses as:
- use of overtime and agency nurses was up 21% from 2001-02; and
 - some beds were being closed and elective admissions deferred due to nurse shortages.

Audit Recommendations

- 3.9 The thrust of the recommendations may be characterised as:
- spreading the use of the nursing workload tool¹;
 - continuing to monitor the impact of the demand for more nursing positions, now and into the future;
 - reducing reliance on overtime and agency nurses; and
 - retaining nurses in the system.
- 3.10 The Audit Office's recommendations are set out below:

	Assess and review the number of nurses needed
1	Require all hospitals to use the general workload calculation tool to assess the number of nurses needed in appropriate wards by December 2007 (page 13)
2	Encourage hospitals to review the quality and completeness of their workload monitoring (page 14)
3	Encourage hospitals to consider staffing for patients who need more than expected levels of care (patient specials) when calculating whole of hospital nursing needs (page 21)
4	Continue to encourage hospitals to increase the use of appropriately trained and supervised enrolled nurses (page 32)
5	Expand its efforts to encourage and promote innovative nursing practices across the public health sector (page 32)
	Monitor the impact of shortages
6	Require hospitals to monitor bed closures and deferred elective surgery resulting from a shortage of nurses (page 21)
7	Encourage hospitals to adopt patient care indicators, which are sensitive to nursing care, as a means of monitoring whether or not the number and skill mix of nurses in a ward are adequate (page 14)
	Reduce hospital reliance on overtime and agency nurses
8	Require hospitals to review the use and cost of overtime, casual and agency nurses (page 20)
9	Encourage hospitals to review their systems for managing the performance of individual, agency and casual nurses (page 13)
	Further reduce resignations
10	Monitor the number of nurses leaving the public health sector altogether (page 25)
11	Encourage hospitals to analyse nurse resignation data, set targets and develop strategies to further reduce resignation rates (page 26)
	Continue workforce planning
12	Adopt a consistent definition of nurse full time equivalents (FTE) to be used by hospitals and the department to identify the size of the nurse workforce employed and needed (page 28)

¹ The General Workload Calculation Tool measures nurse workloads in surgical and medical wards in public hospitals.

13	Review and report on current and projected nurse shortages in public hospitals by December 2007 (page 31)
14	Expedite the development of workforce plans and strategies at a state and area level (page 31)

THE COMMITTEE'S EXAMINATION

- 3.11 Maintaining sufficient nurse numbers to provide quality care in hospitals is a significant challenge faced by NSW Health. Current projections of nurse shortages if nothing is done to address the issue are between 8,000 and 10,000 by 2012.² The current age profile of nurses, with those in their thirties numbering around half those in their forties, and those in their twenties numbering around half those in their thirties,³ highlights the potential for far greater shortages in the long term. The audit has focussed on an issue requiring significant attention.
- 3.12 NSW Health is responding to this challenge with a range of initiatives, including:
- workplace redesign;
 - overseas recruitment;
 - the Nurse Reconnect Project;
 - increased undergraduate positions;
 - improving worker retention; and
 - attracting nurses from high school.
- 3.13 The Auditor-General's recommendations focussed on:
- better measuring the demand for nurses, now and into the future;
 - reducing the reliance on overtime and agency nurses; and
 - improving nurse recruitment, retention and management strategies.⁴
- 3.14 NSW Health accepted and is actively implementing the majority of the Auditor-General's recommendations. However, the Committee draws attention to the need to:
- continue implementing the workforce monitoring tool and integrated human resource information system in order to improve the information available about the nursing workforce; and
 - collect data showing any impact on patient care arising from nurse shortages.

Continued implementation

- 3.15 NSW Health has made significant progress towards implementing the majority of the Auditor-General's recommendations. However, the Committee notes that the challenge of maintaining sufficient nurse numbers is going to require the ongoing attention of the Department, including completing the projects addressing the Auditor-General's recommendations.

² D Dixon, Acting Director, Workforce Development and Leadership, New South Wales Department of Health, Committee Proceedings, 11 June 2008, p. 4.

³ P Achterstraat, *Auditor-General's Performance Audit on Attracting, Retaining and Managing Nurses in Hospitals*, Audit Office of New South Wales, NSW, 2006, p.30.

⁴ P Achterstraat, *Auditor-General's Performance Audit on Attracting, Retaining and Managing Nurses in Hospitals*, Audit Office of New South Wales, NSW, 2006.

- 3.16 Initiatives commenced but requiring continued attention include:
- reviewing and implementing the use of the workload monitoring tool;
 - implementing the new integrated human resource information system;
 - developing policies and tools for the management of 'patient specials';
 - continuing work redesign, including increasing the use of appropriately trained and supervised enrolled nurses and developing innovative work practices; and
 - continuing to review the use and cost of overtime, casual and agency nurses.

