

**AUDITOR-GENERAL'S REPORT**  
**PERFORMANCE AUDIT**

**Dealing with Unlicensed and  
Unregistered Driving**

**NSW Police  
and  
NSW Roads and Traffic Authority**

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# Contents

## Foreword

<b>Executive Summary</b>	<b>1</b>
<b>1. Unauthorised Driving</b>	<b>11</b>
1.1 What is Unauthorised Driving?	12
1.2 Regulating Access to Public Roads	12
1.3 How Prevalent is Unauthorised Driving?	15
1.4 Restrictions on the Right to Drive	17
1.5 Offence Data	19
1.6 Information Flows in Respect of Unauthorised Driving	19
<b>2. Agency Coordination</b>	<b>21</b>
2.1 RTA and NSW Police	22
2.2 NSW Police Response to Unauthorised Driving	23
<b>3. Detecting Unauthorised Driving</b>	<b>25</b>
3.1 Detection	26
3.2 DRIVES	27
3.3 Communications Systems	29
3.4 Other Detection Systems	31
<b>4. Enforcement</b>	<b>33</b>
4.1 Enforcement	34
4.2 Infringements	34
4.3 Criminal Charges	37
4.4 Non-conformance with Enforcement Action	39
4.5 Implications and Alternatives	42
<b>Appendices</b>	<b>45</b>
Appendix 1: Audit Objective and Approach	46
Appendix 2: Bibliography	48
<b>Performance Audits by the Audit Office of New South Wales</b>	<b>49</b>



## Foreword

Driving is an inherently dangerous activity. In New South Wales, 561 people died as a result of road accidents in 2002 and over 28,000 were injured. Apart from the personal trauma, the RTA estimates the cost of the State's road accidents at around \$2.5 billion per year.

However the dangers from driving can be reduced by -

- well-designed and maintained vehicles
- well-designed and maintained roads and traffic systems
- well-trained and responsible drivers.

Governments, vehicle manufacturers and individual road users all have roles to play in achieving road safety.

Over the last few decades, improved vehicle design and the efforts of the RTA and the NSW Police have significantly reduced the extent of trauma caused by road accidents.

Given those improvements, I thought it useful to look at how individual road users were playing their part.

The law requires driving on public roads to be authorised. Drivers must be licensed and vehicles must be registered. These laws are designed to ensure that drivers have minimum appropriate skills and drive safely and that vehicles are roadworthy.

Those who flout these laws may well exhibit other anti-social behaviour on the roads. Of greatest concern is those who have had their licences or registration cancelled for previous driving offences (or failing to pay fines from those offences).

Detecting and dealing with unauthorised driving requires close and effective co-ordination between RTA which registers motor vehicles and licenses drivers, and the NSW Police, which is responsible for detecting breaches of the law. This audit looked at how well that co-ordination occurs.

I believe that this audit provides insights for other arrangements where agencies share regulatory responsibility. I commend its reading.

R J Sendt  
Auditor-General

September 2003



## Executive Summary

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## Executive Summary

Unauthorised driving refers to driving a motorised vehicle on a public road without an appropriate driver licence or being in charge of an unregistered vehicle.

### Registration and Licensing

The licensing of drivers and the registration of vehicles:

- promotes safety on public roads and insurance against personal injury caused by vehicles
- identifies road users
- raises revenue which, in the case of registration, supports the maintenance of the road network.

As at July 2002 there were over 4.1 million licensed drivers and nearly 4.5 million registered vehicles in New South Wales. Revenue from registration and licensing fees totalled \$1.06 billion in 2001-02.

Cancellation of, or other sanctions against, licences and registrations are used to address a range of matters including:

- criminal offences
- traffic infringements
- the non-payment of traffic related and other fines such as fare evasion or failing to vote.

The imposition of sanctions does not generally involve the surrender of number plates, registration labels or licence cards. Instead, the sanction is implemented by amending the licence and registration database of the NSW Roads and Traffic Authority (RTA). The electronic nature of the sanctions has implications for the management and detection of unauthorised driving.

### Unauthorised Driving

In 2002, 44 unlicensed drivers were involved in fatal accidents. Police assessed that 38 (86 per cent) of these drivers were at fault causing 44 deaths. In comparison, only 55 per cent of the 698 validly licensed drivers involved in fatal accidents were at fault.

