
6 Justice: Implementation of Nunn Commission of Inquiry Recommendations

Summary

In December 2006, Commissioner Nunn submitted the report from his public inquiry to the government. The report contained 34 recommendations directed to the province, departments, or agency responsible for the matters. In January 2007, the province publicly accepted all 34 recommendations and made a commitment to implement them.

Overall, the province has taken appropriate action to address the recommendations from the Nunn Commission of Inquiry. We found the province has completed 31 of the Nunn Commission recommendations and we provided comments on the nature of the actions taken. We believe the remaining three recommendations have not been fully addressed by the province. We have made recommendations to focus efforts toward their completion.

Commissioner Nunn recommended a bail supervision program as an intermediate option between pretrial detention and release with conditions for youth facing criminal charges. The Department of Justice implemented and later cancelled the youth bail supervision program. This has resulted in a significant gap in the options available for youth. We recommended the Department of Justice evaluate and take appropriate action to address the gap.

Commissioner Nunn's recommendations to the Department of Justice included establishing a section to provide training to court staff and monitoring of court procedures. The Department established a section to monitor compliance with court administration policies but did not include a function to ensure staff training is current. The Department is taking steps to identify and address training gaps and we recommended these efforts be completed as soon as possible.

6 Justice: Implementation of Nunn Commission of Inquiry Recommendations

Background

JUSTICE:
IMPLEMENTATION OF
NUNN COMMISSION OF
INQUIRY
RECOMMENDATIONS

- 6.1 By an Order in Council, dated June 29, 2005, the province appointed D. Merlin Nunn as Commissioner to conduct a public inquiry relating to the matters and circumstances concerning a youth (referred to as AB) released from custody, whose criminal actions caused the death of Theresa McAvoy on October 14, 2004. In December 2006, Commissioner Nunn submitted his report to government. It contained an in-depth analysis of the circumstances that lead to the tragedy and included 34 recommendations to address the deficiencies that allowed it to happen.
- 6.2 The 34 recommendations were grouped into broad categories.
- Youth Justice Administration and Accountability – 18 recommendations
 - Youth Crime Legislation – seven recommendations
 - Targeting Resources and Youth Crime Prevention – nine recommendations
- 6.3 Commissioner Nunn acknowledged in his report that some aspects of the inquiry were more directly connected to the events of that tragic day and at the core of his mandate. Other areas were less so, but he outlined them as key factors that affect the likelihood of youth coming into conflict with the law. As his recommendations moved further away from the core of his mandate, the less specific and more general the recommendations became (see graphic below).



- 6.4 In his report, Commissioner Nunn directed his recommendations to the province in general or to the specific departments or divisions directly responsible for the matter addressed, namely: the Departments of Justice, Community Services, and Education, as well as the Public Prosecution Service.
- 6.5 In January 2007, the province released its response to the Nunn Commission of Inquiry report, titled *Helping kids – Protecting communities*. In its response, the province publicly accepted all 34 recommendations and outlined its implementation plans.
- 6.6 We have included the specific recommendations from the Nunn Commission report in an appendix at the end of this Chapter. Throughout the Chapter we refer to the recommendations and provide a reference, for example [R1], to correspond with the recommendation number in the appendix. An assessment of each recommendation is also included as part of the appendix.

JUSTICE:
IMPLEMENTATION OF
NUNN COMMISSION OF
INQUIRY
RECOMMENDATIONS

Audit Objective and Scope

- 6.7 In the summer of 2011, we completed a performance audit of the province's implementation of the Nunn Commission recommendations. The audit was conducted in accordance with sections 18 and 21 of the Auditor General Act and auditing standards established by the Canadian Institute of Chartered Accountants.
- 6.8 The objective of this audit was to determine whether appropriate actions were taken to address the recommendations from the Nunn Commission report. We did not examine nor do we provide an opinion on whether the actions taken were effective in achieving the desired results.
- 6.9 Our audit criteria consisted of the 34 recommendations from the 2006 Nunn Commission report. Criteria were accepted as appropriate by senior management of the Departments.
- 6.10 Our audit approach included interviewing management and staff, examining documentation, and testing where appropriate.

Significant Audit Observations

Youth Justice Administration and Accountability

Conclusions and summary of observations

The Department of Justice has taken appropriate action on most recommendations in the areas of youth justice administration and accountability. The Department implemented and later cancelled the recommended youth bail supervision program, leaving a gap between unsupervised bail release and pretrial detention. We recommended the Department evaluate and take appropriate action to address the gap between those two options. The Department is also monitoring compliance with court administration procedures but does not have a function to ensure staff training is current. We recommended the Department implement such a function as soon as possible. The Public Prosecution Service has appointed dedicated youth Crown attorneys and established policies to appropriately address Commissioner Nunn's recommendations concerning common approaches to youth criminal proceedings.

JUSTICE:
IMPLEMENTATION OF
NUNN COMMISSION OF
INQUIRY
RECOMMENDATIONS

Delay in the administration of youth criminal justice

- 6.11 Commissioner Nunn recommended the province commit to reducing the delay in youth criminal proceedings; both from arrest to first court appearance (front-end delay) and from arrest to final disposition (overall delay).

“The link between an action and its consequences is most significant when dealing with adolescents, particularly due to their perceptions of time. For the youth who commits a serious crime, poses a public safety risk, is a repeat offender, or whose frequency on the police radar screen is increasing, undue delay is prejudicial to developing a sense of responsibility as well as to giving a timely wake-up call that such anti-social behaviour is not accepted.” [Nunn Commission report, pg 177]

- 6.12 *Reducing front-end delay* – Commissioner Nunn recommended that youth facing serious charges, or additional charges while awaiting disposition on previous charges, should appear in youth court by the next scheduled appearance date, or within one week of arrest [R1]. The Department of Justice has established a standard that requires youth in these situations to appear in youth court within seven days. The Department has publicly reported progress toward achieving the standard. For the year ended March 31, 2011, the Department reported it took an average of eight days for youth facing serious charges to make a first court appearance; youth charged while awaiting disposition on previous charges took an average of

10 days for a first court appearance. The Department acknowledged that some youth courts do not sit every week, which impacts the ability to meet the standard.