Reporting impacts on patient care

- 3.17 The Auditor-General recommended that NSW Health:
- require hospitals to monitor bed closures and deferred elective surgery resulting from a shortage of nurses; and
 - encourage hospitals to adopt patient care indicators which are sensitive to nursing care, as a means of monitoring whether or not the number and skill mix of nurses in a ward are adequate.
- 3.18 The intent of each of these recommendations is to enable NSW Health to monitor what impact, if any, nurse shortages are having on patient care.
- 3.19 New South Wales, like much of the world, appears to be facing a prolonged struggle to maintain adequate nursing numbers. While NSW Health is aiming for there to be no shortage, it appears most likely that nursing numbers will require constant attention and difficult decisions will need to be made regarding how many resources should be devoted to addressing nurse shortages. When making these decisions, the primary question will be their implication for patient care.
- 3.20 NSW Health indicated it has a range of workforce measures of nursing shortages. While these measures are essential for workforce planning, they can only act as a proxy for the impact on patient care. There may be situations where nurse shortages do not significantly impact on patient care, and others where a small shortage has critical implications. A measure of the impact on patients will help inform decisions regarding how much effort should be placed into increasing nurse numbers and, when shortages do exist, how to manage those shortages so they have the least possible impact on patient care. Further, as one of the key strategies for dealing with nurse shortages is workforce redesign, NSW Health will need to be able to measure how changes in nurse numbers and nurse roles impact on patient care so they can redesign the workforce to the benefit of patients.
- 3.21 NSW Health stated that nurse shortages did not appear to be a significant cause of bed closures and deferred elective surgery and, while some effort had gone into collecting such data, measuring the impact of nurse shortages on bed closures and deferred surgery would require "a fair amount of effort and the return would be minimal"⁵.
- 3.22 NSW Health also indicated that:

⁵ D Thoms, Chief Nursing and Midwifery Officer, New South Wales Department of Health, Committee Proceedings, 11 June 2008, p. 9.

Attracting, Retaining and Managing Nurses in Hospitals

The adoption of patient care indicators that are known to be sensitive to nursing care, while supported, will require considerable time to develop to ensure that they provide robust information that is capable of being compared.⁶

- 3.23 The Department also indicated that an advisory committee was to consider research by UTS on this issue.⁷
- 3.24 The Committee is not in a position to determine whether the impact on bed closures and deferred surgery is the most effective measure of the effect of nurse shortages on patient care. However, the Committee is of the view that adequate measures of the impact of nurse numbers are essential for the effective management of the nursing workforce in a climate of chronic nurse shortage.

Recommendation 1

The Committee recommends that NSW Health develop and implement measures of the impact of nurse numbers on patient care.

⁶ D Picone, *NSW Department of Health Response to Auditor-General Report on Attracting, Retaining and Managing Nurses in Hospitals*, 8 February 2008, p. 3.

⁷ *Ibid.*

Chapter Four - Distributing Legal Aid in New South Wales

INTRODUCTION

- 4.1 The audit examined whether legal aid was properly distributed to those entitled to it. Three themes arose in the audit:
- the Commission's promotion and communication of its services to those likely to need them;
 - the Commission's understanding of the extent of need for its services; and
 - the Commission's management of its services to meet those needs.
- 4.2 The audit found the Commission to be performing well in delivering its services and made 15 recommendations for improvement. The Commission accepted just under half of these. The areas of dispute between the Commission and the Auditor-General focussed on understanding the extent of unmet demand and reporting outcomes.
- 4.3 It appears to the Committee that the rejected recommendations are aimed at moving the Commission beyond managing to produce outputs (which it is doing effectively with a limited budget) towards managing to produce outcomes. The Committee therefore affirms the Auditor-General's recommendation that the Commission extend its reporting to include the number of services delivered against targets.

THE PERFORMANCE AUDIT

Audit Objectives

- 4.4 The audit's objective was to assess if legal aid was properly distributed to those who are entitled to it. The audit focused on whether information about eligibility for legal aid was clear and whether decision-making processes were sound.

Audit Conclusions

- 4.5 The audit found that the Commission was performing well in delivering legal aid services and that its practices of making people aware of legal issues and its services were comprehensive.
- 4.6 The Commission conducted reviews of the services it provided to its key target groups. However, the Auditor-General considered it could further improve how it understood and reported the delivery of its services.

Audit Recommendations

- 4.7 The thrust of the recommendations may be characterised as:
- promoting greater awareness of the range of legal issues and services available;

- measuring unmet demand across its target areas; and
- improving accountabilities and management information through benchmarking, peer review and reporting against targets.

