The Hon Brad Hazzard MP

Minister for Health
Minister for Medical Research

Ms Helen Minnican
Clerk of the Legislative Assembly
NSW Legislative Assembly
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Helen

I am pleased to submit a copy of the NSW Government Response to the Recommendations from the Legislative Assembly's Inquiry into Violence Against Emergency Services Personnel.

If you have any enquiries please contact Vincent Meney, on ███████████ or via email at ████████████████████████████

Yours sincerely

Brad Hazzard MP

Recommendation 1

That emergency services agencies publish data about the number and type of violent incidents against their staff each year.

Supported

The NSW Government will develop a standardised approach for reporting across all NSW emergency services agencies to ensure consistency in the format, incident reporting and definitions. Further consideration will be given to the most appropriate sources of data available, and the scope of what should be published, to address this recommendation.

Recommendation 2

That NSW Health considers publishing data concerning violence against its hospital staff, broken down by hospital.

Supported with qualification

NSW Health will publish data on physical incidents and in doing so, will consider the most appropriate information to be published to ensure accountability and transparency is achieved without unintended consequences on hospital attendances.

Publishing data at a hospital level may raise concerns with members of the public that could result in patients not seeking assistance from the nearest hospital, with potential consequential health impact. As an alternative option, consideration will be given to publishing data at local health district level which is broadly consistent with the approach taken by the Department of Education, which publishes data by Principal's Network, rather than by individual school.

Recommendation 3

That NSW Health continues to drive the 12 Point Action Plan to timely completion in consultation with key stakeholders.

Supported

All actions within the 12 Point Plan on Hospital Security have been implemented, noting that some initiatives, such as building a stronger work health and safety (WHS) culture amongst staff, are of a long term and ongoing nature.

Recommendation 4

That NSW Health monitor, fine-tune and maintain ongoing elements of the 12 Point Action Plan following implementation.

Supported

NSW Health is committed to ensuring the actions are embedded operationally on an ongoing basis within local health districts and specialty health networks. To support this and to continue to drive improvements, NSW Health has developed an ongoing Security Compliance Audit Framework to ensure ongoing compliance with standards that are set out in the NSW Health Security Manual *Protecting People and Property* is achieved and maintained. The Framework includes ongoing compliance audits of key elements of the 12 Point Plan.

Recommendation 5

That NSW Health consider making its one-day equivalent violence prevention training for emergency department staff, mandatory for new emergency department staff.

Supported with qualification

NSW Health policy PD2012_008 *Violence Prevention Training Framework* requires that all staff receive violence prevention and management training following commencement with NSW Health and that the training provided is matched to the assessed risk in their workplace.

The nature of the training required is determined by reference to a risk assessment of their place of work as follows:

- Staff working in high risk areas (Category 2 staff) require skills in de-escalation and personal safety techniques
- Staff who may be required to participate in restraining an individual (Category 3 staff) require additional skills to ensure they can undertake safe restraint techniques.

Both these categories, would usually include staff working in emergency departments.

NSW Health provides a suite of violence prevention and management (VPM) training products through the Health Education and Training Institute (HETI) for NSW Health organisations including local health districts, specialty health networks and NSW Ambulance, to provide appropriate training for their staff, depending on the skills required.

A new Emergency Department Violence Prevention Management Training Program (EDVPM) has been designed specifically for staff working in emergency departments to manage disturbed and aggressive behaviour. The EDVPM training comprises eLearning modules focused on managing and de-escalating aggression, a one day equivalent face to face physical skills workshop (adapted from an existing four day VPM training program) and 12 online videos to facilitate regular practice drills locally.

The EDVPM is one product from the suite of programs available to local health districts and Specialty Health Networks to meet the training needs of both Category 2 and Category 3 staff. Emergency department staff can complete the specific EDVPM training or other appropriate VPM training product, based on local requirements.