- 6.13 *Reducing overall delay* – Commissioner Nunn recommended establishing a target timeframe to handle youth cases from arrest to final disposition (case processing time) with the aim of reducing the overall time required [R2]. His recommendation noted the need for justice stakeholders, under the leadership of the Department of Justice, to determine the causes of delays and ways to address them. He also recommended regular reporting to the public on progress in achieving the target. It was Commissioner Nunn’s expectation that case processing time would be improved.
- 6.14 A committee made up of various justice stakeholders was created to address the recommendations. During 2007, this committee explored causes and solutions for case processing delays. The committee eventually established a case processing target time of 98 days. The 98-day target excluded certain types of cases, such as restorative justice, which require additional time to complete.
- 6.15 The various justice stakeholders have taken actions to address the issue of case processing time. For example: establishing additional youth court dates at some court locations; the presence of Legal Aid duty counsel at certain courts; and a reduced targeted time for the preparation of pre-sentence reports. In addition, the Public Prosecution Service hired additional attorneys dedicated to youth cases. As reported by the Department of Justice, the average case processing time at some of the justice centres has not met the established target.
- 6.16 In late 2009, committees in each justice centre, particularly in those areas not meeting the 98-day target, began to identify and discuss case processing issues specific to their area. As noted by Commissioner Nunn, “...*while general standards are important, a local and flexible response is also required at the community level...*” [Nunn Commission report, pg 182]
- 6.17 Commissioner Nunn also recommended reporting at least twice annually on progress against case processing targets, with details of actions taken to address any ongoing failure to meet targets [R2]. We examined the public reports on case processing, starting with the June 2007 report to the most recent report for the year ended March 31, 2011. We noted improvements in reporting over time. Starting in January 2010, the Department of Justice began issuing semi-annual reports as recommended by Commissioner Nunn. These reports provide case processing times in total and by justice centre. This serves to highlight individual justice centre performance. Case processing times are now reported for the six months from April to September as well as annually to March.

- 6.18 We acknowledge that case processing time is influenced by a number of factors and parties including: police agencies, the prosecution, defense counsel, the defendant, court administration, and an independent judiciary. Judicial independence is an important concept in terms of the parties being able to practically influence or control case processing time. Concerning judicial independence, Justice Saunders wrote,

“Any judge must be free to adjudicate in accordance with the law, guided by his or her conscience, unfettered by coercion, or influence from anyone, be it government, the public service, popular public opinion, pressure groups, or other judges, except, of course, to the extent that the opinions of other judges may have been recorded and found to be useful as precedent.” [The Courts of Nova Scotia website – lecture notes of Justice Jamie W. S. Saunders, May 23, 2003]

Court procedures and administration

- 6.19 Commissioner Nunn made a number of recommendations in the area of administrative processes, procedures and training.
- 6.20 *Administrative procedures at the Justice of the Peace Centre* – The Justice of the Peace Centre (JP Centre), located in Dartmouth, is staffed by lawyers acting as justices of the peace to provide certain after-hours court services, such as bail hearings. Commissioner Nunn recommended the Department of Justice ensure police officers are familiar with the purpose and procedures of the JP Centre and that the JP Centre itself continue to refine its procedures [R3, R4]. He noted a number of the procedural issues brought before him at the inquiry had already been remedied to his satisfaction by the JP Centre.
- 6.21 The Department of Justice developed a training program for police officers on JP Centre procedures. In 2007, training sessions were held throughout the province in which over three hundred officers participated. Training materials and JP Centre forms are available for new officers and the policies and procedures manual has been updated.
- 6.22 *Monitoring court staff training* – Commissioner Nunn recommended the Department of Justice establish a section to provide training to court staff and to monitor compliance with court procedures [R5].
- 6.23 The Department of Justice established a section which monitors compliance with court administration policies. However, training of staff continues to be an issue. The Department has no processes to ensure that staff training is current. The Department is working on identifying and addressing training gaps. We believe steps to address this issue need to be implemented as soon as possible.

Recommendation 6.1

The Department of Justice should monitor training of court staff to ensure training is current.

- 6.24 *Equipment and access to JEIN* – Commissioner Nunn recommended all satellite or adjunct court houses in the province have adequate office equipment, computers, email communication, and the necessary equipment for dependable access to the justice computer system (JEIN) [R6].
- 6.25 The Department of Justice has inventoried the equipment in the satellite courts and maintains maintenance logs to ensure properly functioning equipment is available. The satellite courts now have computers, high-speed internet, printers and a fax. At the time of our audit, the Sheet Harbour court was the one exception as high-speed internet service was not yet available in the area where the court is located.
- 6.26 *Computer system enhancements* – Commissioner Nunn recommended the Department of Justice, in consultation with justice stakeholders, consider enhancements to the justice computer system, including the possible development of electronic court documents [R7]. “*The key is to ensure that in dealing with a young person facing charges, all of the players have as much accurate, up-to-date information as possible.*” [Nunn Commission report, pg 199]
- 6.27 Justice piloted scanning and uploading of court documents at three sites (Halifax, JP Centre and New Glasgow) to determine the costs and benefits before undertaking a full implementation. The Department is taking inventory of scanning capabilities at each justice centre. Management anticipates that certain electronic documents will become accepted practice once processes are finalized and system changes are made. The Department expects this will be in place in early 2012.