Of the 44 unlicensed drivers, the 18 who were disqualified or cancelled were assessed to be at fault in all fatal accidents in which they were involved.

Surveys indicate that the driving of unregistered vehicles has remained relatively stable over the last decade at about two per cent of vehicles on the road. Unregistered vehicles are not over-represented in fatal or injury accidents.

### The Audit

The audit examines whether the NSW Police and the RTA are efficient and effective in dealing with, and reducing the extent of, unauthorised driving.



## Audit Opinion

In our opinion there are inadequacies in the current arrangements for detecting unauthorised driving.

For example better information is needed on the extent of unlicensed driving. This may require giving the NSW Police power to conduct random licence and registration checks. In addition, there are technological and legal constraints to the efficient and effective detection of unauthorised driving.

The technologies used by the NSW Roads and Traffic Authority (RTA) and NSW Police need to be more compatible and easier to use. With its existing technology, police on the road cannot easily validate driver licences and vehicle registrations against RTA records.

The law does not provide for the use of 'red-light' and speed cameras to detect unregistered vehicles.

There is also a need to review why the courts dismiss more unlicensed driving offences (some 13 per cent) than any other matter.

In this regard the effectiveness with which drivers are notified that they have lost the right to drive is an issue. Under current law a driver who claims not to have been informed that his or her licence or vehicle registration has been suspended has a valid defence if the claim cannot be refuted. The Government and RTA should review either the procedure by which RTA notifies drivers, or the onus of proof concerning notification.

In addition, the Government should consider providing police officers with the power to formally notify drivers of licence cancellation and suspension. Such notification would forestall subsequent claims that the driver was unaware of being unlicensed.

The low rate of payment of infringements is also a concern. Of the 326,132 infringements issued between 1997 and 2002, only 22.3 per cent have been paid.

## Audit Findings

The reduction of road trauma is a key priority for both RTA and NSW Police. The RTA and NSW Police have had considerable success in reducing road trauma in conjunction with better vehicle design. Traffic fatalities have fallen from 25.5 persons per 100,000 population in 1960 to 8.0 in 2001.

***... knowing the extent of the problem is a basic first step***

The extent of unlicensed driving in New South Wales is not known. As a consequence the information to deal with, and therefore reduce, unauthorised driving is less than adequate:

***... good management depends on good information***

- RTA and NSW Police have yet to agree on, and implement, a way to collect information (on the extent of unlicensed driving) that is lawful, practical and statistically valid
- the collection and analysis of statistics is impeded by the lack of consistent definitions across RTA, NSW Police and the courts
- Infringement Processing Bureau (IPB) does not currently provide information to NSW Police on infringements issued, information which could assist police to target unauthorised driving.

***... detection depends on access to reliable information in a timely manner***

Police officers in the field do not have adequate communication systems to check the validity of driver licences and vehicle registrations against RTA's database.

Computer checks from police vehicles are made for less than five per cent of all vehicle stops and usually when some other offence is suspected or detected.

***... other means of detection***

The law in New South Wales does not provide for the use of red light and speed cameras to detect unregistered vehicles. This differs from the law in most other states. NSW Police tends to make less use of driving records to target crime than other jurisdictions.

***... users will only respect a system that is effective***

Between July 1997 and June 2002, the number of infringements for unauthorised driving issued by NSW Police remained relatively stable. The enforcement of these infringements, however, raises some concerns:

- only 22.3 per cent (72,857) of the 326,132 infringements issued for unauthorised driving were paid. There are currently few effective sanctions to compel people who have lost the right to drive to pay infringements. In contrast, over 60 per cent of all types of traffic infringement notices (TINs) issued by police were paid
- action is not taken against drivers who have committed some other offence and are later found to have also been unlicensed or unregistered at the time
- on average it takes three to five weeks to enter a TIN into the Infringement Processing Management System.

The extent of repeat offending is of concern:

- over a third of the unauthorised driving infringements in that 5 year period were for second or subsequent offences
- five individuals incurred 166 licence and registration infringements with a value of \$72,931 in fines
- 2,009 individuals incurred more than three TINs for unlicensed driving
- 29,303 individuals incurred TINs for both unregistered and unlicensed driving and accounted for 36.9 per cent of all unauthorised driving TINs issued
- 40 per cent (94,756) of all State Debt Recovery Office requests to RTA to impose driving sanctions in 2002-03 were not actioned because the drivers concerned had already lost the right to drive.