4.8 The Audit Office's recommendations are set out below:

	Make information clear about legal aid
1	Consider extending the range of its toolkits and posters (page 18)
2	Consider improving the design of its internet site (page 18)
	Better understand target groups and demand for services
3	Consider conducting periodic whole-of-Commission access and equity reviews of its existing services (page 22)
4	Seek funds for research into unmet demand for existing services (page 24)
5	Make a statement on addressing areas of unmet demand identified in the 2003 Civil Law Review Report (page 26)
6	Extend its reporting to include the number of services delivered against targets (page 23)
	Be more accountable for entitlement tests and resources
7	Benchmark its means test against national levels (page 31)
8	Consider measuring and reporting gaps between available resources and demand for its services (page 34)
9	Utilise new systems to better cost and benchmark activities (page 35)
	Have more consistent and better documented decisions
10	Utilise new systems to better monitor applications and refusals (pages 37 and 39)
11	Expand client surveys to its representation services (page 37)
12	Consider engaging peers to review its operations (page 37)
	Better manage case times
13	Measure and report the time taken to process cases (page 40)
	Enhance appeal processes
14	Consider the option of review of appeals by a member of a review panel rather than an appeal committee (page 42)
15	Consider reporting the time taken to assess appeals (page 42)

THE COMMITTEE'S EXAMINATION

4.9 The Committee found that Legal Aid had accepted and made significant progress in implementing seven of the 14 recommendations (1, 2, 4, 7, 9, 10 & 15). Two further recommendations were under consideration (3 & 11) and six had been rejected (5, 6, 8, 12, 13 & 14). Of the six recommendations formally rejected, the Auditor-General was of the view that Legal Aid was implementing three of them in substance (5, 8 & 12).

4.10 In summary, Legal Aid:

- was enhancing its publications, toolkits and website;
- was developing a new grants management system;

- had implemented a new case management system;
- had engaged the Law and Justice Foundation to do a national legal needs survey;
- considered the means tests of other jurisdictions when setting its own levels; and
- was considering whether its access and equity officer will conduct a whole-of-Commission access and equity review;

4.11 The recommendations that were rejected and not implemented by Legal Aid were that the Commission:

- (6) extend its reporting to include the number of services delivered against targets;
- (13) measure and report the time taken to process cases; and
- (14) consider having appeals reviewed by a member of a review panel rather than by an appeal committee.

4.12 The Auditor-General characterised these recommendations as “stretch goals intended to encourage the adoption of best practice over time” and remained convinced of their worth despite Legal Aid’s objections.⁸

Reporting the number of services delivered against targets

4.13 In rejecting the recommendation that Legal Aid report the number of services delivered against targets, Legal Aid stated:

By the nature of its business, Legal Aid NSW attempts to satisfy all demand for its services to the extent possible within its finite resources.

Nevertheless, demand for the services provided by Legal Aid NSW is driven by a wide range of factors which are largely outside of its control. A failure to meet predetermined service volume targets may merely reflect lower than expected numbers of people seeking assistance. This could be due, for example, to a decline in arrests made by police, a reduced incidence of family breakdown or any number of other causes.

For these reasons, a comparison of actual service volumes against targets would not provide useful information about whether Legal Aid NSW had succeeded in meeting the needs of its target client groups for legal assistance.

The setting of targets simply provides an artificial measure of achievement which will not assist users of the information in understanding whether or not demand has been satisfied. For example, it is possible to have provided a service to 100% of clients who sought the service yet not have met a target that was set. In the view of Legal Aid NSW, this does not mean that performance was inadequate.⁹

4.14 In evidence before the Committee, Legal Aid explained that their lack of knowledge of what need existed made setting targets difficult and somewhat meaningless. Legal Aid did set targets compared to its performance against service delivery in past years, but not against need.

4.15 The Auditor-General stated that good management requires targets so that resources can be allocated according to outcomes, rather than just measuring

⁸ P Achterstraat, Auditor-General, Committee Proceedings, 11 June 2008, p. 19.

⁹ Legal Aid NSW, *Response to Audit Office Recommendations in the Performance Audit on the Distribution of Legal Aid*, tabled submission, 11 June 2008, p. 3.

inputs.¹⁰ He was also concerned that seeking to meet 100% of need without setting targets could result in service delivery levels being dependent on the budget remaining in a given financial year, rather than on the needs of clients.¹¹