Court facilities for youth

- 6.28 *Separate facilities* – Commissioner Nunn recommended when new courthouses are planned and built, separate facilities should be provided for youth court matters, with dedicated space for partner agencies where possible [R8]. However, as he noted:

“... it would not add credence to my report were I to make a ‘pie in the sky’ recommendation to add a very significant cost item when there are many more-immediate matters that must be identified as needing reform or change.”

Nevertheless, when new courthouses are being planned...separate facilities should be provided for youth court matters, completely apart from the adult facilities...” [Nunn Commission report, pg 201]

6.29 The Department of Justice asserts the volume of youth matters, even in Halifax, does not warrant the construction or maintenance of separate courtrooms. Youth matters are generally heard at specific times or days, so that they are kept separate from adult matters. When required, youth are held in separate youth holding cells. In Halifax, there is a separate waiting room available for youth, and youth holding cells are located separate from the main custodial cell area. Cells in new justice centres which have fewer youth matters, provide separate areas for male and female youth and also separate youth from adults, both visually and audibly. This is consistent with the Department’s courthouse holding cells standard, which is also consistent with the Youth Criminal Justice Act.

6.30 *Youth court liaison police officers* – Commissioner Nunn recommended the Department of Justice encourage police agencies to appoint youth court liaison officers [R9]. The role has existed in Halifax for many years, and as Commissioner Nunn noted:

“Keeping in mind the principle that the youth criminal justice system is different for youth, with its thrust for rehabilitation and community involvement..., it is obvious that an approach proven helpful to attaining that end is desirable. I believe [the youth court liaison’s] position and efforts have been a winner for the Halifax Regional Municipality.” [Nunn Commission report, pg 203]

6.31 The Department of Justice indicated the appointment of dedicated court liaison officers was not warranted outside of Halifax due to the lower volume of youth cases in those areas. Instead, police agencies have focused on their role as school resource officers. The Department indicated this role may serve a dual purpose of court liaison and school resource in some communities outside of Halifax. In early 2008, the Department announced funding for additional officers, including 27 school resource officers across the province. In April 2008, the Department conducted a youth resource officer forum for those officers expected to deal primarily with youth. We understand the school resource officer role may be helpful in terms of community involvement and youth crime prevention and management.

6.32 *Youth court Crown attorneys* – Commissioner Nunn recommended the Public Prosecution Service (PPS) consider appointing an additional dedicated youth Crown attorney for Halifax, as well as consider it for other communities if the numbers warrant [R10].

- 6.33 In 2007 and 2009, PPS hired additional Crown attorneys dedicated to youth matters. There are now three full-time dedicated youth Crown attorneys in Halifax and one in Sydney. PPS maintains that current case volumes in other areas of the province do not warrant the appointment of specialized youth Crown attorneys.

Attendance centres and bail supervision

- 6.34 Commissioner Nunn also considered programs that can increase accountability for youth charged with crimes. These included the establishment of a youth attendance centre in Halifax and a youth bail supervision program. Commissioner Nunn believed these type of programs would have “*dramatically affected*” the behaviour of the youth at the centre of the inquiry.

JUSTICE:
IMPLEMENTATION OF
NUNN COMMISSION OF
INQUIRY
RECOMMENDATIONS

- 6.35 *Establishment of a Halifax attendance centre* – An attendance centre is a noncustodial community-based facility where various programs are provided for youth in conflict with the law. Commissioner Nunn recommended an attendance centre be established in Halifax as envisioned in the report presented at the inquiry, titled *Attendance Centre Program Model – Halifax Planning Committee Report* and dated March 27, 2006 [R12]. He specifically noted features of the centre from the report, including the following.

- A full-time school program
- A full-time career development/work skills program
- A cognitive/life skills program
- Recreation and leisure activities
- Experiential learning opportunities
- Treatment services (psychologist and social worker) – including individual, group, and family therapy and counseling
- Youth health centre services

- 6.36 In 2007, the Department of Justice established an attendance centre in Halifax which offered the recommended features. Effective April 1, 2011, citing budget constraints, the Department modified the Halifax Youth Attendance Centre program however, the objectives of the centre have not changed.

- 6.37 *Youth bail supervision* – Commissioner Nunn recommended the province establish a bail supervision program in the Halifax Regional Municipality in conjunction with and integrated into the establishment of the Halifax

Youth Attendance Centre. He also recommended consideration be given to implementing a bail supervision program in other areas of the province [R13, R14].

“A bail supervision program provides a necessary intermediate option between pre-trial detention and release on conditions only. It has the advantage of keeping pre-trial custody to a minimum, while at the same time, making undertakings meaningful through enforcement, as well as providing significant help and guidance to the youth during the time the bail supervision is in effect.” [Nunn Commission report, pg 213]

“While bail supervision provides a greater assurance of compliance with bail conditions through monitoring, surveillance, and enforcement, it is also a vehicle to provide support and assistance to the youth. The more intensive the supervision becomes, the more the probation officer becomes involved in the youth’s regular life activities, helping and giving advice. It is now well recognized that bail supervision supplements an attendance centre and vice versa.” [Nunn Commission report, pg 214]

- 6.38 The Department of Justice has cancelled the youth bail supervision program brought in as a result of the Nunn Commission recommendation. The Department cited budget constraints along with limited use of the program, and concerns over effectiveness, as the reasons for ceasing its operation. The Department conducted an internal evaluation in 2010, which recommended cancellation of the program.
- 6.39 With the cancellation of the youth bail supervision program, a gap now exists, as recognized by Commissioner Nunn, between pretrial detention and release with conditions. As quoted above, Commissioner Nunn considered such a program important and complementary to an attendance centre.

Recommendation 6.2

The Department of Justice should evaluate and take appropriate action to address the gap between unsupervised bail and pretrial detention for youth facing criminal charges.