The NSW Health WHS Audit Tool requires evidence that staff training needs analysis is completed and that induction training is completed to address identified risk. Results of WHS Audits are reported to Chief Executives and the District/Network Boards.

Recommendation 6
That NSW Health consider the use of purpose built rooms or areas within emergency departments to assess aggressive and behaviourally disturbed persons, particularly patients affected by mental health issues, drugs and/or alcohol.

Supported

Implementation of this recommendation is underway. Chapter 15 (Security in the Clinical Environment) of the NSW Health Security Manual *Protecting People and Property* has been amended to identify a requirement to designate space or a room within an emergency department to manage behaviourally disturbed persons.

Health Infrastructure has design guidance on the dimensions and physical design of safe assessment rooms to complement existing Health Facility Guidelines for the design of Emergency Units.

A guideline has also been drafted to inform the clinical models of care needed to support the appropriate management of patients in a safe assessment room/area.

Recommendation 7
That NSW Health explore whether further CCTV should be installed in NSW emergency departments, particularly in regional areas.

Supported

There are currently more than 3000 CCTV cameras in operation in NSW public hospitals. Following a security audit of emergency departments in 2016 completed as part of the 12 Point Plan, local health districts identified areas where additional CCTV is required.

A $19 million investment on security capital works in emergency departments across the State, predominantly in rural and regional areas, is underway. Much of this work will improve access controls between public and staff areas and perimeter controls, including upgrading CCTV to provide live images and installing remote locking to public access doors.

Recommendation 8

That NSW Health examine options for a state wide database to share file flagging information about patients who present a risk to the health and safety of staff, patients and others.

and

Recommendation 9

That the NSW Government, in consultation with the Commonwealth and other States and Territories, examine options for a national database to share file flagging information about patients of health facilities who present a risk to the health and safety of staff, patients and others.

Further consideration required

NSW Health already has a policy in place for 'file flagging' at a local level. Under NSW Health Policy Directive PD2015_001 *Zero Tolerance to Violence,* file flagging is used as necessary by clinical staff at a facility level. In addition, NSW Health Policy Directive PD2014_004 *Incident Management Policy* requires that incidents are reported and recorded in the patient's medical record (including the electronic medical record where it is in place). This provides information to other treating clinicians.

Flagging of patients' files to signal potential for aggressive and violent behaviour is a sensitive issue in the health care environment. Some clinical conditions can cause behavioural disturbances in patients and it is important that flagging of a patient's file does not discriminate against an individual or influence treatment decisions and lead to poor clinical outcomes.

NSW Health will establish a NSW Working Party including clinical and privacy stakeholders, to examine the feasibility and consider options for both a state wide database and a national file flagging database. The working party will examine these recommendations, having regard to issues relating to risk, impact on clinical treatment, privacy, discrimination, and governance to ensure currency and accuracy of information held.

Recommendation 10

That NSW Health continue to monitor local health districts' progress in developing their duress response plans with a view to completion as a matter of priority.

Supported

Over $5 million dollars has been allocated to local health districts to upgrade mobile duress alarm systems for staff working in emergency departments. Staff must be able to summon the assistance of the duress response teams and to this end NSW Health has mandated that all staff working in emergency departments must have access to, and must wear, a mobile duress alarm at all times while on duty.

Recommendation 11

That NSW Health update its security manual, *Protecting People and Property*, to provide more detailed Code Black standards for emergency departments, to ensure that a Code Black has the same meaning for all NSW emergency departments.

Supported

The NSW Health *Protecting People and Property* manual has been updated to clarify that all incidents of personal threat (with or without a weapon) must be referred to as a Code Black and to incorporate a detailed Code Black procedure for emergency departments.