- 4.16 It is undoubtedly the case that demand for legal aid services is driven by a range of factors outside the Commission's control and consequently the level of service delivery it achieves against need is not entirely within its control. However, this is not something unique to the delivery of legal aid services. For example, health services also seek to meet 100% of need and are subject to factors largely outside their control, such as new and changing epidemics, disasters requiring emergency care and changes in behaviour affecting health. However, this does not obviate the need for hospitals to anticipate the level of need, set targets to meet that need and develop and fund programs accordingly.
- 4.17 Responding effectively to all needs encountered is a good start to service delivery but does not provide a sound basis for determining how to allocate limited resources and to most effectively and equitably meet existing need. It also does not provide any incentives, or information on how, to address needs that exist but are not presenting at Legal Aid offices.
- 4.18 It appears to the Committee that the crucial issue concerning whether to set targets is not the extent to which demand is under Legal Aid's control but the extent to which Legal Aid wishes to manage its service delivery in such a way as to achieve particular outcomes, such as the equitable provision of legal aid services across the State and to identified populations in need. This contrasts with an outputs based approach that focuses on effectively providing legal aid services in those places and to those people to whom it happens to provide services. In the development of a service such as legal aid the starting point will be establishing effective delivery systems. However, for such a service, where all residents enjoy a right to access subject to relevant means tests, accessibility, as far as is practicable, should not be subject to arbitrary factors such as proximity to a Legal Aid office, the time a need arises within the budgetary cycle, level of education or familiarity with the legal system.
- 4.19 It is appropriate that Legal Aid reports its outputs, such as the number of client services, over time and it is commendable that these have increased significantly over recent years.¹² However, in the absence of reporting against targets for service delivery levels, it is not apparent that the Commission is being managed to achieve particular outcomes, whether these be equitable service delivery across the State or seeking the biggest impact from inputs by assisting the clients who are easiest to serve.
- 4.20 An assessment of need will always be imperfect but that does not make it meaningless. The allocation of public resources must be controlled, as far as is practicable, according to need. Accordingly, Legal Aid services should ideally be managed to achieve defined goals based on an assessment of how existing needs can best be met.
- 4.21 Of course, the effort spent in defining need should not exceed the benefit to be obtained from a more effective allocation. However, the objection of Legal Aid to the

¹⁰ P Achterstraat, Auditor-General, Committee Proceedings, 11 June 2008, p. 25.

¹¹ Ibid.

¹² Ibid., p. 19.

setting of targets appears to be rooted in a belief that targets must approach perfection to be useful. The Committee considers, however, that targets made with the best information available provide a firmer basis for the distribution of public resources than simply responding to immediate demand. Such targets also make explicit the basis for resource allocation and provide a basis for arguing with NSW Treasury and the Federal Government for more appropriate funding levels. It also provides a framework for examining the assessment of need which can lead to improvements in the assessment process.

- 4.22 The Commission also expressed concern that the setting of targets “provides an artificial measure of achievement which will not assist users of the information in understanding whether or not demand has been satisfied.” The Committee considers this contention to be both incorrect and misguided.
- 4.23 It is incorrect as, while a target may be an artificial measure of achievement, it still provides a clearer view than no measure at all. Being imprecise does not make a measure meaningless. Distributing services equitably requires measuring need to the best of one’s ability and managing services as effectively as possible to meet that need. The setting of targets involves management setting out its current understanding of need and what it considers to be achievable in meeting it.
- 4.24 The Commission’s contention is misguided as the primary purpose of reporting against targets is not to determine whether needs have been satisfied. The primary purpose is to enable the Commission to manage its work to achieve its ultimate outcomes rather than simply increase output. Reporting against targets provides information on where the Commission is and is not achieving its desired outcomes. Regardless of whether these results are caused by factors within or outside the Commission’s control, responding appropriately to this information will better enable Legal Aid to achieve its goals.
- 4.25 The Committee notes that the Auditor-General characterised his recommendation that the Commission report against targets as a “stretch goal intended to encourage the adoption of best practice.” It appears to the Committee that the delivery of legal aid services in New South Wales has developed to a point where, in addition to seeking to provide as high a level of service as possible with its available resources, it should also focus on how best to manage those services to most effectively service existing needs. A crucial step in developing such a focus would be setting and reporting against the number of services delivered against targets.

Recommendation 2

The Committee recommends that the Commission extends its reporting to include the number of services delivered against targets.

Measuring and reporting the time taken to process cases

- 4.26 In his audit, the Auditor-General recommended that the Commission measure and report the time taken to process cases, from application to finalisation, for the following reasons:
- the Commission is in a unique position to measure processing from the time of consultation with them to the closure of the case, which is an important indicator for the Commission and the justice system; and

- improved time and cost recording would help expand productivity measures.¹³

4.27 The Commission rejected this recommendation as:

This measure is more appropriately captured and reported by the Courts. The time taken to process cases is not within Legal Aid NSW's control, and as such it does not inform users of the information about Legal Aid NSW's efficiency or effectiveness.¹⁴

4.28 Two related issues are conflated under this recommendation: whether the Commission should monitor and report the time taken for Commission cases to go through the legal justice system; and whether the Commission should monitor and report the time it takes for its in-house lawyers to process cases from application to finalisation.

4.29 In evidence before the Committee, the Commission rejected the suggestion that it should be reporting on the processing of cases through the criminal justice system as that role more properly belonged to the courts. At the same time, the Auditor-General asserted the need to have measures on how long it takes to process cases in order to have incentives for productivity.¹⁵

4.30 From the evidence received, it appears to the Committee that the courts would be best placed to track the time cases take to progress through the justice system.

4.31 However, whether or not the courts undertake such reporting, the Committee considers that there would be value in the Commission tracking the time it takes for it to process its cases as an aid to its understanding its performance and to providing incentives for efficiency. The fact that the time taken to process cases is not wholly within the control of the Commission is important for understanding this information but does not undermine its usefulness.