Common approaches to youth criminal justice proceedings

- 6.40 *Policy directives and guidelines* – Commissioner Nunn recommended the Public Prosecution Service provide direction to Crown attorneys to foster common approaches in dealing with youth criminal matters [R15 – R18]. The Commissioner was concerned about consistency in determining

whether a situation warranted pretrial detention; the timing of a finding of guilt; and, verifying responsible persons for youth. These issues were a critical aspect in relation to the youth at the centre of the Nunn Inquiry.

- 6.41 The Public Prosecution Service (PPS) developed policies to address the recommendations of the Nunn Commission. PPS youth Crown attorneys are aware of the policies and training has been provided to staff on youth matters.
- 6.42 Discussion was held between the judiciary, Department of Justice, PPS and Legal Aid to identify issues that could delay the recording of a finding of guilt. The volume of youth cases in Halifax was identified as the primary issue and reason for deferring findings of guilt hearings until sentencing, when sufficient court time would be available to complete the process.
- 6.43 *Common protocol on arrest warrants* – Commissioner Nunn recommended the Department of Justice and its justice partners should meet to determine a common arrest warrant protocol [R19]. The Commissioner noted that the evidence presented at the Nunn Commission revealed gaps in knowledge, training, practices and procedures in dealing with arrest warrants.
- 6.44 A committee of justice partners developed a common arrest warrant protocol which came into effect in April 2011. Training in the protocol was also developed and carried out. Members of the various police services, as well as the Public Prosecution Service, Justice staff and others received the training.
- 6.45 *Overall comments* – Commissioner Nunn made 18 recommendations in the youth justice administration and accountability area, of which 15 recommendations were appropriately acted upon by the responsible department or agency. We found three of the recommendations required additional action to be taken which is the focus of recommendations 6.1 [R5] and 6.2 [R13, R14] in this Chapter.

JUSTICE:
IMPLEMENTATION OF
NUNN COMMISSION OF
INQUIRY
RECOMMENDATIONS

Advocacy for Changes to the Federal Youth Criminal Justice Act

Conclusions and summary of observations

The Department of Justice has adequately implemented the recommendations relating to advocacy for amendments to the Youth Criminal Justice Act (Act). The Department indicated the passage of Bill C-10, introduced in fall 2011 in the federal parliament, will address Commissioner Nunn's main concerns with the Act.

6.46 *Youth Criminal Justice Act* – Commissioner Nunn recommended the province advocate for changes to several aspects of the Youth Criminal Justice Act [R11, R20 – R25].

“Aside from the misunderstandings and missteps that occurred in relation to AB, many of which were procedural in nature, the real culprit, which failed to provide an adequate response to AB’s behaviour and, indeed, to society’s rightful expectations, was the Youth Criminal Justice Act itself.” [Nunn Commission report, pg 227]

6.47 Much of the Commissioner’s concerns with the Act centered on the ability of the courts to hold serious repeat offenders, such as AB, in pretrial custody.

“AB was one of its [the Act’s] failures. His same criminal behaviour went on, without intervention, until he caused Theresa McAvoy’s death. AB’s pattern of repeat offences, however, is not unique. There may be as many as 100 young persons at any one time acting as repeat offenders in Nova Scotia... We cannot sit back and praise ourselves on the nobility of our aims of rehabilitation and reintegration while not actively engaging those most in need of those very aims. The goals of the act are worthy, but some detention, where it would contribute to public safety and still be consistent with the goals of the act, is also worthy.” [Nunn Commission report, pg 244-245]

6.48 Recommendations from the inquiry included advocacy for change in the following areas of the Act.

- Amend “Declaration of Principle” in section 3 to include a reference to public safety as one of the primary goals of the Act.
- Amend the definition of “violent offense” in section 39(1)(a) to be inclusive of conduct that endangers or is likely to endanger the life or safety of others.
- Amend section 39(1)(c) so that the requirement for a demonstrated “pattern of finding of guilt” is changed to “a patterns of offences”, or similar.
- Amend and simplify pretrial detention provisions so that section 29 will stand on its own, without interaction with other provisions or statutes.
- Amend section 31(5)(a) so that if the designated “responsible person” is relieved of a “responsible person undertaking”, the young person’s undertaking under section 31(3)(b) remains in force.

- Amend section 31(6) to remove requirement for a new bail hearing before being placed in pretrial custody if the “responsible person” is relieved of obligations under the undertaking.
- Amend 42(2)(m) to remove time limits on the sentencing option for court to have a young person attend nonresidential programs (such as the attendance centre).

6.49 The province has advocated for changes to the Youth Criminal Justice Act. The province, consistent with the Nunn Commission recommendations, has articulated its position to the federal Justice Minister and other officials on an ongoing basis and provided suggested changes to the Act. In addition, in 2010, the province testified in support of the recommended changes at the federal Standing Committee on Justice and Human Rights meetings that considered a bill to amend the Act. The bill was not passed into law before the parliamentary session ended, which requires it to be reintroduced.

6.50 In fall 2011, the federal government introduced Bill C-10 to amend the Act. The Department of Justice indicated the bill, as tabled, addresses Commissioner Nunn’s main concerns with the Act.

JUSTICE:
IMPLEMENTATION OF
NUNN COMMISSION OF
INQUIRY
RECOMMENDATIONS

Targeting Resources and Youth Crime Prevention

Conclusions and summary of observations

The Departments of Community Services and Education have taken appropriate action on all recommendations relating to improved collaboration in dealing with youth at risk and improving education. The Strategy for Children and Youth, the creation of the Family and Youth Services division, and various programs aimed at encouraging school attachment and engagement are some of the ways the departments have addressed Commissioner Nunn’s recommendations.

6.51 *Improved collaboration on responses to youth at risk* – Commissioner Nunn presented a number of recommendations to address gaps and a lack of collaboration among the various departments and persons dealing with youth at risk.