Recommendation 12

That the revised Memorandum of Understanding between NSW Health and the NSW Police Force clearly delineate agency responsibilities in managing aggressive and behaviourally disturbed persons on hospital premises.

and

Recommendation 13

That protocols and procedures under the revised Memorandum of Understanding between NSW Health and the NSW Police Force facilitate structured handover of aggressive and behaviourally disturbed patients with a particular focus on thorough interagency communication.

and

Recommendation 14

That NSW Health and the NSW Police Force conduct ongoing monitoring to ensure that procedures under their revised Memorandum of Understanding are implemented at the local level and are working effectively.

and

Recommendation 15

That the NSW Government review options to provide a more coordinated response by NSW Health, NSW Ambulance and the NSW Police Force, to the needs of mental health patients.

Supported

The revised Memorandum of Understanding (MoU) between the NSW Police Force and NSW Health (including NSW Ambulance) sets out principles and guidelines for a coordinated approach between agencies to ensure the most appropriate care for patients with mental health issues. The MoU has been broadened beyond people in a mental health emergency and includes situations involving patients brought to hospital in police custody and the management of public safety issues in health settings. The MoU will:

- clearly delineate the responsibilities of NSW Police Force and NSW Health when managing aggressive patients who have been detained under different legislation, such as the Mental Health Act 2007, Mental Health (Forensic Procedures) Act 1990 or any other Act

- articulate procedures for handover of patients from the custody of NSW Police Force to NSW Health

- address issues of governance and monitoring of the MoU's effectiveness. It sets a framework for interagency committees of representatives from all partner agencies to monitor the MoU, address operational issues and facilitates local dispute resolution while also allowing for escalation to higher level committees for systemic or larger scale issues.

NSW Health, including NSW Ambulance, and the NSW Police Force will continue to work collaboratively as part of the NSW Interagency Committee, to develop appropriate procedures for ensuring the safety of police officers, ambulance paramedics, hospital staff and patients.

Recommendation 16

That the NSW Government consider further funding to increase the number of security staff in NSW emergency departments, based on risk assessments.

Supported with qualification

NSW Health policy requires that security staff numbers are determined by an assessment of risk. The assessment of security staff numbers is more appropriately determined at District / Network level

having regard to the risk factors set out in Chapter 14 (Role of Security Staff) of the NSW Health Security Manual *Protecting People and Property.*

Union Specific Consultation Committees (USCC) have been established in every District/ Network with the Health Services Union (HSU) to examine local security staffing levels and these are in place and ongoing throughout 2018. The Ministry will consider the outcomes of these processes on a case by case basis.

Recommendation 17
That NSW Health continue to encourage existing staff in its regional, rural and remote emergency departments to undertake security training.

and

Recommendation 18
That NSW Health implement further strategies to recruit security staff in key regional, rural and remote areas as a priority.

Supported

Security staff located in rural and remote facilities are most commonly Health and Security Assistants. Arising from discussions with the HSU, the Ministry of Health has identified that updating the Award definition for a Health and Security Assistant will clarify the intent of the role, to ensure security has primacy in their role and they are available to respond to security related incidents.

NSW Health is continuing discussions with key stakeholders, including the HSU and local health districts, to identify strategies to support creation of a pool of skilled staff who can undertake the security role in regional and rural facilities. This includes engaging staff without a security licence and providing them with the required vocational education to fulfil the security role in a health environment.

Current and newly recruited security staff and Health and Security Assistants are required to attend the three day TAFE program *Security in the Health Environment.* In 2018 the rural and regional security workforce will be supported with 5 offerings of this program being run in regional centres.

NSW Health has developed further online training modules that set out critical areas of security for all staff including the role of security staff and online interactive training for security staff. This training will be available to staff early in 2018 working in remote and rural locations.

Recommendation 19
That NSW Health conduct a review around its use of contractor security staff including any effects the use of contractors may have on the safety and security of its emergency departments and options to ensure contractors are adequately trained.