In certain cases an offence for unauthorised driving may be dealt with by the courts rather than by infringement. Between 1997 and 2001 the courts finalised 104,404 charges relating to unlicensed driving:

- unlicensed driving charges against suspended drivers are more likely to be dismissed than other local court matters. As a result, police can be reluctant to press such charges where there is doubt that a driver has been informed of a change in licence status
- at least 70 per cent of all unlicensed driving charges involved second and subsequent offences
- the percentage of persons convicted of driving licence offences who were sentenced to prison increased from 5.7 per cent in 1997 to 7.0 per cent in 2001. During those five years the average length of imprisonment for licence offences rose from 4.0 to 5.6 months.

## Recommendations

### **It is recommended that the Government review whether:**

- police officers should have the power to conduct random licence and registration checks
- red light and speed cameras could be used to detect the use of unregistered vehicles
- police officers should have the authority to formally notify drivers that their licence has been suspended or cancelled
- the current arrangements for notifying drivers of licence cancellation and suspension or the onus of proof concerning due notification of the cancellation are appropriate
- the current arrangements for enforcing laws relating to unauthorised driving are effective.

### **It is recommended that the NSW Police and RTA:**

- finalise a Privacy Code of Practice to allow the appropriate exchange of information between the agencies
- enter an agreement specifying the level and quality of access to DRIVES that RTA will provide to NSW Police for the purpose of detecting and reducing unauthorised driving.

### **It is recommended that the NSW Police:**

- improve the information available to target and detect unauthorised driving and in particular:
  - enhance technologies that will enable police on the roadside to verify licence and registration status against RTA's database
  - develop a service level agreement between operational police and the Infringement Processing Bureau (IPB) to facilitate the exchange of information
  - improve the integration of traffic policing with other policing activities.

### **It is recommended that the RTA:**

- review the arrangements to ensure that customers are informed of licence and registration suspension and cancellation.

### **Response from New South Wales Police**

*May I take this opportunity to thank you for providing the report and your recommendations.*

*The New South Wales Police is taking actions to address the opportunities identified in the report.*

*Already we have a good working relationship with the Roads and Traffic Authority and we will use that to work towards the enhancement of technology and information sharing that you have identified within your report.*

*(signed)*

*K E Moroney  
Commissioner*

*Dated            20 August 2003*

## **Response from the NSW Roads and Traffic Authority**

*I refer to your letter of 7 August 2003 regarding a performance audit to examine whether the RTA and NSW Police deal with unauthorised driving in an efficient and effective way.*

*RTA appreciates the effort that has been put into this review by the Audit Office and for the opportunity to respond to the final report.*

*Our response will be found in the attached document and we ask that this be appended to the audit report when tabled in the Parliament.*

*In general, the RTA accepts the report and most of the recommendations put forward by the Audit Office. The RTA will continue to seek the co-operation of other involved agencies with a view to implement strategies to reduce unauthorised driving.*

## **RTA Comments on the Final Report**

### **1. Statement that 'technologies used by RTA and Police need to be more compatible and easier to use'.**

*The Chief Information Officers of RTA and NSW Police agreed in a statement that "the performance of the DRIVES/COPS interface to provide driver and vehicle data for operational policing has been significantly improved over the years. Currently the interface is robust and provides the data quality and performance to adequately support this police work. It is also anticipated that improvements will continue to be made as both DRIVES and COPS change over the coming years" (refer to page 28 of report, 1<sup>st</sup> paragraph).*

### **2. Audit opinion and recommendation that 'government should consider providing police officers with the power to notify formally drivers of licence cancellation and suspension'.**

*Suggestion for legislative amendments was previously raised between the NSW Police and the RTA. However, this was not supported. Given that the driver maintains that the RTA Notice of Suspension or Cancellation was not received, it would mean that the Police would have to comply with the requirements under the regulation in the same way that the RTA Notices do now. For example, the Police Notice will need to provide specific start and end dates for the period of suspension or cancellation and advice on appeal rights.*

Additionally, the RTA Notice takes a number of different forms depending on the particular circumstances such as fine defaults, demerit points, excessive speeding or medical reasons. This appears impractical for Police to achieve at the roadside.