“In the most part, service providers could act only in their area of interest without much, and sometimes without any, collaboration with others involved with the same person. This illustrates the unfortunate situation where those in each department or organization deal with a part of the child without anyone dealing with the whole child.” [Nunn Commission report, pg 256]

- 6.52 The recommendations included the development and implementation of an interdepartmental strategy to deal with youth at risk and their families, supported by a steering group of senior departmental leaders [R26, R27]. A key part of the strategy development should be a comparison between the province's existing programs and interventions with those known to be effective in preventing youth crime [R30]. Commissioner Nunn also recommended the appointment of a senior official, preferably at the deputy minister level, to oversee the development and implementation of the strategy [R28].
- 6.53 The Commissioner also made recommendations to ensure resources were properly targeted and allocated. He recommended the establishment of a separate division within the Department of Community Services to provide a range of services to families directed toward the promotion of the integrity of the family [R29].
- 6.54 *Child and youth strategy* – In December 2007, the province published *Our Kids Are Worth It: Strategy for Children and Youth*. The strategy defined five key directions.
- To build a strong foundation
 - Identify problems, help early
 - Co-ordinate programs, services
 - Improve access, close gaps
 - Engage youth, promote shared accountability
- 6.55 The strategy is overseen by the Child and Youth Strategy Committee, an interdepartmental committee chaired by the Department of Community Services. This committee reports to a deputy ministers' forum, which sets government priorities. The governance structure of the strategy also includes regional and community representation.
- 6.56 The Department of Community Services established the position of Executive Director of Child and Youth Strategy in April 2007. When this position became vacant in 2010, the Department transferred the responsibility for the strategy to the Executive Director of Family and Community Supports. This position now oversees the strategy and chairs the Child and Youth Strategy Committee. While Commissioner Nunn indicated a preference for a deputy-level position in his recommendation, we believe the current governance structure for the strategy reasonably addresses the Commissioner's recommendation.
- 6.57 The strategy was developed based on a consultative process. Funded pilot projects were initiated to focus efforts in the five key directions of the

strategy. Many of the projects were identified at the community level. Pilot projects which were successful have been incorporated into the appropriate departments through the regular budgeting processes. The province has released annual reports on the strategy in each of the three years of its existence.

6.58 We examined a sample of four pilot projects and determined they were aligned with the strategy direction, were successful, and are to be continued through incorporation into the appropriate departments in future years. With the progression of the strategy, the oversight committee shifted the strategy's focus to strengthening the interrelationships, with the roles and functions of the committees redefined. This shift in focus is evident in the strategy's 2011-12 operating plan.

6.59 *Integrity of families* – In 2007, the Department of Community Services established the Family and Youth Services division, as recommended by Commissioner Nunn. Its mission to facilitate the coordinated delivery of community-based services for vulnerable youth and families is consistent with the need for coordination in early intervention and prevention of family dysfunction noted by Commissioner Nunn. The division has established standards for service organizations and service agreements to support the funding provided. It has performed evaluations of the child and youth strategy pilot projects which align with the need for early intervention and prevention of family dysfunction.

6.60 *Improving education for youth at risk* – Commissioner Nunn made recommendations for improvements to the education system in relation to youth at risk.

“... AB... was falling behind his peers in the basic school skills and needed some different approaches. Instead, he was being considered as lacking intelligence and seen as a growing discipline problem. Disciplinary measures taken raise the general concerns of discipline, suspensions and school attendance.” [Nunn Commission report, pg 267]

“Pursuant to the Education Act, all children between the ages of 5 and 16 are obligated to attend school... The corresponding obligation on the schools is to provide an education.” [Nunn Commission report, pg 268]

6.61 Commissioner Nunn's recommendations to the Department of Education relate to:

- approaches taken with students with attention deficit and other disorders [R31];

- support programs and services for youth at risk in the school system [R32];
- school attendance [R33]; and,
- alternatives to out-of-school suspension [R34].

6.62 *Attention deficit and other disorders* – The Department of Education has taken steps to address Commissioner Nunn’s recommendations. In March 2009, the Department hired a full-time learning disabilities consultant who is collaborating with school boards to develop a framework to articulate best practices and how boards can help students with learning disabilities and attention deficit disorder. The Department expects to release the first draft of the framework in the fall of 2011.

6.63 The Department is also implementing an assessment tool in the primary grades for school boards and the Department to identify any learning trends, issues, or gaps as early as possible. The assessment results will enable the Department and boards to make informed decisions on early interventions or initiatives needed to address issues or gaps identified. Full rollout of the tool is scheduled to begin in February 2012, and will continue until all schools have implemented the tool and the assessment results gathered.

6.64 In August 2011, the Department offered a summer institute course for teachers on attention deficit hyperactivity disorder in the classroom. The course was optional and had a maximum participant capacity of 40 teachers.

6.65 *Support programs and services for youth at risk* – Commissioner Nunn recommended additional funding for initiatives that support school attachment for students at risk. He cited two particular examples: targeted funding for junior high support teachers; and, continuation and expansion of the provincial and Halifax Regional School Board Youth Pathways and Transitions programs.

6.66 The Department of Education, under its Youth Pathways and Transitions strategy, has implemented, or is implementing, various programs and initiatives which the Department expects will be effective in fostering school attachment and improving the overall school climate. The main initiatives under this strategy are as follows.