Supported with qualification

This recommendation will be addressed through policy and compliance auditing, as follows:

- Chapter 14 (Role of Security Staff) of the NSW Health Security Manual *Protecting People and Property* has been enhanced to include standards for training, induction and supervision of contractors in those instances where they are required to be used. Compliance with these revised standards in Chapter 14 will form part of the ongoing security compliance audits.

- Frequently used contractors are required to complete the three day TAFE program *Security in the Health Environment.*

- The HSU and Districts/Networks are currently working co-operatively on security staffing and contractor issues via local USCCs.

Recommendation 20

That NSW Health review its new incident management reporting system, in consultation with staff, 12 months after implementation paying particular regard to whether it is facilitating ease of reporting, and adequate feedback from management.

Supported

NSW Health will review the new incident management reporting system (ims+) at 12 months post-implementation.

Recommendation 21

That NSW Health continue equipping management with the knowledge and skills to encourage the reporting of violent incidents in emergency departments.

Supported

NSW Health will continue existing initiatives aimed at encouraging the reporting of violent incidents in emergency departments. These include:

- An online learning module: 'Building a safe workplace culture' was developed in response to the 12 Point Plan that outlines managers' obligations and responsibilities in relation to WHS and building a safety culture. The module went live on HETI MyLearning in August 2016.

- New content to increase awareness of WHS and security issues, including building a safety culture has been integrated into the Nurse Unit Manager (NUM) Take the Lead program and the Nurse and Midwifery Manager Professional Development Program.

- ims+ will provide a platform for improved reporting of experiences for staff.

Recommendation 22

That hospital managers be trained to support and prioritise downtime for staff to report incidents.

Supported with qualification

NSW Health is committed to ensuring that hospital managers are trained in their WHS responsibilities, as outlined above, including supporting staff to complete incident reporting.

Incident reporting is one of many tasks health professionals are expected to undertake as part of their usual duties. This expectation is reflected in the NSW Health Policy Directive PD2014_004 *Incident Management Policy* which sets out the expectation that all incidents are reported as soon as practicable and preferably by the end of the notifier's work day. The new ims+ platform will allow incident notification from handheld devices, ensuring greater flexibility for staff to access and report incidents in a timely way.

Recommendation 23

That each NSW emergency services agency review its violence prevention and safety training on a regular basis, in consultation with staff, to ensure it is comprehensive, up to date and responsive to contemporary needs.

Supported

The **NSW Police Force** delivers mandatory and specialised training which supports officers to deal in a variety of dangerous situations. Each training course is reviewed and evaluated by participants, and training packages are reviewed as a whole upon completion of delivery. Results of reviews are used to improve or redesign courses. The NSW Police Force also reviews education and training of police officers and employees to ensure it is relevant to the needs of the organisation and emerging issues in the community.

The **NSW State Emergency Services (NSW SES)** has an ongoing cycle of review of its policies, procedures and training packages. Whilst the NSW SES traditionally has a low frequency of violence against members, it will review existing strategies and training to ensure it remains contemporary and up to date.

The **NSW Rural Fire Service (NSW RFS)** presently has a system of self-assessment by members in relation to personal and environmental safety. While some NSW RFS districts have protocols in place for response in areas of known hostility, it does not have a specific violence prevention and safety training program in place to deal with threats during operations. NSW RFS will consider whether it needs to introduce general violence prevention and safety training for all members.

NSW Ambulance trains its paramedics in a range of self protection measures that include scene awareness and how to deal with potentially violent situations to minimise the risk of assault. Consultation occurs prior to and after specific programs are developed and delivered and participant feedback informs reviews and improvements.

Recommendation 24
That the NSW Government consider ongoing community education campaigns to prevent violence against emergency services personnel.

Supported

NSW Health will liaise with other emergency services agencies for opportunities for cross agency collaboration. For this whole of Government approach, ongoing development of community education programs will need to be considered against existing priorities for agency operating budgets.