Currently, the Police complete a form which is sent to the RTA and used to endorse the traffic record. It is known that the Police copy, along with the RTA traffic record, has been produced to the Court and in the past, has proven sufficient to support a case of unauthorised driving. It is suspected that where documents have not been acceptable to the Court, it is because the Police had only produced the RTA traffic record without a copy of the Police form.

**3. Statement regarding Police reluctance in pressing charges where there is doubt that a driver has been informed of a change in licence status.**

The RTA processes and procedures for notification of licence cancellations and suspensions are sound. Additional procedures are in place where notices of suspension for demerit points or excess speed are returned.

**4. Recommendation that the NSW Police and the RTA enter an agreement specifying the level and quality of access to DRIVES.**

This recommendation is not supported. Access is provided as per Fujitsu agreement. However, a Memorandum of Understanding is being drafted with NSW Police which will reflect RTA/Fujitsu level of service.

**5. Statement that only 39.2 per cent of the 446,746 plates cancelled in 2002 were surrendered.**

The figure which was provided to the Audit Office indicating that in 2002 there were 175,482 plates surrendered after cancellation, is incorrect. Further investigation confirms that during 2002 there were 225,412 plates surrendered, representing 50% of cancelled registrations.

**6. Statement that NSW Police support the physical confiscation of licences by the RTA.**

Wholesale surrender of suspended licences is not supported for reasons of customer convenience, administrative efficiency and cost to Government. Licence surrender is still required in some instances, e.g. where a person is disqualified by a court.

**7. Statement that 'RTA had issued a second valid licence without amending the record of the earlier cancelled licence'.**

*This could only happen if a driver has managed to fraudulently establish themselves as more than one customer on the RTA system and was issued with more than one driver licence. Stringent proof of identify requirements and digital storage of driver photographs are currently in place to prevent this from happening.*

**8. Statement that police officers advise that the use of the power to confiscate number plates is inhibited by other regulations ...**

*This regulation is not inhibitive. It simply states that a registration may be renewed up to 3 months after expiry. No regulation permits the use of an unregistered vehicle on a road or road related area. Police have the power to confiscate the plates of a vehicle that has expired for more than 2 weeks if the vehicle is illegally used on the road network.*

*Operators allow registrations to expire for many reasons including repairs, away on holiday or insufficient money. The RTA final renewal notice reminder which is sent approximately 2 weeks after expiry reinforces to the registered operator the legal requirement to return the number plates within 14 days of the cancellation date if they do not intend to renew the registration.*

*(signed)*

*Paul Forward  
Chief Executive*

*Dated: 21 August 2003*



## **1. Unauthorised Driving**

---

## 1.1 What is Unauthorised Driving?

### The Law

The law in New South Wales requires every:

- registrable vehicle using the road network to display a valid number plate and registration label
- driver to carry a valid photographic licence.

Driving a vehicle on a public road is a breach of the law when the:

- driver is not licensed
- vehicle is not registered.

In this report the breach, or offence, is referred to as unauthorised driving.

## 1.2 Regulating Access to Public Roads

The Roads and Traffic Authority (**RTA**) regulates the use of public roads through licensing and registration systems to promote:

- safety on public roads
- the identification of road users
- insurance against personal injury by vehicle operators
- the raising of revenue which, in the case of registration, supports the maintenance of the road network.

RTA maintains licence and registration records on a database called DRIVES. At July 2002 there were over 4.1 million licensed drivers and nearly 4.5 million registered vehicles in New South Wales.

### Identification

Licensing and registration provide a means of identification that supports both road management and general policing.

Driver licensing is the main form of government-assured identification in Australia. By default, a driver licence has become proof of identity for societal interaction.

RTA has recently improved the way in which NSW drivers are identified with systems for the:

- online verification of customers' birth certificates with the NSW Registry of Birth, Deaths and Marriages
- unique transaction number displayed on the driver licence card, providing the means to ensure that 'duplicate' cards are not used
- digital storage of driver photographs.

Under current arrangements, NSW Police need a search warrant or other court order to access RTA photographs for general policing purposes.