- SchoolsPlus
- Options and Opportunities (O2)
- Community Based Learning

- Positive Effective Behaviour Supports (PEBS)
 - Comprehensive Guidance
- 6.67 At the time of our audit, the evaluations and feedback received by the Department on these initiatives indicated improvement in school attachment.
- 6.68 Commissioner Nunn recommended the Halifax Regional School Board (HRSB) continue to expand its Youth Pathways and Transitions program [R32]. This program provides schooling to those students who are unable to function in mainstream classrooms, due to behavioural or social problems. Citing budget constraints, HRSB cancelled this program for the fall of 2011. Students at HRSB schools are still covered by the support programs initiated through the Department's Youth Pathways and Transitions strategy.
- 6.69 *Junior high school support teachers* – As noted by Commissioner Nunn, the Halifax Regional School Board employs junior high support teachers to work directly with at-risk students. The Department of Education has not provided funding to introduce similar resources at other boards. The Department maintains the need for these resources has been mitigated through other initiatives such as SchoolsPlus, in which government and other services to families are delivered through school sites, and improvement in resource teacher-to-student ratios.
- 6.70 *Encourage measures to increase school attendance* – As Commissioner Nunn noted, the Education Act requires that students attend school. He offered no specific recommendations, other than for the Department of Education to identify and implement measures to enforce school attendance and reduce truancy [R33].
- 6.71 In 2009, the Department of Education produced a report titled “*Promoting Student Engagement – Report of the Minister’s Working Committee on Absenteeism and Classroom Climate.*” The Minister of Education accepted or supported 10 of the 13 recommendations in the report. The Department of Education is making reasonable progress toward addressing those recommendations.
- 6.72 Feedback received by the Department on its Options and Opportunities (O2) program, designed as a bridge between high school and work or postsecondary school, indicates it is having positive results in keeping youth in school and engaged in their education.
- 6.73 *Alternatives to out-of-school suspensions* – The Department of Education is considering implementing a province-wide restorative approach in schools in an effort to reduce the need for out-of-school suspensions. Some schools

have already begun employing this approach and have indicated positive results.

- 6.74 The Department of Education did not provide specific additional funding for expansion of in-school alternatives to student suspensions, but focused on improving the ratio of resource teachers to students. The Department expects the greater availability of resource teachers will enable adequate supervision for in-school suspensions. The Department's review of other initiatives, such as SchoolsPlus and O2, indicate disciplinary referrals have decreased, thereby reducing the need for out-of-school suspensions.
- 6.75 *Overall comments* – Commissioner Nunn made nine recommendations in the area of targeting resources and youth crime prevention. We found all of these recommendations were appropriately acted upon by the responsible departments.

Appendix 1

Nunn Commission of Inquiry Recommendations		
Youth Justice Administration and Accountability		
Recommendation	Department Responsible	Appropriate Action Taken
Recommendation 1: Front-end delay in the administration of youth criminal justice in Nova Scotia should be immediately reduced by requiring a young person facing a new charge on a serious crime, or a young person facing other pending charges, to appear in Youth Justice Court by the next scheduled Appearance Date, or within one week of arrest.	DOJ	Yes
Recommendation 2: The Province should publicly commit to reduce overall delay and improve the speed at which the youth criminal justice system in Nova Scotia handles young persons' cases from arrest to sentencing or other final disposition. In doing so, within six months of this report, under the leadership of the Minister of Justice, the Province should <ul style="list-style-type: none"> consult justice partners (police, Crown prosecutors, defence lawyers, judges, court administrators, Restorative Justice officials, community partners, and other key stakeholders) to identify general and particular causes of delay take steps to work with these justice partners to amend procedures or change practices to address the causes of delay set and publish realistic but challenging targets, measurably faster than the current average, for the speed of the handling of young persons' cases from arrest to final disposition report publicly at least twice annually on progress against the targets, including details on whether targets have been met and identification of appropriate action to address any ongoing failure to meet targets. 	DOJ	Yes
Recommendation 3: The Department of Justice, in consultation with local police services and the RCMP, should ensure that police officers are familiar with and trained in the procedural requirements of the administration of the courts and, in particular, with the purpose and procedures of the Justice of the Peace Centre.	DOJ	Yes
Recommendation 4: The Justice of the Peace Centre should continue to refine its administrative procedures and forms to ensure that all parties to a JP Centre hearing are familiar with its purpose, process, and outcome and that results are communicated promptly and clearly to the courts, police, or others affected by the hearing outcomes.	DOJ	Yes
Recommendation 5: The Department of Justice should establish an audit section to provide training to and monitor compliance by court staff with procedures, court manuals, and use of electronic systems.	DOJ	Partial

JUSTICE:
IMPLEMENTATION OF
NUNN COMMISSION OF
INQUIRY
RECOMMENDATIONS

Nunn Commission of Inquiry Recommendations		
Youth Justice Administration and Accountability		
Recommendation	Department Responsible	Appropriate Action Taken
Recommendation 6: Court staff working in the Windsor Courthouse, as well as all satellite or adjunct court facilities in the province, must be provided with adequate and working telephone, facsimile, printing, computer equipment, and e-mail communication, along with the necessary equipment for stable and dependable access to JEIN.	DOJ	Yes
Recommendation 7: The Department of Justice, in consultation with all of its key justice stakeholders, should consider enhancements to the JEIN system, including the possible development of electronic versions of Informations or other court documents, with the goal of increasing the effectiveness and efficiency of communication among justice partners and reducing the reliance on multiple forms of communication for delivery of crucial information.	DOJ	Yes
Recommendation 8: When new courthouses are planned and built in the province, separate facilities should be provided for Youth Justice Court matters, completely apart from the adult facilities and with dedicated space for partner agencies where possible.	DOJ	Yes
Recommendation 9: The Department of Justice, in consultation with police agencies, should encourage the appointment of youth court liaison police officers in other judicial regions in the province.	DOJ	Yes
Recommendation 10: The Public Prosecution Service should consider appointing an additional dedicated youth court Crown attorney in the Halifax Youth Court, and consider the appointment of specialized Youth Court Crown attorneys elsewhere in the province where numbers warrant.	PPS	Yes
Recommendation 11: The Province should advocate that the federal government amend section 42(2)(m) of the federal <i>Youth Criminal Justice Act</i> to remove the time limits on the sentencing option for a court to require a young person to attend a non-residential community program like the proposed Halifax Attendance Centre.	DOJ	Yes
Recommendation 12: The Province should immediately establish a fully funded, adequately resourced, and fully programmed attendance centre in Halifax, following a plan that includes all of the programs and features contemplated by the Correctional Services Division's <i>Attendance Centre Program Model - Halifax</i> report, presented as evidence at the inquiry.	DOJ	Yes
Recommendation 13: The Province should establish a fully funded bail supervision program for young persons in the Halifax Regional Municipality in conjunction with and integrated into the establishment of the Halifax Attendance Centre.	DOJ	Partial