NSW Ambulance has previously run various community education campaigns including the *"Zero Tolerance"* Campaign, which commenced in November 2008; the *"If You Hurt a Paramedic"* public education campaign which commenced in December 2013; and the *"No Excuse for Call Taker Abuse"* public education campaign which commenced in 2016.

Recommendation 25
That NSW Ambulance decisions about whether to impose a flag on an address take place as soon as possible after a request has been made by frontline staff

and

Recommendation 26
That where NSW Ambulance makes a decision not to impose a flag on an address, affected frontline staff be provided with feedback concerning the decision as soon as possible.

Supported

Under current policy, a caution note (or 'flag') is attached to an address if a paramedic has been assaulted or threatened while attending a patient at that location and serves to warn paramedics who attend the premises again in future of a potential threat to their safety.

NSW Ambulance has systems in place to regularly review and, if appropriate, revise or remove caution notes from the system. Caution notes are applied to the physical addresses, not to individuals.

In addition to staff notification of addresses, consultation occurs between the NSW Police Force Operational Communication and Information Command and NSW Ambulance Control Division regarding potential high risk locations.

Recommendation 27

That the refresh of NSW Ambulance duress alarm systems for metropolitan vehicles be completed as a priority.

Supported

There are options available for paramedics to raise a duress signal. A diverse range of network infrastructure is required to provide these communications services across the state. Currently, several activities in the radio network and terminal space are underway.

NSW Ambulance is investing $36 million over two years to refresh its radio telecommunications infrastructure. In December 2016, NSW Ambulance completed a $9.25 million refresh of all Mobile Data Terminals and associated back end infrastructure in regional NSW. The following further investments totalling $26.75 million will be made before the end of the 2017/18 financial year:

- Delivery of a fit-for-purpose and fully integrated communications network that provides significantly improved voice and data coverage and capability within NSW through the Government Radio Network (eGRN) Links, New Broken Hill Digital Radio Network and Long Range Digital Radio Network (Servicing Far West Regions of NSW)

- Statewide replacement of radio terminals, mobile data terminals, control centre consoles and the introduction of smartphone devices to NSW Ambulance vehicles, which will strengthen coverage and capability for the end user and the ability to raise duress calls.

Recommendation 28

That NSW Ambulance continue to monitor and respond to any complaints from paramedics concerning the duress alarm system as the refresh proceeds.

Supported

NSW Ambulance has procedures in place to monitor and respond to issues raised by paramedics regarding the duress alarm systems. Mobile Data Terminal performance is supported through a managed service with robust service level agreements, faults and issues are reported directly to the state wide service desk.

Recommendation 29

That any NSW Ambulance vehicle equipped to respond should be fitted with a mobile data terminal for duress.

Supported

The Metropolitan Mobile Data Terminal Refresh Program will address the replacement of the vehicle technology environment.

Recommendation 30

That NSW Ambulance institute procedures so that every on duty paramedic has a portable radio capable of duress.

Supported

The NSW Ambulance Terminal Refresh Program will ensure all paramedics have the communication tools available required to undertake their roles.

NSW Ambulance invested $8.1 million in capital for the delivery of new mobiles and portables capable of duress within the south/southwest of NSW in 2016/17. The deployment of the new terminals will be complete by June 2018.

NSW Ambulance and NSW Telco Authority are jointly developing a business case for the delivery and deployment of new radio mobiles and portables capable of duress for the remaining portion of NSW.

Recommendation 31
That NSW Ambulance institute a procedure for regular and thorough testing and review of its duress systems, against up to date benchmarks.

Supported

NSW Ambulance and the NSW Telco Authority aim to jointly provide industry benchmarking standards for terminal duress testing within an emergency service operational environment. Implementation of review and testing protocols and procedures are under development by NSW Ambulance and are anticipated to be available, following consultation with external and internal stakeholders, in the first half of 2018.

Recommendation 32
That the NSW Government continue to allocate funding for NSW Ambulance's black spot remediation program.