4.32 While there would be value in collecting this information, there would also be a cost in staff time and supporting systems. The evidence given to the Committee indicates that the Commission rejected this recommendation on principle, rather than because it deemed it undesirable following an assessment of the benefits and costs. While the Committee does not accept the arguments given for rejecting this recommendation, it has not received evidence on whether the cost of implementation could be justified.

Recommendation 3

The Committee recommends that the Commission do a cost benefit analysis to determine whether it should measure and report the time taken to process cases.

Review of appeals

4.33 The Auditor-General recommended that the Commission consider whether a member of an appeal panel rather than a committee should review appeals from refusals of legal aid.

¹³ P C Achterstraat, *Auditor-General's Performance Audit on Distributing Legal Aid in NSW*, Audit office of New South Wales, NSW, 2006, p. 39.

¹⁴ Legal Aid NSW, *Response to Audit Office Recommendations in the Performance Audit on the Distribution of Legal Aid*, tabled submission, 11 June 2008, p. 5.

¹⁵ P Achterstraat, Auditor-General, Committee Proceedings, 11 June 2008, p. 26.

- 4.34 The Commission rejected this recommendation as a review carried out by a single member of a panel would be less robust than a review carried out by a committee.
- 4.35 While a single member review may be less robust than a committee, the Auditor-General reports that the experience of Victoria and Queensland indicates that it is sufficiently robust for such reviews and comes without the additional costs and delays involved with committee reviews.

Recommendation 4

The Committee recommends that the Attorney General introduce amendments to the *Legal Aid Commission Act* to enable appeals from refusals of grants of legal aid to be reviewed by a panel member rather than the Legal Aid Review Committee.

Chapter Five - Addressing the Needs of Young Offenders

INTRODUCTION

- 5.1 The Audit made 16 recommendations on how the Department of Juvenile Justice and the New South Wales Police Force can better support young offenders to reduce their re-offending. These recommendations focused on identifying offenders' needs, accessing services and reporting the results of programs.
- 5.2 Both agencies accepted and had done significant work towards implementing the majority of the recommendations. However, while both agencies contributed to the State Plan reporting of re-offending rates for juveniles, they did not report the re-offending rates from those who came within their programs as recommended by the Auditor-General.

THE PERFORMANCE AUDIT

Audit Objectives

- 5.3 The audit assessed how well the Department of Juvenile Justice (DJJ) and New South Wales Police Force (NSWPF) support young offenders to reduce re-offending. Consideration was given to how well the organisations:
- identified young offenders' needs, ie, the factors that led them to commit the offence(s);
 - addressed the needs of offenders; and
 - worked with others, ie, service providers (both government and non-government) and stakeholders, to reduce juvenile re-offending.
- 5.4 The audit examination covered three different groups of young offenders:
- those supervised by DJJ, either in detention or under community supervision orders;
 - those participating in youth justice conferences facilitated by DJJ; and
 - those issued a caution by NSWPF.

Audit Conclusions

- 5.5 The audit found that the organisations involved had varying degrees of success in identifying the needs of young offenders. The effectiveness with which this was achieved was determined by the intervention applied. DJJ and NSWPF were particularly effective in identifying and addressing the needs of young offenders in detention, or placed under community supervision, but were less effective in doing so for young offenders diverted from the court system. This includes young people participating in a youth justice conference and recipients of police cautions. The

inadequacy of the processes for identifying the needs of these young offenders undermines the capacity of an agency to address the individuals' needs.

- 5.6 Once the needs of a young offender have been identified, those needs require addressing. As with the identification of needs, whether an individual's needs were dealt with effectively depended upon the type of intervention. The needs of young offenders sentenced to detention or community supervision were more effectively addressed than those of young offenders diverted from the court system. Both the DJJ and NSWPF lacked a systematic process for referral of young offenders to support services.
- 5.7 Finally, the audit concluded that information silos had the potential to undermine the collaboration needed between DJJ, NSWPF, and other government and non-government organisations to address the needs of young offenders in a holistic sense.

Audit Recommendations

- 5.8 The thrust of the recommendations for DJJ may be characterised as:
- identifying the needs of young offenders involved in youth justice conferencing and tailoring interventions and rehabilitation programs accordingly;
 - resolving problems in service access and information exchange among departments, agencies and organisations in the human services and justice sectors;
 - completing the review of Multisystemic Therapy and reporting findings to the Cross Agency Management of Young Offenders Senior Officer Group (SOG); and
 - monitoring the results of the Department's programs and making these publicly available.
- 5.9 The thrust of the recommendations for NSWPF may be characterised as:
- identifying the needs of young offenders receiving a caution from police, and ranking their risk of re-offending (low, medium, or high)
 - ensuring record-keeping practices note the results of the review and ranking;
 - implementing a referral process for medium to high risk offenders to assist them in gaining access to support services and programs;
 - ensuring that Youth Liaison Officers (YLOs) follow-up referrals for repeat offenders;
 - resolving problems in service access and information exchange among departments, agencies and organisations in the human services and justice sectors;
 - adopting the State Plan target for reducing re-offending; and
 - monitoring the results of the Force's programs and make these publicly available.
- 5.10 The Audit Office's recommendations are set out in the tables below:

Department of Juvenile Justice

Improve outcomes for young offenders who participate in youth justice conferences

- 1 By January 2008 DJJ, in regard to youth justice conferences, implement a checklist to identify the needs of each young offender and rate their risk of re-offending as either low, moderate or high (page 21)
- 2 By January 2008 DJJ, in regard to youth justice conferences, require convenors to document the result of this review (page 21)
- 3 By January 2008 DJJ, in regard to youth justice conferences, require convenors to ensure conference participants consider interventions and rehabilitation programs consistent with the young offender's needs and re-offending risk, which could be included on conference outcome plans (page 28)

Address cross-agency issues

- 8 DJJ and NSWPF refer problems they face in accessing services or exchanging information to the Cross-Agency Management of Young Offenders Senior Officer Group (SOG) (or its successor) as part of their strategic cross-agency approach to managing young offenders (page 36)
- 9 By June 2007, DJJ complete its review of Multisystemic Therapy (MST), a family-based treatment model, regarding its suitability as a response to young offenders with complex needs and whose families are clients of many agencies (page 37)
- 10 By June 2007, DJJ report its findings to the Cross-Agency Management of Young Offenders SOG (page 37)

Better reporting of results

- 11 DJJ monitor results for both one- and two-year follow-up periods as used in the State Plan (page 38)
 - 12 DJJ report on trends on re-offending for each young offender group commencing with their 2006-07 annual report, both against the State Plan target and using the one- and two-year follow-up periods (page 38)
-

NSW Police Force

Improve outcomes for young offenders who receive cautions

- 4 By January 2008 NSWPF, in regard to young offenders receiving a caution, implement a checklist to identify the needs of each young offender and rate their risk of re-offending as either low, moderate or high (page 22)
- 5 Require YLOs to document the results of this review (page 22)
- 6 By January 2008 NSWPF, implement a process of referral for young offenders who have a moderate to high risk of re-offending which will assist them if they choose to attend support services or programs to address their needs (page 31)
- 7 By January 2008, require YLOs to follow-up on referrals for re-offenders (page 32)

Address cross-agency issues

- 8 DJJ and NSWPF refer problems they face in accessing services or exchanging information to the Cross-Agency Management of Young Offenders Senior Officer Group (SOG) (or its successor) as part of their strategic cross-agency approach to managing young offenders (page 36)

Better reporting of results

- 13 NSWPF to adopt the State Plan target to reduce re-offending by ten per cent by 2016 (page 38)
 - 14 NSWPF to monitor results for both one- and two-year follow-up periods as used in the State Plan (page 38)
 - 15 NSWPF to report on trends in the number and proportion of young offenders diverted from the Children's Court commencing with their 2006-07 annual report (page 38)
 - 16 NSWPF to report on trends in re-offending for young offenders receiving cautions commencing with their 2006-07 annual report, both against the State Plan target and using the one- and two-year follow-up periods (page 38)
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THE COMMITTEE'S EXAMINATION

- 5.11 The submissions from DJJ and NSWPF indicated that they had accepted and made significant progress towards implementing the majority of the audit recommendations.
- 5.12 The Committee's examination therefore focussed on the following aspects of the performance audit where questions arose regarding their implementation:
- difficulties faced by the organisations in accessing services and exchanging information;
 - reporting of trends in re-offending for each young offender group, both in Annual Reports, and against the State Plan target;
 - implementation of a checklist to identify the needs of each young offender, rating their risk of re-offending, and documentation of this rating;
 - follow-up of referrals for re-offenders; and
 - implementation of the family-based treatment model Multisystemic Therapy (MST).

Problems faced by the agencies in accessing services or exchanging information

- 5.13 In the course of the audit both DJJ and NSWPF raised concerns about the problematic nature of exchanging information and accessing services, and the limitations this imposes on their ability to work together in addressing the needs of young offenders. Initially, a Cross-Agency Management of Young Offenders Senior Officers' Group (CAMSOG), comprising members of all the human services and justice agencies,¹⁶ was established to facilitate improved communication. Since the establishment of the NSW State Plan, however, the main vehicle through which the recommendations are pursued is the human services and justice clusters' CEO group, and the associated senior officers' group (SOG). Through these groups, which meet on a quarterly basis, DJJ has pursued agreements with individual agencies regarding the management of the highest-risk juvenile offenders.
- 5.14 Although the compact process is still in development, the Committee is pleased to note that advances have been made in the level and consistency of information exchange between DJJ and NSWPF with respect to Youth Justice Conferences. The recently established anti-social behaviour pilots, involving senior members from each relevant agency (including NSWPF, DJJ, the Department of Community Services, the Department of Education and Training, and all the human services agencies) will also assist in information sharing between and among agencies. The communication of issues pertaining to high-risk young people has been facilitated by Privacy Commission exemptions for this pilot program. Further collaboration on the part of all departments and agencies involved will be required to ensure that the compact process is finalised and any other impediments to information exchange are addressed.

