
New South Wales Auditor-General's Report

Financial Audit

Volume Seven 2012

Focusing on Law, Order and
Emergency Services



The role of the Auditor-General

The roles and responsibilities of the Auditor-General, and hence the Audit Office, are set out in the *Public Finance and Audit Act 1983*.

Our major responsibility is to conduct financial or 'attest' audits of State public sector agencies' financial statements. We also audit the Total State Sector Accounts, a consolidation of all agencies' accounts.

Financial audits are designed to add credibility to financial statements, enhancing their value to end-users. Also, the existence of such audits provides a constant stimulus to agencies to ensure sound financial management.

Following a financial audit the Office issues a variety of reports to agencies and reports periodically to parliament. In combination these reports give opinions on the truth and fairness of financial statements, and comment on agency compliance with certain laws, regulations and Government directives. They may comment on financial prudence, probity and waste, and recommend operational improvements.

We also conduct performance audits. These examine whether an agency is carrying out its activities effectively and doing so economically and efficiently and in compliance with relevant laws. Audits may cover all or parts of an agency's operations, or consider particular issues across a number of agencies.

Performance audits are reported separately, with all other audits included in one of the regular volumes of the Auditor-General's Reports to Parliament – Financial Audits.

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Pursuant to the *Public Finance and Audit Act 1983*,
I present Volume Seven of my 2012 report.

A handwritten signature in black ink that reads 'Peter Achterstraat'.

Peter Achterstraat
Auditor-General
21 November 2012

Contents

| | |
|---|-----------|
| Significant Items | 2 |
| Recommendations | 5 |
| Section One - Overview | |
| Emergency Services Overview | 8 |
| Law and Order Overview | 13 |
| Section Two - Special Review | |
| 2012 Fraud Survey | 30 |
| Section Three - Agencies with Individual Comment | |
| Attorney General | 50 |
| Department of Attorney General and Justice | 50 |
| Legal Aid Commission of New South Wales | 60 |
| NSW Trustee and Guardian | 66 |
| Office of the Director of Public Prosecutions | 72 |
| Minister for Police and Emergency Services | 77 |
| Fire and Rescue New South Wales | 77 |
| New South Wales Rural Fire Service | 83 |
| NSW Police Force | 88 |
| Minister for Regional Infrastructure and Services | 94 |
| Riverina Citrus | 94 |
| Appendix - Agencies not commented on in this volume, by minister | 95 |
| Index | 97 |

Significant Items

This summary shows the most significant issues identified during my audits.

Page

Emergency Services Overview

| | |
|--|---|
| The 2011-12 bush fire season was one of the most dormant in many years | 9 |
| \$216 million of natural disaster expenditure has been recouped from State and Australian Governments over the past five years | 9 |

Law and Order Overview

| | |
|--|----|
| The Department of Attorney General and Justice cannot provide information on the costs and expected savings associated with the integration of its divisions | 14 |
| Current efforts to reduce the backlog in victims compensation claims are failing | 14 |
| The backlog of victims compensation claims has tripled since 2006 to 21,946 claims | 15 |
| It now takes 31 months to process a victim's compensation claim, last year it took 25 months | 15 |
| \$1.6 billion has been paid to victims of crime since 1989. Only \$57.4 million was recovered from offenders | 16 |
| The Police Death and Disability Scheme paid 526 partial and permanent incapacity claims in 2011-12, amounting to \$221 million | 16 |
| Between 1995 and 2010, the number of remand prisoners more than tripled | 24 |
| In 2010, more than 500 adults and almost 100 young people on remand were found not guilty of any offence | 24 |
| The average daily cost of \$765 per juvenile in custody does not include education or health costs, which would make the costs much higher | 27 |

2012 Fraud Survey

| | |
|--|----|
| I am concerned some agencies 'tick the box' and put their commitment to fraud control in the bottom drawer | 31 |
| Fraud inherently involves deception and concealment resulting in potentially many frauds never being detected | 31 |
| The total number and value of frauds are higher in 2011-12 than they were two years ago | 32 |
| Forty-eight per cent of agencies identified a fraud in the three year period, with 17 per cent identifying ten or more frauds | 32 |
| Eighteen frauds, costing agencies more than \$100,000 each, were identified across 12 agencies during the three year survey period | 33 |
| Procurement is the top fraud risk in the NSW public sector | 34 |
| Frauds identified in outsourced functions and contracted non-government organisations are increasing | 35 |
| Agencies are at greater risk of fraud from their own employees than from external perpetrators | 37 |
| Twenty-five per cent of frauds occurred because internal perpetrators did not think they would get caught | 38 |

| | |
|--|----|
| Twenty-three per cent of frauds occurred because internal controls or processes were not followed | 38 |
| Agency measures to control fraud are improving over time | 40 |
| Agencies should focus on improving fraud prevention measures | 41 |
| Twenty-seven per cent of agencies did not revise their fraud risk assessments after major changes to structures or functions | 41 |
| Twenty-four per cent of agencies had not identified high fraud risk functions in their agencies | 41 |
| Twenty-one per cent of fraud control plans were not updated after fraud risk assessments were revised | 42 |
| Twenty-one per cent of agencies have never provided fraud awareness training to employees | 42 |
| Fifty-three per cent of agencies do not provide fraud awareness training to contractors | 42 |
| Sixty-three per cent of agencies do not require staff to reconfirm secondary employment requests at least once every two years | 43 |
| Seventy-five per cent of agencies do not require staff to complete a conflicts of interest declaration annually | 43 |
| Eighty per cent of agencies do not require staff to certify they understand and commit to the code of conduct annually | 43 |
| Eleven per cent of agencies do not validate qualifications and employment history of applicants before appointment | 43 |
| Forty-five per cent of agencies do not require staff to take two weeks continuous leave each year | 44 |
| I believe there is merit in establishing a fraud control policy framework for NSW public sector agencies | 46 |
| Department of Attorney General and Justice | |
| Prisoner escapes from open facilities increased from two in 2009-10 to 22 in 2010-11 | 50 |
| Around 30 per cent of targeted drug tests of prisoners were positive | 53 |
| Legal Aid Commission of New South Wales | |
| There has been a 51.5 per cent increase in immigration services over the last three years | 61 |
| NSW Trustee and Guardian | |
| The extent and nature of internal control deficiencies, which continue to be identified, is concerning due to the potential risks to client assets | 66 |
| The customer satisfaction index for Financial Management clients has decreased by 9.1 per cent to 60 per cent | 68 |
| Fire and Rescue New South Wales | |
| Fire and Rescue operations cost \$646 million | 77 |
| The Death and Disability Scheme liability increased by 78 per cent from \$41.5 million in 2010-11 to \$73.8 million in 2011-12 | 77 |
| Fire and Rescue responded to 11,146 non-fire rescue calls throughout the State in 2011-12 | 79 |

New South Wales Rural Fire Service

| | |
|---|----|
| The 2011-12 bush fire season was one of the wettest on record, which reduced the incidence of bushfires | 84 |
|---|----|

NSW Police Force

| | |
|---|----|
| The Death and Disability Scheme's lump sum benefit payout was replaced with an income protection scheme capped at 75 per cent of an employee's salary for a maximum of five years | 88 |
|---|----|

Recommendations

This summary shows my more significant recommendations to agencies to address issues I identified during my audits.

Page

Emergency Services Overview

I again recommend those emergency service agencies that do not have comprehensive volunteer workforce management plans continue to develop and implement strategies to ensure they have the right volunteer resources. 10

Law and Order Overview

I again recommend the Department of Attorney General and Justice continues integrating policies, operations and systems between its divisions. On completion, an analysis of the costs and benefits of the integration should be undertaken. 13

I again recommend the Department pursue initiatives to address the backlog of victims compensation claims, which now represent more than four years of claims and have more than tripled since 2006. Such initiatives will need to take account of the findings of the independent assessment of the scheme. 14

The Department should undertake an independent review of the management of its LifeLink IT project. Learnings from this review should be used to improve its management of future IT projects. 17

The Department needs to consider how it can reduce the costs of juvenile detention. 27

The Department should review internal controls weaknesses over procurement in Juvenile Justice NSW and ascertain whether a wider review is necessary for the Department as a whole. 28

2012 Fraud Survey

Agencies should reconsider their procurement structures, processes and people with reference to and in light of findings in the ICAC publication 'Corruption Risks in NSW Government Procurement - The Management Challenge', December 2011. 34

Agencies with outsourced functions or those which have engaged non-government organisations should ensure fraud risks are being managed as well as they would have been had the agency not chosen an outsourced arrangement. 35

Agencies should evaluate their fraud control measures against my 2012 survey findings and satisfy their respective audit and risk committees that they have responded appropriately. 41

The NSW Government should appoint a lead agency to develop a fraud control policy framework for the NSW public sector that: 46

- explicitly states the government's commitment to fraud control
- clearly articulates the government's expectations of agencies to develop and implement fraud control measures
- assigns responsibilities to key agencies to develop policy, share knowledge, and monitor and report results.

Department of Attorney General and Justice

Corrective Services NSW should continue its efforts to reduce overtime and continuously reassess the effectiveness of its policies and management of overtime. 57

Legal Aid Commission of New South Wales

The Commission should establish and adhere to a timetable to implement an appropriate time costing system that meets section 12 of the *Legal Aid Commission Act 1979* requirements. 60

Once a suitable time costing system is in place, the Commission should assess whether: 60

- Commonwealth funding is sufficient to cover the cost of providing immigration services, including to asylum seekers
- whether providing these services impacts the Commission's ability to deliver services on other programs.

The Commission should ensure sufficient internal audit work is performed each year to give those in governance positions confidence in the system of internal controls. Internal audits should align with and focus on the Commission's risks as identified in the risk register. 61

The Commission should continue its efforts to reduce excess annual leave balances. 63

NSW Trustee and Guardian

NSW Trustee and Guardian should continue to promptly action all internal audit recommendations within a timeframe agreed with the audit and risk committee. 66

Office of the Director of Public Prosecutions

The Office should reduce excessive employee flex leave balances. 74

Fire and Rescue New South Wales

I again recommend Fire and Rescue continues to implement its planned workplace reforms to address the challenges of managing its workforce. 78

NSW Police Force

The Force, the State Property Authority and the private sector property management service provider should continue to work together to resolve current property management issues and support the implementation of a new property management model going forward. 91

Section One

Overview

Emergency Services Overview

Law and Order Overview

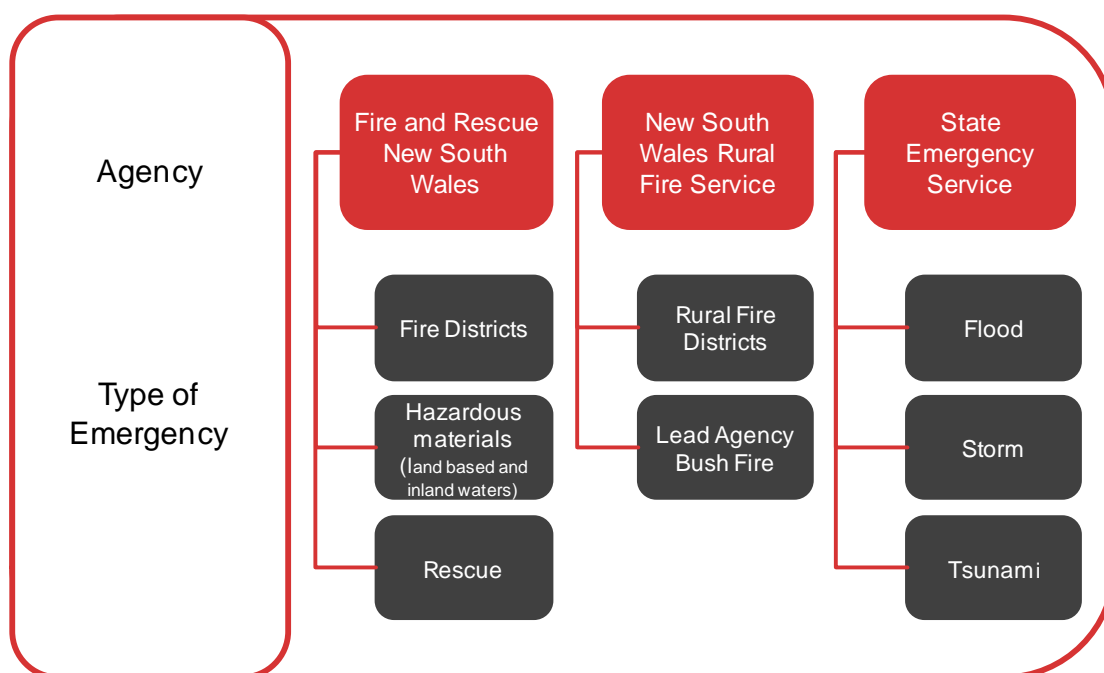


Emergency Services Overview

Emergency Services Agencies

The State Disaster Plan (Displan) describes an emergency as an actual or imminent event that poses a threat to the safety or health of persons or animals, or to property. Emergencies include naturally occurring and man-made events that require significant and coordinated responses.

Displan identifies the NSW Government agencies with responsibilities for responding to emergencies. The following table outlines some key emergency service agencies and their responsibilities.



Audit Opinions

I issued unqualified audit opinions on Fire and Rescue New South Wales' and Rural Fire Service's 30 June 2012 financial statements.

The State Emergency Service audit is ongoing.

Other Information

Funding Arrangements

The proportion and amount of funding provided by contributors was:

| Year ended 30 June | 2012 \$m | 2011 \$m |
|--|-------------|-------------|
| Provider | | |
| Insurance industry | 710 | 672 |
| Local government councils | 109 | 106 |
| State government grants/appropriations | 119 | 180 |
| Total | 938 | 958 |

Source: Fire and Rescue New South Wales (audited), New South Wales Rural Fire Service (audited) and State Emergency Service (unaudited).

The total contribution is determined by the Minister for Police and Emergency Services and is subject to the Treasurer's agreement. Total contributions are based on the agencies' estimated expenditure.

Funding does not cover costs incurred by the agencies relating to natural disasters. Most of these costs are reimbursed through relief arrangements between the State and Australian Governments. This is discussed below.

Natural Disasters

The following natural disasters were declared:

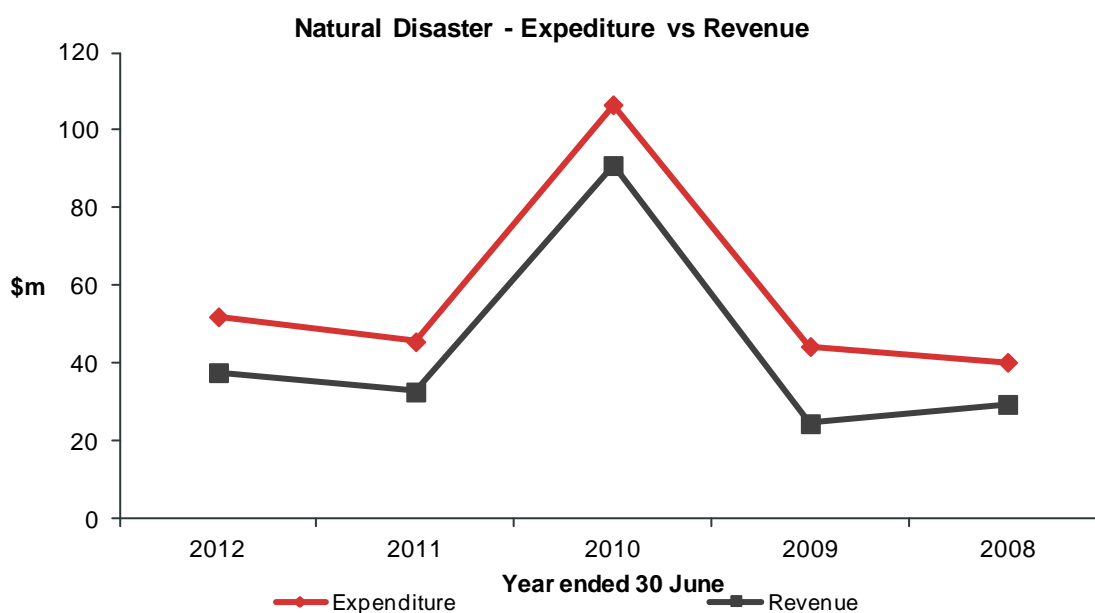
| Year ended 30 June | No. of Declarations | | No. of local government areas (LGA) affected | |
|--------------------|---------------------|----------|--|------------|
| | 2012 | 2011 | 2012 | 2011 |
| Bushfires | -- | -- | -- | -- |
| Flood and storm | 1 | 2 | 2 | 45 |
| Floods | 3 | 5 | 95 | 83 |
| Storms | 1 | 1 | 8 | 9 |
| Dust storm | -- | -- | -- | -- |
| Total | 5 | 8 | 105 | 137 |

Source: Ministry of Police and Emergency Services (unaudited). Note if a LGA was declared twice during the year, the LGA was only reported once in the table above.

There were fewer individual flood events in 2011-12, but the impact affected more local government areas. Conversely, the 2011-12 bush fire season was one of the most dormant in many years with no bush fire natural disaster declarations.

Natural disasters are declared when damage to public assets and associated disaster recovery costs exceed \$240,000 in any one local government area. The declaration of a natural disaster allows the emergency service agencies to recover costs incurred on the natural disaster from the Crown Entity. These costs are then recovered from the Australian Government.

Over the last five years, emergency service agencies have spent \$289 million on natural disaster events and recouped \$216 million from the State and Australian Governments. This can be seen in the below graph.



Source: Fire and Rescue New South Wales (audited), New South Wales Rural Fire Service (audited) and State Emergency Service (unaudited).

The 2011-12 bush fire season was one of the most dormant in many years

\$216 million of natural disaster expenditure has been recouped from State and Australian Governments over the past five years

Natural disaster expenses and revenue have been trending upwards, with a spike in 2009-10 relating to a particularly severe bushfire season in New South Wales.

In total, the emergency service agencies incurred costs of \$52.1 million in 2011-12 (\$45.7 million in 2010-11) on natural disasters. The \$6.4 million increase was primarily a result of flood events impacting many local government areas in 2011-12.

Staffing and Volunteering Arrangements (Repeat Issue)

Recommendation

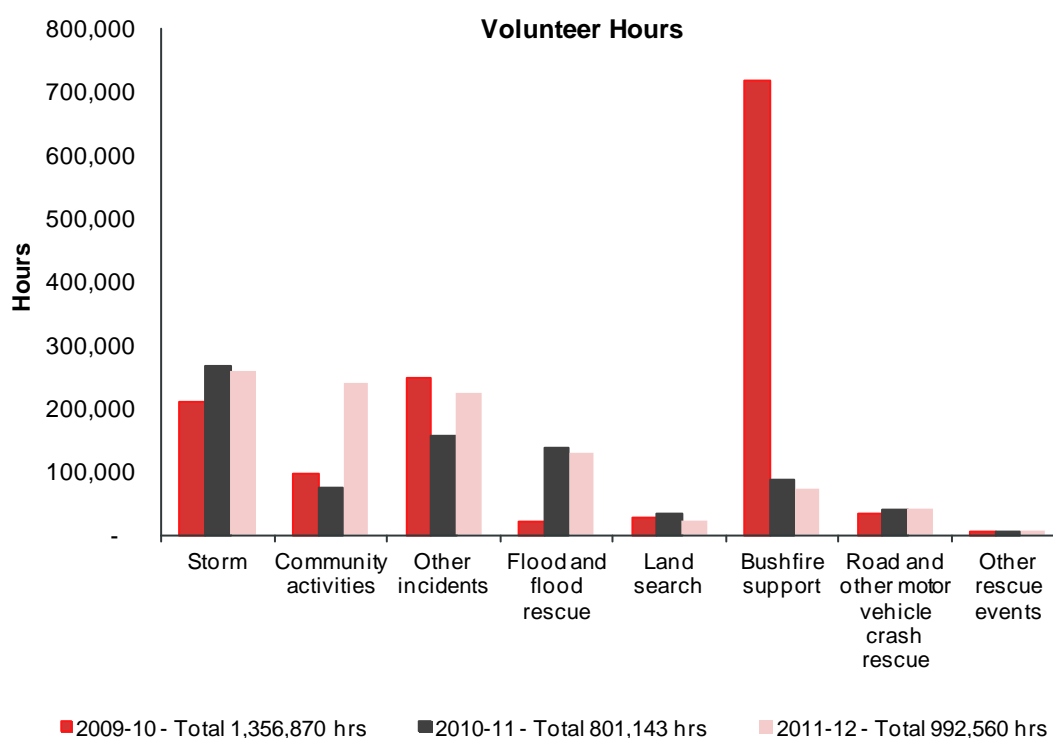
I again recommend those emergency service agencies that do not have comprehensive volunteer workforce management plans continue to develop and implement strategies to ensure they have the right volunteer resources.

The agencies use a range of people to achieve their objectives as shown below.

| Year ended 30 June | Full-time | | Retained (part-time) | | Volunteers | |
|-------------------------|-----------|-------|----------------------|-------|------------|--------|
| | 2012 | 2011 | 2012 | 2011 | 2012 | 2011 |
| Fire and Rescue NSW | 3,918 | 3,930 | 3,323 | 3,383 | 7,000 | 7,140 |
| NSW Rural Fire Service | 908 | 920 | -- | -- | 70,246 | 70,448 |
| State Emergency Service | 246 | 251 | -- | -- | 8,362 | 10,828 |

Source: Fire and Rescue New South Wales, New South Wales Rural Fire Service and State Emergency Service (unaudited).

Volunteers are a key resource, but some emergency service agencies do not currently have detailed volunteer workforce plans in place. Without effective plans to manage their volunteer bases, the agencies risk not having the appropriate resources to achieve their objectives. To combat the volunteer retention issues, the State Emergency Service is currently undertaking joint research with the University of Wollongong on volunteer recruitment and retention.



Source: Fire and Rescue New South Wales, New South Wales Rural Fire Service and State Emergency Service (unaudited).

Note: Community activities volunteers' hours increased significantly in 2011-12, as these now include hours for New South Wales Rural Fire Service not previously available for reporting.

Overall volunteer hours decreased by 27 per cent since 2009-10, primarily due to the decline in natural disaster events declared in 2011-12. The services face challenges recruiting and maintaining volunteers because of the ageing population, changes in work patterns with increased shift work and people moving to larger centres, all of which deter people from volunteering.

Other Emergency Services Entities

A range of other entities are involved in ensuring coordinated and effective emergency services in New South Wales. High level information on these entities appears below. For further information, refer to www.emergency.nsw.gov.au.

Ministry for Police and Emergency Services

The Ministry for Police and Emergency Services brings together the functions of the former Security and Recovery Coordination Branch and Law Enforcement Policy Branch of the Department of Premier and Cabinet, the Disaster Welfare section, the Department of Human Services, Ministerial Liaison Unit of the NSW Police Force and Emergency Management NSW.

The Ministry's role is wide ranging, spanning policy development, ministerial support, operational coordination, crisis management, grants administration, delivery of training and control of several websites and public communications platforms.

Throughout 2011-12, the Ministry was responsible for providing Disaster Welfare and Recovery Services to disaster affected communities following widespread flooding in New South Wales in early 2012. The Ministry was also accountable for the centralised billing and collection of funding contributions on behalf of Fire and Rescue New South Wales, New South Wales Rural Fire Service and State Emergency Service.

State Emergency Management Committee

The State Emergency Management Committee was established under the *State Emergency and Rescue Management Act 1989* to ensure New South Wales has a system to cope with the range of emergencies it experiences. Its functions include:

- continually reviewing the effectiveness of the State Disaster Plan and related plans
- advising the minister on changes to these plans
- creating and distributing educational material on managing emergencies planning for the emergency management aspects of terrorist threats and critical infrastructure.

State Rescue Board

The *State Emergency and Rescue Management Act 1989* provides for the establishment of the State Rescue Board of New South Wales with a structure and system to manage rescue at State, district and local levels.

The principal function of the Board is to ensure the maintenance of efficient and effective rescue services throughout New South Wales.

Bush Fire Coordinating Committee

The Bush Fire Coordinating Committee provides a forum through which a broad cross-section of government and non-government organisations with an interest in the prevention, mitigation and suppression of bushfires can come together to develop and progress policies and procedures aimed at ensuring a coordinated, agreed approach to major issues.

The Committee has key responsibilities under the *Rural Fires Act 1997*, which encompass the following responsibilities:

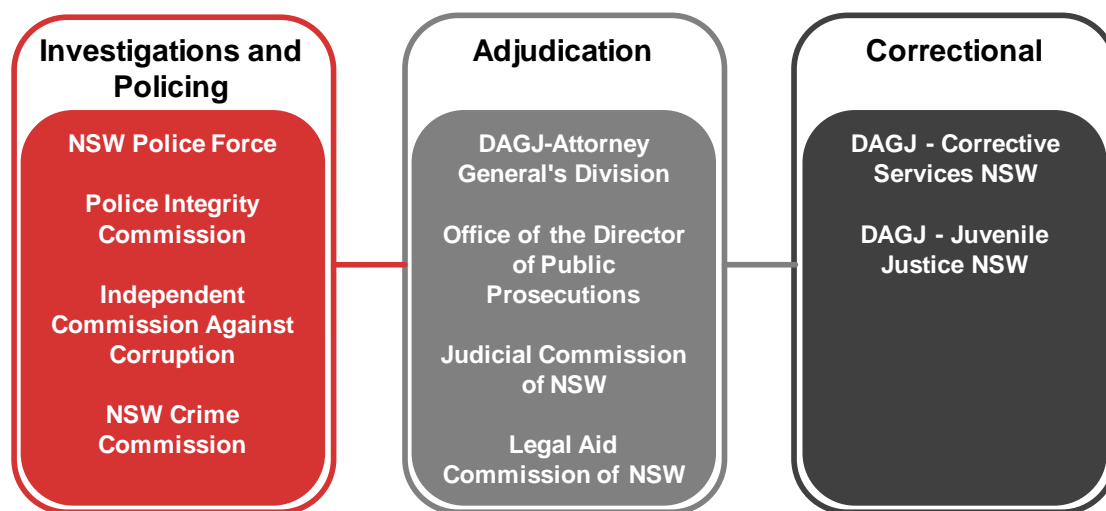
- planning for bush fire prevention and coordinated bush fire fighting
- advising the Commissioner on bush fire prevention, mitigation and coordinated bush fire suppression.

Law and Order Overview

Law and Order Services

The following government agencies provide, facilitate and regulate the State's law and order services. The operations of these agencies are interrelated and initiatives in one agency can have significant flow on effects for the other agencies. For example, increased policing and investigative activities increase case loads in the court system, which in turn increase the number of offenders managed by the corrective system.

The following table outlines some key law and order services agencies and their responsibilities. The Department of Attorney General and Justice includes Attorney General's Division, Corrective Services NSW and Juvenile Justice NSW.



Note: DAGJ is short for Department of Attorney General and Justice.

Audit Opinions

I issued unqualified audit opinions on the above agencies' 30 June 2012 financial statements.

Key Issues

Integration of Policies, Operations and Systems between the Divisions (Repeat Issue)

Recommendation

I again recommend the Department of Attorney General and Justice continues integrating policies, operations and systems between its divisions. On completion, an analysis of the costs and benefits of the integration should be undertaken.

The Department advised the integration of corporate systems, and movement towards best practice, will be addressed through the Justice Shared Corporate Services Reforms program.

As part of the integration process, the Department appointed a Chief Financial Officer during the year and progressed its drive to bring consistency to the financial reporting process by:

- setting up of a departmental financial management and governance framework
- creating a single departmental accounting policy manual
- progressing functional alignment across divisions
- continuing to ensure consistency of internal financial control and management processes
- conducting internal audit and benchmarking reviews.

The Department of Attorney General and Justice cannot provide information on the costs and expected savings associated with the integration of its divisions

Presently, the finance functions of each division are maintained on separate systems, they report separately and have separate audit and risk committees and internal audit functions.

The Department intends to consolidate the internal audit and risk management functions. In the interim, its existing governance structures broadly achieve the requirements of TPP 09-05 'Internal Audit and Risk Management Policy for the NSW Public Sector'. Information and practices are shared between the separate systems so policies and operations are progressively harmonised to enable eventual integration. The Department advises it will continue to leverage on best practices across the three divisions and implement its transformational reforms to harness the synergies and benefits of amalgamation.

However, the Department cannot provide information on additional costs associated with the integration of its divisions, or the expected savings.

The Department advises it has submitted a detailed business case for shared corporate services reform in the Attorney General and Justice cluster to Treasury for consideration of funding. The Department also advises that, if approved, the reform program will include a detailed analysis of finance processes and systems that will lead to the implementation of a consolidated finance solution in the Department.

Victims Compensation (Repeat Issue)

Recommendation

I again recommend the Department pursue initiatives to address the backlog of victims compensation claims, which now represent more than four years of claims and have more than tripled since 2006. Such initiatives will need to take account of the findings of the independent assessment of the scheme.

Current efforts to reduce the backlog in victims compensation claims are failing

For the last three years, I have recommended the Department pursue initiatives to ensure the backlog of victims compensation claims is processed in a reasonable timeframe.

On 11 August 2011, the NSW Attorney General announced an independent assessment of the Victims Compensation Scheme with a view to delivering faster and more effective financial support to victims of violent crimes. The scope of the assessment covers:

- examining the long-term viability of the Victims Compensation Fund ('the Fund')
- analysing and evaluating the statutory compensation Scheme
- examining strategies and options for service provision to victims of violent crime.

The Department advises the Fund will be actuarially assessed as part of the overall assessment.