Supported

NSW Ambulance has been allocated funding for the *Keep Safe and Operational* project until the full realisation of the NSW Telco Authority's state wide Government Radio Network. This built network, known as the Critical Communications Enhancement Program (CCEP) will address radio black spots and agency capability.

Recommendation 33
That NSW Ambulance commission further independent testing of the accuracy of duress location across the State after the refresh of its current equipment is complete.

Supported

On completion of the Metropolitan Mobile Data Terminal Refresh Program by March 2018, an independent duress review will be carried out immediately afterwards by a subject matter expert.

Recommendation 34
That all NSW Ambulance paramedics who work in areas of the State where radio black spots exist be provided with communication alternatives such as satellite or mobile telephones.

Supported

NSW Ambulance provides satellite phones to staff who operate in known or suspected radio black spot areas within rural NSW.

NSW Ambulance and the NSW Telco Authority have commenced a technology "proof of concept" trial using the new ruggedised Push to Talk (PTT) Smartphones enabled with the NSW Telco Authority App as a fall-back telecommunications tool for operational paramedic staff across rural NSW.

As well as the trial, NSW Ambulance is delivering the following rural area network upgrades to provide alternative radio network coverage as a layered redundancy:

- A Long Range Digital Radio (LRDR) network to improve paramedic duress access from remote NSW areas

- Continuing to employ satellite data technology in off road vehicles that are expected to operate in remote or isolated areas

- Integration of devices that can expand the range of the currently fitted in-vehicle radio terminal technology.

Recommendation 35

That NSW Ambulance management ensure that the records allowing its control centre staff to identify staff who activate a duress alarm, are kept up to date at all times.

Supported

NSW Ambulance has implemented an operating procedure (PRO2017-031 *Paramedic in Danger Operating Procedure)* that details the process to be followed by staff when signing on for their shift to ensure the relevant control centre is notified of the duress situation and the location of the staff member and, in the case of Mobile Data Terminals, the vehicle to which they are assigned.

By including sign-on to portable radios and Mobile Data Terminals at the commencement of shift, the control centre has real time electronic notifications and visibility of the individual paramedic and the vehicle they are assigned to for the duration of their shift.

Recommendation 36

That the NSW Government explore resourcing options to eliminate the need for any NSW Ambulance paramedic to attend a job alone and to increase the number of paramedics, particularly in regional areas of the State.

Further consideration required

NSW Ambulance regularly considers the adequacy of its resources, particularly in regional areas of NSW. However, ambulance services across Australia utilise single officers where appropriate to ensure timely and appropriate care to the patient. Single officer responses can be utilised as an initial response to a call, with additional support activated as appropriate. The closest and most appropriate resource is sent in the first instance to provide timely care to the patient.

The use of single officers/rapid response can reduce the time to deliver care in a life threatening emergency. In the vast majority of occasions they do not transport individuals to hospital which enhances their capacity to be able to respond to patients in need. Single officer responses are routinely supported by the dispatch of an on-duty crew, on-call officer, other emergency service personnel, community first responders or an ambulance helicopter.

Operational policies and procedures are in place to identify potentially dangerous situations as early as possible and to arrange police or other assistance as required. These policies also permit paramedics to "stand-off" until additional assistance arrives, in certain circumstances, due to concerns about safety.

Recommendation 37

That NSW Ambulance review the resources allocated to control centres to ensure they are sufficient to enable a prompt and appropriate response when a frontline officer activates a duress alarm.

Supported

NSW Ambulance reviews resources on an ongoing basis. Instances where a staff member is in danger and are able to verbalise that they need assistance, they are required to use a discreet message that is code for "requires urgent police assistance." This call is audible in the control centres for the dispatcher and supervisor to hear.

Notifications of "staff member in imminent danger – requires urgent police assistance" which is the inferred message of all non-verbalised duress notifications, is communicated directly to dispatchers through the Computer Aided Dispatch (CAD) system. All duress notifications are treated as the highest priority.