¹⁶ Department of Housing; Department of Community Services; New South Wales Police Force; Department of Health; Department of Ageing, Disability and Home Care; Attorney-General's Department; Department of Aboriginal Affairs; and Department of Corrective Services.

Reporting of trends in re-offending for each young offender group, in Annual Reports, and against the State Plan target

- 5.15 The Auditor-General acknowledged that there has been recent improvement in the quality of data collected and published on juvenile re-offending rates in NSW, but that neither DJJ or NSWPF report publicly on the effectiveness of their programs in reducing re-offending among young offenders diverted from the Children's Court¹⁷. He therefore recommended that:
- DJJ report on trends on re-offending for each young offender group commencing with their 2006-07 annual report, both against the State Plan target and using the one- and two-year follow-up periods (rec 12);
 - NSWPF report on trends in the number and proportion of young offenders diverted from the Children's Court commencing with their 2006-07 annual report (rec 15); and
 - NSWPF report on trends in re-offending for young offenders receiving cautions commencing with their 2006-07 annual report, both against the State Plan target and using the one- and two-year follow-up periods (rec 16).
- 5.16 DJJ stated that it was supporting the State Plan's lead agency for Priority R2¹⁸ (Reduce Re-offending) and was participating in reporting re-offending rates for both one- and two-year follow-up periods. However, that data is only reported in aggregate for all groups. DJJ informed the Committee that the Department breaks down the data into separate young offender groups in its Results and Services Plans (RSP). However, it was still considering whether it would include this information in its annual reports.
- 5.17 Reporting on re-offending trends within RSPs provides useful information to DJJ's management on its performance and establishes a level of accountability within the Government. However, public reporting of this information would provide a greater level of accountability for DJJ's performance and would provide useful information to other organisations also working to address the needs of young offenders.

Recommendation 5

The Committee recommends that the Department of Juvenile Justice include in its annual reports trends in re-offending for each young offender group, both against the State Plan target and using the one- and two-year follow-up periods.

- 5.18 NSWPF rejected the Auditor-General's recommendation to report on trends in re-offending for young offenders receiving cautions in their annual reports, both against the State Plan target and using the one- and two-year follow-up periods. The reason for this was two-fold. First, the New South Wales Bureau of Crime Statistics and Research's (BOSCAR) classification of re-offending is defined as persons previously

¹⁷ P C Achterstraat, *Auditor-General's Performance Audit on Addressing the Needs of Young Offenders*, Audit Office of New South Wales, NSW, 2007, p. 7.

¹⁸ The Department of Corrective Services is the lead agency for Priority R2: Reduced Re-offending, which aims to reduce the proportion of offenders who re-offend within 24 months of being convicted by a court, or having been dealt with at a conference, by 10 per cent by 2016. This definition contrasts with that adopted in the Performance Audit in which re-offending is considered to be the percentage of young offenders in each group who had a subsequent action (either police cautions, conference of Children's Court appearance): *ibid.*, p. 17.

convicted in a court, and hence omits young persons initially subject to non-court sanctions. The second ground for rejection was that as police sanctions are used as a diversionary tool, an increase in the number of police sanctions issued is not necessarily indicative of an increase in crime or re-offending. This is especially so given that the vast majority of young people who receive a police sanction "never reappear in police statistics...again, not even for a warning or truancy"¹⁹. As NSWPF acknowledged, an increase in diversions away from the court system is something that "we would encourage"²⁰.

- 5.19 The Committee considers that these arguments provide compelling reasons for not linking data on re-offending for young offenders receiving cautions with State Plan targets on re-offending. However, the Committee does consider that this data would provide valuable information on the effectiveness of cautions that should be made public.
- 5.20 The Committee notes that NSWPF has adopted a policy of limiting information in Annual Reports to that which is required by legislation. The Committee acknowledges that too much detail in an annual report can erode its effectiveness in communication and can add to production costs. However, the Committee considers that such "quantitative information associated with the administration of programs or the operations"²¹ of NSWPF is the type of information that is central to an effective annual report. One of the main purposes of an annual report is to outline the performance of the organisation. Data of this type is vital to clearly communicating performance. The Committee also notes that while a significant amount of performance information is now being reported under the State Plan, that information is necessarily aggregated at a fairly high level. State Plan performance reporting will be most effective if it is complemented by more detailed reporting within agencies' annual reports.

Recommendation 6

The Committee recommends that the NSW Police Force include in its annual reports trends in the number and proportion of young offenders diverted from the Children's Court and trends in re-offending for young offenders receiving cautions.