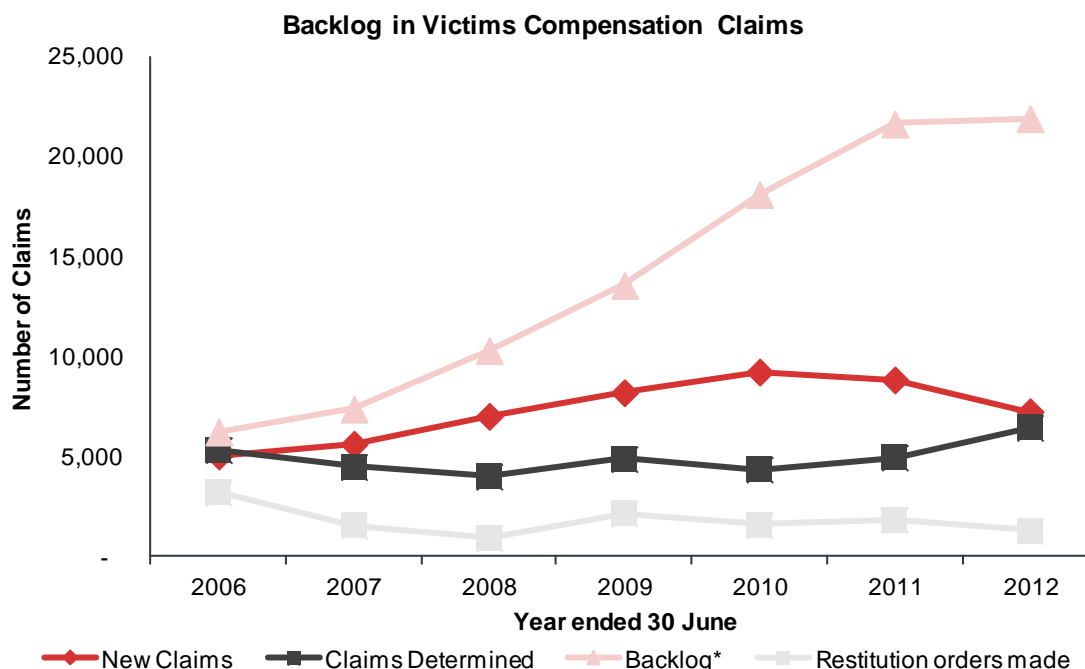
At the date of this report, the independent assessment was not finalised.

The backlog of victims compensation claims has tripled since 2006 to 21,946 claims

It now takes 31 months to process a victim's compensation claim, last year it took 25 months

Claims Backlog

The Department had 21,946 pending claims for victims compensation at 30 June 2012 (21,646 at 30 June 2011), which it estimates will result in payments of \$225 million (\$239 million), or an average payment per claim of \$10,284 (\$11,041). Based on the number of claims determined during 2011-12, this backlog represents more than four years of claims and has more than tripled since 30 June 2006, as shown in the graph below:



Source: The Department of Attorney General and Justice (unaudited).

* At 30 June.

Current efforts to reduce the backlog in victims compensation claims are failing. The number of new claims in 2011-12 decreased to 7,263 (8,854 in 2010-11) but remains higher than the number of claims finalised during the year, adding to the backlog. The number of claims determined and paid increased to 5,729 (4,973).

Over 68.1 per cent (60 per cent at 30 June 2011) of all outstanding claims are more than one year old. Two per cent are more than five years old, with the oldest outstanding claim dating back to July 1997.

The Department advises the average length of time to process a claim has increased to 31 months (25 months at 30 June 2011). Claims cannot be processed until all information is received from relevant parties or before other matters, such as workers' compensation proceedings or clients seeking adjournment, are resolved.

Recovery of monies from offenders

Victims of violent crime are entitled to compensation for injuries, even if the offender is unknown or not convicted. Where offenders are convicted, restitution orders can be raised against them to recover the compensation paid to victims.

Of \$310 million in restitution debts owing by offenders at 30 June 2012 (\$289 million at 30 June 2011), only \$19.7 million (\$18.8 million) is likely to be recovered.

Levies are collected from people convicted of crimes and paid into the scheme. Offenders not convicted of an offence that carries a jail term are now also required to pay the levy. The Department is developing proposals with the State Debt Recovery Office to improve collection of restitution debt.

\$1.6 billion has been paid to victims of crime since 1989. Only \$57.4 million was recovered from offenders

In 2010, the government announced further changes to the scheme. These included expanding support for victims of violent crime who are not eligible for compensation because their injuries do not reach the threshold for compensation. The number of support calls decreased to 62,023 in 2011-12 (63,201 in 2010-11).

Since the Victims Compensation Scheme started in 1989, \$1.6 billion has been paid to victims of crime. Over the same period, only \$57.4 million was recovered in restitution from convicted offenders.

| Year ended 30 June | 2012 | 2011 | 2010 | 2009 | 2008 |
|--|-------|-------|-------|-------|------|
| Compensation paid to victims (\$m) | 63.0 | 63.2 | 60.3 | 62.9 | 63.9 |
| Restitution recovered from convicted offenders (\$m) | 4.1 | 4.1 | 4.0 | 3.6 | 3.3 |
| Restitution recovered from convicted offenders (%) | 6.5 | 6.5 | 6.6 | 5.7 | 5.2 |
| Number of new restitution debts raised | 1,367 | 1,977 | 1,586 | 2,156 | 937 |
| Value of new debts raised (\$m) | 17.7 | 25.0 | 19.5 | 26.3 | 10.6 |
| Restitution debts written-off (\$m) | -- | 28.2* | 1.4 | 1.4 | 1.3 |

Source: The Department of Attorney General and Justice (unaudited).

* Significant increase in debt write-offs in 2010-11 due to Section 17 of the *Limitation Act 1969* which limits enforcement of judgement debts to 12 years from when the judgement becomes enforceable.

The collection of restitution debts is complex, as convicted offenders may have multiple debts and may be co-offenders. Continuing enhancements to the Victims Services CARES workflow database system, and its interface with the Department's financial system, are providing ongoing improvements to the financial information necessary to determine a debtor's compliance.

Police Death and Disability Scheme

On 3 November 2011, the Minister for Police announced the existing Police Death and Disability scheme was to be replaced with a new commercial insurance arrangement from 20 January 2012. Under this arrangement, the lump sum benefit payout was replaced with an income protection scheme capped at 75 per cent of the employee's salary for a maximum of five years.

The NSW Police Force paid a premium of \$80.2 million in 2011-12 and has budgeted for a premium of \$102 million in 2012-13. Of this, 1.8 per cent is funded by employees and the remainder by the NSW Police Force.

The scheme's liability, which is determined by an independent actuarial assessment, decreased by 79 per cent in 2011-12, mainly due to additional grants revenue of \$155 million for death and disability payments to finalise claims under the old scheme.

The number of partial and permanent incapacity claims paid in 2011-12 increased to 526 (415 in 2010-11), while the amount paid increased to \$221 million (\$165 million).

| Year ended 30 June | 2012 | 2011 | 2010 | 2009 |
|--|---------|---------|---------|---------|
| Death and disability liability (\$'000) | 60,700 | 284,000 | 190,200 | 147,300 |
| Total partial and permanent incapacity claim payments (\$'000) | 220,741 | 165,010 | 118,992 | 47,053 |
| Number of partial and permanent incapacity claims paid | 526 | 415 | 282 | 116 |
| Average claim size (\$) | 480,000 | 458,000 | 421,958 | 405,626 |

Source: Liability figures and average claim size are obtained from an actuary's report, remaining information obtained from NSW Police Force (audited).

The Police Death and Disability Scheme paid 526 partial and permanent incapacity claims in 2011-12, amounting to \$221 million

The NSW Police Force has established a 'Cost and Fairness Committee' comprising members from the Force and the Police Association to review the cost to the State and fairness to police officers of the new insurance arrangement. The Force advises the cost of the new insurance arrangement has not been prepared or presented to the minister yet, because the scheme is so new.

IT Project Management

Recommendation

The Department should undertake an independent review of the management of its LifeLink IT project. Learnings from this review should be used to improve its management of future IT projects.

The LifeLink project encountered significant delays and cost overruns. Significant problems were also experienced with the JusticeLink project and a component of a major IT project in Corrective Services NSW. The Department needs to assess what went wrong and improve management of its current and future projects.

LifeLink Project

The LifeLink project started in 2002-03 to replace the Registry of Births, Deaths and Marriage's paper-based LifeData system. As I reported last year, the project has been beset by problems. A total of \$3.5 million was written off during 2010-11 and, on 15 July 2011, the Department successfully recovered \$2.7 million from a judgment against the terminated contractor.

In 2012, the new contractor informed the Department it was unable to deliver the fixed-price contract within the agreed timeframes. It estimated an additional project cost of \$4.1 million with a delivery date up to 12 months beyond the original contract date. This was later revised down to \$1.7 million with a delivery date of November 2012. The contractor did not agree to a liquidated damages clause being inserted into the contract to mitigate the project risk.

As a result, the Department initially advised the project was likely to be terminated and \$10.5 million was written off in 2011-12, taking the total net write-off on this project to date to \$13.9 million.

The Department has subsequently advised that, after facilitated negotiations with the contractor, the project will now proceed to completion. The Department believes the contractor will deliver all LifeLink functionality to an accelerated schedule and within current financial constraints. Contractual details are being finalised and a revised contract will be in place soon. The Department will pay an additional \$750,000 to the contractor because of increased system complexity introduced over the last two years of the project. This also covers costs of the accelerated delivery schedule and an extension of the warranty period from three to six months. The current project completion date is scheduled for August 2013.

There appears to have been major shortcomings in the way this project has been conducted, and controls and governance over major IT projects need to be strengthened.

Offender Financials

Corrective Services NSW's internal audit unit raised concerns on the Offender Financials system IT project which is designed to account for receipts and disbursements of inmate money. The internal audit tested the effectiveness of the systems, controls and accountability over the project's planning, performance monitoring, expenditure, record keeping and business risk. It identified issues with the project's financial governance and, in October 2011, reported the project is expected to run about 28 per cent (or \$620,000) over budget.

The Department advises that management's response indicated the initial project budget was based on preliminary project estimates and did not factor in some complex technical aspects. The response also indicated the actual cost of the project was included within the overall ICT Remediation, Enhancement and Architectural Lifecycle (REAL) program, which remained on budget at 30 June 2012.

An internal audit report in October 2011 recommended the Department expand its project support capability to include a Department-wide Project Management Office (PMO). The PMO role would include both a reporting and oversight function. The report envisaged the PMO reassessing the existing commercial governance structure for projects currently underway to ensure potential issues with contracts are identified and escalated in a timely manner.

The Department advises that the Director, PMO position was filled in December 2011 and that it has engaged an external consulting firm to conduct a stocktake of the programs and projects across all three divisions. The purpose is to identify key projects with a view to better planning, management and alignment of the projects to the Department's and the NSW Government's strategic direction.

The Department also advises it is reviewing its governance and reporting structures, to provide the structural backbone to future implementation of a standardised project and program management framework.

Performance Information

NSW Police Force

Allocation of Police Officers

There is a shortfall between operational full-time equivalent (FTE) police officers and authorised positions in all regions.

| | Authorised FTE | Operational FTE | Difference between authorised and operational FTE | Total on restricted duties or absent |
|--|-------------------|--------------------|--|---|
| NSW Police Officers at 24 August 2012 | 16,016 | 15,073 | (943) | 344 |

Source: NSW Police Force (unaudited).

FTE: Full-time Equivalent

Of the 15,073 FTE operational officers, 344 were on permanent restricted duty, which means the effective shortfall is greater than 943 FTE. A restricted officer is available for operational work, but their work tasks are restricted to meet their individual circumstances.

Further details are in my comment on the NSW Police Force within this volume.

Rates of Crime

Data in the following sections on rates of crime, crime investigations and crime rejection came from the Australian Bureau of Statistics. The bureau acknowledges that not all crimes are reported to or recorded by the police in the various jurisdictions and this impacts comparability of recorded crime levels between states. For example, New South Wales may record some incidents as crimes that other jurisdictions may not.

The table compares trends in crime rates against people in New South Wales to national totals.

| Year ended 31 December | %* inc/(dec) since 2007 | 2011 | 2010 | 2009 | 2008 | 2007 |
|----------------------------|----------------------------|---------|---------|---------|---------|---------|
| Crime Numbers | | | | | | |
| NSW | | | | | | |
| Murder | (13.8) | 81 | 74 | 86 | 78 | 94 |
| Attempted murder | (1.7) | 59 | 42 | 50 | 65 | 60 |
| Manslaughter | (33.3) | 6 | 11 | 9 | 9 | 9 |
| Assault | (16.1) | 71,169 | 73,969 | 75,928 | 79,847 | 84,850 |
| Sexual assault | (11.6) | 6,001 | 6,436 | 7,210 | 7,140 | 6,787 |
| Kidnapping/abduction** | (9.1) | 408 | 329 | 384 | 539 | 449 |
| Robbery | (43.0) | 5,325 | 6,567 | 6,768 | 8,089 | 9,346 |
| Unlawful entry with intent | (20.5) | 67,410 | 68,652 | 70,693 | 80,433 | 84,761 |
| Motor vehicle theft | (30.3) | 18,446 | 19,409 | 22,400 | 25,654 | 26,481 |
| Other theft | (7.0) | 140,743 | 133,682 | 144,931 | 144,458 | 151,374 |
| National | | | | | | |
| Murder | (4.0) | 243 | 231 | 263 | 260 | 253 |
| Attempted murder | (26.1) | 181 | 196 | 237 | 231 | 245 |
| Manslaughter | (3.4) | 28 | 30 | 30 | 30 | 29 |
| Assault* | | | | | | |
| Sexual assault | (13.6) | 17,238 | 18,020 | 18,807 | 19,992 | 19,954 |
| Kidnapping/abduction** | (8.8) | 666 | 605 | 564 | 782 | 730 |
| Robbery | (24.3) | 13,617 | 14,602 | 15,238 | 16,508 | 17,988 |
| Unlawful entry with intent | (12.2) | 218,193 | 217,001 | 222,664 | 241,690 | 248,423 |
| Motor vehicle theft | (21.6) | 55,382 | 54,760 | 59,649 | 68,270 | 70,650 |
| Other theft | (0.9) | 487,573 | 462,204 | 478,807 | 496,697 | 492,222 |

Source: Australian Bureau of Statistics (unaudited).

* Data on assaults not available for national.

** Kidnapping/abduction statistics for New South Wales include 'deprivation of liberty' offences, which are not included for other jurisdictions. Management also advises that New South Wales encourages the reporting of all incidents, even if no investigation takes place. This information is used for intelligence purposes.

Since 2007, the downward percentage trend in the majority of crime categories is better in New South Wales than the downward trend in the national figures.

Crime Investigations

Police effectiveness in crime investigations is measured by the proportion of investigations finalised within 30 days of the offence becoming known. Analysis of the NSW Police Force's performance in this area is illustrated in the following table.

| Year ended 31 December | % of investigations finalised in 30 days | | | | % of investigations finalised in 30 days involving proceedings against offenders | | | |
|-------------------------------|---|---------------------|-----------------|-----------------|--|---------------------|-----------------|-----------------|
| | NSW | National average | NSW ranking* | NSW ranking* | NSW | National average | NSW ranking* | NSW ranking* |
| | 2011 | 2011 | 2011 | 2010 | 2011 | 2011 | 2011 | 2010 |
| Homicide | 61.4 | 68.0 | 6/6 | 4/6 | 93.3 | 98.9 | 6/6 | 1/6 |
| Robbery | 27.1 | 38.2 | 7/8 | 7/8 | 81.1 | 85.1 | 7/8 | 6/8 |
| Unlawful entry with intent | 6.7 | 11.8 | 7/8 | 7/8 | 99.0 | 86.6 | 1/8 | 8/8 |
| Motor vehicle theft | 7.0 | 16.1 | 7/8 | 7/8 | 84.5 | 81.1 | 4/8 | 8/8 |
| Other theft | 13.0 | 18.0 | 6/8 | 7/8 | 84.4 | 77.6 | 4/8 | 7/8 |

Source: Australian Bureau of Statistics (unaudited).

* Information not available for all States/Territories for all categories. The rankings range from one to eight (highest to lowest).

Overall clearance rates in New South Wales remain well below national averages. The Force advises that recording practices are not consistent across State and Territory police forces. The rankings are impacted by New South Wales being more likely to record incidents, even when there is no evidence available for investigation.

Crime Rejection

The NSW Police Force records the status of incidents as either accepted or rejected. An incident may only be rejected when there is evidence it did not occur. The Force advises its local area commands actively monitor rejection rates for most categories of crime. The Force's Performance Improvement and Planning Division continually performs quarterly reviews, where rejection rates exceed five per cent across the local area commands.

The table below shows the crime categories where rejection rates are equal to, or greater than, five per cent for the year ended 30 June 2012.

| Year ended 30 June Crime Categories | 2012 | | | 2011 | | |
|--|--------------------|--------------------------|-------------------------------|--------------------|--------------------------|-------------------------------|
| | Crimes rejected | Total crimes reported | Percentage rejected (%) | Crimes rejected | Total crimes reported | Percentage rejected (%) |
| Robbery | 310 | 4,712 | 6.6 | 375 | 5,490 | 6.8 |
| Stolen vehicle | 1,184 | 21,457 | 5.5 | 1,087 | 21,870 | 5.0 |

Source: NSW Police Force (unaudited).

Despite a fall in the total crimes reported, the percentage of crimes rejected for stolen vehicles increased and robbery remained fairly constant.

Court Processes

Court Clearance Rates

Clearance rates for the NSW Supreme Court's civil jurisdiction for the year ended 30 June 2011 have declined, with a clearance rate of 89 per cent (122 per cent for the year ended 30 June 2010), the lowest of all States and Territories except Victoria. The Department advises this was due to technical difficulties in closing inactive cases, which has since been resolved. The Supreme Court's criminal jurisdiction also failed to clear its backlog. Only the Local criminal courts have cleared some of their backlog with a clearance rate of 101 per cent (97 per cent).

The backlog of cases is deteriorating for both civil and criminal matters in NSW District Courts. The NSW Local Court clearance rate is the lowest for civil matters compared to all other States and Territories.

A clearance rate above 100 per cent indicates a court has finalised more cases than it received during the reporting period.

| Year ended 30 June 2011 | Clearance Rate | | | | | | | |
|--------------------------|----------------|-------|-------|------|------|-------|-------|------|
| | NSW % | Vic % | Qld % | WA % | SA % | Tas % | ACT % | NT % |
| Criminal | | | | | | | | |
| Local/Magistrates courts | 101 | 107 | 104 | 106 | 107 | 98 | 99 | 99 |
| District/County courts | 96 | 104 | 96 | 119 | 108 | na | na | na |
| Supreme/Federal courts | 97 | 150 | 97 | 97 | 97 | 101 | 106 | 86 |
| Civil | | | | | | | | |
| Local/Magistrates courts | 92 | 100 | 110 | 102 | 102 | 100 | 98 | 99 |
| District/County courts | 96 | 86 | 94 | 94 | 105 | na | na | na |
| Supreme/Federal courts | 89 | 88 | 129 | 93 | 95 | 101 | 127 | 101 |

Source: Productivity Commission's Report on Government Services 2012 (unaudited).

na not applicable as there are no district/county courts in these areas.

Case Backlog

The backlog measures a court's pending case load against agreed time standards. An indicator of a backlog is the percentage of cases pending for more than twelve months.

In 2010-11, the NSW District Court ranked second in Australia for backlog of both criminal and civil non-appeal matters older than 12 months.

The civil non-appeal backlog in the NSW Supreme Court decreased from 29 per cent in 2009-10 to 26 per cent in 2010-11 and is the lowest percentage of pending cases compared to other States and Territories. The backlog of criminal matters for Local and District Courts has been significantly lower than most other States and Territories for the past few years.

The table below shows the percentage of non-appeal pending cases older than 12 months.

| Year ended 30 June 2011 | Backlog | | | | | | | |
|--------------------------|---------|-------|-------|------|------|-------|-------|------|
| | NSW % | Vic % | Qld % | WA % | SA % | Tas % | ACT % | NT % |
| Criminal | | | | | | | | |
| Local/Magistrates courts | 2 | 8 | 13 | 8 | 11 | 15 | 9 | 33 |
| District/County courts | 11 | 24 | 19 | 6 | 24 | na | na | na |
| Supreme/Federal courts | 15 | 33 | 17 | 6 | 13 | 17 | 47 | 7 |
| Civil | | | | | | | | |
| Local/Magistrates courts | na | 16 | 7 | 4 | 8 | 10 | 11 | 7 |
| District/County courts | 23 | 24 | 21 | 23 | 42 | na | na | na |
| Supreme/Federal courts | 26 | 29 | 33 | 34 | 29 | 33 | 52 | 37 |

Source: Productivity Commission's Report on Government Services 2012 (unaudited).

na not applicable.

Custody

Imprisonment and Community Offender Rates

The number of people and the length of offender sentences managed by Corrective Services NSW result from the activities of the NSW Police Force and sentencing authorities. Therefore, they are not performance measures of Corrective Services NSW, but drive some of its performance measures.

| Year ended 30 June | 2011 | | 2010 | | 2009 | |
|--|-------|----------|-------|----------|-------|----------|
| | NSW | National | NSW | National | NSW | National |
| Rate per 100,000 adult population | | | | | | |
| Imprisonment | 179 | 165 | 186 | 169 | 185 | 166 |
| Community corrections | 288 | 322 | 318 | 336 | 335 | 342 |
| Rate for Indigenous per 100,000 adult Indigenous population | | | | | | |
| Imprisonment | 2,321 | 2,242 | 2,455 | 2,325 | 2,391 | 2,212 |
| Community corrections | 3,249 | 3,241 | 3,358 | 3,345 | 3,532 | 3,350 |

Source: Productivity Commission's Report on Government Services 2012 (unaudited).

The table shows that in 2010-11, the NSW full-time imprisonment rate decreased by 3.8 per cent, while the NSW Indigenous imprisonment rate decreased by 5.5 per cent.

In the case of community corrections, the NSW rate decreased by 9.4 per cent, and 3.2 per cent for the Indigenous adult population in the same period.

The NSW Inmate Census 2011 reported 22.5 per cent (21.7 per cent at 30 June 2010) of the male prison population and 30.2 per cent (27.4 per cent) of the female prison population were Indigenous.

Corrective Services NSW is aiming to reduce the rate of Indigenous offending through programs including the Balund-a program. This is a community residential program for male and female offenders between 18 and 40 years of age available to all within the catchment area from Tweed, out to Armidale/Tamworth/Moree and south to Taree/Forster. Further details are available on the Corrective Services NSW website.

Rate of Prisoners Returning to Prison or Corrective Services

The table below shows the percentage of prisoners returning to prison and corrective services within two years of release. The State's rate of return to prison continues to be higher than the national average. However, the NSW rate of return to corrective services is consistent with the national average.

| Year ended 30 June | 2011 | | 2010 | | 2009 | |
|--|-------|-------------|-------|-------------|-------|-------------|
| | NSW % | National ** | NSW % | National ** | NSW % | National ** |
| Per cent of individuals returning to: | | | | | | |
| Prison | 43 | 40 | 42 | 38 | 43 | 39 |
| Corrective services* | 46 | 46 | 45 | 44 | 45 | 45 |

Source: Productivity Commission's Report on Government Services 2012 (unaudited).

* Includes prison sentence or a community corrections order.

** Australian Capital Territory not provided.

The risk factors for returning to prison or corrective services include criminal history, antisocial behaviour, family factors and social achievement.

Prisoner Costs

| Year ended 30 June Cost per prisoner per day | 2011 | | 2010 | | 2009 | |
|---|--------|-------------|--------|-------------|--------|-------------|
| | NSW \$ | National \$ | NSW \$ | National \$ | NSW \$ | National \$ |
| Open prisons* (including periodic detention) | 182 | 202 | 175 | 187 | 187 | 191 |
| Secure prisons* | 209 | 221 | 211 | 214 | 217 | 218 |
| All prisons | 199 | 216 | 198 | 207 | 206 | 210 |

Source: Productivity Commission's Report on Government Services 2012 (unaudited).

* Information not available for the Northern Territory.

The cost per prisoner per day for all prisons remained fairly constant at \$199 in 2010-11 and remains below the national average.

Prisoners in Custody Compared to Capacity of Correctional Centres

| At June | 2012* | 2012* | 2011** | 2011** |
|----------------------------|----------------------|-------------|----------------------|-------------|
| | Prisoners in custody | Capacity*** | Prisoners in custody | Capacity*** |
| Total correctional centres | 9,579 | 10,707 | 9,916 | 11,269 |

Source: Corrective Services NSW (unaudited).

* At midnight 24 June 2012.

** At midnight 26 June 2011.

*** Capacity figures are based on operational beds only and excludes units/wings not currently in operation.

The occupancy rate at 30 June 2012 was 89.5 per cent compared to 88 per cent the previous year. Corrective Services NSW aims for an optimum ten per cent vacancy level in bed occupancy.

Capacity has decreased due to the closure of Parramatta, Kirkconnell and Berrima Correctional Centres in October 2011.

Prisoners on Remand

On 8 June 2011, the Attorney General asked the NSW Law Reform Commission to review bail laws and develop a legislative framework to provide access to bail in appropriate cases.

On completion of the review in April 2012, the Commission reported the number of people in unsentenced detention was higher in New South Wales than in comparable Australian jurisdictions. Between 1995 and 2010, remand prisoners more than tripled. The report noted that Indigenous people were over-represented in juvenile centres at 38 per cent and, between 2001 and 2008, the number of Indigenous adults on remand rose 72 per cent.

The Commission also reported that in 2010 more than 500 adults and almost 100 young people on remand were found not guilty of any offence when their proceedings were finalised. The Department advises it is very rare for people held on remand and later found not guilty of a crime to receive any compensation.

The Commission commented in its April 2012 Bail Report that:

These figures underestimate the problem. They do not include people remanded in custody at an earlier stage in the proceedings and granted bail before the proceedings are finalised. ... No statistics are available showing the number of such cases in which there is subsequently no finding of guilt. But given the high number of short term remands, the incidence would be considerable.

It is a matter of concern that many people who are not found guilty of any offence are imprisoned for even a short period of time, let alone until the proceedings are finalised. ... While the criminal justice system must recognise situations where pre-trial detention is justified, it is also important to minimise the incidence of detention of people who are ultimately not found to be guilty.

Between 1995 and 2010, the number of remand prisoners more than tripled

In 2010, more than 500 adults and almost 100 young people on remand were found not guilty of any offence

The table below shows the number of inmates received on remand for 2011-12.

| Year ended 30 June | 2012 | | |
|--------------------|--------------------|---|-----------------------------------|
| | Remand receptions* | Number subsequently sentenced to full time imprisonment** | Percentage subsequently sentenced |
| Indigenous | 3,136 | 1,266 | 40.4 |
| Non-Indigenous | 8,039 | 2,582 | 32.1 |
| Unknown status | 480 | 33 | 6.9 |
| Total | 11,655 | 3,881 | 33.3 |

Source: Corrective Services NSW (unaudited).

2012 numbers were specifically generated for this report. 2011 statistics are not available.

* Remand reception is the new physical reception of a new inmate into a NSW correctional centre, where they are held in custody pending the outcome of a court hearing and, includes circumstances where a person has been convicted, but not yet sentenced.

** Sentenced to full time imprisonment represents those inmates who are received on remand and are sentenced to full-time imprisonment during that particular episode of imprisonment.

During 2011-12, there was a total of 11,655 remand receptions into NSW correctional centres, of which 3,881 (33.3 per cent) were sentenced to a term of full-time imprisonment during the same period. Indigenous remand receptions subsequently sentenced to full-time imprisonment in 2011-12 were 40.4 per cent, compared to 32.1 per cent of non-indigenous inmates.

Corrective Services NSW advises time spent on remand represents a lost opportunity (for example, when the sentence is backdated) for the offenders to participate in rehabilitation programs. Most intensive custodial programs target only sentenced inmates which has a negative impact on efforts to reduce rates of reoffending.

The direct cost of remand inmates is higher than sentenced inmates. In 2010-11, the cost for remand inmates in secure prisons was \$209 per day compared to \$199 for all prisons. Remand inmates are resource intensive requiring screening, intense monitoring, escorts and security surrounding visits.

The length of time inmates were held on remand in 2011-12 are included in the table below.

| Year ended 30 June 2012 | Less than 1 month | 1 to less than 4 months | 4 months or more | Total |
|-------------------------|-------------------|-------------------------|------------------|---------------|
| Indigenous | 1,757 | 1,144 | 235 | 3,136 |
| Non-Indigenous | 4,359 | 2,746 | 934 | 8,039 |
| Unknown status | 320 | 110 | 50 | 480 |
| Total | 6,436 | 4,000 | 1,219 | 11,655 |

Source: Corrective Services NSW (unaudited).

Juvenile Justice NSW

Juvenile Justice NSW deals with young offenders who have committed, or alleged to have committed, offences and are between the ages ten and 18.

Statistics on the number of young people remanded in custody or sentenced to a control order, youth justice conferences facilitated and community based orders supervised by Juvenile Justice NSW are shown in the table below.

| Year ended 30 June | 2012*** | 2011** | 2010* | 2009* | 2008* |
|--|---------|--------|-------|-------|-------|
| Total number of youth justice conferences facilitated | 1,499 | 1,637 | 1,698 | 1,449 | 1,160 |
| Total number of community based supervision orders commenced | 4,665 | 4,458 | 4,521 | 4,615 | 3,889 |
| Total number of remand admissions in custody | 4,088 | 4,768 | 4,439 | 4,000 | 4,527 |
| Total number of control admissions in custody | 644 | 575 | 634 | 712 | 667 |
| Percentage of young people in contact with Juvenile Justice NSW throughout the year who are indigenous: | | | | | |
| Attending a youth justice conference (%) | 24.4 | 24.0 | 21.6 | 22.3 | 26.0 |
| Remanded in custody (%) | 42.1 | 38.5 | 38.8 | 36.4 | 39.6 |
| Under community based supervision (%) | 40.2 | 41.5 | 40.1 | 38.6 | 39.9 |
| On control orders (%) | 48.8 | 51.7 | 49.8 | 49.9 | 51.6 |

Source: Department of Attorney General and Justice (unaudited).

* Responsibility of the former Department of Juvenile Justice NSW.