Recommendation 38

That NSW Ambulance review its incident management reporting system, in consultation with staff, 12 months after implementation, paying particular regard to whether it is facilitating ease of reporting and adequate feedback from management; and whether it meets the unique needs of NSW Ambulance staff.

Supported

NSW Health will conduct a post implementation review of the new incident management system throughout NSW Health, including NSW Ambulance, at 12 months post implementation. NSW Ambulance also intends to separately review the functionality of the new system in consultation with staff.

Recommendation 39

That NSW Ambulance management be appropriately trained to actively encourage staff to report violent incidents.

Supported

Occupational violence prevention training for all ambulance staff that conforms to the *Violence Prevention & Management Training Framework for the NSW Public Health System* is being developed for NSW Ambulance and this will include relevant WHS training for managers.

In addition to specialised training, through ongoing communication from senior managers, including the Chief Executive and other executive staff, managers are reminded to actively support staff wellbeing including staff reporting of violent incidents. This is reinforced and supported by the Staff Support Activation and Significant Events Support Register Operating Procedure.

Recommendation 40

That NSW Ambulance managers continue to be trained to support and prioritise downtime for staff to report violent incidents.

Supported with qualification

The WHS training for Ambulance managers referred to above will include supporting staff to complete incident reporting.

Reporting incidents that arise in the course of work is part of the role of staff and a key aspect in embedding a safety culture.

NSW Health Policy Directive PD2014_004 *Incident Management Policy* sets out the expectation that all incidents are reported as soon as practicable and preferably by the end of the notifier's work day. The new ims+ platform will allow incident notification from handheld devices, ensuring greater flexibility for staff to access and report incidents in a timely way.

Recommendation 41

That as far as possible, NSW Ambulance post incident reviews should have a non-punitive focus.

Supported

NSW Ambulance paramedic assault matters are centrally tracked, welfare support provided and subject matter expertise made available, through the NSW Ambulance Professional Standards Unit.

Recommendation 42

That the NSW Government consider changes to require the NSW Police Force and the Courts to record where the victim of an offence is an emergency services worker, so that all sentencing statistics that relate to violence against emergency services personnel are clearly identifiable.

Further consideration required

The Government agrees that there may be merit in capturing better data to increase the level of public oversight of sentences imposed for violence against emergency services personnel. However, there are various challenges in achieving this through sentencing statistics. These include:

- Accurately capturing this information is more complex than domestic violence offences having regard to the various categories of emergency services personnel and the different types of offences committed

- Legislation may be required to support the collection of appropriate data.

It is not clear that categorising sentencing statistics in this way will lead to better information for the public, and the benefits of implementing this recommendation may not be justified given the potential costs.

However, recognising that better information is desirable, data can be, and currently is, collected by the NSW Police Force. The NSW Police Force captures these statistics through the current configuration of the CoPS system which allows the recording of incidents against police and ambulance officers as specific categories. Violence against other emergency services personnel (e.g. fire and rescue) may also be recorded in CoPS, however, there is currently no specific category/field to distinguish these incidents. The NSW Police Force will consider the most appropriate method of recording this additional information in CoPS.

Recommendation 43

That the NSW Government consider additional funding so that a greater number of judgments of the Local and District Courts of NSW can be transcribed and published on the NSW Caselaw website.

Further consideration required

The Department of Justice operates a state wide court reporting and transcription service for courts, tribunals and related boards. As sole provider of transcript services, there are resource constraints and as such transcript requests must be prioritised to meet daily demands. Normally only parties to proceedings will receive copies of court transcripts and or judgements.

At present, almost 100 per cent of NSW Supreme Court matters (civil and criminal) are transcribed. It is at the discretion of the individual judge whether those judgments are published to the Caselaw website.