Implementation of a checklist to identify the needs of each young offender, rating their risk of re-offending, and documentation of this rating

- 5.21 The Committee was pleased to learn that NSWPF has implemented a checklist to ensure that Youth Liaison Officers (YLO) take into account all possible factors when addressing the needs of a young offender issued with a police caution. The checklist and associated guidelines are now utilised by YLOs and the results recorded in the police computer system. These tools, combined with the mentoring of inexperienced YLOs by more experienced officers, should ensure that a thorough assessment of an

¹⁹ C E Mackson, Principal Policy Analyst, Ministry for Police, and former Senior Programs Officer for Youth, Committee Proceedings, 11 June 2008, p. 42.

²⁰ R J Smith, Former Commander of Policy Programs and former Corporate Spokesperson for Youth, Burwood Local Area Command, Committee Proceedings, 11 June 2008, p. 43.

²¹ Schedule 1, Annual Reports (Departments) Regulation 2005.

individuals' needs is made, enabling referral to appropriate remedial programs and services.

Follow-up of referrals for re-offenders

5.22 NSWPF indicated that they had implemented the Auditor-General's recommendations regarding having a process for providing referrals for moderate to high-risk offenders. However, issues that can prevent effective referral and follow-up include:

- the offender's reluctance to admit to underlying problems leading to the offending behaviour;
- service providers' criteria excluding offenders; and
- reluctance to provide feedback on matters relating to a legal issue and other privacy restrictions.

5.23 NSWPF reported that YLOs are attempting to address these issues by providing advice to offenders. Cross-agency case management committees have also helped address these issues. In addition, the antisocial behaviour pilots have allowed information sharing in order to provide services to high-risk offenders. These pilots have been facilitated by exemptions from the Privacy Commissioner. The Committee noted the competing objectives of facilitating effective information sharing to enable earlier provision of services to prevent offending behaviour, and allowing young people to move on from a mistake without being labelled as an offender.

Implementation of the family-based treatment model Multisystemic Therapy (MST)

5.24 The implementation of Multisystemic Therapy (MST) has commenced in Newcastle and Western Sydney. DJJ wants to continue to rollout this intensive program to areas of the State where it is deemed viable. The Committee is keen for Aboriginal and Torres Strait Islander people to be involved in the program, given the positive results achieved in Western Australia.

Appendix A. Submissions, Witnesses & Tabled Documents

CONDITION OF STATE ROADS

Submissions:

1. Roads and Traffic Authority – 5 November 2007
2. Audit Office of NSW – 21 November 2007

EDUCATING PRIMARY SCHOOL STUDENTS WITH DISABILITIES

Submissions:

1. Department of Education and Training – 31 October 2007
2. Audit Office of NSW – 21 November 2007

MAJOR INFECTIOUS DISEASE OUTBREAKS: READINESS TO RESPOND

Submissions:

1. NSW Health – 9 February 2008
2. Audit Office of NSW – 19 March 2008

HELPING OLDER PEOPLE ACCESS A RESIDENTIAL AGED CARE FACILITY

Submissions:

1. NSW Health – 5 March 2008
2. Audit Office of NSW – 31 March 2008

ATTRACTING, RETAINING AND MANAGING NURSES IN HOSPITALS

Submissions:

1. NSW Health – 11 February 2008
2. Audit Office of NSW – 19 March 2008

Witnesses:

1. Mr David Dixon
Acting Director, Workforce Development and Leadership
NSW Department of Health
2. Ms Debra Thoms
Chief Nursing and Midwifery Officer
NSW Department of Health
3. Mr Peter Achterstraat
Auditor-General
Audit Office of NSW
4. Ms Jane Tebbatt
Director, Performance Audit
Audit Office of NSW

DISTRIBUTING LEGAL AID IN NSW

Submissions:

1. Legal Aid NSW – 31 January 2008
2. Audit Office of NSW – 19 March 2008

Witnesses:

1. Mr Steve O'Connor
Acting Chief Executive Officer
Legal Aid NSW
2. Mr Peter Achterstraat
Auditor-General
Audit Office of NSW

Tabled Documents:

Response to Audit Office Recommendations in the Performance on the Distribution of Legal Aid. (Update 10th June 2008)

ADDRESSING THE NEEDS OF YOUNG OFFENDERS

Submissions:

1. Department of Juvenile Justice – 9 May 2008
2. New South Wales Police Force – 9 May 2008
3. Audit Office of NSW – 30 May 2008

Witnesses:

1. Mr David Owens
Deputy Commissioner
Field Operations, NSW Police Force
2. Superintendent Rodney Smith
NSW Police Force
3. Ms Cathy Mackson
Principal Policy Analyst for Youth
Ministry for Police
4. Mr Peter Muir
Director-General
Department of Juvenile Justice
5. Ms Megan Wilson,
Executive Director, Conduct, Policy and Government Relations
Department of Juvenile Justice
6. Mr Peter Achterstraat
Auditor-General
Audit Office of NSW
7. Ms Jane Tebbatt
Director, Performance Audit
Audit Office of NSW

Tabled Documents:

Recommendation in the Performance Audit - Addressing the needs of Young Offenders – NSW Police Force Implementation Action Table.