** Responsibility of the Department of Family and Community Services up to 31 March 2011, and the Department of Attorney General and Justice thereafter.

*** Responsibility of the Department of Attorney General and Justice.

Young Indigenous people continue to be over-represented in the Juvenile Justice NSW system.

In 2009-10, I recommended Juvenile Justice NSW put in place specific programs to address this issue. Juvenile Justice NSW has since implemented the Aboriginal and Torres Strait Islander Strategic Plan. The plan includes the following initiatives:

- actively recruiting and retaining Aboriginal staff
- building a culturally competent workforce
- working in partnership with Aboriginal communities
- ensuring community office staff supports local Aboriginal communities and agencies.

The Department advised it is too soon to see the impact of these initiatives. However, percentages of Indigenous people under community based supervision and on control orders compared to the prior year have declined.

Young Offender Costs

Recommendation

The Department needs to consider how it can reduce the costs of juvenile detention.

The table below shows the average daily cost for supervising and caring for young offenders over the past four years.

| Year ended 30 June | 2012*** \$ | 2011** \$ | 2010* \$ | 2009* \$ |
|---|---------------|--------------|-------------|-------------|
| Average daily cost per juvenile in custody | 765 | 652 | 589 | 543 |
| Average daily cost per juvenile in community based services | 19 | 17 | 13 | 15 |
| Average daily cost per juvenile in Youth Justice Conferencing | 9 | 7 | 6 | 7 |

Source: Department of Attorney General and Justice (unaudited).

* Responsibility of the former Department of Juvenile Justice NSW.

** Responsibility of the Department of Family and Community Services up to 31 March 2011, and the Department of Attorney General and Justice thereafter.

*** Responsibility of the Department of Attorney General and Justice.

The average daily cost per juvenile in custody increased by 17.3 per cent in 2011-12. The Department advises this is due to the reduction in the average number of juveniles in custody over the year (see table below). The Department is still maintaining its current capacity but is considering productivity and efficiency measures to reduce costs and capacity.

The average daily costs per juvenile in custody do not include education or health costs. The cost per juvenile in custody is likely to be much higher than disclosed above.

The increase in the average daily cost per juvenile in community-based services and in Youth Justice Conferencing is due to additional bail and administrative support staff.

The average daily cost per juvenile in custody is significantly higher than adults in custody. For the year ended 30 June 2011, the daily cost per adult inmate was \$199 compared to \$652 per juvenile in custody. Juvenile Justice NSW advises the reasons for this are:

- higher levels of supervision in line with legislative requirements and to meet duty of care responsibilities and child protection requirements
- more staff required to facilitate out of cell activities, to re-engage juveniles back into education, to reduce the risk of self harm and support individual rehabilitation case plans and re-entry into the community
- specialist programs provided to address offending behaviour through assessment, case management consultation, individual and group counselling and psychological services
- economies of scale, site infrastructure costs allocated to less juveniles compared with larger numbers in the adult system.

Capacity in Juvenile Justice NSW Centres

| At 30 June | Offenders in custody 2012 | Capacity 2012 | Offenders in custody 2011 | Capacity 2011 |
|------------------------------------|------------------------------|------------------|------------------------------|------------------|
| Juvenile Justice NSW Centres Total | 353 | 501 | 391 | 501 |

Source: Department of Attorney General and Justice (unaudited).

The total number of young offenders in custody decreased by 9.7 per cent at 30 June 2012 from the previous year. The centre capacity remained unchanged.

The average daily cost of \$765 per juvenile in custody does not include education or health costs, which would make the costs much higher

Other Information

Control Deficiencies at Juvenile Justice NSW

Recommendation

The Department should review internal controls weaknesses over procurement in Juvenile Justice NSW and ascertain whether a wider review is necessary for the Department as a whole.

Juvenile Justice NSW advises the following control deficiencies were identified during the year:

Fraudulent Conduct

Fraudulent activity was identified relating to invoice creation and payment. The fraud amounted to \$50,000.

The matter was investigated by the NSW Police Force and internally in accordance with the disciplinary procedures under the *Public Sector Employment and Management Act 2002*. As the matter related to possible corrupt conduct, Juvenile Justice NSW reported it to the Independent Commission Against Corruption (ICAC).

Juvenile Justice NSW advises that changes were made to the internal control processes around updating supplier master files following this incident.

Potential Breach of Procurement Policies

In a separate incident, there were potential breaches of Juvenile Justice NSW's procurement policies and related procedures, including:

- invoices being structured to fall under delegated approval limits
- verbal approval for work to start without written quotes
- using facsimile and email approvals for work to start instead of purchase orders.

These breaches are being investigated by Juvenile Justice NSW. As the allegations also relate to possible corrupt conduct the ICAC is overseeing the matter.

Juvenile Justice NSW indicated that procurement controls are being reviewed and any identified systemic risk issues will be addressed. Procurement is a major area of fraud risk. Findings from Juvenile Justice NSW's review should be considered by the Department to determine if a review of the other divisions of the Department is needed.

Review of Sentencing Laws

On 23 September 2011, the NSW Attorney General requested the NSW Law Reform Commission to consult with the Sentencing Council to review the *Crimes (Sentencing Procedure) Act 1999*.


The review examines:

- current sentencing principles including those contained in the common law
- the need to ensure sentencing courts are provided with adequate options and discretions
- opportunities to simplify the law, while providing a framework that ensures transparency and consistency
- the operation of the standard minimum non-parole scheme.

The Commission's final report is due in March 2013.

Section Two

2012 Fraud Survey



2012 Fraud Survey

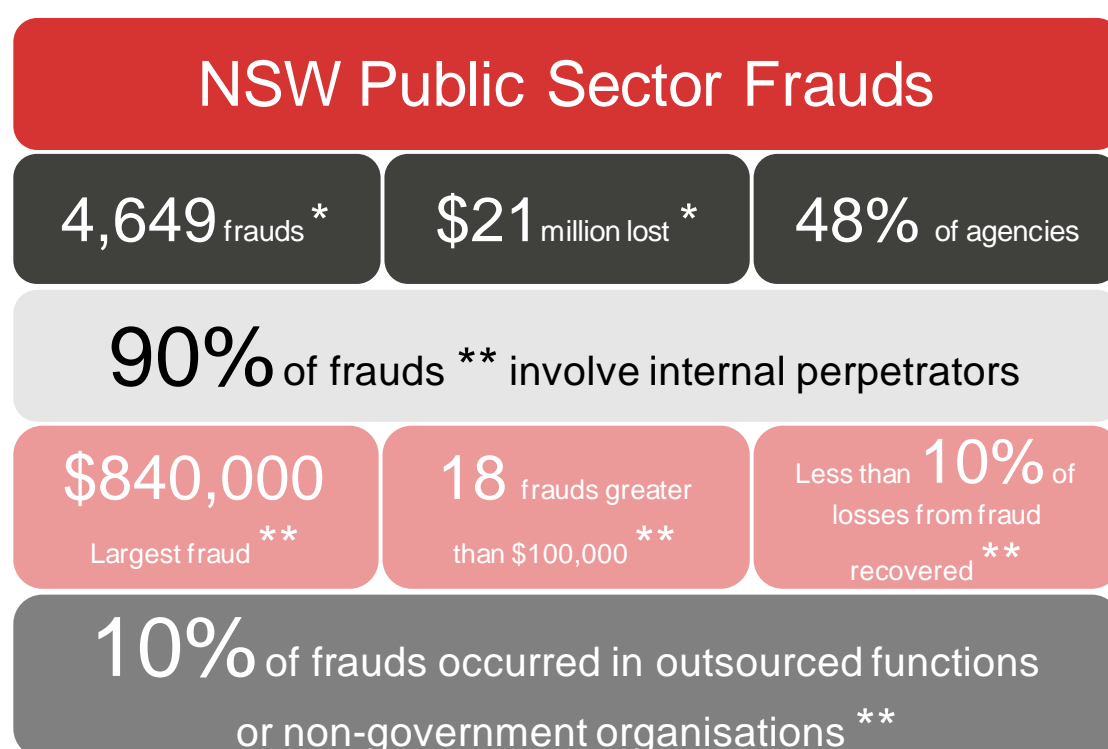
High profile frauds in other jurisdictions have re-inforced the need for effective fraud control strategies.

My 2012 fraud control survey shows fraud control measures are improving, but there is more work to be done.

My survey gives a snapshot of frauds identified over the last three years by NSW Government agencies, and considers whether agency fraud mitigation strategies and processes are improving or could be improved further. It also considers whether more can be done at a whole-of-government level to better respond to the risk of fraud.

NSW Public Sector Fraud Dashboard

The following data is for the three year period, 1 July 2009 to 30 June 2012.



* Frauds identified by all surveyed agencies - survey excludes universities and local government councils.

** Excludes licensing identity frauds, fraudulent State tax self assessments and mortgage title frauds committed by the public. Exposure to these frauds is limited to the operations of only a few agencies.

Key Survey Conclusions

Fraud continues to be an important issue for the NSW public sector, with 48 per cent of agencies identifying a fraud in the last three years.

Positively, my survey suggests fraud control in agencies is improving. However, it also indicates the incidence and magnitude of fraud may be growing. This is worrying, particularly as the motivation and opportunities to commit fraud increase when money is tight and significant agency structural changes and reforms are in progress.

Fraud control requires an ongoing commitment that goes well beyond setting up policies and procedures. I am concerned some agencies simply 'tick the box' and put their commitment to fraud control in the bottom drawer. To illustrate this, the survey indicates that:

- while a high proportion of agencies conduct risk assessments and have a fraud control plan, a much lower proportion revise these when there is a major change to their role or function
- while a high proportion of agencies have a code of conduct, a much lower proportion require staff to regularly attest they know and understand it
- weaknesses in fraud awareness and training exist.

Specifically, I am also concerned that:

- more than two out of five agencies do not require staff to take at least two weeks continuous leave each year
- there is a growing trend in frauds identified in outsourced functions and contracted non-government organisations
- one in ten agencies do not routinely conduct pre-employment checks of criminal records, work histories and qualifications.

Agencies and their audit and risk committees should consider the issues identified in this report when assessing the effectiveness of their approach to fraud control.

Despite gradual improvement over a long period of time, agencies do not rate their fraud control measures as effective or better in 20 per cent of cases. With the risk of fraud increasing, I do not believe the current decentralised approach to fraud control adequately protects agencies against fraud. I believe fraud control would be significantly improved if New South Wales adopted a whole-of-government fraud control policy framework which establishes mandatory minimum standards. The framework needs to be flexible enough so its application meets individual agency needs and gives responsibility for developing policy and monitoring results to key agencies.

Fraud in the NSW Public Sector

This survey only provides data on frauds identified by NSW Government agencies. There is no way of accurately determining the total extent and cost of all frauds occurring in the NSW public sector. Because fraud inherently involves deception and concealment many may never be detected.

The KPMG Fraud and Misconduct Survey 2012 estimates unidentified frauds in organisations are almost three times the number of identified frauds. International fraud studies show a typical organisation can lose five per cent of its revenues to fraud (Report to the Nations on Organisational Fraud and Abuse, 2012 Global Fraud Study, Association of Certified Fraud Examiners).

I am concerned some agencies 'tick the box' and put their commitment to fraud control in the bottom drawer

Fraud inherently involves deception and concealment resulting in potentially many frauds never being detected



I have excluded 4,087 public sector frauds valued at \$13.6 million from the analysis below as they involve unique types of fraud committed by public citizens. They are predominately false identity licensing frauds, fraudulent state tax self assessments and land registration frauds and only impact a small number of agencies. To include them may reduce the learnings coming out of the survey for all agencies.

Of the frauds included in the analysis, 259 (46 per cent) were not valued because they did not result in a loss of public money or could not be quantified by the agency.

The number and values of frauds identified in the last three years are summarised below:

| Years | Total Number of frauds* | Number of frauds valued** | Value of frauds \$** | Average value of each fraud \$** |
|--------------|-------------------------|---------------------------|----------------------|----------------------------------|
| 2011-12 | 196 | 113 | 3,208,517 | 28,394 |
| 2010-11 | 199 | 118 | 1,047,252 | 8,875 |
| 2009-10 | 167 | 72 | 2,903,363 | 40,324 |
| Total | 562 | 303 | 7,159,132 | 23,627 |

* Includes frauds not valued by agencies.

** Excludes frauds not valued by agencies.

The total number and value of frauds are higher in 2011-12 than they were two years ago, and the average value is higher than it was in 2010-11.

Forty-eight per cent of agencies identified a fraud in the three year period, with 17 per cent identifying ten or more frauds.

The total number and value of frauds are higher in 2011-12 than they were two years ago

Forty-eight per cent of agencies identified a fraud in the three year period, with 17 per cent identifying ten or more frauds

The frauds identified had the following value profile:

| | Number of frauds | Value of frauds \$m |
|------------------------|------------------|------------------------|
| Over \$750,000 | 2 | 1.7 |
| \$500,000 to \$749,999 | -- | -- |
| \$250,000 to \$499,999 | 5 | 1.9 |
| \$100,000 to \$249,999 | 11 | 1.6 |
| \$50,000 to \$99,999 | 13 | 0.9 |
| \$10,000 to \$49,999 | 39 | 0.8 |
| Less than \$9,999 | 233 | 0.3 |
| Total | 303 | 7.2 |

Eighteen frauds, costing agencies more than \$100,000 each, were identified across 12 agencies during the three year survey period.

The top five frauds by value over the three year period were:

| Nature of fraud | Value of fraud \$ | Year |
|-----------------------------|----------------------|---------|
| Procurement | 840,000 | 2011-12 |
| Unauthorised access to data | 822,000 | 2009-10 |
| Procurement | 480,000 | 2011-12 |
| Procurement | 465,300 | 2009-10 |
| Theft | 340,000 | 2009-10 |

Eighteen frauds, costing agencies more than \$100,000 each, were identified across 12 agencies during the three year survey period

The nature of frauds identified by agencies over the three years ending 30 June 2012 is summarised as follows:

| Nature | Number of frauds* | Number of frauds | Value of frauds \$ | Average value of each fraud \$** |
|--------------------------------|-------------------|------------------|--------------------|----------------------------------|
| Procurement related | 43 | 23 | 3,037,678 | 132,073 |
| Theft other (e.g. assets) | 68 | 42 | 1,051,131 | 25,027 |
| Unauthorised access to data | 9 | 1 | 822,000 | 822,000 |
| Other | 79 | 39 | 628,057 | 16,104 |
| Expenditure claim | 25 | 16 | 581,876 | 36,367 |
| Theft of cash | 75 | 72 | 433,408 | 6,020 |
| Timesheet | 54 | 30 | 146,988 | 4,900 |
| Revenue | 6 | 5 | 128,543 | 25,709 |
| Payroll | 16 | 11 | 127,135 | 11,558 |
| Misuse of government equipment | 23 | 3 | 70,850 | 23,617 |
| Overtime | 20 | 12 | 65,762 | 5,480 |
| Leave entitlement | 34 | 17 | 27,563 | 1,621 |
| Credit card | 23 | 23 | 25,633 | 1,114 |
| Travel claim | 6 | 5 | 11,906 | 2,381 |
| Cab charge | 4 | 4 | 602 | 151 |
| Bribery | 32 | -- | -- | -- |
| Misuse of authority | 13 | -- | -- | -- |
| Motor vehicles | 10 | -- | -- | -- |
| Identity | 7 | -- | -- | -- |
| Medical certificate | 6 | -- | -- | -- |
| Misuse of email | 4 | -- | -- | -- |
| Intellectual property | 2 | -- | -- | -- |
| Workers compensation | 2 | -- | -- | -- |
| Manipulation of IT systems | 1 | -- | -- | -- |
| Total | 562 | 303 | 7,159,132 | 23,627 |

* Includes frauds not valued by agencies.

** Excludes frauds not valued by agencies.

Recommendation

Agencies should reconsider their procurement structures, processes and people with reference to and in light of findings in the ICAC publication 'Corruption Risks in NSW Government Procurement - The Management Challenge', December 2011.

Procurement is the top fraud risk in the NSW public sector. This is no surprise and aligns with the findings of the Independent Commission Against Corruption's (ICAC) investigative work over the last decade.

The ICAC publication 'Corruption Risks in NSW Government Procurement - The Management Challenge', December 2011, provides extensive guidance to agencies on mitigating the risk of procurement fraud. This publication focuses on strengthening procurement structures, the procurement process and people factors.

Procurement is the top fraud risk in the NSW public sector

The exact nature of public sector frauds varies significantly, even within the listed categories above. Some more specific examples are:

| Nature of Fraud | Examples* |
|--------------------------------|---|
| Procurement | Employee procures goods or services from a private company they own or are associated with. Employee buys excessive amounts of overpriced stationery after accepting gifts from a supplier. |
| Unauthorised access to data | Ex-contractor uses still valid system password to obtain valuable information from an agency for free. |
| Expenditure claim | Contractor takes advantage of weak controls to overcharge for work done and to charge for work not done. |
| Travel claim | Employee claims for travel not undertaken and fabricates expenses. |
| Credit cards | Employee fraudulently uses agency credit card for private purposes. |
| Timesheets | Employee claims they worked but this is not supported by timesheets. |
| Misuse of government equipment | Employee runs a private business on agency time, using its assets. |
| Other | Employee manipulates agency data to make performance look better than it actually was to maximise program funding. Staff member employed based on fraudulent qualifications or work history. |

* Note: Includes public sector fraud examples from States other than New South Wales to illustrate the diversity of public sector fraud.

The following table provides data on where frauds identified by agencies occurred:

| Year ended 30 June | Number of frauds | | |
|---|------------------|------------|------------|
| Location of fraud | 2012 | 2011 | 2010 |
| Within an agency | 168 | 184 | 153 |
| Within an agency's outsourced functions | 7 | 2 | 2 |
| At an agency's contracted non-government organisation | 21 | 13 | 11 |
| Other | -- | -- | 1 |
| Total | 196 | 199 | 167 |

Frauds identified in outsourced functions and contracted non-government organisations are increasing

Recommendation

Agencies with outsourced functions or those which have engaged non-government organisations should ensure fraud risks are being managed as well as they would have been had the agency not chosen an outsourced arrangement.

Frauds identified in outsourced functions and contracted non-government organisations are increasing, growing from eight per cent of all frauds in 2009-10 to 14 per cent in 2011-12. Given the increasing trend in outsourcing government service delivery and functional activity, the increasing incidence of fraud in these arrangements is likely to continue.

I am concerned that 55 per cent of the \$7.2 million worth of frauds identified, occurred in outsourced functions and contracted non-government organisations. These frauds totalled \$2,462,482 for 2011-12, \$579,660 for 2010-11 and \$919,448 for 2009-10.

The following table highlights how the frauds were identified:

| Identification method | Number of frauds* | Value of frauds \$m** |
|-------------------------|-------------------|-----------------------|
| Management review | 90 | 1.3 |
| Tip | 89 | 0.7 |
| Internal controls | 71 | 0.4 |
| Internal audit | 38 | 0.9 |
| Document examination | 30 | 0.2 |
| Account reconciliation | 25 | 1.5 |
| Advice from police, etc | 15 | 0.2 |
| By accident | 11 | 0.9 |
| Confession | 6 | 0.4 |
| Other audit review | 5 | 0.1 |
| Surveillance monitoring | 2 | 0.0 |
| IT controls | 1 | 0.0 |
| Other | 179 | 0.6 |
| Total | 562 | 7.2 |

* Includes frauds not valued by agencies.

** Excludes frauds not valued by agencies.

The table shows that controls are successful in identifying fraud. Management review, internal controls, internal audit and account reconciliations detected 40 per cent of the frauds identified.

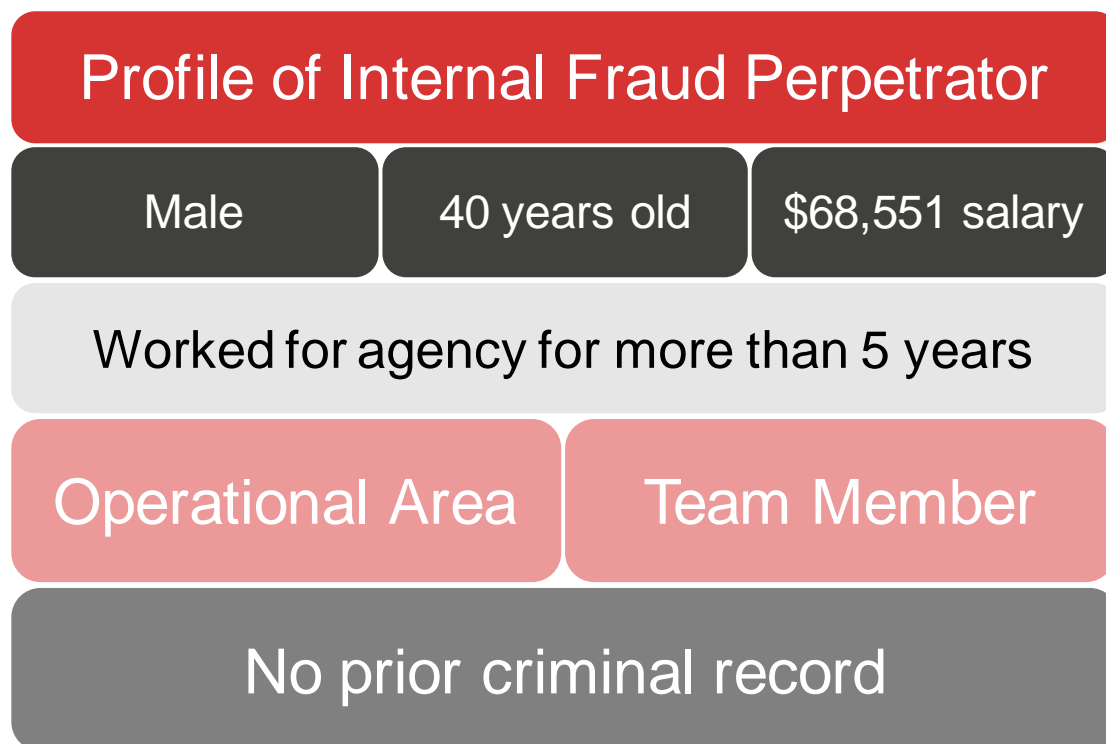
Another successful way of identifying fraud is from receiving a 'tip'. Fraud awareness programs for employees, customers and suppliers can improve the likelihood of identifying frauds from tip offs.

Agencies are at greater risk of fraud from their own employees than from external perpetrators

Profile of the NSW Public Sector Internal Perpetrator

NSW public sector agencies are at greater risk of fraud from their own employees than they are from an external perpetrator. Ninety per cent of frauds involve an internal perpetrator.

This is a common finding in fraud surveys of private and public sector organisations around the world. The NSW public sector profile of the average internal perpetrator is unremarkable as illustrated below:



The average perpetrator has worked for the agency for more than five years, which suggests they do not enter an agency with the intention of committing a fraud.

The 'fraud triangle' is a concept created by an American Criminologist Dr Donald Cressey after he interviewed 200 convicted embezzlers he dubbed 'trust violators.' He was interested in these people because they had entered the work place with no intention of stealing. From this work he created the following fraud triangle.

Dr Donald Cressey's Fraud Triangle



Pressure is the first leg of the fraud triangle, which Cressey describes in his hypothesis as usually a personal problem the perpetrator is too ashamed or unwilling to share with others. Disturbingly, Cressey found that if they had talked about their problems, others probably would have helped.

Opportunity is the second leg and relates to the opportunity that exists within an agency for a fraud to take place. Opportunities usually occur from a lack of internal controls. Here the violator feels they can take advantage of the situation without getting caught. Of course, there has to be a certain level of technical skill to be able to exploit an opportunity, which is why violators often find opportunities within their own job function.

The third and final leg is rationalisation. Cressey found many violators never felt they were actually a criminal because they had rationalised the misdeed to themselves. Many violators Cressey interviewed felt justified and did not believe they were accountable for their fraudulent actions.

The fraud triangle can influence how agencies respond to mitigating fraud risk. Of the three legs of the triangle, agencies have most capacity to influence the second leg by building processes, procedures and controls that reduce opportunities for employees to commit fraud and effectively detect fraudulent activity should it occur.

Agencies provided the following reasons for identified frauds occurring:

| Reason for fraud | Number of frauds* | Value of frauds \$m** |
|--|-------------------|-----------------------|
| Person did not think they would get caught | 141 | 1.0 |
| Internal controls or policies not followed | 132 | 1.1 |
| Reason not determined | 167 | 1.6 |
| Easy access to cash and assets | 44 | 0.3 |
| Inadequate internal controls/policies | 41 | 2.0 |
| Management override of controls | 22 | 0.9 |
| New type of fraud agency unprepared for | 9 | 0.3 |
| Poor segregation of duties | 6 | 0.0 |
| Total | 562 | 7.2 |

* Includes frauds not valued by agencies.

** Excludes frauds not valued by agencies.

Key findings in the table above are:

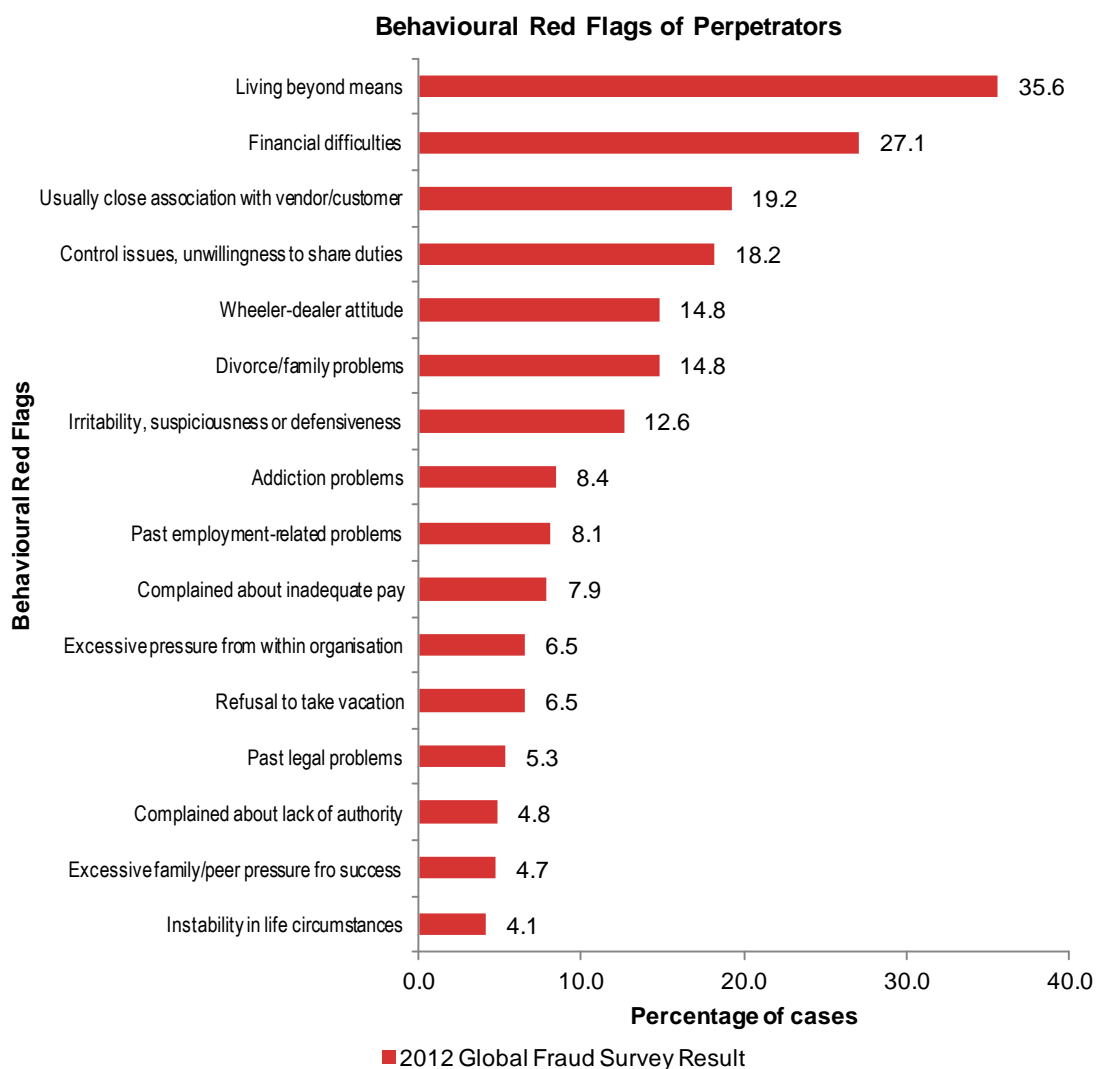
- 25 per cent of frauds occurred because internal perpetrators did not think they would be caught
- 23 per cent of frauds occurred because internal controls or processes were not followed.

The NSW public sector is currently facing job reductions, budget cuts and restrictions on salary increases. This is an environment in which the risk of fraud may increase. Employees may be motivated to commit fraud if they fear losing their job, promotion opportunity or wage increase. Budgetary and staff cuts may lead to less effective internal controls because segregation of duties becomes harder to maintain and fewer people are available to monitor controls and identify suspicious transactions or activities.

Twenty-five per cent of frauds occurred because internal perpetrators did not think they would get caught

Twenty-three per cent of frauds occurred because internal controls or processes were not followed

Fraud studies often refer to common 'red flag' behavioural traits that can serve as a warning that a person is at higher risk of committing a fraud. The 2012 Global Fraud Study (Association of Certified Fraud Examiners) reported that in 81 per cent of cases, the perpetrator displayed one or more of the following behavioral red flags before committing the fraud:



Source: Report to the Nations on Organisational Fraud and Abuse, 2012 Global Fraud Study, Association of Certified Fraud Examiners, 2012.

Fraud Control in the NSW Public Sector

Agency measures to control fraud are improving over time

Agency measures to control fraud are improving over time. In 2012, agencies assessed their fraud control measures by key element as either highly effective or effective in 80 per cent of cases. This compared to 71 per cent in 2009 and 50 per cent in 2004.