In the NSW District Court, judgments are transcribed either on demand or due to policy. For example, where a sentence of imprisonment over three years has been imposed by the court, the judgment will automatically be transcribed. As with the NSW Supreme Court, the decision whether to publish a particular decision is at the discretion of the individual judge.

The Local Court currently operates as a highly efficient summary hearings court which deals with a large volume of less serious criminal and civil matters. In light of this volume, only a small proportion of hearings and judgments are transcribed. A small selection of decisions are published, where they provide interpretations of legislation and legal principles relevant to criminal, civil and other matters determined in the Local Court.

Individuals wishing to find out whether a particular decision will become available can make enquiries with the appropriate court registry.

The Department of Justice will consider whether there is scope to increase the number of District and Local Court transcripts that are created and published online, noting that any increase will require additional resources.

Recommendation 44
That the NSW Attorney General consider asking the NSW Sentencing Council to conduct a further review of the sentencing power of the NSW Local Court.

Further consideration required

The NSW Government considers that further examination of the sentencing powers of the NSW Local Court would be beneficial.

It is noted that any increase in the sentencing jurisdiction of the NSW Local Court may have a broad impact across the criminal justice system.

The NSW Attorney General will give further consideration to the scope of the review, and who is best placed to conduct that review.

Recommendation 45
That the NSW Government consider changes so that all existing offences for violence against emergency services personnel are dealt with under the Crimes Act 1900.

Further consideration required

The Department of Justice will consult with relevant stakeholders about moving all existing offences for violence against emergency services personnel into the *Crimes Act 1900* (Crimes Act).

As a general rule, indictable criminal offences should be located in the *Crimes Act 1900* (the Crimes Act), and summary criminal offences should be located in the *Summary Offences Act 1988*, however there are many exceptions to this general rule.

The consultation will also have regard to the nature of the existing assault provisions in the Crimes Act. If a person uses violence against an emergency services worker, the existing assault offences in the Crimes Act would apply. These assault provisions attract higher penalties than the existing violence against emergency services personnel offences. In addition, section 21A of the *Crimes (Sentencing Procedure) Act 1999* provides that it is an aggravating factor, which the court is to take into account when sentencing an offender, if the victim is a health worker or an emergency services worker.

Recommendation 46
That the NSW Government amend the Crimes (Sentencing Procedure) Act 1999 to clarify that hospital emergency department security staff are covered by provisions that state it is an aggravating factor in determining sentence if the offence has been committed against a 'health worker'.

Supported

Hospital security staff, and other health support staff, provide an important role in protecting staff and patients from acts of violence and on occasion can be harmed or assaulted while performing this role.

The *Crimes (Sentencing Procedure) Act 1999* currently lists 22 aggravating and 13 mitigating factors that courts must take into account when formulating an appropriate sentence. The Act already enables a court to consider a victim's vulnerability because of the victim's occupation as an aggravating factor in sentencing. Case law indicates this provision would likely enable courts to consider violence against hospital emergency department security staff as an aggravating factor in sentencing; however this is not beyond doubt.

The Department of Justice will progress an amendment to the Act to clarify that hospital security staff (which would include emergency department security staff, and other health support staff would be covered by provisions within the Act. The proposed amendment would clarify that courts may

consider violence against hospital security staff (which would include emergency department security staff) as an aggravating factor when determining an appropriate sentence. This amendment recognises that security and other health support staff often work across wards within hospitals and that violence against these staff is not confined to hospital emergency departments or to health practitioners.

Recommendation 47

That the NSW Government consider introducing legislation to allow mandatory disease testing of people whose bodily fluids come into contact with police and emergency services personnel, in consultation with all affected stakeholders.

Supported

The NSW Government will convene a cross–agency working group to draft an options paper, requesting submissions by mid-2018.

The options paper will canvass the legal, ethical, operational and financial issues involved in the implementation of a mandatory disease testing regime.

The Government will consider submissions from key stakeholders before proceeding to implement reform in this area.