Nunn Commission of Inquiry Recommendations

Youth Justice Administration and Accountability		
Recommendation	Department Responsible	Appropriate Action Taken
<p>Recommendation 14: The Province should make every effort to implement a program of bail supervision for young persons in the province outside the Halifax Regional Municipality, to include a focus on both compliance with bail conditions and identification of proactive supports and services for the young persons in the program.</p>	DOJ	Partial
<p>Recommendation 15: The Public Prosecution Service should direct its Crown prosecutors across the province to take a common general approach to pre-trial detention for young persons under the <i>Youth Criminal Justice Act</i> and the <i>Criminal Code</i>, by ensuring that its Crown prosecutors are familiar with and up-to-date in training in the relevant statutory provisions and recent developments in the law. The directive should recognize the flexibility required and the discretion of individual Crown prosecutors, along with the desirability of a common approach.</p>	PPS	Yes
<p>Recommendation 16: The Public Prosecution Service should direct its Crown prosecutors across the province that, during a judicial interim release hearing for a young person for which a responsible person is proposed in lieu of pre-trial detention, they are to request that the judge hear evidence about whether the proposed person is willing and able to take care of and exercise control over the young person, in keeping with the requirements of section 31(1) of the <i>Youth Criminal Justice Act</i>.</p>	PPS	Yes
<p>Recommendation 17: The Public Prosecution Service should continue its practice to request that a presiding judge make a “finding of guilt” as required under section 36 of the <i>Youth Criminal Justice Act</i> at the time a young person pleads guilty to a charge, not at the time of sentencing.</p>	PPS	Yes
<p>Recommendation 18: Court administration, the Public Prosecution Service, and the judiciary should discuss the question of the timing of section 36 “findings of guilt” to resolve any concerns about scheduling or other matters that would prevent making a finding of guilt at the time of a guilty plea.</p>	DOJ	Yes
<p>Recommendation 19: The Department of Justice and all of its justice partners, including police, sheriffs, court administrative staff, and the Public Prosecution Service, and others as necessary, should meet to determine a common protocol on the execution and administration of arrest warrants.</p>	DOJ	Yes

JUSTICE:
IMPLEMENTATION OF
NUNN COMMISSION OF
INQUIRY
RECOMMENDATIONS

Nunn Commission of Inquiry Recommendations		
Advocacy for Changes to the Federal <i>Youth Criminal Justice Act</i>		
Recommendation	Department Responsible	Appropriate Action Taken
Recommendation 20: The Province should advocate that the federal government amend the “Declaration of Principle” in section 3 of the <i>Youth Criminal Justice Act</i> to add a clause indicating that protection of the public is one of the primary goals of the act.	DOJ	Yes
Recommendation 21: The Province should advocate that the federal government amend the definition of “violent offence” in section 39(1)(a) of the <i>Youth Criminal Justice Act</i> to include conduct that endangers or is likely to endanger the life or safety of another person.	DOJ	Yes
Recommendation 22: The Province should advocate that the federal government amend section 39(1)(c) of the <i>Youth Criminal Justice Act</i> so that the requirement for a demonstrated “pattern of findings of guilt” is changed to “a pattern of offences,” or similar wording, with the goal that both a young person’s prior findings of guilt and pending charges are to be considered when determining the appropriateness of pre-trial detention.	DOJ	Yes
Recommendation 23: The Province should advocate that the federal government amend and simplify the statutory provisions relating to the pre-trial detention of young persons so that section 29 will stand on its own without interaction with other statutes or other provisions of the <i>Youth Criminal Justice Act</i> .	DOJ	Yes
Recommendation 24: The Province should advocate that the federal government amend section 31(5)(a) of the <i>Youth Criminal Justice Act</i> so that if the designated “responsible person” is relieved of his or her obligations under a “responsible person undertaking” the young person’s undertaking made under section 31(3)(b) nevertheless remains in full force and effect, particularly any requirement to keep the peace and be of good behaviour and other conditions imposed by a youth court judge.	DOJ	Yes
Recommendation 25: The Province should advocate that the federal government amend section 31(6) of the <i>Youth Criminal Justice Act</i> to remove the requirement of a new bail hearing for the young person before being placed in pre-trial custody if the designated “responsible person” is relieved of his or her obligations under a “responsible person undertaking.”	DOJ	Yes

Nunn Commission of Inquiry Recommendations		
Targeting Resources and Youth Crime Prevention		
Recommendation	Department Responsible	Appropriate Action Taken
Recommendation 26: The Province should immediately begin the development and implementation of a public, comprehensive, collaborative, and effective interdepartmental strategy to coordinate its programs, interventions, services, and supports to children and youth at risk and their families, with a particular focus on the prevention of youth crime and a reduction in the likelihood of re-offending of young persons already in conflict with the law.	DCS	Yes
Recommendation 27: The Departments of Community Services, Justice, Health and its Mental Health division, Health Promotion and Protection, and Education, and other government departments or agencies as required, should each immediately appoint an accountable senior official to a steering group to develop and implement the Province's strategy for youth and children at risk.	DCS	Yes
Recommendation 28: The Province should appoint one senior official, preferably at the deputy minister level, as a "Director of Youth Strategy and Services," who would oversee and be accountable for the development and implementation of the Province's strategy for children and youth at risk. The director would manage the steering group of senior officials and should have the support required to ensure co-operation and collaboration by officials and staff from all government departments and agencies involved in providing services, programs, and interventions for children and youth at risk. In accordance with the strategy, the director would recommend and coordinate any re-allocation of resources to services, programs, and interventions identified as priority areas. The director should also regularly communicate to the public progress in the development and implementation of the strategy.	DCS	Yes
Recommendation 29: In collaboration with the Director of Youth Strategy and Services, and as part of the Province's strategy for children and youth at risk, the Department of Community Services should consider establishing a separate division that will provide a range of services to families directed toward the promotion of the "integrity of the family" similar to those set out in section 13 of the <i>Children and Family Services Act</i> .	DCS	Yes