I am concerned agencies do not rate their fraud control measures as effective or better in 20 per cent of cases.

Agencies were asked to assess themselves against ten key elements of fraud control in the Audit Office of New South Wales Fraud Control Kit, 2006. The kit is a practical, flexible and assessable tool to help agencies and universities develop effective processes to review and monitor fraud control strategies.

The fraud improvement kit can be obtained from the Audit Office website at http://www.audit.nsw.gov.au/publications/better_practice/2006/fraud_control_improvement_kit.pdf.

Each element's effectiveness was rated by agencies on a scale from one to six.

| Rating | Description |
|--------|--------------------|
| 1 | Ineffective |
| 2 | Partly ineffective |
| 3 | Partly effective |
| 4 | Largely effective |
| 5 | Effective |
| 6 | Highly effective |

The 2012 survey results are as follows:

| | | NSW public sector agencies responses (91 respondents in 2012) | | | | | | Per cent highly effective or effective | | |
|-------------------------------|------------------------------------|--|---|----|----|----|----|--|-----------|-----------|
| | | 1 | 2 | 3 | 4 | 5 | 6 | 2012 | 2009 | 2004 |
| Prevention | | | | | | | | | | |
| 1 | Fraud control policy | 2 | 0 | 5 | 13 | 59 | 12 | 78 | 79 | 57 |
| 2 | Responsibility structures | 0 | 2 | 1 | 12 | 65 | 11 | 84 | 82 | 57 |
| 3 | Fraud risk assessment | 0 | 3 | 8 | 19 | 55 | 6 | 67 | 61 | 43 |
| 4 | Employee awareness | 0 | 2 | 7 | 17 | 59 | 6 | 71 | 61 | 39 |
| 5 | Consumer and community awareness | 4 | 4 | 12 | 13 | 55 | 3 | 64 | 32 | 32 |
| Detection | | | | | | | | | | |
| 6 | Notification systems | 0 | 0 | 0 | 8 | 62 | 21 | 91 | 84 | 63 |
| 7 | Detection systems | 0 | 2 | 4 | 21 | 59 | 5 | 70 | 60 | 34 |
| 8 | External notification | 0 | 0 | 1 | 3 | 67 | 20 | 96 | 88 | 59 |
| Investigation | | | | | | | | | | |
| 9 | Investigation standards | 1 | 0 | 3 | 8 | 65 | 14 | 87 | 82 | 50 |
| 10 | Conduct and disciplinary standards | 0 | 0 | 0 | 4 | 71 | 16 | 96 | 77 | 66 |
| Total response average | | | | | | | | 80 | 71 | 50 |

Agencies should focus on improving fraud prevention measures

The survey results show agencies' fraud control elements are strongest in the areas of responsibility structures, notification systems, external notification, investigation standards and conduct and disciplinary standards.

In 2009, I advised that improvement was needed in the areas of employee awareness, consumer and community awareness programs, and in agency detection systems. The 2012 results show improvements in these areas, which is pleasing.

Despite this, the survey indicates prevention measures are the weakest links in the chain and agencies need to focus more on fraud risk assessments, employee awareness, and consumer and community awareness programs.

Issues and Opportunities in NSW Public Sector Fraud Control

Recommendations

Agencies should evaluate their fraud control measures against my 2012 survey findings and satisfy their respective audit and risk committees that they have responded appropriately.

My survey included specific questions aimed at identifying perceived weaknesses in fraud control measures. The questions focused on fraud risk assessments, fraud control plans, fraud awareness and training, use of computer assisted data mining techniques, gifts and benefits, secondary employment, conflicts of interest, codes of conduct, pre-employment checks, employees taking leave and lessons learnt.

Key findings and learnings from this section of the survey follow.

Fraud Risk Assessments

The purpose of fraud risk assessments is to help agencies focus on the risks that need to be managed and to develop appropriate risk mitigation strategies. Assessments should be revisited regularly, especially after significant change in agency structures or operations, to ensure all fraud risks requiring a mitigation strategy have been identified.

Key survey findings are:

- 18 per cent of agencies had not revised their fraud risk assessments in the last two years
- 27 per cent of agencies did not revise their fraud risk assessments after major changes to their structures or functions
- 24 per cent of agencies had not identified any high fraud risk functions in their agencies
- 14 per cent of agencies do not have a documented fraud risk assessment endorsed by the chief executive officer.

The following high fraud risk functions were identified within agency risk assessments:

| Functional area with high risk of fraud | Per cent of respondents* |
|--|--------------------------|
| Procurement | 46 |
| Contracting | 36 |
| Finance | 27 |
| Other specific areas | 27 |
| Revenue | 22 |
| Payments to non-government organisations | 20 |
| Human resources | 19 |

* Excludes the 24 per cent of agencies which have identified no functions within the agency as being a high fraud risk.

Twenty-seven per cent of agencies did not revise their fraud risk assessments after major changes to structures or functions

Twenty-four per cent of agencies had not identified high fraud risk functions in their agencies

Twenty-one per cent of fraud control plans were not updated after fraud risk assessments were revised

Fraud Control Plans

Fraud risk assessments should be followed by development and implementation (or update) of fraud control plans to manage fraud risks. A fraud control plan should document an agency's approach to controlling fraud.

Key survey findings are:

- 19 per cent of agencies did not have a documented fraud control plan that was approved by the chief executive officer or board
- 21 per cent of fraud control plans were not updated following revision of fraud risk assessments
- only 58 per cent of agencies included a summary of identified internal and external fraud risks in fraud control plans.

Twenty-one per cent of agencies have never provided fraud awareness training to employees

Fraud Awareness and Training

Fraud awareness and training is important in establishing an ethical culture and in helping to prevent and/or detect fraud.

Key survey findings:

- 21 per cent of agencies have never provided fraud awareness training to employees
- 24 per cent of agencies provide no fraud awareness training to employees on induction
- 53 per cent of agencies provide no fraud awareness training to contractors
- only 25 per cent of agencies provide refresher training to staff every one to two years and 38 per cent every two to five years.

Fifty-three per cent of agencies do not provide fraud awareness training to contractors

Use of Computer Assisted Data Mining Techniques

Computerised accounting systems now feature in all public sector organisations, recording all financial transactions and storing them for future reference. Sophisticated data mining tools can facilitate analysis of transactions for a relatively modest cost. These tools can be used to indicate possible fraud by checking for such things as duplicate payments, multiple vendor names and splitting of invoices into smaller amounts.

Key survey finding:

- 48 per cent of agencies used computer assisted data mining techniques to complement their fraud detection capability, with 47 per cent of these agencies using external specialists.

Gifts and Benefits

A gift or benefit is anything of value offered to a public sector employee in the course of their work, apart from normal employment entitlements. Receiving gifts and benefits increases potential risks, actual or perceived, that agency decisions have been influenced, resulting in non-arms length, corrupt/fraudulent transactions.

Key survey findings:

- 100 per cent of agencies had a gifts and benefits policy and 78 per cent had reviewed the policy in the last two years
- 9 per cent of agencies did not have a gifts and benefits received register
- 68 per cent of agencies recorded gifts and benefits offered to, but declined by staff, (this information can be used to inform management of clients/suppliers who are likely to provide offerings to staff)
- 73 per cent of agencies reviewed the gifts and benefits register to identify matters requiring action.

Sixty-three per cent of agencies do not require staff to reconfirm secondary employment requests at least once every two years

Secondary Employment

A person is considered to be in secondary employment when they engage in paid work for another organisation while employed by a public sector organisation. Potential risks include conflicts of interest between official and private business interests, misuse of public resources such as telephones and office supplies, and unauthorised use of government information or intellectual property.

Key survey findings:

- 92 per cent of agencies had a secondary employment policy and 74 per cent had reviewed the policy within the last two years
- 69 per cent of agencies do not have a centralised secondary employment register, either as a stand-alone register or as part of a conflicts of interest register
- 63 per cent of agencies do not require staff to reconfirm secondary employment requests with management at least once every two years.

Seventy-five per cent of agencies do not require staff to complete a conflicts of interest declaration annually

Conflicts of Interest

Conflicts of interest occur when the private interests of public sector officers interfere, or appear to interfere, with the performance of their official duties. Such conflicts may arise when employees want to avoid personal loss or gain personal advantage. It is crucial to identify and effectively manage actual or potential conflicts so public officials do not put private interests above the public interest.

Key survey findings:

- 98 per cent of agencies have a conflicts of interest policy and 72 per cent reviewed the policy in the last two years
- only 57 per cent of agencies have a conflict of interest register, but 25 per cent of these agencies had not reviewed the register for matters requiring action
- 75 per cent of agencies do not require staff to complete a conflicts of interest declaration annually.

Eighty per cent of agencies do not require staff to certify they understand and commit to the code of conduct annually

Code of Conduct

Public employment requires standards of professional behaviour that promote and maintain public confidence and trust in the work of government agencies. A code of conduct gives employees guidance on which to base their decisions and actions in various workplace contexts and outlines minimum standards of behaviour in a range of specific situations.

Key survey finding:

- 80 per cent of agencies do not require staff to certify they understand and commit to the code of conduct, including the obligation to report fraud, annually.

Eleven per cent of agencies do not validate qualifications and employment history of applicants before appointment

Pre-Employment Checks

Employing staff with a criminal record or staff who do not have the qualifications or experience they claim to have, are risks that need to be understood and effectively managed. Failure to do pre-employment criminal record, qualification and employment history checks clearly indicates this risk is not being managed.

Key survey findings are:

- 12 per cent of agencies do no pre-employment criminal record checks
- 11 per cent of agencies do not validate the qualifications and employment history of applicants before appointment.

Forty-five per cent of agencies do not require staff to take two weeks continuous leave each year

Taking leave

Failure of employees to take regular blocks of leave may indicate fraud. Perpetrators may be reluctant to go on leave in case their replacement uncovers their fraudulent behaviour during their absence.

Key survey findings are:

- 45 per cent of agencies do not require staff to take two weeks of continuous leave each year
- 32 per cent of agencies have not considered and ensured they have mitigated the risk of staff in high fraud-risk positions with large leave balances who have not taken at least two weeks continuous leave each year
- 18 per cent of agencies do not ensure other staff act in the position of staff in higher fraud-risk positions while they are on leave.

Whole-of-Government Perspective

It is incumbent on the management of NSW public sector organisations to ensure they have effective fraud controls in place. My office has supported agencies over the last decade by issuing several performance audit reports and a comprehensive guide to better practice on fraud control. In 2006, my office released a fraud control improvement kit to help agencies develop an effective way to review and monitor fraud control strategies.

My 2004, 2009 and 2012 fraud control surveys show fraud control measures are improving, but there is more work to be done. This survey highlights that some agencies fail to update and enforce the policies and procedures needed for an effective control environment.

The findings suggest fraud is an area of risk that warrants close and ongoing attention and point to the need for stronger guidance to agencies on effective management of fraud control obligations.

Treasury policy TPP09-05, 'Internal Audit and Risk Management Policy for the NSW Public Sector', establishes core requirements for agencies to support the implementation of effective corporate governance arrangements. The policy requires the responsibilities of agency audit and risk committees to include review and oversight of fraud prevention and detection. However, the policy does not define fraud control practices and procedures agencies are required to have in place. This is a different approach to that of the Australian Government.

The Australian Government's 'Commonwealth Fraud Control Guidelines' establish a framework in which agencies determine their own specific plans and processes to manage the prevention, detection and investigation of fraudulent activity. The guidelines also clearly define the roles and responsibilities of key agencies in setting policy, reporting on fraud and monitoring compliance with fraud control arrangements.

The tables below outline the key differences between these two approaches.

| New South Wales and Commonwealth fraud control frameworks | | |
|--|--|--|
| Objective The government has an effective fraud control policy framework. | | |
| Criteria | Commonwealth | New South Wales |
| The government's commitment to fraud control is explicit. | <p>The Commonwealth Fraud Control Guidelines 2011 is a legislative instrument.</p> <p>The guidelines are issued by the Minister for Home Affairs under the Financial Management and Accountability Regulations 1997.</p> <p>Individuals and agencies have a legal obligation to comply with the requirements set out within the guidelines.</p> <p>Breaches of the guidelines may attract a range of criminal, civil, administrative and disciplinary remedies.</p> | <p>There is no equivalent to the Commonwealth Fraud Control Guidelines.</p> <p>There is no legislative instrument specific to fraud control, and there are no legal obligations specific to fraud control.</p> <p>TPP09-05, 'Internal Audit and Risk Management Policy for the NSW Public Sector', establishes core requirements for the establishment and composition of internal audit and risk committees and the implementation of risk management and internal audit functions.</p> <p>The responsibilities of these committees include review of the agency's fraud control plan and ensuring appropriate processes and systems are in place to capture and effectively investigate fraud information.</p> |
| The government has clearly articulated the expectations it has on agencies to create and implement fraud control measures. | <p>The Commonwealth Fraud Control Guidelines incorporate mandatory requirements of agencies, including:</p> <ul style="list-style-type: none"> • fraud risk assessments every two years, more often when there is a substantial change in structure, function or policy • fraud control plan documenting the approach to prevention, employee awareness, detection and investigation • regular fraud awareness raising and prevention training for all employees and, where appropriate, contractors • prepare and widely distribute a fraud policy statement, including to consultants • systems to detect fraud, or attempted fraud, which comply with the requirements of the Australian Government Investigation Standards • channel for employees, clients or members of the public to report fraud that, where possible, ensures confidentiality • investigations carried out by appropriately qualified and experienced personnel • clearly documented procedures and instructions to help employees deal with fraud • monitoring and evaluation of fraud control plans by an appropriate committee or body • collect information on fraud and provide it to the Australian Institute of Criminology. | <p>There are no mandatory requirements of agencies.</p> <p>The Audit Office of New South Wales and NSW Independent Commission Against Corruption issue better practice guidance.</p> |

New South Wales and Commonwealth fraud control frameworks

Objective The government has an effective fraud control policy framework.

| Criteria | Commonwealth | New South Wales |
|--|---|---|
| The government has explicitly assigned responsibilities to key agencies to develop policy, share knowledge, and monitor and report results | <p>The Fraud Control Guidelines assign specific responsibilities to key agencies, i.e. the:</p> <ul style="list-style-type: none"> Attorney General's Department is responsible for providing high-level policy advice to the government about fraud control arrangements, advising agencies about the content and application of those policies, and reporting to government on compliance with the guidelines Australian Institute of Criminology is responsible for conducting an annual fraud survey of Australian Government agencies and producing a report on fraud against the Commonwealth, and fraud control arrangements within Australian Government agencies Australian National Audit Office is responsible for assessment of key aspects of Australian Government agencies' fraud control arrangements to effectively prevent, detect and respond to fraud. | <p>There is no equivalent to the Commonwealth's Fraud Control Guidelines.</p> <p>The NSW Government has not specifically assigned responsibility to key agencies for developing fraud control policy, sharing knowledge, monitoring implementation, or reporting results.</p> <p>Whole-of-government fraud monitoring and reporting is ad-hoc, essentially initiated by the Auditor-General.</p> <p>The <i>Independent Commission Against Corruption Act 1988</i> requires principal officers to report to ICAC any matter that the person suspects on reasonable grounds concerns or may concern corrupt conduct. This includes fraud.</p> |

I believe there is merit in establishing a fraud control policy framework for NSW public sector agencies

I believe there is merit in adopting the Australian Government's approach and establishing a fraud control policy framework for NSW public sector agencies. The framework should be consistent with the structures and requirements established by TPP09-05, 'Internal Audit and Risk Management Policy for the NSW Public Sector'. It should mandate key aspects of fraud control that must be adopted, but remain sufficiently flexible so it can be applied to meet agencies' individual circumstances and risk profiles.

I believe this is justified by the fundamental fraud control weaknesses the survey has identified and the extent of frauds being identified.

Recommendation

The NSW Government should appoint a lead agency to develop a fraud control policy framework for the NSW public sector that:

- explicitly states the government's commitment to fraud control
- clearly articulates the government's expectations of agencies to develop and implement fraud control measures
- assigns responsibilities to key agencies to develop policy, share knowledge, and monitor and report results.

The following should be considered as mandatory components of this framework:

- agencies undertake a fraud risk assessment at least once every two years or earlier following a substantial change in structure or functions
- fraud control plans be updated on a timely basis following risk assessments
- agencies provide regular fraud awareness training to all agency employees and, where appropriate, contractors
- agencies provide employees, clients and members of the public with appropriate channels to report fraud
- employee secondary employment, conflicts of interest and code of conduct declarations are current
- agencies collect information and report regularly on the incidence of fraud and the nature of fraud control arrangements, to facilitate whole-of-government monitoring and reporting
- agency heads attest to compliance with the fraud control policy framework annually.

Other Information

I surveyed 92 NSW public sector agencies. My survey did not include universities or local government councils.

For the purposes of this survey, I adopted the following definition of fraud as is used by the Australian Institute of Criminology in its annual survey reports to government, see www.aic.gov.au.

Fraud

Fraud is defined as dishonestly obtaining a benefit by deception or other means.

This definition of fraud includes suspected fraud, incidents under investigation and completed incidents, whether the fraud was proved or not, and whether the incident was dealt with by a criminal, civil or administrative remedy.


Section Three

Agencies with Individual Comment

Attorney General

Minister for Police and Emergency Services

Minister for Regional Infrastructure and Services

A large, abstract graphic at the bottom of the page consisting of two overlapping circular shapes. The larger shape on the left is a vibrant red, and the smaller shape on the right is a dark grey, matching the background. They overlap in the bottom right corner.

Department of Attorney General and Justice

Audit Opinion

I issued an unqualified audit opinion on the Department of Attorney General and Justice's 30 June 2012 financial statements.

Operational Snapshot

The Department delivers legal, court and supervision services to the people of New South Wales by:

- managing courts and justice services
- implementing programs to reduce crime and re-offending
- managing custodial and community-based correctional services
- supervising and caring for young offenders in the community and in detention centres
- protecting rights and community standards
- advising on law reform and legal matters.

The Department's total expenditure in 2011-12 was \$5.7 billion (\$2.0 billion in 2010-11). In 2011-12, it received \$3.5 billion in appropriations for the first time for distribution to the agencies within the Attorney General and Justice cluster.

Performance Information

Corrective Services NSW

Safety and Containment

The table below shows that from 2009-10 to 2010-11 prisoner on prisoner serious assaults and assaults remained relatively stable. There were no serious assaults by prisoners on prison staff and assaults by prisoners on prison staff decreased by 39.3 per cent.

Prisoner escapes from open facilities increased from two in 2009-10 to 22 in 2010-11.

Prisoner escapes from open facilities increased from two in 2009-10 to 22 in 2010-11

| Year ended 30 June Rate per 100 prisoners | 2011 | | 2010 | | 2009 | |
|--|-------|----------|-------|----------|-------|----------|
| | NSW | National | NSW | National | NSW | National |
| Type of assault | | | | | | |
| <i>Prisoner on prisoner*</i> | | | | | | |
| Serious assault | 0.13 | 0.59 | 0.15 | 0.53 | 0.26 | 0.68 |
| Assault | 13.06 | 8.24 | 13.43 | 9.14 | 12.83 | 8.66 |
| <i>Prisoner on officer*</i> | | | | | | |
| Serious assault | -- | 0.06 | -- | 0.03 | -- | 0.03 |
| Assault | 0.34 | 0.65 | 0.56 | 0.64 | 0.59 | 0.53 |
| Apparent unnatural death | 0.10 | 0.07 | 0.06 | 0.05 | 0.04 | 0.04 |
| Escape rates | | | | | | |
| Open** | 0.60 | 0.53 | 0.06 | 0.30 | 0.31 | 0.57 |
| Secure*** | 0.02 | 0.04 | 0.01 | 0.02 | 0.06 | 0.02 |

Source: Productivity Commission's Report on Government Services 2012 (unaudited).

* The Productivity Commission acknowledges data on assaults are not directly comparable across all States. 'Serious assaults' refer to acts of physical violence resulting in actual bodily harm involving hospitalisation, including sexual assault. Assaults refer to violence resulting in physical injury but not involving hospitalisation.

** Open custody refers to a custodial facility where prisoners are not confined by a secure perimeter irrespective of whether a physical barrier exists.

*** Secure custody refers to a custodial facility where prisoners are confined by a secure perimeter physical barrier. Information not available for every jurisdiction on secure perimeter escapes.

Prisoners in Custody Compared to Capacity of Correctional Centres

The number of prisoners held in correctional centres decreased from 9,916 at 30 June 2011 to 9,579 at 30 June 2012 or 3.4 per cent. At the same time, the capacity of correctional centres decreased from 11,269 beds to 10,707 beds, or five per cent. This represents an occupancy rate at 30 June 2012 of 89.5 per cent (88 per cent at 30 June 2011).

The table below shows the number of prisoners held in correctional centres at each level of security.

| At June | 2012* | | 2011** | |
|-----------------------------|----------------------|---------------|----------------------|---------------|
| | Prisoners in custody | Capacity*** | Prisoners in custody | Capacity*** |
| Correctional Centre | | | | |
| Maximum security facilities | 3,894 | 4,344 | 3,799 | 4,380 |
| Medium security facilities | 2,129 | 2,383 | 2,548 | 2,818 |
| Minimum security facilities | 3,556 | 3,980 | 3,569 | 4,071 |
| Total | 9,579 | 10,707 | 9,916 | 11,269 |

Source: Corrective Services NSW (unaudited).

* as at midnight 24 June 2012.

** as at midnight 26 June 2011.

*** capacity figures include operational beds only and exclude units/wings not currently in operation.

Capacity decreased in 2011-12 due to the closure of the Parramatta, Kirkconnell and Berrima correctional centres in October 2011. Parramatta Correctional Centre was decommissioned and transferred to the State Property Authority, while the Kirkconnell and Berrima centres were closed, but retained by Corrective Services NSW. At 30 June 2011, these centres had an operating capacity of 705 prisoners and held 430 prisoners. The prisoners have been relocated and staff offered voluntary redundancy or redeployment.

Grafton Correctional Centre was scaled down in October 2012 from 243 beds to 64 beds. Offsetting this are 250 additional beds from the Cessnock Correctional Complex, which is expected to be operational in 2012-13. If these beds were included, the occupancy rate as at 30 June 2012 would decrease to 88.9 per cent.

Corrective Services NSW aims for an optimum ten per cent vacancy level in bed occupancy.

Prisoner Transport and Escort Services

Corrective Services NSW performed about 140,000 escorts per year on average over the last three years. Escorts include transporting prisoners between correctional centres, to and from court and for medical reasons. The Court Escort and Security Unit had 241 staff and 94 vehicles at 30 June 2012.

The following table shows transport costs and the number of prisoner movements:

| Year ended 30 June | 2012* | 2011* | 2010* |
|--|---------|---------|---------|
| Prisoner transport and escort service costs (\$'000) | 29,393 | 34,707 | 51,907 |
| Number of prisoner movements | 134,823 | 134,323 | 160,637 |

Source: Corrective Services NSW (unaudited).

* Includes only those movements conducted by Court Escort and Security Unit within the Security and Intelligence Division. Corrective Services NSW is unable to fully disaggregate costs and therefore some transport and escort costs are included under operating expenditure.

Corrective Services NSW attribute the decrease in 2011-12 transport costs of 15.3 per cent compared to the previous year to effective fleet management, better vehicle utilisation rates and reduced overtime.

Corrective Services NSW provides a video conferencing network to facilitate court matters and enable contact between legal representatives and prisoners. This reduces the number and total cost of prisoner escorts and is considered safer for the public and custodial staff.

There were 31,234 court video conferences in 2011-12 (35,034 in 2010-11) in 37 court studios. Corrective Services NSW mainly attributes the decrease of 10.8 per cent to the declining prison population and points out that the decision on whether to use video conferencing rests with magistrates.

Corrective Services NSW estimates it has avoided transport costs of about \$10.0 million in 2011-12 and \$66.8 million since the inception of video conferencing.

Around
30 per cent of
targeted drug
tests of
prisoners were
positive

Prisoner Drug Testing

The table below shows that in 2011-12, 749 (759 in 2010-11) or 13.2 per cent (11.8 per cent) randomly selected urine samples from prisoners tested positive to drugs. However, this percentage was much higher in targeted samples where 30.3 per cent (27.9 per cent) tested positive.

I am advised the decrease in samples tested was due to the closure of three correctional centres and a decrease in the number of prisoners.

| Year ended 30 June | 2012 | | | 2011 | | |
|--------------------|-----------------------------|----------------------------|------|-----------------------------|----------------------------|------|
| | Number of samples requested | Number of positive samples | % | Number of samples requested | Number of positive samples | % |
| Random Samples | 5,683 | 749 | 13.2 | 6,412 | 759 | 11.8 |
| Program Samples* | 12,115 | 341 | 2.8 | 13,238 | 351 | 2.7 |
| Target Samples* | 4,377 | 1,328 | 30.3 | 4,805 | 1,343 | 27.9 |

Source: Corrective Services NSW (unaudited).

* Not subject to National counting rules

Corrective Services NSW started compulsory urine drug testing in 1988 to reduce the incidents of drug abuse, control the spread of infectious diseases, provide a remedial program for drug addicted inmates and reduce the negative effects of drug dealing and drug induced behaviour by prisoners. Urinalysis tests urine for drugs, most commonly drugs of abuse and various prescription drugs. There are three categories of testing in the correctional centres:

- random sampling - using a computer based random sampling program
- program (administrative) sampling - for offenders on pre-release programs such as works release and educational or vocational training
- target sampling - on forming a suspicion that a prisoner has been administered or under the influence of a drug.

Staff Alcohol and Other Drug Testing

Corrective Services NSW performs random and targeted testing of employees for alcohol and drugs. In 2011-12, 3,567 alcohol tests were performed on a sample of custodial and non-custodial employees with a total of 17 positive test results. In the same period 183 drug tests were performed with two positive results.

Juvenile Justice NSW

The Juvenile Justice division of the Department deals with young offenders who have committed, or are alleged to have committed, offences and are between the age 10 and 18. It delivers its services under three service groups (programs), namely Youth Justice Conferencing, Community Based Services and Custodial Services.

Capacity in Juvenile Justice Centres

The following table shows the average daily number of offenders in custody and the number of available beds at each Juvenile Justice centre. Whilst total capacity was unchanged, the average daily number of young offenders in custody decreased by 9.7 per cent during 2011-12.

| At 30 June | 2012* | | 2011* | |
|---|------------------------------|------------|------------------------------|------------|
| Juvenile Justice Centre | Average offenders in custody | Capacity | Average offenders in custody | Capacity |
| Acmena | 36 | 45 | 34 | 45 |
| Frank Baxter | 98 | 120 | 106 | 120 |
| Broken Hill Shelter | -- | 8 | -- | 8 |
| Cobham | 46 | 85 | 62 | 85 |
| Emu Plains | 27 | 40 | 31 | 40 |
| Juniperina | 31 | 46 | 29 | 46 |
| Orana | 26 | 45 | 37 | 45 |
| Reiby | 55 | 67 | 52 | 67 |
| Riverina | 31 | 45 | 36 | 45 |
| Austinmer Adolescent Mental Health Unit** | 3 | --** | 4 | --** |
| Total | 353*** | 501 | 391*** | 501 |

Source: Department of Attorney General and Justice (unaudited).

* Responsibility of the Department of Family and Community Services up to 31 March 2011, and the Department of Attorney General and Justice thereafter.

** The Austinmer Adolescent Mental Health Unit facility is administered by Justice Health. The facility's capacity is not administered by Juvenile Justice and is therefore not applicable. It was formerly called the Bronte Adolescent Mental Health Unit.

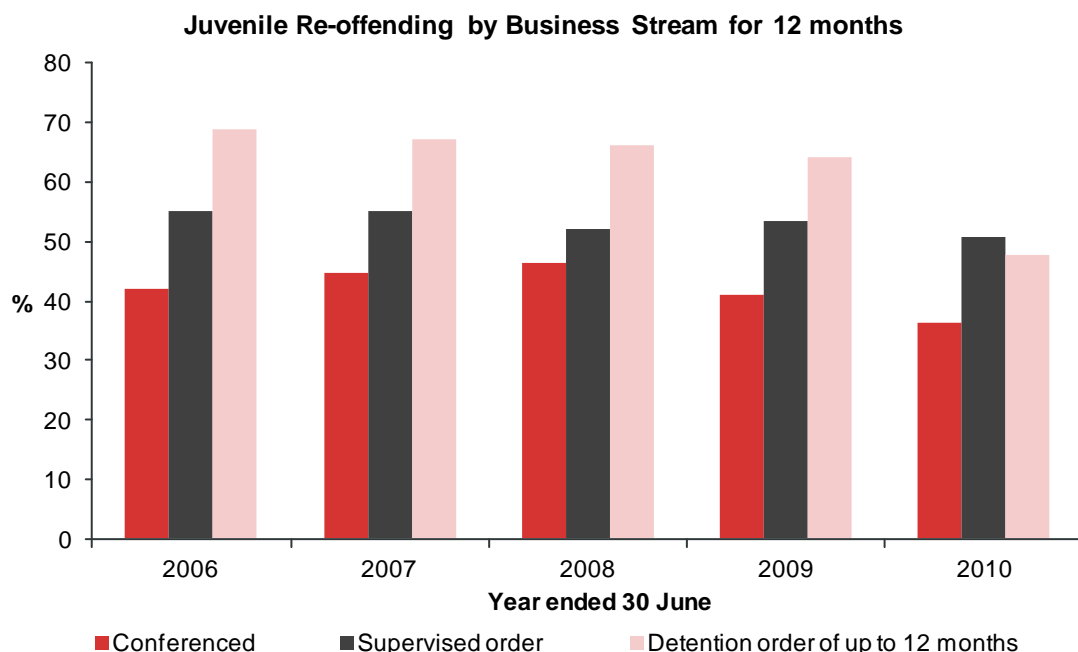
*** Offenders on remand figures included in the average daily numbers in custody in the above table.

Upgrades to the Riverina Juvenile Justice Centre will result in a new 15 bed unit being completed in 2013, taking the total capacity to 60.

The Department advises it will close three surplus units across the State in 2012-13, due to reduced detainee numbers. Emu Plains will close when the Cobham Centre upgrade is completed and there will be a reduction in positions across these centres.

Juvenile Re-offending

The figures below are provided by the Bureau of Crime Statistics and Research, which is responsible for reporting crime statistics in New South Wales and has a database to calculate re-offending rates. It is also responsible for collecting all court data.



Source: NSW Bureau of Crime Statistics and Research (unaudited).

- 1 The graph above counts the number of juvenile offenders receiving a subsequent conviction or conference within 12 months of the index appearance.
- 2 For young people with non-custodial sentences, their follow-up period starts on the date of finalisation of their index appearance.
- 3 For young people with custodial sentences, their follow-up period starts at the end of their fixed sentence.
- 4 The data collection period for follow-up data concluded on 30 June 2011. For Detention Orders made after 29 June 2009, the full follow-up period may not have expired by this time. There are 547 such cases. Thus, the re-offending rate for Detention Orders for 2009-10 is provisional.

The trend shows a gradual reduction in re-offending across all business streams. Juvenile Justice NSW is working with detainees and implementing programs that target re-integration of detainees back into the community. It coordinates work experience, paid employment and TAFE program opportunities. As a result, young people preparing for discharge have access to TAFE-accredited pre-employment programs.

Other Information

Major Projects

JusticeLink Financial Processes

In November 2011, an internal audit report on JusticeLink's financial processes made 19 recommendations of which six were assessed as high risk and ten as medium risk. The high risk matters included:

- no consistent review to ensure completeness of outcomes entered into JusticeLink
- limited controls over invoicing of transcripts
- no enforced segregation of duties in the payments process
- limited controls over payment of witness expenses
- manual process for updating debtor balances on the SUN system
- insufficient management reporting and overview over JusticeLink financial transactions.

The Department advised that, except for the last matter, all have been fully addressed. The outstanding matter will be addressed as part of the SAP finance system migration in December 2012.

JusticeLink Performance

Since 2010, I have reported on the inability of JusticeLink to automatically refer debts to the State Debt Recovery Office due to unresolved interface issues. Subsequent system enhancements have reduced the outstanding debts of \$31.4 million at 30 June 2010 to \$11.6 million at 30 June 2012.

The Department and key stakeholders audit data received from the higher courts. This helps ensure the statistics for offences compiled from the JusticeLink system are accurate. Errors noted by the audit process can be seen in the table below.

| Year ended 30 June Error types | Number of errors | | |
|-----------------------------------|------------------|--------------|--------------|
| | 2011 | 2010 | 2009 |
| Critical | 713 | 839 | 1,525 |
| Non critical | 1,104 | 1,411 | 1,605 |
| Total | 1,817 | 2,250 | 3,130 |

Source: Information provided by the Department (unaudited).

Critical and non-critical errors continued to decrease in 2010-11, which the Department attributes to better controls over the system's data quality.

Major Capital Projects (Corrective Services NSW)

In 2011-12, Corrective Services NSW:

- completed construction of the 250-bed expansion of Cessnock Correctional Centre, which was funded in June 2005 as part of the 1,000 bed project. The budgeted cost was \$98.6 million and at 30 June 2012 the actual cost was \$97.3 million. The expanded section is expected to begin accepting inmates in 2012-13.
- progressed the Remediation Enhancement and Architecture Lifecycle (REAL) program. This project involves remediating the three core applications within Corrective Services NSW, including the Offender Integrated Management System and supporting infrastructure.

The REAL program started in 2009 and is expected to be completed in 2013. The budgeted cost is \$47.6 million and at 30 June 2012 I was advised actual costs of \$37.9 million had been incurred.

During the year, Corrective Services NSW's internal audit branch reviewed one of the individual projects within the REAL program, Offender Financials, and raised concerns with aspects of its financial governance. In the Law and Order Overview earlier in this volume, I recommended the Department improve its governance processes over major IT projects.

Independent Review of Corrective Services NSW's Organisational Management Structure

An independent review report on Corrective Services NSW's Organisation Management Structure was issued in January 2012. Amongst other things, the report recommended a flatter organisational structure. The new structure is currently being implemented and is expected to be in place in 2012-13.

Human Resources

Excessive Annual Leave

Last year, I recommended the Department review the effectiveness of its policies for managing excessive annual leave balances.

Corrective Services NSW had 1,703 employees (1,796 at 30 June 2011) with more than 40 days of accrued annual leave at 30 June 2012. The highest employee leave balance was 157 days (153 days).

While the situation improved in 2011-12, managing excessive annual leave remains a challenge for the Department.

Overtime

Recommendation

Corrective Services NSW should continue its efforts to reduce overtime and continuously reassess the effectiveness of its policies and management of overtime.

Corrective Services NSW incurred overtime of \$15.0 million in 2011-12 (\$18.8 million in 2010-11).

While there has been an overall reduction in overtime, 4,023 (3,712) employees received overtime payments, with 12 (26) receiving payments equal to or exceeding 50 per cent of their base pay.

Employment of Contractors

The Department advises that a number of broad and on-going corporate services reforms are planned in the coming year, including taking a more unified approach to address the creation and maintenance of a central registry for all contractors across the Department. The Department intends to leverage established best practices and processes across the different divisions of the Department to address this issue.

Financial Information

Abridged Statement of Comprehensive Income

| Year ended 30 June | 2012 \$'000 | 2011 \$'000 |
|---|------------------|------------------|
| Employee related expenses | 1,445,599 | 1,244,928 |
| Depreciation and amortisation | 168,313 | 152,741 |
| Grants and subsidies | 3,489,039 | 37,904 |
| Finance costs | 9,608 | 9,727 |
| Other expenses | 592,822 | 539,448 |
| Total expenses | 5,705,381 | 1,984,748 |
| Government contributions | 5,256,768 | 1,670,493 |
| Sales of goods and services | 202,592 | 182,923 |
| Investment revenue | 5,910 | 5,589 |
| Other revenue | 291,755 | 207,862 |
| Total revenue | 5,757,025 | 2,066,867 |
| Other losses | (18,564) | (11,950) |
| Net result - surplus | 33,080 | 70,169 |
| Other comprehensive income | | |
| Net increase in revaluation of assets | 26,750 | 362,408 |
| Superannuation actuarial loss | (63,915) | (165) |
| Other losses | -- | (5,745) |
| Other comprehensive income/(expense) | (37,165) | 356,498 |
| Total comprehensive income/(expense) | (4,085) | 426,667 |

Employee related expenses increased due to pay increases and the first full year for Juvenile Justice following its transfer on 1 April 2011 to the Department.

During 2011-12, the Department received \$3.5 billion in appropriations for distribution to agencies within the Attorney General and Justice cluster for the first time. The distributions were made to non-departmental agencies within the cluster by way of grants.

Other revenue includes some long service leave and superannuation expenses recoverable from other agencies and the Crown Entity, including a superannuation defined benefit actuarial loss of \$63.9 million. This was caused primarily by a lower government bond rate used in the actuarial assessment of the liability.

Abridged Statement of Financial Position

| At 30 June | 2012 \$'000 | 2011 \$'000 |
|--------------------------|------------------|------------------|
| Current assets | 176,670 | 172,583 |
| Non-current assets | 3,887,557 | 3,849,756 |
| Total assets | 4,064,227 | 4,022,339 |
| Current liabilities | 324,982 | 320,664 |
| Non-current liabilities | 206,746 | 149,090 |
| Total liabilities | 531,728 | 469,754 |
| Net assets | 3,532,499 | 3,552,585 |

Non-current liabilities increased due to the increase in the superannuation defined benefit liability noted above.

Department Activities

The Department of Attorney General and Justice delivers legal, court and custodial and community supervision services to the people of New South Wales.

The Department Divisions are the Attorney General's Division, Corrective Services NSW and Juvenile Justice NSW.

The Attorney General's Division manages and supports the State's court registries and legal jurisdictions, implements crime prevention programs and supports victims of crime. It also provides research data and legal and policy advice to the NSW Government and the community.

Corrective Services NSW provides custodial and community based correctional services, conducts programs and services that reduce the risk of re-offending, prepares offender reports to assist sentencing and releasing authorities, and supplies prisoner security services at a number of courts.

Juvenile Justice NSW supervises and cares for young offenders in the community and in detention centres. It provides youth justice conferences for young offenders referred by police or the courts.

Department services also include those provided by the Registry of Births, Deaths and Marriages, the Guardianship Tribunal and the Crown Solicitor's Office.

The Department supports the Attorney General as the Crown's First Law Officer.

For further information on the Department of Attorney General and Justice, refer to www.lawlink.nsw.gov.au.

Legal Aid Commission of New South Wales

Audit Opinion

I issued unqualified audit opinions on the Legal Aid Commission of New South Wales' and its controlled entities' 30 June 2012 financial statements.

The following comments are for the consolidated entity, unless otherwise stated.

Operational Snapshot

The Commission is a statewide organisation providing legal services to socially and economically disadvantaged people across New South Wales. The legal services cover most areas of criminal, family and civil law and are delivered in partnership with the private legal profession.

In 2011-12, the Commission incurred expenses of \$245 million (\$230 million in 2010-11), including \$91.2 million (\$82.8 million) on employee related costs and \$100 million (\$96.4 million) on legal services outsourced to private practitioners.

Key Issues

Time Costing System

Recommendation

The Commission should establish and adhere to a timetable to implement an appropriate time costing system that meets section 12 of the *Legal Aid Commission Act 1979* requirements.

Last year, I recommended the Commission consider introducing a costing system so it can prepare individual case budgets against which management can compare actual costs and measure/benchmark performance. This would allow the Commission to demonstrate compliance with section 12 of the *Legal Aid Commission Act 1979*, which requires legal aid to be provided in the most 'effective, efficient and economical manner'.

The Commission has appointed a task force to investigate the feasibility of implementing a suitable time costing system. Its terms of reference include:

- reviewing time and activity based costing methodologies used in the NSW public sector and similar public sector agencies in other jurisdictions
- considering current perspectives of private law firms on measuring efficiency and performance
- analysing the resources required to implement an activity based costing system, including a cost-benefit analysis
- making recommendations on introducing a system to measure, monitor and report costs.

The task force expects to report to the Chief Executive Officer before the end of the year.

Immigration Services Provided by the Commission

Recommendation

Once a suitable time costing system is in place, the Commission should assess whether:

- Commonwealth funding is sufficient to cover the cost of providing immigration services, including to asylum seekers
- whether providing these services impacts the Commission's ability to deliver services on other programs.

There has been a 51.5 per cent increase in immigration services over the last three years

The Commission is not able to separately identify the cost of providing legal advice, assistance and representation about refugee law and other immigration matters. This is an area where growth in services is expected to occur over the next few years, given current numbers of asylum seeker arrivals and their use of the Commission's services. These services form part of 'immigration services', and include:

- assistance for family visas
- humanitarian family reunion visas
- help with over-stayed visas or no visa.

The Commission advises the extent of immigration services, including for asylum seekers, has increased significantly in recent years. This is reflected in the following table, which shows a 51.5 per cent increase in the number of immigration services provided over the last three years.

| Year ended 30 June | Number of services | | |
|----------------------|--------------------|--------------|--------------|
| | 2012 | 2011 | 2010 |
| Legal advice (a) | 1,177 | 930 | 854 |
| Minor assistance (b) | 242 | 134 | 53 |
| Case grants (c) | 197 | 202 | 160 |
| Total | 1,616 | 1,266 | 1,067 |

Source: Legal Aid Commission of New South Wales (unaudited).

- a Legal advice involves advising clients of their legal rights and obligations and legal course of action.
- b Minor assistance involves telephone calls or documents drafted on clients' behalf.
- c Case grants are money granted to disadvantaged persons for legal assistance from Legal Aid or private lawyers.

The Commission receives Commonwealth funding for its immigration services. However, without a time costing system, it cannot determine if this funding covers the service delivery costs or the impact these services have on the Commission's ability to provide other services.

Effectiveness of Internal Audit

Recommendation

The Commission should ensure sufficient internal audit work is performed each year to give those in governance positions confidence in the system of internal controls. Internal audits should align with and focus on the Commission's risks as identified in the risk register.

The internal audit work performed in 2011-12 and 2010-11 was significantly less than approved by the Audit and Risk Committee. Some cancelled internal audits related to areas of higher risk. The decision to cancel or postpone internal audit work was due to staff restructures and shortages.

If this continues, the Commission may not be able to demonstrate compliance with:

- section 11 of the *Public Finance and Audit Act 1983*, which requires it to ensure that an effective internal audit function is in place
- NSW Treasury Policy Paper 09-05 'Internal Audit and Risk Management Policy for the NSW Public Sector', which requires the Audit and Risk Committee to review internal audit coverage and the annual work plan, and ensure the plan aligns with the agency's risk management plan.

The Commission advises that a new chief audit executive was appointed on 10 September 2012, and at the time of this report two of the 2011-12 internal audits are now the subject of internal reviews by the chief executive officer.

Performance Information

Applications for Legal Aid

The table below shows applications for legal aid that were refused, as a percentage of the total decisions made.

| Year ended 30 June | Percentage of applications refused | | | | |
|----------------------|------------------------------------|------|------|-------|-------|
| | 2012 | 2011 | 2010 | 2009* | 2008* |
| Criminal law program | 12.1 | 11.4 | 11.3 | 8.5 | 6.2 |
| Family law program | 25.6 | 26.5 | 24.2 | 27.3 | 22.7 |
| Civil law program | 37.8 | 39.7 | 42.4 | 41.6 | 35.1 |

Source: Legal Aid Commission of New South Wales (unaudited).

* The introduction of new grant and case management systems in 2008-09 improved the Commission's recording and reporting capabilities. Consequently comparisons from 2008-09 onwards with the previous years may not be valid.

In 2011-12, the 1.9 per cent decrease in applications refused for the civil law program and the 0.9 per cent decrease in family law applications was partially offset by a 0.7 per cent increase in criminal law case refusals, as a percentage of decisions made.

Client Services

The Commission provides services such as case grants, duty appearances, legal advice, minor assistance and information services. It works in partnership with private practitioners who receive funding from the Commission to represent legally aided clients. The Commission advises the percentage of total case and duty services provided by private solicitors in 2011-12 was 42.5 per cent (43.7 per cent in 2010-11).

The table below shows total client services provided by the Commission by law type over the past five years.

| Year ended 30 June | Number of services | | | | |
|---|--------------------|----------------|----------------|----------------|----------------|
| | 2012 | 2011 | 2010 | 2009 | 2008 |
| Criminal law program | 205,708 | 206,212 | 203,510 | 201,404 | 180,816 |
| Family law program | 63,028 | 53,787 | 53,213 | 51,984 | 49,145 |
| Civil law program | 53,106 | 44,191 | 46,761 | 48,773 | 50,186 |
| Total (a) | 321,842 | 304,190 | 303,484 | 302,161 | 280,147 |
| Information Services (all programs) (b) | 609,299 | 514,060 | 497,872 | 475,667 | 361,736(c) |

Source: Legal Aid Commission of New South Wales (unaudited).

a The programs include grants, duty appearances, advice and minor assistance.

b Information services are provided across all programs. They include initial inquiries about the legal process, provision of printed information and referral services.

c This does not include switchboard data at the central Sydney office, recorded from 2008-09 years onwards.

Criminal law services provided in 2011-12 were similar to 2010-11, but costs increased by 9.2 per cent. The Commission attributes the increasing costs to trials taking longer and becoming more complex, longer briefs of evidence from increased police surveillance material and more co-accused trials, resulting in more matters being assigned to private practitioners.

The Commission advises that family law services in 2011-12 rose by 17.2 per cent due to an expansion of Commonwealth duty lawyer schemes and early intervention services. While the volume of services increased, the cost of providing them decreased due to the success of early intervention strategies, such as family dispute resolution in the family law area. The early resolution of family law matters means the Commission spends less time on litigation services.

The increase in the civil law program of 20.2 per cent compared to 2010-11 was primarily due to a 12 per cent rise in Commonwealth civil law case matters in which costs are not recoverable, the establishment of a new service providing legal advice, assistance with fines and other debts and increased services in social security and employment law.

There was an 18.5 per cent increase in information services across all programs in 2011-12. This reflects a combination of increased community demand for information services and data capture improvements by the Commission.

Other Information

Muldrock High Court decision

The High Court decision in *Muldrock v The Queen* [2011] HCA 39 in October 2011 identified a potential sentencing error where the court may have given too much weight to the standard non-parole period, resulting in longer jail times. This could affect the Commission's clients.

The Commission has responded to the decision by establishing an internally resourced team to review more than 1,000 closed files, to identify potential standard non-parole sentencing errors. Where there is merit, the Commission will start proceedings, subject to legal aid being granted. This work could cost the Commission up to \$1.8 million and take up to 12 months to complete.

As the team is made up of Commission employees, work that would normally be completed by them is being outsourced to private practitioners. The Muldrock case is available at <http://www.austlii.edu.au/au/cases/cth/HCA/2011/39.html>.

Excess Annual Leave

Recommendation

The Commission should continue its efforts to reduce excess annual leave balances.

At 30 June 2012, 90 or 10.2 per cent of Commission employees had annual leave balances exceeding 40 days (83 or 9.4 per cent at 30 June 2011). My 2010-11 management letter recommended the Commission put processes in place to ensure excess balances are reduced. The Commission agreed with the recommendation, but the number of employees with excess annual leave balances has increased.

While public sector awards allow accumulation of up to 40 days of annual leave, the government's intention is for accrued annual leave days to be reduced to a maximum of 40 days by 30 June 2013, 35 days by 30 June 2014 and 30 days by 30 June 2015. It is therefore increasingly important for the Commission to effectively manage leave entitlements.

Excess annual leave balances:

- could imply key staff are not being rotated, a preventive control against fraud
- increase work health and safety risks for staff
- increase the Commission's costs given salary rises and increments over time.

The Commission advises that the number of staff with excess annual leave balances had reduced by 50 per cent by 30 September 2012.

Health and Wellbeing Initiatives

Commission surveys over recent years have identified concerns with the health and wellbeing of staff. This is reflected in an increase in the number of staff with psychological injuries, which has risen from five in 2009-10 to 16 in 2011-12.

In 2011-12 the Commission responded by:

- undertaking two independent health and wellbeing surveys to obtain a base line snapshot of staff mental health across the organisation
- establishing a health and wellbeing steering committee to develop programs and initiatives to address some identified issues
- creating a temporary health and wellbeing project officer position to implement a health and wellbeing program in 2011-12
- working with its Employee Assistance Program provider to improve services available to staff.

In August 2012, the Commission implemented mandatory education and awareness training and in September 2012 piloted a 'well check' program, which aims to assess and help staff manage factors that contribute to stress or psychological injury.

The Commission advises that the number of open staff psychological injuries cases had reduced to six by early November 2012.

Financial Information

Abridged Statement of Comprehensive Income

| Year ended 30 June | 2012 \$'000 | 2011 \$'000 |
|---|-----------------|----------------|
| Employee related expenses | 91,163 | 82,756 |
| Depreciation and amortisation | 5,077 | 4,991 |
| Grants and subsidies | 26,655 | 25,798 |
| Finance costs | 320 | 314 |
| Other expenses | 121,467 | 116,356 |
| Total expenses | 244,682 | 230,215 |
| Government contributions | 174,912 | 167,366 |
| Grants and contributions | 58,987 | 54,044 |
| Other revenue | 9,735 | 8,670 |
| Total revenue | 243,634 | 230,080 |
| Other (losses)/gains | 847 | (450) |
| Net result - deficit | (201) | (585) |
| Other comprehensive income | | |
| Superannuation actuarial gains/(losses) | (27,196) | 367 |
| Total other comprehensive income/(expense) | (27,196) | 367 |
| Total comprehensive expense | (27,397) | (218) |

Superannuation actuarial losses resulted from a reduction in the discount rate used to value these liabilities.

Abridged Statement of Financial Position

| At 30 June | 2012 \$'000 | 2011 \$'000 |
|--------------------------|----------------|----------------|
| Current assets | 84,109 | 80,989 |
| Non-current assets | 16,791 | 16,864 |
| Total assets | 100,900 | 97,853 |
| Current liabilities | 88,011 | 57,717 |
| Non-current liabilities | 4,504 | 4,354 |
| Total liabilities | 92,515 | 62,071 |
| Net assets | 8,385 | 35,782 |

Current liabilities increased due to the increase in superannuation liabilities referred to above.

Abridged Service Group Information

The Commission's net result and net assets on a service group basis are detailed below.

| Year ended 30 June | 2012 | | 2011 | |
|---------------------------------|---|---|---|---|
| | Actual net result surplus/(deficit) \$'000 | Actual net assets (liabilities) \$'000 | Actual net result surplus/(deficit) \$'000 | Actual net assets (liabilities) \$'000 |
| Family law | (59,576) | (20,890) | (62,186) | (12,727) |
| Criminal law | (80,612) | (36,384) | (73,799) | (20,470) |
| Civil law | (20,267) | (12,563) | (17,668) | (6,049) |
| Community partnerships | (14,658) | (1,086) | (14,298) | (577) |
| Not attributable | 174,912 | 79,308 | 167,366 | 75,605 |
| Total all service groups | (201) | 8,385 | (585) | 35,782 |

Commission Activities

The Commission is primarily responsible for providing legal aid and other legal services in accordance with the *Legal Aid Commission Act 1979*. Legal aid services are provided by the Commission's officers or by private legal practitioners. A means test applies to most applications for assistance while some are also subject to a legal merit test. A legally assisted person may be required to make an initial contribution towards the Commission's costs and, if successful in a civil action, to meet the balance of any costs from moneys recovered.

For further information on the Commission, refer to www.legalaid.nsw.gov.au.

Controlled Entities

The controlled entities have not been reported on separately as they are not considered material by their size or the nature of their operations to the consolidated entity.

| Entity Name | Website |
|---|---------|
| Legal Aid Commission Temporary Staff Division | * |
| Office of the Legal Aid Commission | * |

* This entity does not have a website.

NSW Trustee and Guardian

Audit Opinion

I issued an unqualified audit opinion on the NSW Trustee and Guardian's 30 June 2012 financial statements.

Operational Snapshot

The NSW Trustee and Guardian provides:

- trustee services to the people of New South Wales
- financial management services to people with impaired decision-making abilities
- lifestyle decision-making services through the Public Guardian to people with impaired decision-making abilities.

All moneys held on behalf of clients are in trust funds (Common Funds) and invested. The combined value of these funds at 30 June 2012 was \$2.4 billion.

References in this comment to Trustee Services relate to activities of the former Public Trustee NSW, while references to Financial Management relate to activities of the former Office of the Protective Commissioner.

Key Issues

Significant Internal Control Deficiencies

Recommendation

NSW Trustee and Guardian should continue to promptly action all internal audit recommendations within a timeframe agreed with the audit and risk committee.

The NSW Trustee and Guardian's internal audits identified significant internal control deficiencies and made 147 recommendations to improve processes and controls in 2011-12 (67 in 2010-11). Thirty-seven recommendations from previous and current years' audits were overdue at September 2012.

whilst the NSW Trustee and Guardian has an active internal audit function, which it uses to proactively address the potential risks of safeguarding and managing client assets and finances, the extent and nature of internal control deficiencies continues to be of concern.

Internal audit work in 2011-12 included two follow-up reviews of calendar year 2010 recommendations on client property management and client personal property. The reviews found 22 high and medium risk rated recommendations were either incomplete or partially complete.

Recommendations currently being actioned by the NSW Trustee and Guardian include high risk internal control shortcomings, which include:

- inadequate management review and oversight of the trust administration process (Trustee Services)
- limited management oversight of client property management processes (Financial Management)
- delegations of authority not always being adhered to (Trustee Services)
- properties not being valued on a timely basis, and valuations not up to date and supported by appropriate documentation (Financial Management)
- inconsistent reconciliations between sold properties data and the Properties Register (Financial Management).

The extent and nature of internal control deficiencies, which continue to be identified, is concerning due to the potential risks to client assets

The NSW Trustee and Guardian has a high volume of non-standard transactions, which increases the risk of fraud and error. Non-standard transactions include:

- payments from client trust accounts to third parties, including overseas third parties
- reimbursements to third parties, such as client family members
- direct cash payments to clients.

The variable nature of these transactions means they need more manual intervention than standard/regular payments, which makes establishing and maintaining a strong control environment more difficult, but more important.

The number and significance of the internal audit findings suggests the NSW Trustee and Guardian's internal control environment needs further improvement. The NSW Trustee and Guardian advises that implementation of a new client information management system in 2014 will improve the control environment. It also advises that control improvements recommended by an expert in transactional banking fraud have been incorporated into the specifications of the new system.

Internal audit findings are reported regularly to the audit and risk committee, which actively monitors and follows up outstanding recommendations.

Ombudsman's Review

Last year, I reported the NSW Ombudsman was planning to investigate issues relating to the administration of financial estates by the NSW Trustee and Guardian. The Ombudsman's review, which was completed in December 2011, reported the following areas of concern:

- adequacy of supervision and support provided to staff
- significant delays in identifying and securing client assets and establishing relationships with clients and their families
- inadequate management of financial assets
- poor documentation management processes.

NSW Trustee and Guardian is progressively implementing recommendations made by the Ombudsman to address the above issues and advises that the Ombudsman is closely monitoring progress in implementing the recommendations. The reporting period has been extended until February 2013.

Performance Information

The NSW Trustee and Guardian advises that benchmarking against similar entities in other states is not possible as each state has different ways of charging clients and different applicable legislation, service standards and types. I am therefore unable to compare the NSW Trustee and Guardian performance information with similar entities in other jurisdictions.

Client Satisfaction

The NSW Trustee and Guardian uses the following indicators to measure and help improve its performance:

| Year ended 30 June | Actual | | | | |
|--|--------|------|------|------|------|
| | 2012 | 2011 | 2010 | 2009 | 2008 |
| Customer satisfaction index - Trustee Services | 95 | 94 | 84 | 87 | 80 |
| Customer satisfaction index - Financial Management | 60 | 66 | na | na | na |
| Complaints received | 386 | 377 | 287 | na | na |

Source: NSW Trustee and Guardian (unaudited).

na not available.

The customer satisfaction index for Financial Management clients has decreased by 9.1 per cent to 60 per cent

The Trustee Services customer satisfaction index has remained stable, and at a high level. The customer satisfaction index for Financial Management clients has decreased by 9.1 per cent to a comparatively low level of 60 per cent.

A breakdown of the Financial Management index shows it decreased from 62 to 52 for directly managed clients and from 69 to 68 for privately financially managed clients. The NSW Trustee and Guardian advises that strategies are being implemented to deal with Financial Management customer satisfaction, including the roll out of a new service delivery model.

It also advises the difference in satisfaction ratings between Trustee Services and Financial Management clients is mainly due to Financial Management clients being required by an order of a court or tribunal to use the NSW Trustee and Guardian, whereas Trustee Services clients voluntarily choose the NSW Trustee and Guardian. Financial Management clients may be unhappy and/or do not understand the need for the order.

Complaints made to NSW Trustee and Guardian increased by 2.4 per cent during 2011-12. Over half the complaints related to delays in responses and decisions, and provision of information. A significant proportion of the complaints (271) came from the Financial Management area of operations.

Trustee Services Performance

The NSW Trustee and Guardian provided the following information on its performance for the volume and value of new business obtained during the year:

| Year ended 30 June | Volume (no.) | | | Value (\$m) | | |
|-----------------------------|--------------|--------|-------|-------------|--------|------|
| | Target | Actual | | Target | Actual | |
| | 2012 | 2012 | 2011 | 2012 | 2012 | 2011 |
| Estates administration | 1,700 | 1,521 | 1,624 | 500 | 497 | 582 |
| Trusts duties | 800 | 805 | 875 | 50 | 43 | 50 |
| Powers of attorney services | 80 | 62 | 83 | 26 | 31 | 36 |
| Will making | 10,000 | 9,290 | 9,672 | na | na | na |

Source: NSW Trustee and Guardian (unaudited).

na not applicable.

In 2011-12, the number of new matters decreased and was below target for all business categories, except trust duties, which exceeded target by 0.6 per cent.

The value of trusts duties was 14 per cent below target while the value of powers of attorney services was 19.2 per cent above target.

Financial Management Performance

Funds Managed

The NSW Trustee and Guardian provides financial management services to people with impaired decision-making abilities, who are unable to manage their own affairs. The *NSW Trustee and Guardian Act 2009* outlines how the funds must be managed. All moneys must be kept in a trust fund (Common Fund) and invested. The NSW Trustee and Guardian also manages other property (client assets external to the Common Fund) such as real estate, shares and term deposits. Funds managed were:

| Year ended 30 June | 2012 \$'000 | 2011 \$'000 |
|-----------------------------|------------------|------------------|
| Common Fund investments | 1,218,874 | 1,111,697 |
| Real property | 749,577 | 703,641 |
| Other assets | 442,739 | 390,657 |
| Total assets managed | 2,411,190 | 2,205,995 |

Source: NSW Trustee and Guardian (unaudited).

Number of Clients

The NSW Trustee and Guardian manages the financial affairs of protected persons or authorises and directs the activities of private managers. Private financial managers can be appointed by the Supreme Court or Guardianship Tribunal. There were 13,153 protected persons at 30 June 2012, an increase of 2.2 per cent compared to the previous year. The number of directly managed clients increased by 2.2 per cent and the number of privately managed clients increased by 2.3 per cent.

Other Information

Vendor Tender Evaluation Process for the Customer Management System Upgrade

In 2010-11, I reported that the NSW Trustee and Guardian was implementing a new Client Management System to replace the Trustee Services' TEAMS system and the Financial Management Client Information System.

A contract for a new Client Management System has been signed, following a competitive tender process, and will be implemented over the next two years.

Project to Harmonise the Fund Manager, Custodial and Unit Registries of All Funds

The NSW Trustee and Guardian operates two common funds, one for Financial Management clients and the other for Trustee Clients. There is an ongoing major project to harmonise the fund manager, custodial and unit registries of both funds. This will involve creating a new single common fund in late 2013, after which the two existing funds will start to wind down.