JUSTICE:
IMPLEMENTATION OF
NUNN COMMISSION OF
INQUIRY
RECOMMENDATIONS

Nunn Commission of Inquiry Recommendations		
Targeting Resources and Youth Crime Prevention		
Recommendation	Department Responsible	Appropriate Action Taken
Recommendation 30: The Department of Justice should build on the results of its report, <i>Perspectives on Youth Crime in Nova Scotia</i> and continue its analysis of youth crime by comparing the Province's existing interventions, programs, and services for children and youth at risk with the interventions, programs, and services that are known to be effective in preventing youth crime. The department should publicly report the findings of this "gap analysis" as a key part of the development of the Province's strategy for children and youth at risk.	DOJ	Yes
Recommendation 31: The Department of Education should ensure that there is additional training for teachers and administrators on best practices in assisting students with attention deficit and other disorders, along with adequate funding for assessment and early intervention of students with these disorders in Nova Scotia schools.	DOE	Yes
Recommendation 32: The Department of Education should consider additional funding of initiatives to develop and sustain programs and supports that encourage "school attachment" for students at risk, either within the regular schools or in dedicated, alternative programs. Without limiting this recommendation, as particular examples I recommend that: <ul style="list-style-type: none"> • the department should consider the introduction of and targeted funding for junior high support teachers throughout the province; and • the department and Halifax Regional School Board should continue and expand their respective "Youth Pathways and Transitions" programs. 	DOE	Yes
Recommendation 33: The Department of Education, in consultation with the school boards, should identify effective measures aimed at enforcing the school attendance provisions of the <i>Education Act</i> and reducing the levels of truancy in Nova Scotia schools.	DOE	Yes
Recommendation 34: The Department of Education, in conjunction with the Province's strategy for children and youth at risk, should provide Nova Scotia schools with adequate space, staff, and programs for in-school alternatives to out-of-school suspension as a disciplinary measure.	DOE	Yes

Response: Department of Justice

In response to the two (2) recommendations contained in the Nunn Inquiry Implementation Audit conducted by your staff over the summer months this year.

Recommendation 6.1

The Department of Justice should monitor training of court staff to ensure training is current.

The Department of Justice accepts this recommendation. The Court Services Division recognizes that in order to provide excellent service, the courts require well trained staff to attend to the various functions of their job duties. The need for relevant and timely training and professional development was also highlighted in the responses of court staff in the most recent “How’s Work Going?” employee survey 2011 conducted by the Public Service Commission.

The Division is taking steps to respond to the employee survey and the Auditor General’s recommendation. The Division has established an “Organizational Effectiveness Unit”, whose purpose is to work with employees to improve the effectiveness of business processes through the development of policies and procedures and the development and delivery of operational training. A full-time training/development consultant has recently been dedicated to this unit. She is working with a project coordinator and other staff to develop a staff training program. The proposed program will envision a step progression from basic introductory training to increasingly specific and complex knowledge training.

Training content will be developed, and ongoing work prioritized, relying in part on regular training needs assessments conducted through staff surveys. An initial needs assessment survey was completed in 2010 by the Organizational Effectiveness Unit. Input will also be considered from the “Education Committees” made up of staff from the applicable job group so that the technical training directly relates to the work done by staff. A process to monitor the effectiveness of the training provided will also be developed.

Recommendation 6.2

The Department of Justice should evaluate and take appropriate action to address the gap between unsupervised bail and pretrial detention for youth facing criminal charges.

A Youth Bail Supervision Program was implemented in response to Recommendation 13 of the Nunn Commission: “*The Province should establish a fully funded bail supervision program for young persons in the Halifax Regional Municipality in conjunction with and integrated into the establishment of the Halifax Attendance Centre.*”

RESPONSE:
DEPARTMENT
OF JUSTICE

The Department of Justice incorporated a bail supervision program for youth within the structure of Community Corrections. This involved the creation of a stakeholder committee, developing and implementing policy and procedures and hiring two Probation Officers to supervise youth participating in the program in the Halifax Regional Municipality. The program was approved by the Attorney General of Nova Scotia, pursuant to Section 157(b) of the *Youth Criminal Justice Act* and Section 3(1) of the *Correctional Services Act*. The purpose of the program was to provide intensive supervision and access to supports for youth who were subject to Judicial Interim Release. The program became operational in March 2007.

An internal evaluation of the Youth Bail Supervision Program was undertaken in 2010. This evaluation concluded the program was not effective and that there was limited use of the service by the courts. As a result of this evaluation, the program was canceled effective April 1, 2011.

The above having been said, the Department will, in response to the recommendation, undertake to engage the Public Prosecution Service, the police and the Judiciary in a discussion about ways to ensure that, when youth are released on bail, the release conditions provide a mechanism for monitoring compliance.

In closing, let me say that we are pleased with the positive report as the Department took the recommendations in the Nunn Commission very seriously and worked hard to ensure they were implemented. I want to thank your staff for their thorough review of the documentation and the professional way they conducted the audit.