As part of this project, the NSW Trustee and Guardian conducted a competitive tender process for a new custodian. The transition to the new custodian is scheduled to occur in February and March 2013, while the Fund Manager transition will occur in April 2013.

Common Fund Reports

The Trustee Common Fund and the Financial Management Common Fund are managed by the NSW Trustee and Guardian on behalf of its clients. My audits of both funds for the years ended 30 June 2011 and 2012 are still in progress.

Due to the control deficiencies identified with the management of the common funds, my audits include extensive detailed testing to verify the validity of client payments. The increased level of audit testing, combined with difficulties in obtaining appropriate audit evidence to support the validity of some payments, have contributed to delays and increased costs of the audit process.

As noted under Key Issues above, the NSW Trustee and Guardian continues to perform internal audit reviews and implement recommendations to address the control deficiencies.

Financial Information

Abridged Statement of Comprehensive Income

| Year ended 30 June | 2012 \$'000 | 2011 \$'000 |
|---|-----------------|----------------|
| Personnel services expenses | 96,357 | 52,609 |
| Depreciation and amortisation | 3,092 | 3,483 |
| Other expenses | 15,595 | 16,323 |
| Total expenses | 115,044 | 72,415 |
| Government contributions | 13,332 | 16,818 |
| Commissions and fees | 55,168 | 58,280 |
| Investment revenue | 1,370 | 4,057 |
| Other revenue | 5,099 | 4,742 |
| Total revenue | 74,969 | 83,897 |
| Other losses | 14 | 18 |
| Net result - surplus/(deficit) | (40,089) | 11,464 |
| Other comprehensive income | | |
| Net increase in revaluation of assets | -- | 831 |
| Total other comprehensive income | -- | 831 |
| Total comprehensive income/(expense) | (40,089) | 12,295 |

The large increase in personnel services expenses is due to an actuarial loss of \$39.3 million on defined benefit superannuation plans due to a significant fall in the government bond rate used to calculate the liability.

Government contributions in 2010-11 included a one-off receipt of \$3.7 million in assets from the Department of Attorney General and Justice.

Abridged Statement of Financial Position

| At 30 June | 2012 \$'000 | 2011 \$'000 |
|--------------------------|----------------|----------------|
| Current assets | 56,445 | 53,780 |
| Non-current assets | 63,051 | 63,535 |
| Total assets | 119,496 | 117,315 |
| Current liabilities | 24,878 | 21,969 |
| Non-current liabilities | 77,721 | 38,360 |
| Total liabilities | 102,599 | 60,329 |
| Net assets | 16,897 | 56,986 |

The increase in non-current liabilities is also mainly due to the actuarial valuation of superannuation plans mentioned above.

Trustee Services Activities

The NSW Trustee and Guardian may act as a trustee; as an executor or administrator; as collector of estates under an order to collect; as an agent or attorney; as guardian or receiver of the estate of a minor; and as receiver of any other property.

The Trustee services of the NSW Trustee and Guardian include:

- will making
- executor services
- administration of deceased estates
- trustee of trusts created by wills, deeds, court orders and legislation
- power of attorney services
- management/sale of assets seized or confiscated under the *Confiscation of Proceeds of Crime Act 1989* and the *Criminal Assets Recovery Act 1990*.

The Chief Executive Officer of the NSW Trustee and Guardian is also the Commissioner of Dormant Funds under the *Dormant Funds Act 1942*. This involves investigating and recommending proposals for dealing with funds acquired by trustees for charitable or other public purposes, which have become dormant.

Financial Management Activities

The NSW Trustee and Guardian:

- manages the affairs of those persons who are not able to manage their own affairs and whose affairs have been formally committed to management by order under the Act
- authorises and directs the performance and duties of private managers appointed by the Supreme Court or the Guardianship Tribunal.

The Chief Executive Officer of the NSW Trustee and Guardian reports administratively to the Attorney General via the Director General of the Department of Attorney General and Justice.

Public Guardian

The Public Guardian makes personal lifestyle decisions on behalf of adults who have a decision-making disability. Decisions are made in such areas as accommodation, services and consenting to medical and dental treatment. The Public Guardian also provides support to private guardians. The total number of clients managed for the 2011-12 financial year was 2,648.

For further information, refer to www.tag.nsw.gov.au (NSW Trustee and Guardian) and www.lawlink.nsw.gov.au/opg (Office of the Public Guardian).

Office of the Director of Public Prosecutions

Audit Opinion

I issued an unqualified audit opinion on the Office of the Director of Public Prosecutions' 30 June 2012 financial statements.

Operational Snapshot

The Office works to provide an independent and just prosecution service to the people of New South Wales. It conducts all indictable and some summary prosecutions referred to it by the NSW Police Force. In 2011-12 it incurred expenses of \$112 million (\$106 million in 2010-11), including \$89.8 million (\$83.7 million) on employee related costs.

Key Issue

Motor Vehicle Benefit

Last year, I reported that as a result of my review of salary entitlements in 2009-10, the Office withheld an amount of \$202,071 from a senior employee on his retirement because of an overpayment of a motor vehicle benefit. The Office advises a financial settlement was reached between the former employee and the State after 30 June 2012.

Performance Information

The Office provided the following information regarding its performance.

| Number of trials registered and completed at 30 June | 2012 | 2011 | 2010 | 2009 | 2008 |
|--|-------|-------|-------|-------|-------|
| Supreme Court | | | | | |
| Matters registered | 68 | 87 | 71 | 86 | 89 |
| Matters completed | 85 | 74 | 87 | 82 | 88 |
| District Court | | | | | |
| Trials registered | 1,571 | 1,712 | 1,706 | 1,798 | 1,744 |
| Trials completed | 1,746 | 1,701 | 1,818 | 1,699 | 1,692 |
| Local Court | | | | | |
| Committals registered | 5,781 | 5,877 | 6,073 | 6,147 | 6,066 |
| Committals completed | 6,016 | 5,793 | 5,965 | 6,375 | 5,899 |

Source: Office of the Director of Public Prosecutions (unaudited).

| Number of matters not finalised at 30 June | 2012 | 2011 | 2010 | 2009 | 2008 |
|--|-------|-------|-------|-------|-------|
| Supreme Court | | | | | |
| Trials | 94 | 101 | 82 | 96 | 94 |
| Sentences | 13 | 9 | 12 | 5 | 3 |
| Court of Criminal Appeal appeals | 203 | 177 | 160 | 129 | 164 |
| District Court | | | | | |
| Trials | 1,512 | 1,461 | 1,543 | 1,672 | 1,645 |
| Sentences | 790 | 987 | 894 | 999 | 860 |
| All grounds appeals | 471 | 538 | 529 | 506 | 475 |
| Severity appeals | 993 | 993 | 852 | 954 | 881 |
| Leniency appeals | 6 | 5 | 10 | 9 | 14 |
| Local Court | | | | | |
| Committals | 2,950 | 3,257 | 3,152 | 3,043 | 2,971 |
| Advising | 164 | 104 | 105 | 101 | 90 |

Source: Office of the Director of Public Prosecutions (unaudited).

Matters completed in all courts increased in 2011-12 due to a renewed focus by the Office on closing outstanding matters. In addition, the average number of days between date of arrest and disposal decreased from 297 to 287.

The Office advises that matters were completed in 335 days in 2011-12 across the Supreme and District Courts compared to 365 days in 2010-11. The Office also advises Local Courts took 224 days between arrest and committal compared to 236 days in the prior year.

The time taken to complete cases depends on several variables, including the mix and complexity of cases registered and the time the case is listed.

Other Information

Workforce Ageing

Last year, I recommended the Office develop strategies to manage its ageing workforce.

The Office faces the possible loss of many retiring legal professionals and their associated knowledge and skills. At 30 June 2012, 22.7 per cent of its employees were aged 55 or older and 35.5 per cent were 50 or older.

The Office reviewed its workforce age profile in 2011-12 and found the number of staff over 60 had fallen marginally due to retirements. Other age categories below 60 had remained relatively stable. The Office considers the age profile of its workforce is reasonably weighted and balanced, and will continue to provide strong experience in the above age 40 category into the future. The Office advises it will continue to review and monitor the situation.

Sick Leave

| Year ended 30 June | 2012 \$'000 | 2011 \$'000 | 2010 \$'000 | 2009 \$'000 | 2008 \$'000 |
|--------------------|----------------|----------------|----------------|----------------|----------------|
| Sick leave expense | 1,780 | 2,167 | 1,505 | 1,594 | 1,683 |

The Office continues to focus on managing sick leave. Its average sick leave for 2011-12 was 5.75 days, compared with 6.10 days in 2010-11. The increased expense in 2010-11 was due to some injured employees taking long-term sick leave. Individual medical restrictions challenge the Office's ability to reduce the overall number of injured workers who remain off duty. The Office advises it continues to ensure injured workers return to work as soon as they are deemed medically fit to resume duties.

Annual Leave Balances

The Office has actively managed employees with excessive annual leave balances in recent years. The number of employees with annual leave balances of 40 days or more decreased to 5.8 per cent of total employees in 2011-12 (8.9 per cent in 2010-11).

It has initiatives in place to address excessive annual leave balances, such as monthly monitoring by the Office's management committee.

Flex Leave Balances

Recommendation

The Office should reduce excessive employee flex leave balances.

Managing excessive flex leave continues to be an issue for the Office. Accumulated employee flex leave has increased to 21,654 hours at 30 June 2012 (14,124 hours at 30 June 2011). On average, this represents 39.5 hours per employee. The number of employees with flex leave balances of 50 hours or more at 30 June 2012 was 145 (97). One employee had a flex leave balance of 417 hours at 30 June 2012.

Large flex leave balances indicate employees are working long hours and do not have the opportunity to take sufficient flex leave during the year. The Office advises it reviews outstanding flex leave at each management committee meeting and develops leave plans with the employees to try and reduce excessive balances.

Given that accumulated staff flex leave balances have increased over the last year by 53.3 per cent, it is timely for the Office review its current flexible working arrangements, including the agreement entered into with the Public Service Association in April 2004.

Information Systems Review

I reviewed the Office's information system controls and found its financial system had the following limitations:

- inability to track activities committed by user accounts
- inability to configure password complexity and password history
- restricted to using only a single default application administration user account, requiring various users to share this user ID.

I also found user access administration and password security needed strengthening as does the disaster recovery plan.

I reported these matters to management for appropriate action.

Financial Information

Abridged Statement of Comprehensive Income

| Year ended 30 June | 2012 \$'000 | 2011 \$'000 |
|--|----------------|----------------|
| Employee related expenses | 89,832 | 83,686 |
| Depreciation and amortisation | 2,736 | 4,055 |
| Other expenses | 19,574 | 18,394 |
| Total expenses | 112,142 | 106,135 |
| Government contributions | 106,408 | 99,265 |
| Sale of goods and services | 49 | 55 |
| Investment revenue | 246 | 182 |
| Other revenue | 3,623 | 2,911 |
| Total revenue | 110,326 | 102,413 |
| Other gains | 11 | 8 |
| Net result - deficit | (1,805) | (3,714) |
| Other comprehensive income | | |
| Net decrease in revaluation of assets | -- | (356) |
| Total other comprehensive expense | -- | (356) |
| Total comprehensive expense | (1,805) | (4,070) |

Employee related expenses increased due to a 2.5 per cent pay rise and an increase in the long service leave expense and on-costs of \$3.7 million, due to a fall in the government bond rate used in the actuarial assessment of the liability.

Abridged Statement of Financial Position

| At 30 June | 2012 \$'000 | 2011 \$'000 |
|--------------------------|----------------|----------------|
| Current assets | 6,597 | 6,332 |
| Non-current assets | 13,296 | 14,231 |
| Total assets | 19,893 | 20,563 |
| Current liabilities | 14,436 | 13,134 |
| Non-current liabilities | 2,138 | 2,305 |
| Total liabilities | 16,574 | 15,439 |
| Net assets | 3,319 | 5,124 |

Abridged Service Group Information

The Office's summarised results by service groups are detailed below:

| Year ended 30 June | 2012 | | 2011 | |
|---------------------------------|--|--------------------------|--|--|
| | Actual net result surplus/(deficit) \$'000 | Actual net assets \$'000 | Actual net result surplus/(deficit) \$'000 | Actual net assets/(liabilities) \$'000 |
| Prosecutions | (104,233) | 3,316 | (99,382) | 5,274 |
| Victim and witness assistance | (3,980) | 3 | (3,597) | (150) |
| Not attributable | 106,408 | -- | 99,265 | -- |
| Total all service groups | (1,805) | 3,319 | (3,714) | 5,124 |

Office Activities

The Office was constituted under the *Director of Public Prosecutions Act 1986*. The principal functions and responsibilities of the Director of Public Prosecutions are to institute and conduct, on behalf of the State, prosecutions for indictable offences in the District and Supreme Courts and to appear as appellant or respondent in criminal appeals.

For further information on the Office, refer to www.odpp.nsw.gov.au.

Fire and Rescue New South Wales

Audit Opinion

I issued an unqualified audit opinion on Fire and Rescue New South Wales' (Fire and Rescue) 30 June 2012 financial statements.

Fire and Rescue operations cost \$646 million

Operational Snapshot

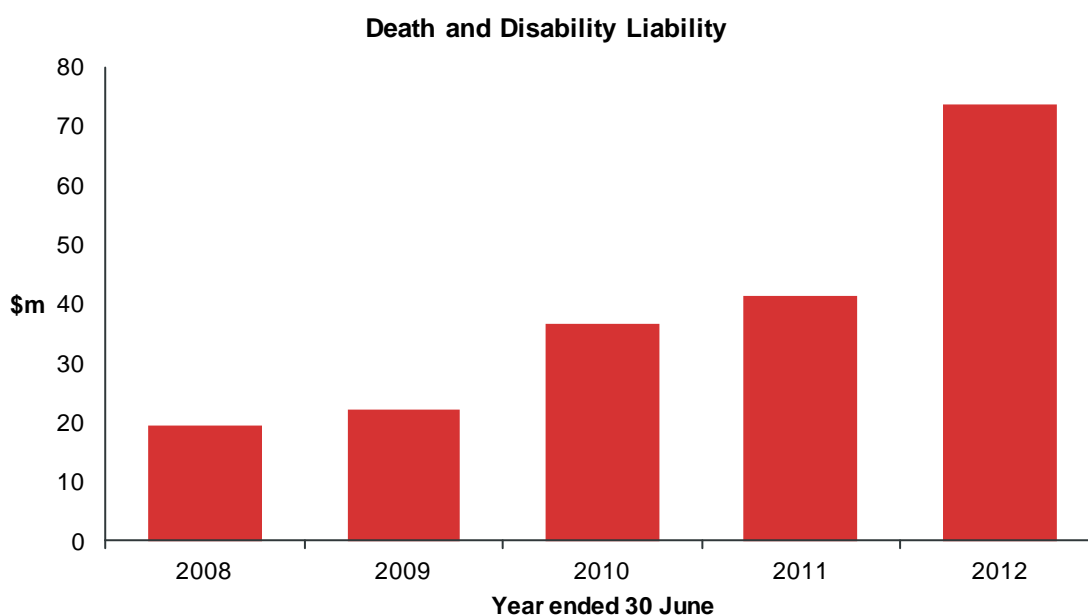
During 2011-12, operations of Fire and Rescue cost \$646 million (\$614 million in 2010-11), funded by revenues of \$657 million (\$645 million). Fire and Rescue attended over 130,744 fires, explosions and other emergency incidents in 2011-12 (130,979 in 2010-11).

Key Issues

Death and Disability Scheme pension

The Death and Disability Scheme came into effect in 2003, to fund death, total and permanent incapacity and partial and permanent incapacity insurance benefits for the Fire and Rescue permanent and retained firefighters. All partial and permanent incapacity payments are made by Fire and Rescue while death and total and permanent incapacity payments are paid by the Crown Employees (NSW Fire Brigades Firefighting Staff Death & Disability) Superannuation Fund.

The Death and Disability Scheme liability increased by 78 per cent from \$41.5 million in 2010-11 to \$73.8 million in 2011-12



Source: Fire and Rescue New South Wales (unaudited).

There was a 77.8 per cent increase in the liability from \$41.5 million in 2010-11 to \$73.8 million in 2011-12. This was primarily due to a decrease in the discount rate (5.2 per cent to 3.4 per cent) used in valuing the liability and an increased number of claims reported. The increase in claims resulted from a review of permanent officers in temporary positions who were unable to return to their original role due to injury.

Workforce Management (Repeat Issue)

Recommendation

I again recommend Fire and Rescue continues to implement its planned workplace reforms to address the challenges of managing its workforce.

Fire and Rescue has made progress in some of areas of workplace reform despite a challenging industrial environment. These challenges impact Fire and Rescue's ability to carry out its work. Some of the issues are:

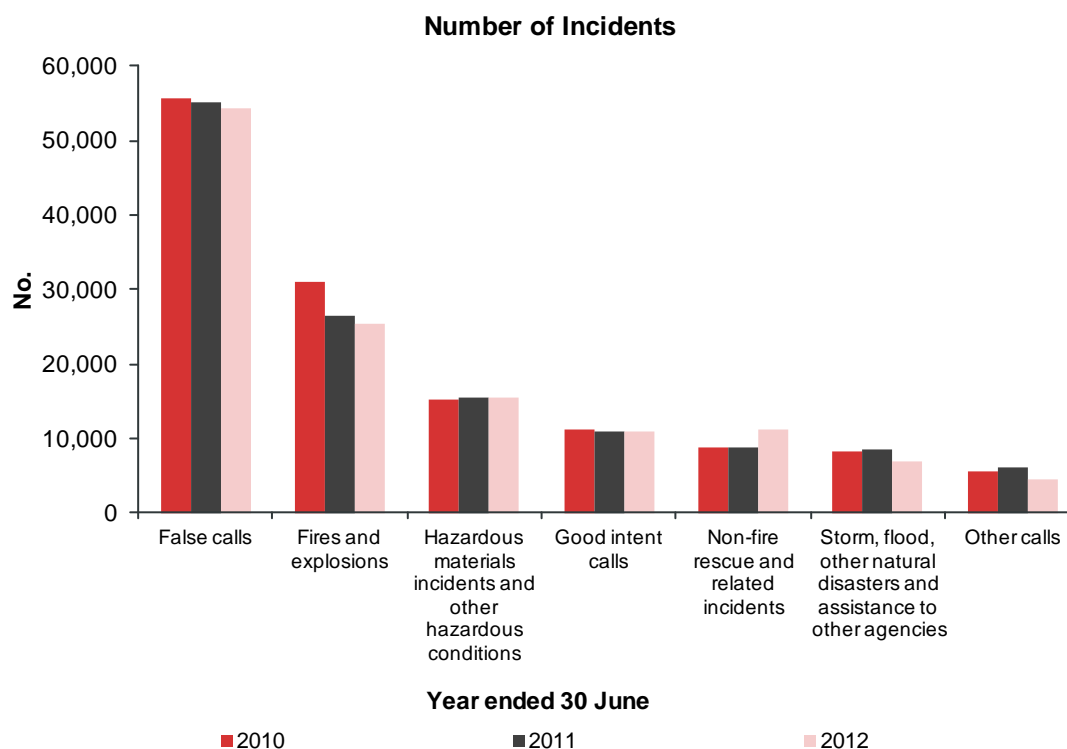
| Issue | Details |
|--------------------------------------|--|
| Sick leave taken | Permanent Firefighters took on average more than 118 hours sick leave during 2011-12 (113 hours in 2010-11). |
| Fitness for work requirements | Firefighters are not required to undertake regular compulsory fitness testing to confirm they remain fit for work, with the exception of the physical aptitude test, undertaken as part of the recruitment process. This is despite their job being physically and psychologically demanding. Fire and Rescue is also currently undertaking research with the University of Wollongong to review the relevance of its physical aptitude test. |
| Exits on medical grounds | In 2011-12, 23 per cent of employees who left Fire and Rescue exited for medical reasons (8.3 per cent). Out of 104 medical exits, five per cent were deceased and the remaining 95 per cent were medically discharged. The increase was attributable to non-operationally fit firefighters accepting medical retirement following management's review of the availability of alternate duties. The average age for medical retirees also increased from 51 years in 2010-11 to 52 years in 2011-12. |
| Annual leave balances | The maximum annual leave balance permitted under Fire and Rescue's annual leave policy is 40 days. At 30 June 2012, 1,950 (2,329), employees representing 27 per cent of the Fire and Rescue's workforce (32 per cent) had balances in excess of this limit. This improvement is a reflection of the Fire and Rescue's annual leave improvement program which has been underway for 12 months. Retained firefighters continue to have the highest proportion 80 per cent (95 per cent) of excessive annual leave balances. |
| Cost increases | Workers' compensation costs have increased from \$29.5 million in 2010-11 to \$30.6 million in 2011-12. |

Fire and Rescue acknowledges the difficulties it faces with workplace issues. In response, it is implementing a major program of workplace reform. This includes organisational restructuring, establishing a workplace conduct and governance steering committee, establishing a workplace standards unit and improving budget allocation and monitoring methods.

Performance Information

Incidents

Fire and Rescue responded to the following incidents:



Source: Fire and Rescue New South Wales (unaudited).

The number of incidents measures community demand for Fire and Rescue's response services. Overall demand is relatively stable, however, there has been increased demand for non-fire rescue services over the last three years.

Response Times for all Structural Fires

Fire and Rescue's figures show that in 2011-12, 50 per cent of the first responding fire resources arrived at the scene of an incident in 7 minutes 46 seconds (7 minutes 43 seconds in 2010-11), and 90 per cent arrived in 11 minutes 55 seconds (11 minutes 51 seconds). The slight increase in response times was driven by travel times to incidents reported. Call processing and mobilisation time decreased. Response times reflect Fire and Rescue's ability to respond to incidents and reduce the adverse effects of fire on the community.

Rescue

Fire and Rescue responded to 11,146 (10,825 in 2010-11) non-fire rescue calls throughout the State, including rescuing people caught in transport, domestic and industrial incidents. Details were:

| Year ended 30 June | 2012 | 2011 | 2010 | 2009 | 2008 |
|--|-------|-------|-------|-------|-------|
| Motor vehicle accidents involving the extrication of victims | 5,041 | 4,958 | 5,104 | 4,905 | 4,683 |
| Other non-fire rescues including industrial and home rescues | 2,944 | 2,781 | 2,623 | 2,509 | 1,821 |
| Medical assistance | 1,052 | 1,030 | 925 | 796 | 577 |
| Animal rescues | 2,109 | 2,056 | 2,060 | 1,411 | 1,136 |

Source: Fire and Rescue New South Wales (unaudited).

Fire and Rescue responded to 11,146 non-fire rescue calls throughout the State in 2011-12

Resources

Fire and Rescue's effectiveness depends on the personnel, and rescue and fire fighting equipment available. It provided the following information about available resources:

| Total Numbers at 30 June | 2012 | 2011 | 2010 | 2009 | 2008 |
|--|-------|-------|-------|-------|-------|
| Personnel | | | | | |
| Permanent firefighters | 3,498 | 3,516 | 3,509 | 3,517 | 3,463 |
| Retained firefighters | 3,323 | 3,383 | 3,429 | 3,387 | 3,212 |
| Full time support and coordinating staff | 420 | 414 | 418 | 376 | 393 |
| Community fire units | 605 | 577 | 482 | 418 | 374 |
| Fleet (all vehicles) | 888 | 916 | 881 | 883 | 891 |
| New fleet units brought into operational service (during the financial year) | 12 | 64 | 48 | 33 | 19 |

Source: Fire and Rescue New South Wales (unaudited).

At 30 June 2012, the fleet included 657 (551 at 30 June 2011) operational fire appliances, which are usually located at fire stations and used to respond to incidents.

The number of new fleet units brought into operational service declined by 52 vehicles in 2011-12. The capital fleet expenditure slowed in the year, as virtually all the ageing fleet has now been replaced.

The following table summarises the weighted average age of Fire and Rescue's fleet:

| At 30 June | Target | Actual | | | |
|---------------------------------------|--------|--------|------|------|------|
| | 2012 | 2012 | 2011 | 2010 | 2009 |
| Operational fleet age in years | | | | | |
| Pumpers | 7.5 | 6.9 | 6.4 | 7.2 | 7.2 |
| Aerials | 10.0 | 7.9 | 8.4 | 8.0 | 7.2 |
| Special appliances | 10.0 | 7.8 | 6.9 | 6.4 | 6.2 |
| Service exchange/other fleet | 15.0 | 11.0 | 12.2 | 12.7 | 14.6 |

Source: Fire and Rescue New South Wales (unaudited).

'Pumpers' are fire trucks designed to transport firefighters and their equipment, and to pump water. 'Aerials' are appliances with a vertical reach designed for high level rescue or fire fighting. 'Special appliances' include heavy hazmat support vehicles, heavy rescue support vehicles, and various other appliances used for logistic support, training, and heavy vehicle transport.

'Service exchange/other fleet' are back-up fire appliances strategically located around the State to replace 'operational' fire appliances taken out of active duty (e.g. for maintenance) or for use in major incidents. At 30 June 2012, there were 125 (135 at 30 June 2011) 'service exchange/other fleet' fire appliances.

Financial Information

Abridged Statement of Comprehensive Income

| Year ended 30 June | 2012 \$'000 | 2011 \$'000 |
|---|----------------|----------------|
| Employee related expenses | 528,505 | 502,351 |
| Depreciation and amortisation | 40,141 | 35,929 |
| Other expenses | 77,180 | 75,724 |
| Total expenses | 645,826 | 614,004 |
| Grants and contributions | 602,223 | 508,965 |
| Other revenue | 55,220 | 47,482 |
| Government appropriations | -- | 88,196 |
| Total revenue | 657,443 | 644,643 |
| Net result - surplus | 11,617 | 30,639 |
| Other comprehensive income | | |
| Actuarial gains/(losses) | (24,592) | 4,092 |
| Increase in asset revaluation reserve | 16,385 | 11,986 |
| Total other comprehensive income/(expense) | (8,207) | 16,078 |
| Total comprehensive income | 3,410 | 46,717 |

Other expenses mainly comprise maintenance expenses of \$16.2 million, communication costs of \$11.4 million, fees for services of \$10.7 million and other miscellaneous expenses.

Grants and contributions increased due to Fire and Rescue receiving grants from the Department of Attorney General and Justice instead of appropriations as in 2010-11. Additional funding was also approved in 2011-12 to fund more fulltime firefighter positions in Bathurst and Nowra and to create more inspector positions. Uniform costs increased as part of the Personal Protective Clothing Replacement Program. The contract value for the clothing replacement program is \$12.3 million, of which Fire and Rescue expended \$1.9 million in 2011-12.

A decrease in discount rates in the actuarial assessment of the death and disability liabilities was the primary reason for the \$24.6 million loss.

Abridged Statement of Financial Position

| At 30 June | 2012 \$'000 | 2011 \$'000 |
|--------------------------|----------------|----------------|
| Current assets | 156,135 | 143,563 |
| Non-current assets | 574,474 | 544,362 |
| Total assets | 730,609 | 687,925 |
| Current liabilities | 138,678 | 101,992 |
| Non-current liabilities | 44,049 | 41,461 |
| Total liabilities | 182,727 | 143,453 |
| Net assets | 547,882 | 544,472 |

Total liabilities increased as a result of the liabilities for the death and disability scheme increasing from \$41.5 million at 30 June 2011 to \$73.8 million at 30 June 2012.

Abridged Service Group Information

Fire and Rescue's net result and net assets on a service group basis are detailed below:

| Year ended 30 June | 2012 | | 2011 | |
|---------------------------------|---|-----------------------------------|---|-----------------------------------|
| | Actual net result surplus \$'000 | Actual net assets \$'000 | Actual net result surplus/ (deficit) \$'000 | Actual net assets \$'000 |
| Community safety | 614 | 21,315 | (20,888) | 46,497 |
| Emergency management | 6,913 | 387,256 | (312,214) | 222,344 |
| Operational preparedness | 4,090 | 139,311 | (202,679) | 98,342 |
| Not attributable | -- | -- | 566,420 | 177,289 |
| Total all service groups | 11,617 | 547,882 | 30,639 | 544,472 |

Agency Activities

Fire and Rescue New South Wales is responsible for managing fire emergencies in the major cities, metropolitan areas and towns across rural and regional New South Wales. Fire and Rescue also respond to hazardous material and non-fire rescue incidents. It was established under the *Fire Brigades Act 1989*.

For further information on Fire and Rescue, refer to www.fire.nsw.gov.au.

New South Wales Rural Fire Service

Audit Opinion

I issued an unqualified audit opinion on the Service's 30 June 2012 financial statements.

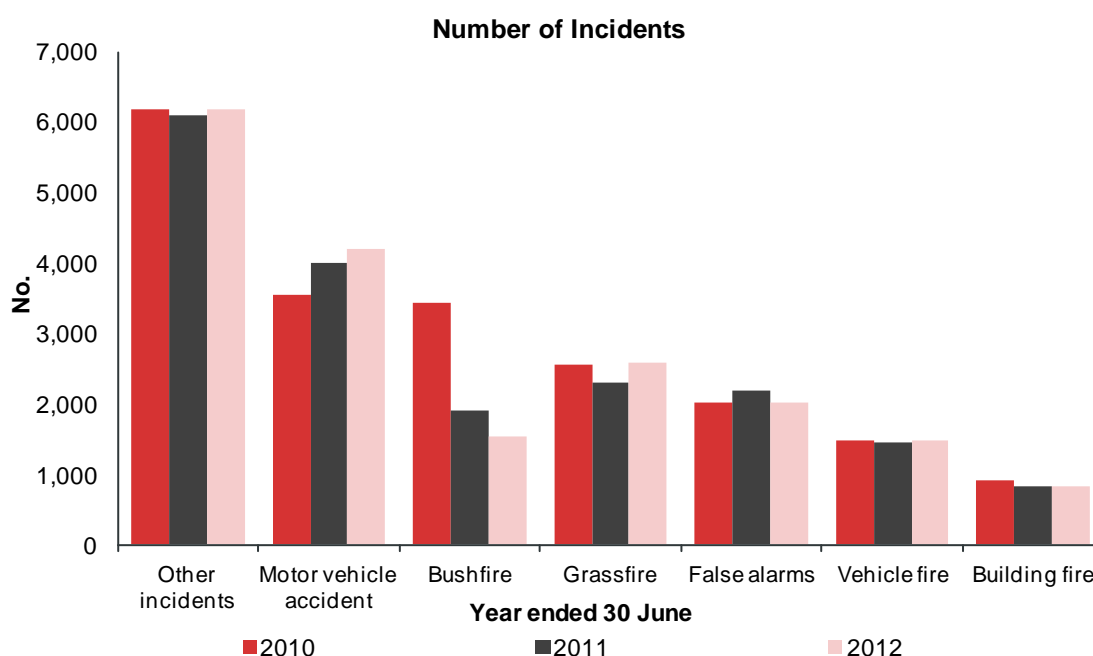
Operational Snapshot

The Service is a volunteer based organisation and provides a community-based fire and emergency service to reduce the risks to people, property and the environment from fire and other emergencies. The Service's actual expenditure for 2011-12 was \$287 million (\$307 million in 2010-11).

Performance information

Incidents

The Service responded to the following fire and related incidents:



Source: NSW Rural Fire Service (unaudited).

With the exception of bushfire's, the number of incidents responded to by the Service has remained relatively stable over the past three years. In 2011-12, there were three emergency declarations related to bushfires (nil in 2010-11) under Section 44 of the *Rural Fires Act 1997*.

The 2011-12 bush fire season was one of the wettest on record, which reduced the incidence of bushfires

Hazard reduction

Despite the 2011-12 bushfire season being one of the wettest on record, the Service carried out and/or oversighted approximately 138,211 hectares (117,634 in 2010-11) of hazard reduction. Thirty-six per cent (50 per cent) of the hazard reduction occurred within National Parks. The past two consecutive fire seasons have been characterised by significant periods of wet weather, reducing the number of opportunities to conduct hazard reduction burning.

Hazard reduction activities are designed to minimise the threat of damage to life, property and the environment by reducing or removing bushfire fuel. Hazard reduction does not completely stop bushfires, but helps the Service and other fire fighting agencies with containment strategies and property protection. Burning is the most common form of hazard reduction used in New South Wales.

Hazard reduction is the responsibility of land owners and managers. This includes private owners and government land management agencies, such as the Office of Environment and Heritage - NSW National Parks and Wildlife Service and Forests New South Wales.

The Service offers advice and assistance on hazard reduction and is responsible for ensuring hazard reduction activities are carried out effectively. The Service can order land owners and managers to conduct essential hazard reduction activities. During the year, hazard reduction activities were carried out on 9,702 hectares (7,398 hectares) of privately owned land. The Service also purchased a 'Squirrel' helicopter in 2011-12 to primarily help in hazard reduction operations.

Managing Bushfire Prone Land

New building development in bushfire prone land is subject to development and planning controls. New developments must comply with the requirements within the Service's 'Planning for Bush Fire Protection 2006' (PBP). The Service advises it assessed 5,009 (7,368 in 2010-11) development applications across the State in 2011-12. The reduction is a result of amendments to Section 79BA of the *Environmental Planning and Assessment Act 1979* that removed the Service from the assessment process, with the exception of applications located in the 'flame zone'.

The requirements for building in bushfire prone areas do not apply to existing buildings. This leaves existing assets within the community at risk from bush fires. To address this risk, the Bush Fire Coordinating Committee (BFCC) establishes a Bush Fire Management Committee for each area in New South Wales at risk of bush fires. Each of these committees must prepare a five year Bush Fire Risk Management Plan (BFRMP) in accordance with BFCC policy.

Committees are updating BFRMPs in accordance with policies issued by the BFCC in 2008. The Service advises the BFCC had approved 67 plans at 30 June 2012. BFRMPs are used to determine such things as, where mechanical clearing or hazard reduction burns are conducted, which areas require specialised fire protection, and which areas need to be targeted for community education.

Land is identified as bush fire prone where it can support a bush fire or is likely to be subject to bush fire attack.

Resources

The effectiveness and efficiency of the Service depends on the number of trained fire-fighters and the quantity and types of fire fighting equipment available. The Service provided the following information about available resources:

| Year ended 30 June | 2012 | 2011 | 2010 | 2009 | 2008 |
|--|--------|--------|--------|--------|--------|
| Personnel | | | | | |
| Unpaid volunteers (number) | 70,246 | 70,448 | 70,552 | 70,701 | 70,159 |
| Full-time equivalent staff | 908 | 920 | 822 | 752 | 710 |
| Active fire-fighters competent to bush fire-fighter status or higher (%) | 82 | 94 | 86 | 79 | 78 |
| Trainers accredited in the year (number) | 346 | 339 | 257 | 282 | 261 |
| Community based bushfire brigades (number) | 2,036 | 2,039 | 2,051 | 2,065 | 2,058 |
| Tankers supplied or refurbished in the year (number) | 177 | 216 | 205 | 209 | 259 |

Source: NSW Rural Fire Service (unaudited).

Other Information

Litigation Arising from 2003 Australian Capital Territory Bushfires

The Service is being sued by several parties for its involvement in the 2003 Australian Capital Territory bushfires. The plaintiffs argue the Service was negligent in its management of fires that started in New South Wales.

The Australian Capital Territory Supreme Court is expected to consider whether the Service:

- owed a legal duty of care to individuals
- is liable for action taken in the course of fighting fires.

The outcome of the proceedings could have financial implications for the NSW Government and for the way government agencies respond to bushfires and similar threats. The proceedings, which started in March 2010, are continuing.

Royal Commission into the Victorian 'Black Saturday' Bushfires

In 2011-12, the Service continued implementing measures based on recommendations from the 2009 Victorian Royal Commission into the 'Black Saturday' Bush Fires. The Service initiated a pilot of Community Protection Plans with ten new communities targeted.

Financial Information

Abridged Statement of Comprehensive Income

| Year ended 30 June | 2012 \$'000 | 2011 \$'000 |
|---|-----------------|----------------|
| Employee related expenses | 95,054 | 93,327 |
| Disaster relief expenses | 20,677 | 17,676 |
| Grants and subsidies | 8,596 | 24,736 |
| Local government firefighting and equipment costs | 109,519 | 128,703 |
| Depreciation and amortisation | 4,332 | 4,815 |
| Other expenses | 48,593 | 38,213 |
| Total expenses | 286,771 | 307,470 |
| Government appropriations | -- | 77,497 |
| Grants and contributions | 272,950 | 222,942 |
| Disaster relief contributions | 11,221 | 5,937 |
| Other revenue | 13,446 | 14,809 |
| Total revenue | 297,617 | 321,185 |
| Net result - surplus | 10,846 | 13,715 |
| Other comprehensive income | | |
| Superannuation actuarial gains/(losses) | (14,663) | 576 |
| Total other comprehensive income/(expense) | (14,663) | 576 |
| Total comprehensive income/(expense) | (3,817) | 14,291 |

Grants and contributions increased due to the Service receiving grants from the Department of Attorney General and Justice instead of appropriations as in 2010-11.

Grants and contributions primarily comprise amounts received from Local Government and insurance companies. Contributions in 2011-12 funded key initiatives such as continuing to upgrade the private mobile radio network, bush fire hazard reduction activities and various initiatives in response to the 2009 Victorian Royal Commission recommendations.

Superannuation actuarial losses resulted from a reduction in the discount rate used to value these liabilities.

Abridged Statement of Financial Position

| At 30 June | 2012 \$'000 | 2011 \$'000 |
|--------------------------|----------------|----------------|
| Current assets | 61,472 | 44,922 |
| Non-current assets | 18,116 | 17,089 |
| Total assets | 79,588 | 62,011 |
| Current liabilities | 44,185 | 36,916 |
| Non-current liabilities | 24,044 | 9,919 |
| Total liabilities | 68,229 | 46,835 |
| Net assets | 11,359 | 15,176 |

The increase in current assets is primary due to an increase in cash of \$18.5 million.

Current liabilities increased by \$7.3 million primarily due to an increase in payables and accruals of \$3.6 million around year end. This is mainly attributable to timing differences.

Non-current liabilities increased significantly as a result of actuarial adjustments made in the assesment of superannuation liabilities.

Abridged Service Group Information

The Service's net result on a service group basis is detailed below:

| Year ended 30 June 2012 | 2012 | | 2011 | |
|---|---|---|---|---|
| | Actual net results surplus/(deficit) \$'000 | Actual net assets/ (liabilities) \$'000 | Actual net results surplus/(deficit) \$'000 | Actual net assets/ (liabilities) \$'000 |
| Community safety | (9,103) | 80 | (6,184) | 114 |
| Emergency Bush Fire Response Operations | (93,366) | 7,706 | (227,356) | 5,580 |
| Operational and administrative support | 113,315 | (54,655) | 180,645 | (30,213) |
| Emergency Management NSW | -- | -- | (11,129) | -- |
| Not attributable | -- | 58,228 | 77,739 | 39,695 |
| Total all service groups | 10,846 | 11,359 | 13,715 | 15,176 |

Service Activities

The Service is the leading agency for coordinated bush fire fighting and is responsible for fire fighting in rural fire districts with 48 district offices and 2,036 rural fire brigades. The Service also assists other emergency services organisations in emergency situations such as transport accidents, flood and storm and search and rescue operations. The Service was established by the *Rural Fires Act 1997*.

For further information on the Service, refer to www.rfs.nsw.gov.au.

NSW Police Force

Audit Opinion

I issued an unqualified audit opinion on the Force's 30 June 2012 financial statements.

Operational Snapshot

The Force spent \$3.2 billion in 2011-12 compared to \$3.0 billion in 2010-11 on providing:

- community support - responding to incidents, emergencies and public events and reducing incentives and opportunities to commit crime
- criminal investigations - crime detection, investigation, provision of forensic services and arrests
- traffic and commuter services - patrolling roads, highways and public transport corridors, investigating major vehicle crashes, detecting traffic and transport offences and supervising peak traffic flows
- judicial support - judicial and custodial services, prosecuting offenders, presenting evidence at court, support to victims and witnesses and providing transport and custodies for person under police supervision.

Key Issues

Death and Disability Scheme

Over the past three years, I have recommended the Force:

- continues to closely monitor its liquidity to ensure it has sufficient funds to meet the increasing costs of the scheme
- review the underlying causes for the increasing number of partial and permanent claims
- urgently develop and implement strategies to address the unfavourable trend in scheme costs.

On 3 November 2011, the Minister for Police announced the existing scheme was to be replaced with a new commercial insurance arrangement which commenced on 20 January 2012. Under this arrangement the lump sum benefit payout was replaced with an income protection scheme capped at 75 per cent of the employee's salary for a maximum of five years. The Force paid a premium of \$80.2 million in 2011-12 and has budgeted for a premium of \$102 million in 2012-13. Of this, 1.8 per cent is funded by employees and the remainder by the Force.

The Force advised 1,357 sworn officers were off work due to sickness or injury when the new arrangement started. The Force advises these officers are not covered by the insurance policy and will receive an internally funded payment similar to that of the income protection insurance.

The scheme's liability, which is determined by an independent actuarial assessment, decreased by 79 per cent in 2011-12, mainly due to additional grants revenue of \$155 million for death and disability payments to finalise claims under the old scheme.

The Death and Disability Scheme's lump sum benefit payout was replaced with an income protection scheme capped at 75 per cent of an employee's salary for a maximum of five years

The number of partial and permanent incapacity claims paid in 2011-12 increased to 526 (415 in 2010-11), while the amount paid increased to \$221 million (\$165 million).

| Year ended 30 June | 2012 | 2011 | 2010 | 2009 |
|--|---------|---------|---------|---------|
| Death and disability liability (\$'000) | 60,700 | 284,000 | 190,200 | 147,300 |
| Total partial and permanent incapacity claim payments (\$'000) | 220,741 | 165,010 | 118,992 | 47,053 |
| Number of partial and permanent incapacity claims paid | 526 | 415 | 282 | 116 |
| Average claim size (\$) | 480,000 | 458,000 | 421,958 | 405,626 |

Source: Liability figures and average claim size are obtained from an actuarial report, remaining information obtained from NSW Police Force (audited).

Of the total partial and permanent incapacity claims paid in 2011-12, 86 per cent related to psychological claims and 97 per cent had a psychological component. The Force advises the increase in the number of claims and claim payments is due to injured officers making sure they had lodged their claims before the new insurance policy arrangement started.

Last year, I recommended the Force provide appropriate rehabilitation to injured officers to help ensure they return to the workforce and to meet its continuing obligation to support them after partial and permanent disability payments have been made. The Force advises it has developed 'The Workforce Improvement Program', which is to be rolled out over the next two years and includes:

- applied leadership and injury management training
- creation of an HR support team
- hiring seven injury more management advisors to deal with the needs of injured workers
- rewriting and redrafting the injury management policies and guidelines
- early intervention strategies.

The Force has established a 'Cost and Fairness Committee' comprising members from the Force and the Police Association to review the cost to the State and fairness to police officers of the new insurance arrangement. The Force advises the cost of the new insurance arrangement has not been prepared or presented to the Minister to date, because the scheme is so new.

The *Police Amendment (Death and Disability) Act 2011 No 73* requires me to review whether the provisions of section 199M and the injury management practices for police officers have improved the performance of the Force in securing the return of injured police officers to duty. The review is to be conducted 12 months after commencement of the Act in March 2012 or within a further period approved by the minister on my recommendation. I have written to the minister recommending my review be undertaken 24 months after the Act commenced, at the beginning of 2014. I have not yet received the minister's reply.

Allocation of Police Officers

There is a shortfall between operational full-time equivalent (FTE) police officers and authorised positions in all regions. At 24 August 2012, there were 15,073 FTE operational police officers compared with 16,016 authorised positions, a shortfall of 943. Of the 15,073 FTE officers, 344 were on permanent restricted duty, which means the actual shortfall is greater. A restricted officer is still available for operational work, but their work tasks are restricted to meet their individual circumstances.

The Force advises it continues to monitor the number of available police officers on a weekly basis and builds this information into its assessment of the number of officers it should recruit. Target operational strength is set at greater than or equal to 90 per cent, and the Force is currently operating at 94 per cent.

| As at 24 August 2012* | Authorised | Operational | Difference between authorised and operational | Total on permanent restricted duties |
|--|---------------|---------------|---|--------------------------------------|
| | FTE | FTE | FTE | |
| Central Metropolitan | 2,345 | 2,234 | (111) | 32 |
| North West Metropolitan | 2,138 | 2,061 | (77) | 21 |
| Northern | 1,913 | 1,852 | (61) | 42 |
| South West Metropolitan | 2,110 | 2,042 | (68) | 28 |
| Southern | 1,415 | 1,329 | (86) | 23 |
| Western | 1,121 | 1,063 | (58) | 10 |
| Police Transport Command | 301 | 273 | (28) | 2 |
| Traffic and Highway Patrol Command | 1,245 | 1,071 | (174) | 2 |
| Corporate Services | 325 | 363 | 38 | 48 |
| Specialists Operations | 2,709 | 2,455 | (254) | 131 |
| Other | 394 | 330 | (64) | 5 |
| NSW Police Officers at 24 August 2012 | 16,016 | 15,073 | (943) | 344 |

Source: NSW Police Force (unaudited).

* Includes Major Events and Incidents Group, and Other Non Region Commands.

FTE: Full-time Equivalent

Performance Information

Statistics on rates of crime, crime investigations and crime rejection have been included in the Law and Order Overview, located earlier in this volume.

Other Information

Recoupment of Workers Compensation Claims (Repeat Issue)

Last year, I recommended the Force reviews processing of its workers' compensation claims to minimise delays in recouping claims from the insurer. Total debt outstanding for longer than six months reduced significantly to \$166,000 at 30 June 2012, down from \$4.0 million at 30 June 2011. The Force advises the main reason for the improved result is an intensive program with the insurer to manage and close claims.

Death and Disability Payments

The Crown Employees (Police Officers Death and Disability) Award 2005 (the award) states an employee may receive only one benefit, either a partial and permanent disability (PPD) benefit or a total and permanent disablement (TPD) benefit. However, before May 2011, some employees received a PPD payment and became eligible for a TPD payment. These employees were required to return the PPD benefit to the Force, but in some instances the Force had difficulty recovering these amounts in a timely manner.

In 2011-12, 39 officers were invoiced a total of \$13.8 million of which \$13.0 million was recovered. At 30 June 2012, terminated employees owed the Force \$3.3 million, but \$2.4 million was determined to be difficult to recover and impaired.

To reduce duplicate payments to employees, the award was amended in May 2011, so employees only receive the difference between the PPD and TPD amounts subject to an authority being signed by all parties. However, this amendment does not capture those payments made before the change in legislation in instances where:

- an authority had not previously been signed
- the employee is unwilling to sign a deed and authority for First State Super to deduct the PPD amount owing to the Force from the TPD payment.

The Force's Employee Compensation Unit has retrospectively reviewed files where no signed deed is on hand and written to each officer who received a PPD payment asking them to sign an authority to deduct from. Of the 1,109 letters sent, 302 were returned signed, nine were returned unsigned, ten had an invalid address and 788 are still outstanding. All current discharging officers are now required to sign an authority before a payment is released.

Property Management

Recommendation

The Force, the State Property Authority and the private sector property management service provider should continue to work together to resolve current property management issues and support the implementation of a new property management model going forward.

Management of the Force's property was outsourced to a private sector entity as a result of a government directive in 2005-06. The State Property Authority (SPA) acts as the contract administrator and is responsible for compliance and the delivery of services. SPA's duties include formally directing the company providing the services, certifying work performed and recommending payment.

An internal audit review in 2009-10 confirmed existing controls and processes could be improved and found:

- strategic direction in property maintenance was lacking
- maintenance was reactionary
- key performance indicators (KPIs), as set out in the contract, were not measured appropriately.

In September 2011, the Force assessed the effectiveness of the agreed actions and held discussions with SPA, the Police Property Group (PPG), the service provider and internal audit. The Force identified that some internal audit recommendations had not been implemented by the private sector service provider. Internal audit reviewed the PPG's concerns over payment claims by the service provider and other parties and its report in July 2012 was critical of the governance and management arrangements for the Force's property portfolio. It made 14 recommendations and the Force advises 13 of these are now closed.

The Force also advises some recommended improvements to property arrangements in the July 2012 report are being considered by Government in response to a recent Ombudsman's report into the Force's management of hazardous materials in police buildings. That report highlighted the failure to properly manage hazardous materials was largely due to the outsourced contractual model used to manage police properties and recommended the need for a new model. The report acknowledged significant progress has been made by the Force since the investigation started.

I understand current contractual arrangements are in place until July 2013 and a new model is being considered.

Annual Leave

Managing excessive annual leave balances remains a challenge for the Force. While it has improved management of this issue, many officers still have excessive leave balances at 30 June 2012. Over four thousand sworn officers had accrued more than 342 hours of annual leave and over three hundred unsworn officers had accrued more than 280 hours of annual leave.

| Year ended 30 June | 2012 | 2011 | 2010 |
|--|--------------|--------------|--------------|
| Sworn officers with accumulated leave >342 hrs | 4,090 | 4,183 | 4,149 |
| Unsworn officers with accumulated leave >280 hrs | 368 | 429 | 484 |
| Total | 4,458 | 4,612 | 4,633 |

Excess leave balances can adversely affect an organisation. The associated financial liability generally increases over time as salaries increase and staff may be adversely affected through workplace health and safety issues.

The Force may also find it hard to meet the required Treasury's requirements to reduce excess leave balances by 30 June 2013.

Financial Information

Abridged Statement of Comprehensive Income

| Year ended 30 June | 2012 \$'000 | 2011 \$'000 |
|---|------------------|------------------|
| Employee related expenses | 2,574,427 | 2,396,729 |
| Other expenses | 464,745 | 429,690 |
| Depreciation and amortisation | 125,611 | 132,833 |
| Operating expenses | 3,164,783 | 2,959,252 |
| Government contributions | 3,310,157 | 2,836,582 |
| Other revenue | 87,808 | 92,975 |
| Operating revenue | 3,397,965 | 2,929,557 |
| Gain/(loss) on disposal of non-current assets | 3,663 | (1,647) |
| Net result-surplus/(deficit) | 236,845 | (31,342) |
| Other comprehensive income | | |
| Net (decrease)/increase in revaluation of assets | 15,992 | (26,272) |
| Total other comprehensive income/(expense) | 15,992 | (26,272) |
| Total comprehensive income/(expense) | 252,837 | (57,614) |

The increase in employee related expenses was due mainly to:

- additional police numbers
- a significant increase in provision for employee entitlements as a result of the fall in the government bond rate used to discount the superannuation and long service leave liabilities
- the fall in the death and disability expense of \$261 million offset by higher workers compensation insurance costs of \$215 million
- award increases and higher contributions to superannuation schemes.

Operating revenue increased largely due to a rise in government contributions of \$473 million required to meet the operational needs of the Force and clear the death and disability liability.

Abridged Statement of Financial Position

| At 30 June | 2012 \$'000 | 2011 \$'000 |
|--------------------------|------------------|------------------|
| Current assets | 155,977 | 80,219 |
| Non-current assets | 1,635,680 | 1,599,001 |
| Total assets | 1,791,657 | 1,679,220 |
| Current liabilities | 530,194 | 555,232 |
| Non-current liabilities | 235,529 | 350,891 |
| Total liabilities | 765,723 | 906,123 |
| Net assets | 1,025,934 | 773,097 |

Current assets increased mainly due to a rise in cash and cash equivalents of \$93.4 million, offset by a \$13.6 million reduction in current receivables.

The decrease in total liabilities reflects a \$223 million reduction in the death and disability scheme liability.

Abridged Service Group Information

The Force's net result on a service group basis is detailed below:

| Year ended 30 June | 2012 | | 2011 | |
|---------------------------------|---|-----------------------------------|---|-----------------------------------|
| | Actual net result surplus/(deficit) \$'000 | Actual net assets \$'000 | Actual net result surplus/(deficit) \$'000 | Actual net assets \$'000 |
| Community support | (1,490,729) | 620,975 | (1,427,468) | 525,098 |
| Criminal investigation | (843,004) | 151,872 | (788,834) | 139,910 |
| Traffic and commuter services | (305,075) | 76,094 | (313,559) | 53,434 |
| Judicial support | (228,528) | 60,901 | (189,927) | 33,319 |
| Not attributable | 3,104,181 | 116,092 | 2,688,446 | 21,336 |
| Total all service groups | 236,845 | 1,025,934 | (31,342) | 773,097 |

The actual net result was \$160 million higher than budget, predominately due to additional grants revenue of \$155 million provided for death and disability payments.

Entity Activities

The primary objective of the NSW Police Force is to work with the community to establish a safer environment by reducing violence, crime and fear.

In terms of the *Police Act 1990*, the Commissioner is given responsibility for the effective, efficient and economical management of the NSW Police Force. In exercising these functions, the Commissioner is subject to the direction of the Minister for Police.

For further information on the NSW Police Force, refer to www.police.nsw.gov.au.

Riverina Citrus

Audit Opinion

I issued a qualified audit opinion on Riverina Citrus' 30 April 2012 financial statements. The qualification relates to completeness of income from grower levies. Riverina Citrus did not maintain an effective system of internal control over grower levies income during the year. My audit procedures in relation to grower levies was limited to amounts recorded and amounts received, subsequent to year end, up until the date of the audit opinion. I was unable to satisfy myself as to the completeness of income from grower levies and unable to determine whether any adjustment to the recorded amounts was necessary.

Key Issue

Appointment of Liquidator

A Liquidator was appointed by the minister pursuant to section 21(2) under the *Agricultural Industry Services Act 1998* in March 2012 for the purpose of winding up Riverina Citrus. The financial statements for the year ended 30 April 2012 were prepared on a liquidation basis as a result of this appointment.

Appendix

Agencies not commented on in this volume, by minister

The following audits resulted in unqualified independent auditor's reports and did not identify any significant issues or risks.

| Entity Name | Website | Period/year ended |
|---|--|-------------------------------|
| Attorney General | | |
| Judicial Commission of New South Wales | www.judcom.nsw.gov.au | 30 June 2012 |
| Legal Profession Admission Board | www.lawlink.nsw.gov.au | 30 June 2012 |
| Minister for Police and Emergency Services | | |
| Bush Fire Co-ordinating Committee | * | 30 June 2012 |
| Ministry for Police and Emergency Services | www.emergency.nsw.gov.au | 30 June 2011 and 30 June 2012 |
| New South Wales Crime Commission | www.crimecommission.nsw.gov.au | 30 June 2012 |
| New South Wales Crime Commission Division | * | 30 June 2012 |
| Office of the New South Wales Crime Commission | * | 30 June 2012 |
| State Rescue Board | * | 30 June 2012 |
| Premier | | |
| Police Integrity Commission | www.pic.nsw.gov.au | 30 June 2012 |
| Police Integrity Commission Division | * | 30 June 2012 |

* This entity does not have a website.

Index

A

| | |
|---|------------|
| Aboriginal Affairs, Minister for | Vol 9 2011 |
| Aboriginal Affairs NSW | Vol 9 2011 |
| Aboriginal Housing Office | Vol 5 2012 |
| Aboriginal Land Council, New South Wales | Vol 9 2011 |
| Access Macquarie Limited | Vol 2 2012 |
| accessUTS Pty Limited | Vol 2 2012 |
| ACN 125 694 546 Pty Ltd | Vol 2 2012 |
| Adult Migrant English Service, NSW | Vol 9 2011 |

Agencies not commented on in this Volume, by minister 95

| | |
|---|-------------|
| Agency for Clinical Innovation | Vol 10 2011 |
| Agricultural Business Research Institute | Vol 2 2012 |
| Agricultural Scientific Collections Trust | Vol 6 2011 |
| AGSM Limited | Vol 2 2012 |
| Albury Base Hospital | Vol 10 2011 |
| Albury Wodonga Health | Vol 10 2011 |
| ANZAC Health and Medical Research Foundation | Vol 10 2011 |
| Architects Registration Board, NSW | Vol 5 2012 |
| Art Gallery of New South Wales Foundation | Vol 9 2011 |
| Art Gallery of New South Wales Trust | Vol 9 2011 |
| Arts Education Foundation Trust | Vol 10 2010 |
| Arts, Minister for the | Vol 9 2011 |
| Asia Pacific Football Institute Operations Pty Ltd | Vol 2 2012 |

Attorney General 50

Attorney General and Justice, Department of 50

| | |
|---|------------|
| Ausgrid | Vol 4 2012 |
| Ausgrid Pty Limited | Vol 4 2012 |
| AustLii Foundation Limited | Vol 2 2012 |
| Australian Centre for Advanced Computing and Communications Pty Ltd | Vol 5 2012 |
| Australian Education Consultancy Limited | Vol 2 2012 |
| Australian Institute of Asian Culture and Visual Arts Limited, The | Vol 9 2011 |
| Australian Museum Trust | Vol 9 2011 |
| Australian Plant DNA Bank Limited | Vol 2 2012 |
| Australian Proteome Analysis Facility Limited | Vol 2 2012 |

| | |
|--|------------|
| Australian Technology Park Sydney Limited | Vol 6 2012 |
|--|------------|

| | |
|--|------------|
| Australian Water Technologies Pty Ltd | Vol 6 2012 |
|--|------------|

B

| | |
|---|------------|
| Bandwidth Foundry International Pty Ltd | Vol 2 2012 |
| Barangaroo Delivery Authority | Vol 6 2012 |
| Barangaroo Delivery Authority, Office of the | Vol 6 2012 |
| Belgenny Farm Agricultural Heritage Centre Trust | Vol 6 2011 |
| Biobank Pty Ltd | Vol 2 2012 |
| Board of Studies, Office of the | Vol 9 2011 |
| Board of Studies Casual Staff Division | Vol 9 2011 |

| | |
|---|------------|
| Board of Surveying and Spatial Information | Vol 5 2012 |
|---|------------|

| | |
|--|------------|
| Board of Vocational Education and Training, NSW | Vol 9 2011 |
|--|------------|

| | |
|--|------------|
| Border Rivers-Gwydir Catchment Management Authority | Vol 6 2012 |
|--|------------|

| | |
|--------------------------------|------------|
| Brett Whiteley Foundation, The | Vol 9 2011 |
|--------------------------------|------------|

| | |
|-----------------------------------|------------|
| Building the Education Revolution | Vol 9 2011 |
|-----------------------------------|------------|

| | |
|---|------------|
| Building Insurers' Guarantee Corporation | Vol 5 2011 |
|---|------------|

| | |
|------------------------------|------------|
| Building Professionals Board | Vol 5 2012 |
|------------------------------|------------|

| | |
|------------------------------|-------------|
| Bureau of Health Information | Vol 10 2011 |
|------------------------------|-------------|

| | |
|--|-------------|
| Bureau of Health Information Special Purpose Service Entity | Vol 10 2011 |
|--|-------------|

| | |
|----------------|------------|
| Buroba Pty Ltd | Vol 5 2012 |
|----------------|------------|

Bush Fire Co-ordinating Committee 95

| | |
|---------------------------|------------|
| Businesslink Pty Ltd, NSW | Vol 9 2011 |
|---------------------------|------------|

C

| | |
|---------------------------|------------|
| C.B. Alexander Foundation | Vol 6 2012 |
|---------------------------|------------|

| | |
|--------------------------|------------|
| CADRE Design Pty Limited | Vol 2 2012 |
|--------------------------|------------|

| | |
|-------------------------|------------|
| CADRE Design Unit Trust | Vol 2 2012 |
|-------------------------|------------|

| | |
|----------------------|-------------|
| Cancer Institute NSW | Vol 10 2011 |
|----------------------|-------------|

| | |
|---------------------------|-------------|
| Cancer Institute Division | Vol 10 2011 |
|---------------------------|-------------|

| | |
|--|------------|
| Casino, Liquor and Gaming Control Authority | Vol 9 2011 |
|--|------------|

| | |
|--------------------------|------------|
| CCP Holdings Pty Limited | Vol 4 2012 |
|--------------------------|------------|

| | |
|---|------------|
| Centennial Park and Moore Park Trust | Vol 6 2012 |
|---|------------|

| | |
|---------------------------------|------------|
| Centennial Parklands Foundation | Vol 6 2012 |
|---------------------------------|------------|

| | |
|------------------------------------|-------------|
| Central Coast Local Health Network | Vol 10 2011 |
|------------------------------------|-------------|

| | |
|--|-------------|
| Central Coast Local Health Network Special Purpose Service Entity | Vol 10 2011 |
|--|-------------|

| | |
|---|------------|
| Central Coast Regional Development Corporation | Vol 6 2012 |
|---|------------|

| | | | |
|---|-------------|--|------------|
| Central West Catchment Management Authority | Vol 6 2012 | Corporation Sole 'Minister Administering the <i>Heritage Act, 1977</i> ' | Vol 6 2012 |
| Charles Sturt Campus Services Limited | Vol 2 2012 | Country Rail Infrastructure Authority | Vol 8 2011 |
| Charles Sturt Foundation Limited | Vol 2 2012 | Cowra Japanese Garden Maintenance Foundation Limited | Vol 6 2012 |
| Charles Sturt Services Limited | Vol 2 2012 | Cowra Japanese Garden Trust | Vol 6 2012 |
| Charles Sturt University Foundation Trust | Vol 2 2012 | Crime Commission, New South Wales | 95 |
| Charles Sturt University | Vol 2 2012 | Crime Commission, Office of the New South Wales | 95 |
| Chief Investigator of the Office of Transport Safety Investigations | Vol 8 2011 | Crime Commission Division, New South Wales | 95 |
| Chipping Norton Lake Authority | Vol 6 2011 | Crown Employees (NSW Fire Brigades Firefighting Staff, Death and Disability) Superannuation Fund | Vol 5 2012 |
| Citizenship and Communities, Minister for | Vol 9 2011 | Crown Entity | Vol 7 2011 |
| Chiropractic Council of New South Wales | Vol 1 2012 | Cultural Overview | Vol 9 2011 |
| City West Housing Pty Limited | Vol 5 2012 | Cystemix Pty Limited | Vol 2 2012 |
| Clinical Education and Training Institute | Vol 10 2011 | D | |
| Clinical Excellence Commission | Vol 10 2011 | Dams Safety Committee | Vol 6 2012 |
| Clinical Excellence Commission Special Purpose Service Entity | Vol 10 2011 | Delta Electricity | Vol 4 2012 |
| CMBF Limited | Vol 2 2012 | Delta Electricity Australia Pty Ltd | Vol 4 2012 |
| Cobar Water Board | Vol 6 2011 | Dental Council of New South Wales | Vol 1 2012 |
| Cobbora Coal Mine Pty Limited | Vol 4 2012 | Destination NSW | Vol 6 2012 |
| Cobbora Coal Unit Trust | Vol 4 2012 | Director of Public Prosecutions, Office of the | 72 |
| Cobbora Holding Company Pty Limited | Vol 4 2012 | Downtown Utilities Pty Limited | Vol 4 2012 |
| Cobbora Management Company Pty Limited | Vol 4 2012 | E | |
| Cobbora Rail Company Pty Limited | Vol 4 2012 | Education and Communities, Department of (formally Department of Education and Training) | Vol 9 2011 |
| Cobbora Unincorporated Joint Venture | Vol 4 2012 | Education, Minister for | Vol 2 2012 |
| COH Property Trust | Vol 2 2012 | EIF Pty Limited | Vol 5 2012 |
| Coffs Harbour Technology Park Limited | Vol 9 2011 | Election Funding Authority of New South Wales | Vol 6 2012 |
| Combat Sports Authority of NSW | Vol 9 2011 | Electoral Commission, New South Wales | Vol 6 2012 |
| Commission for Children and Young People, NSW | Vol 9 2011 | Electoral Commission, Office of the New South Wales | Vol 6 2012 |
| Communities NSW | Vol 9 2011 | Electricity Industry Overview | Vol 4 2012 |
| Community Relations Commission for a Multicultural New South Wales | Vol 9 2011 | Electricity Sale Transactions | Vol 1 2011 |
| Compensation Authorities Staff Division | Vol 5 2012 | Electricity Tariff Equalisation Ministerial Corporation | Vol 4 2012 |
| Compliance Review Report - Procurement Reform of eProcurement and eTendering | Vol 1 2011 | Electronic Information Security | Vol 1 2011 |
| Cooks Cove Development Corporation | Vol 6 2012 | Emergency Services Overview | 8 |
| Corporation Sole 'Minister Administering the <i>Environmental Planning and Assessment Act, 1979</i> ' | Vol 6 2012 | Endeavour Energy | Vol 4 2012 |
| | | Energy Industries Superannuation Scheme | Vol 5 2012 |
| | | Energy Industries Superannuation Scheme Pty Limited | Vol 5 2012 |
| | | Energy Industries Superannuation Scheme Pool A | Vol 5 2012 |

| | |
|--|------------|
| Energy Industries Superannuation Scheme Pool B | Vol 5 2012 |
| Energy Investment Fund | Vol 5 2012 |
| Environment, Minister for | Vol 6 2012 |
| Environment Overview | Vol 6 2012 |
| Environment Protection Authority | Vol 6 2012 |
| Environmental Trust | Vol 6 2012 |
| Eraring Energy | Vol 4 2012 |
| Essential Energy | Vol 4 2012 |
| Events New South Wales Pty Limited | Vol 6 2012 |

F

| | |
|---|-------------|
| Fair Trading Administration Corporation | Vol 5 2012 |
| Far West Local Health Network | Vol 10 2011 |
| Far West Local Health Network Special Purpose Entity | Vol 10 2011 |
| Film and Television Office, New South Wales | Vol 6 2012 |
| Fire and Rescue New South Wales | 77 |
| Family and Community Services, Department of | Vol 9 2011 |
| Family and Community Services - Community Services, Department of | Vol 9 2011 |
| Family and Community Services - NSW Businesslink, Department of | Vol 9 2011 |
| Family and Community Services - Ageing Disability and Home Care, Department of | Vol 9 2011 |
| Family and Community Services, Minister of | Vol 5 2012 |
| Finance and Services, Department of | Vol 5 2012 |
| Finance and Services, Minister for | Vol 6 2012 |
| Financial Counselling Trust Fund | Vol 5 2012 |
| Financial Statements Not Received by Statutory Date (at 2 December 2011) | Vol 10 2011 |
| Financial Statements Received but Audit Incomplete by Statutory Date (at 2 December 2011) | Vol 10 2011 |
| Fire Brigades Superannuation Pty Limited, NSW | Vol 5 2012 |
| Food Authority, NSW | Vol 6 2012 |
| Food Authority, Office of the NSW | Vol 6 2012 |
| Forensic Mental Health Network | Vol 10 2011 |
| Forestry Commission of New South Wales (Trading as Forests NSW) | Vol 6 2012 |
| Forestry Commission Division | Vol 6 2012 |
| Foundation for the Historic Houses Trust of New South Wales Limited | Vol 9 2011 |

| | |
|---|------------|
| Foundation for the Historic Houses Trust of New South Wales | Vol 9 2011 |
|---|------------|

| | |
|---------------------------|-----------|
| Fraud Survey, 2012 | 30 |
|---------------------------|-----------|

G

| | |
|--|------------|
| Game Council of New South Wales | Vol 6 2012 |
| Game Council Division | Vol 6 2012 |
| Gosford Water Supply Authority | Vol 2 2012 |
| Government Telecommunications Authority, New South Wales | Vol 5 2012 |
| GraduateSchool.com Pty Limited | Vol 2 2012 |

H

| | |
|--|-------------|
| Hamilton Rouse Hill Trust | Vol 9 2011 |
| Hawkesbury-Nepean Catchment Management Authority | Vol 6 2012 |
| Health Administration Corporation | Vol 10 2011 |
| Health Care Complaints Commission | Vol 10 2011 |
| Health Care Complaints Commission, Office of the | Vol 10 2011 |
| Health Foundation, New South Wales | Vol 10 2011 |
| Health, Department of | Vol 10 2011 |
| Health, Minister for | Vol 1 2012 |
| Health Overview | Vol 10 2011 |
| Health Professional Councils | Vol 1 2012 |
| Health Reform Transitional Organisation Northern | Vol 10 2011 |
| Health Reform Transitional Organisation Southern | Vol 1 2012 |
| Health Reform Transitional Organisation Western | Vol 1 2012 |
| Health Support Services | Vol 10 2011 |
| Heritage, Minister of | Vol 9 2011 |
| Historic Houses Trust of New South Wales | Vol 9 2011 |
| Home Care Service of New South Wales | Vol 9 2011 |
| Home Care Service Division | Vol 9 2011 |
| Home Purchase Assistance Fund | Vol 5 2012 |
| Home Warranty Insurance Fund | Vol 5 2012 |
| Hunter Development Corporation | Vol 6 2012 |
| Hunter International Sports Centre Club | Vol 1 2012 |
| Hunter New England Local Health Network | Vol 10 2011 |
| Hunter New England Local Health Network Special Purpose Entity | Vol 10 2011 |
| Hunter Region Sporting Venues Authority | Vol 1 2012 |
| Hunter Water Australia Pty Limited | Vol 6 2012 |
| Hunter Water Corporation | Vol 6 2012 |

Hunter-Central Rivers Catchment
Management Authority Vol 6 2012

I

Illawarra Health and Medical Research
Institute Limited Vol 10 2011

Illawarra Shoalhaven Local Health
Network Vol 1 2012

Illawarra Shoalhaven Local Health
Network Special Purpose Entity Vol 1 2012

Illawarra Venues Authority Vol 9 2011

Independent Commission Against
Corruption Vol 6 2012

Independent Pricing and Regulatory
Tribunal Vol 6 2012

Independent Pricing and Regulatory
Tribunal Division Vol 6 2012

Independent Transport Safety
Regulator Vol 8 2011

Independent Transport Safety
Regulator Division Vol 8 2011

Information and Privacy
Commission NSW Vol 6 2012

Infrastructure NSW Vol 5 2012

Insearch Education Vol 2 2012

Insearch Education International
Pty Limited Vol 2 2012

Insearch Limited Vol 2 2012

Insearch (Shanghai) Limited Vol 2 2012

Institute of Psychiatry,
New South Wales Vol 10 2011

Institute of Sport, New South Wales Vol 9 2011

Institute of Sport Division Vol 9 2011

Institute of Teachers, NSW Vol 9 2011

Institute of Teachers, Office of the Vol 9 2011

Internal Audit Bureau of
New South Wales Vol 6 2012

International Film School Sydney
Pty Ltd Vol 2 2012

International School of European
Aviation Pty Ltd Vol 2 2012

ITC Aviation Pty Ltd Vol 2 2012

ITC Education Ltd Vol 2 2012

ITC Ltd Vol 2 2012

ITC (New Zealand) Limited Vol 2 2012

J

Jenolan Caves Reserve Trust Vol 6 2012

Jenolan Caves Reserve Trust
Division Vol 6 2012

John Lewis and Pamela Lightfoot
Trust Vol 2 2012

John Williams Memorial Charitable
Trust Vol 9 2011

Judicial Commission of New South Wales 95

Justice Health Vol 10 2011

Justice Health Special Purpose
Service Entity Vol 10 2011

L

Lachlan Catchment Management
Authority Vol 6 2012

Lake Illawarra Authority Vol 6 2011

LAMS Foundation Limited Vol 2 2012

LAMS International Pty Ltd Vol 2 2012

Land and Housing Corporation,
NSW Vol 5 2012

Land and Property Information Vol 5 2012

Landcom Vol 6 2012

Law and Order Overview 13

Legal Aid Commission of New South Wales 60

Legal Aid Commission, Office of the 65

Legal Aid Temporary Staff Division 65

Legal Opinions Provided by the
Crown Solicitor Vol 3 2011

Legal Profession Admission Board 95

Legislature, The Vol 6 2012

Legislature (Audit of Members'
Additional Entitlements), The Vol 2 2012

Liability Management Ministerial
Corporation Vol 5 2012

Library Council of New South Wales Vol 9 2011

Lifetime Care and Support Authority
of New South Wales Vol 5 2012

Local Government Superannuation
Scheme Vol 5 2012

Long Service Corporation Vol 5 2012

Lord Howe Island Board Vol 6 2012

Lotteries Assets Ministerial Holding
Corporation Vol 5 2012

Lower Murray-Darling Catchment
Management Authority Vol 6 2012

Luna Park Reserve Trust Vol 6 2012

M

Macquarie Generation Vol 4 2012

Macquarie Graduate School of
Management Pty Limited Vol 2 2012

Macquarie University Professorial
Superannuation Scheme Vol 2 2012

Macquarie University Property
Investment Company No. 2 Pty
Limited Vol 2 2012

| | | | |
|--|-------------|--|-------------|
| Macquarie University Property Investment Company No. 3 Pty Limited | Vol 2 2012 | Newcastle Innovation Limited | Vol 2 2012 |
| Macquarie University Property Investment Company Pty Limited | Vol 2 2012 | Newcastle Port Corporation | Vol 8 2011 |
| Macquarie University Property Investment Trust | Vol 2 2012 | NewSouth Global (Thailand) Limited | Vol 2 2012 |
| Macquarie University | Vol 2 2012 | NewSouth Innovations Pty Ltd | Vol 2 2012 |
| Marine Parks Authority | Vol 6 2011 | New South Wales Minerals Industry/University of NSW Education Trust, The | Vol 2 2012 |
| Maritime Authority of NSW | Vol 8 2011 | Norsearch Limited | Vol 2 2012 |
| Maritime Authority of NSW Division | Vol 8 2011 | Northern NSW Local Health Network | Vol 10 2011 |
| Medical Council of New South Wales | Vol 1 2012 | Northern NSW Local Health Network Special Purpose Entity | Vol 10 2011 |
| MGSM Ltd (formerly ACN 153 973 481) | Vol 2 2012 | Northern Rivers Catchment Management Authority | Vol 6 2012 |
| Mid North Coast Local Health Network | Vol 10 2011 | Northern Sydney Local Health Network | Vol 10 2011 |
| Mid North Coast Local Health Network Special Purpose Entity | Vol 10 2011 | Northern Sydney Local Health Network Special Purpose Entity | Vol 10 2011 |
| Mid West Primary Pty Ltd | Vol 4 2012 | NorthPower Energy Services Pty Limited | Vol 4 2012 |
| Midwest Development Corporation Pty Limited | Vol 4 2012 | NSW Self Insurance Corporation | Vol 5 2012 |
| Mine Subsidence Board | Vol 6 2012 | NSW Trustee and Guardian | 66 |
| Motor Accidents Authority of New South Wales | Vol 5 2012 | NSW Trustee and Guardian Common Fund - Trustee | Vol 1 2012 |
| Motor Vehicle Repair Industry Authority | Vol 5 2012 | Nursing and Midwifery Council of New South Wales | Vol 1 2012 |
| MU Hospital Pty Limited | Vol 2 2012 | O | |
| MUH Operations No. 2 Limited | Vol 2 2012 | Ombudsman's Office | Vol 6 2012 |
| MUH Operations Pty Limited | Vol 2 2012 | Optometry Council of New South Wales | Vol 1 2012 |
| MUPH Clinic Pty Limited | Vol 2 2012 | Osteopathy Council of New South Wales | Vol 1 2012 |
| MUPH Hospital Pty Limited | Vol 2 2012 | Overview of 2011 | Vol 1 2012 |
| Murray Catchment Management Authority | Vol 6 2011 | Ovine Johne's Disease Transaction Based Contribution Scheme, NSW | Vol 6 2012 |
| Murrumbidgee Catchment Management Authority | Vol 6 2012 | P | |
| Murrumbidgee Local Health Network | Vol 10 2011 | Pacific Industry Services Corporation Pty Limited | Vol 6 2012 |
| Murrumbidgee Local Health Network Special Purpose Entity | Vol 10 2011 | Pacific Solar Pty Limited | Vol 4 2012 |
| N | | Parklands Foundation Limited | Vol 9 2011 |
| Namoi Catchment Management Authority | Vol 6 2012 | Parliamentary Contributory Superannuation Fund | Vol 5 2012 |
| National Art School | Vol 2 2012 | Parramatta Park Trust | Vol 6 2012 |
| National Marine Science Centre Pty Ltd | Vol 2 2012 | Parramatta Stadium Trust | Vol 2 2012 |
| Natural Resources Commission | Vol 6 2012 | Pharmacy Council of New South Wales | Vol 1 2012 |
| Natural Resources Commission Division | Vol 6 2012 | Physiotherapy Council of New South Wales | Vol 1 2012 |
| Nepean Blue Mountains Local Health Network | Vol 10 2011 | Planning and Infrastructure, Department of | Vol 6 2012 |
| Nepean Blue Mountains Local Health Network Special Purpose Entity | Vol 10 2011 | Planning and Infrastructure, Minister for | Vol 6 2012 |

| | | | |
|--|-------------|---|-------------|
| Podiatry Council of New South Wales | Vol 1 2012 | Riverina Citrus | 94 |
| Police Force, NSW | 88 | Roads and Traffic Authority of New South Wales | Vol 8 2011 |
| Police Integrity Commission | 95 | Roads and Traffic Authority Division | Vol 8 2011 |
| Police Integrity Commission Division | 95 | Rocky Point Holdings Pty Limited | Vol 4 2012 |
| Police and Emergency Services, Minister for | 77 | Rouse Hill Hamilton Collection Pty Limited | Vol 9 2011 |
| Police and Emergency Services, Ministry for | 95 | Royal Botanic Gardens and Domain Trust | Vol 6 2012 |
| Port Kembla Port Corporation | Vol 8 2011 | RTA M2 Motorway - Update Contract Summary | Vol 8 2011 |
| Ports Overview | Vol 8 2011 | RTA Special Purpose Financial Statements on Commonwealth Grant Acquittals | Vol 8 2011 |
| Premier | Vol 6 2012 | Rural Assistance Authority, New South Wales | Vol 6 2012 |
| Premier and Cabinet, Department of | Vol 6 2012 | Rural Assistance Authority, Office of the | Vol 6 2012 |
| Primary Industries, Minister for | Vol 6 2012 | Rural Fire Service, New South Wales | 83 |
| Protective Commissioner - Common Fund, Office of the | Vol 1 2012 | S | |
| Protective Commissioner and Public Guardian, Office of the | Vol 8 2009 | SAS Trustee Corporation | Vol 5 2012 |
| Psychology Council of New South Wales | Vol 1 2012 | SAS Trustee Corporation - Pooled Fund | Vol 5 2012 |
| Public Health System Support Division Special Purpose Service Entity | Vol 10 2011 | SAS Trustee Corporation Division of the Government Service of NSW | Vol 5 2012 |
| Public Service Commission | Vol 5 2012 | SCU College Pty Ltd | Vol 2 2012 |
| Public Transport Ticketing Corporation | Vol 8 2011 | Services UNE Ltd | Vol 2 2012 |
| Public Trustee NSW - Common Fund | Vol 8 2010 | Sesquicentenary of Responsible Government Trust Fund | Vol 6 2012 |
| Q | | Small Business Development Corporation of New South Wales | Vol 6 2011 |
| Qualified Independent Audit Reports Issued | Vol 10 2011 | South Eastern Sydney Local Health Network | Vol 1 2012 |
| Qucor Pty Ltd | Vol 2 2012 | South Eastern Sydney Local Health Network Special Purpose Entity | Vol 1 2012 |
| R | | South Western Sydney Local Health Network | Vol 10 2011 |
| Rail Corporation New South Wales | Vol 8 2011 | South Western Sydney Local Health Network Special Purpose Entity | Vol 10 2011 |
| Redfern-Waterloo Authority | Vol 6 2012 | Southern Cross University | Vol 2 2012 |
| Redfern Waterloo Authority, Office of the | Vol 6 2012 | Southern NSW Local Health Network | Vol 10 2011 |
| Regional Infrastructure and Services, Minister for | 94 | Southern NSW Local Health Network Special Purpose Entity | Vol 10 2011 |
| Rental Bond Board | Vol 5 2012 | Southern Rivers Catchment Management Authority | Vol 6 2012 |
| Rental Housing Assistance Fund | Vol 5 2012 | Sport and Recreation, Minister for | Vol 2 2012 |
| Reporting of the State's Performance | Vol 1 2011 | Sport Knowledge Australia Pty Limited | Vol 2 2012 |
| Residual Business Management Corporation | Vol 4 2011 | Sport UNE Limited | Vol 2 2012 |
| Responsible Gambling Fund | Vol 9 2011 | Sporting Injuries Committee | Vol 5 2012 |
| Rice Marketing Board for the State of New South Wales | Vol 6 2012 | State Council of Rural Land Protection Boards of NSW | Vol 6 2012 |
| Resources and Energy, Minister for | Vol 4 2012 | | |
| Risk Frontiers Flood (Australia) Pty Ltd | Vol 2 2012 | | |
| Risk Frontiers Group Pty Ltd | Vol 2 2012 | | |

| | | | |
|--|-------------|---|------------|
| State Council of Rural Land Protection Board Division | Vol 6 2012 | Sydney Metropolitan Catchment Management Authority | Vol 6 2012 |
| State Emergency Service | Vol 7 2011 | Sydney Metropolitan Development Authority | Vol 6 2012 |
| State Infrastructure Holdings (Sea Gas) Pty Ltd | Vol 5 2012 | Sydney Metropolitan Development Authority, Office of | Vol 6 2012 |
| State Infrastructure Trust | Vol 5 2012 | Sydney Olympic Park Authority | Vol 9 2011 |
| State Library of New South Wales Foundation | Vol 9 2011 | Sydney Opera House Trust | Vol 9 2011 |
| State Property Authority | Vol 6 2012 | Sydney Pilot Service Pty Ltd | Vol 8 2011 |
| State Rail Authority Residual Holding Corporation | Vol 5 2012 | Sydney Ports Corporation | Vol 8 2011 |
| State Records Authority of New South Wales | Vol 5 2011 | Sydney Talent Pty Limited | Vol 2 2012 |
| State Rescue Board | 95 | Sydney Water Corporation | Vol 6 2012 |
| State Super Financial Services Australia Limited | Vol 5 2012 | SydneyLearning Pty Limited | Vol 2 2012 |
| State Super Fixed Term Pension Plan | Vol 5 2012 | T | |
| State Super Investment Fund | Vol 5 2012 | Taronga Conservation Society Australia | Vol 6 2012 |
| State Super Retirement Fund | Vol 5 2012 | Taronga Conservation Society Australia Division | Vol 6 2012 |
| State Transit Authority of New South Wales | Vol 8 2011 | TCorp Nominees Pty Limited | Vol 5 2012 |
| State Transit Authority Division | Vol 8 2011 | Teacher Housing Authority of New South Wales | Vol 5 2012 |
| State Water Corporation | Vol 6 2012 | Technical and Further Education Commission, New South Wales | Vol 9 2011 |
| Statement of the Budget Result | Vol 3 2011 | Technical and Further Education Commission Division, New South Wales | Vol 9 2011 |
| Superannuation Administration Corporation | Vol 5 2012 | Technical Education Trust Funds | Vol 9 2011 |
| Superannuation Industry Overview | Vol 5 2012 | Television Sydney Foundation Limited | Vol 2 2012 |
| Sydney Business School Pty Ltd, The | Vol 2 2012 | Television Sydney Foundation Trust | Vol 2 2012 |
| Sydney Catchment Authority | Vol 6 2012 | Television Sydney (TVS) Limited | Vol 2 2012 |
| Sydney Catchment Authority Division | Vol 6 2012 | Timber and Carbon Plantation Pty Ltd | Vol 2 2012 |
| Sydney Children's Hospital Network, The | Vol 10 2011 | Total State Sector Accounts | Vol 3 2012 |
| Sydney Children's Hospital Network Special Purpose Service Entity, The | Vol 10 2011 | Tourism, Major Events, Hospitality and Racing, Minister for | Vol 6 2012 |
| Sydney Cricket and Sports Ground Trust | Vol 9 2011 | Trade and Investment, Regional Infrastructure and Services, Department of | Vol 6 2012 |
| Sydney Cricket and Sports Ground Trust Division | Vol 9 2011 | Trainworks Limited | Vol 8 2011 |
| Sydney Desalination Plant Pty Limited | Vol 6 2012 | TransGrid | Vol 4 2012 |
| Sydney Educational Broadcasting Limited | Vol 2 2012 | Transport Department of | Vol 8 2011 |
| Sydney Ferries | Vol 8 2011 | Transport, Minister for | Vol 8 2011 |
| Sydney Harbour Foreshore Authority | Vol 6 2012 | Transport Construction Authority | Vol 8 2011 |
| Sydney Harbour Foreshore Authority Casual Staff Division, | Vol 6 2012 | Transport Overview | Vol 8 2011 |
| Sydney Local Health Network | Vol 10 2011 | Treasurer | Vol 5 2012 |
| Sydney Local Health Network Special Purpose Entity | Vol 10 2011 | Treasury, The | Vol 5 2012 |
| Sydney Metro | Vol 8 2011 | Treasury Corporation, New South Wales | Vol 5 2012 |
| | | Treasury Corporation Division of the Government Service | Vol 5 2012 |

| | | | |
|--|------------|---|-------------|
| Trustees of the ANZAC Memorial Building | Vol 6 2012 | UNSW Hong Kong Limited | Vol 2 2012 |
| Trustees of the Farrer Memorial Research Scholarship Fund | Vol 2 2012 | UON Foundation | Vol 2 2012 |
| Trustees of the Museum of Applied Arts and Sciences | Vol 9 2011 | UON Foundation Ltd | Vol 2 2012 |
| U | | UON Services Limited | Vol 2 2012 |
| U@MQ Limited | Vol 2 2012 | UON, Singapore Pte Ltd | Vol 2 2012 |
| UNE Foundation Ltd | Vol 2 2012 | Upper Parramatta River Catchment Trust | Vol 1 2012 |
| UNE Foundation | Vol 2 2012 | Upper Parramatta River Catchment Trust Division | Vol 1 2012 |
| UNE Partnerships Pty Limited | Vol 2 2012 | UWS College Pty Limited | Vol 2 2012 |
| UniCentre Conferences and Functions Pty Limited | Vol 2 2012 | UWS Early Learning Limited | Vol 2 2012 |
| Uniprojects Pty Limited | Vol 2 2012 | uwsconnect Limited | Vol 2 2012 |
| United States Studies Centre Limited | Vol 2 2012 | V | |
| Universities Admissions Centre (NSW & ACT) Pty Limited | Vol 9 2011 | Valley Commerce Pty Limited | Vol 5 2012 |
| University Overview | Vol 2 2012 | Veterinary Practitioners Board | Vol 6 2012 |
| University of New England | Vol 2 2012 | Vocational Education and Training Accreditation Board, NSW | Vol 2 2011 |
| University of New South Wales | Vol 2 2012 | W | |
| University of New South Wales Foundation | Vol 2 2012 | Warren Centre for Advanced Engineering Limited, The | Vol 2 2012 |
| University of New South Wales Foundation Limited | Vol 2 2012 | Waste Assets Management Corporation | Vol 6 2012 |
| University of New South Wales International House Limited | Vol 2 2012 | Water Overview | Vol 6 2012 |
| University of New South Wales Press Limited | Vol 2 2012 | Water Administration Ministerial Corporation | Vol 6 2012 |
| University of Newcastle | Vol 2 2012 | Wayahead Pty Limited | Vol 2 2012 |
| University of Sydney, The | Vol 2 2012 | Wentworth Annexe Limited | Vol 2 2012 |
| University of Sydney Professorial Superannuation System | Vol 2 2012 | Wentworth Park Sporting Complex Trust | Vol 9 2011 |
| University of Technology, Sydney | Vol 2 2012 | Western Catchment Management Authority | Vol 6 2012 |
| University of Western Sydney | Vol 2 2012 | Western NSW Local Health Network | Vol 10 2011 |
| University of Western Sydney Foundation Limited | Vol 2 2012 | Western NSW Local Health Network Special Purpose Entity | Vol 10 2011 |
| University of Western Sydney Foundation Trust | Vol 2 2012 | Western Sydney Buses Division | Vol 8 2011 |
| University of Wollongong | Vol 2 2012 | Western Sydney Local Health Network | Vol 10 2011 |
| University of Wollongong Recreation and Aquatic Centre Limited | Vol 2 2012 | Western Sydney Local Health Network Special Purpose Entity | Vol 10 2011 |
| UNSW & Study Abroad - Friends and U.S. Alumni, Inc. | Vol 2 2012 | Western Sydney Parklands Trust | Vol 6 2012 |
| UNSW (Thailand) Limited | Vol 2 2012 | Whitlam Institute Within the University of Western Sydney Limited | Vol 2 2012 |
| UNSW Global (Singapore) Pte Limited | Vol 2 2012 | Whitlam Institute Within the University of Western Sydney Trust | Vol 2 2012 |
| UNSW Global India Private Limited | Vol 2 2012 | Wild Dog Destruction Board | Vol 2 2012 |
| UNSW Global Pty Limited | Vol 2 2012 | Wild Dog Destruction Board Division | Vol 2 2012 |
| UNSW Hong Kong Foundation Limited | Vol 2 2012 | Wine Grapes Marketing Board | Vol 2 2012 |
| | | Wollongong UniCentre Limited | Vol 2 2012 |

| | |
|---|------------|
| WorkCover Authority of New South Wales | Vol 5 2012 |
| Workers Compensation Commission of New South Wales | Vol 5 2012 |
| Workers' Compensation (Dust Diseases) Board | Vol 5 2012 |
| Workers Compensation Nominal Insurer | Vol 5 2012 |
| Wyong Water Supply Authority | Vol 6 2012 |

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