## Safety

Licensing of drivers promotes road safety through:

- testing drivers for competency
- regulating road use
- identifying drivers in the event of accidents
- identifying drivers so that inappropriate and illegal behaviour on roads can be penalised.

National road safety strategies endorsed by New South Wales recognise that unlicensed driving is a significant accident factor to be managed by transport agencies.

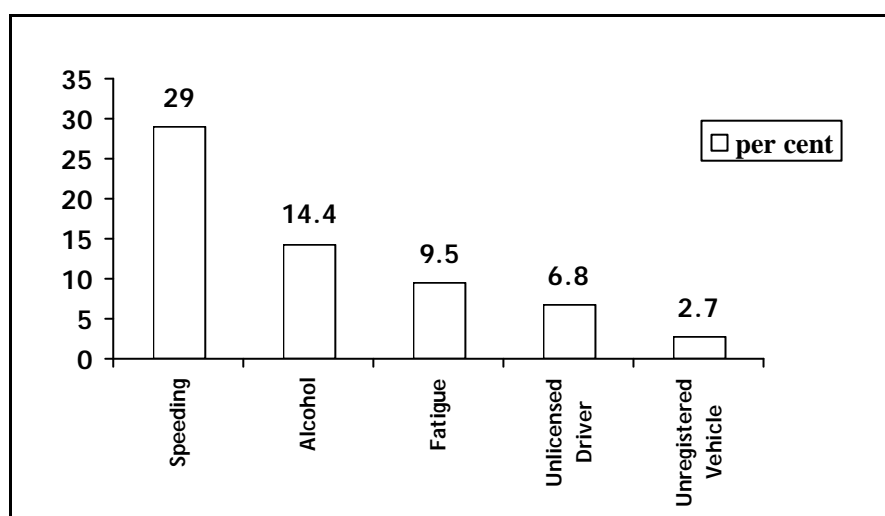
In calendar year 2001, 486 road accidents in New South Wales caused 525 deaths.

Exhibit 1 shows RTA analysis of some of the factors associated with road accident fatalities.

In comparison with unlicensed driving there is not a strong correlation between unregistered vehicles and fatal accidents. According to RTA, the statistics:

... suggest that unregistered vehicles are **not** over-represented in fatal or injury accidents.<sup>1</sup>

**Exhibit 1: Factors in Fatal Accidents  
For Year Ended 31 December 2001**



**Notes:**

- 1: Data provided by RTA
- 2: The percentages relate to the drivers involved. More than one factor may contribute to an accident. For example a speeding driver may also be unlicensed
- 3: RTA estimates 2.07 per cent of all vehicles on the roads are unregistered.

Accident investigation by police indicates that unlicensed drivers are more likely to be at fault.

<sup>1</sup> Unregistered and interstate registered vehicle survey: 2000. RTA. p1. Emphasis is RTA's.

Exhibit 2 contains provisional NSW Police analysis of the 504 accidents that caused 564 deaths in 2002. It displays the licence profile of drivers involved in fatal road accidents and the extent to which different drivers were assessed to be at fault.

Some types of unlicensed driver, notably those who have been disqualified by the courts, pose a particular risk to themselves and other road users.

**Exhibit 2: Profile of Drivers Involved in Fatal Crashes  
For Year Ended 31 December 2002**

Licence Status	Number of Drivers	Proportion of Total	Drivers at Fault	Proportion of Group at Fault
Valid Licence	698	94%	387	55%
<b>Disqualified/cancelled</b>	<b>18</b>	<b>2%</b>	<b>18</b>	<b>100%</b>
Expired, Never Licensed	22	3%	17	77%
Suspended	4	1%	3	75%
<b>Total</b>	<b>742</b>		<b>425</b>	<b>57%</b>

**Source:** NSW Police

**Number of Drivers:** More than one driver may be involved in a fatal crash

**Drivers at Fault:** These figures are based on assessment by the investigating police officer as to the cause of the accident.

**Revenue**

In 2001-02, RTA forwarded \$66 million of licensing fees and \$993 million of registration charges to NSW Treasury. Most of the registration revenue is used for the upkeep of the public road network.

RTA estimates that unauthorised driving costs about \$13 million in lost revenue, or one per cent of potential revenue from licensing and registration.

**Insurance**

Registration requires compulsory third party (CTP) personal injury insurance administered by the Motor Accidents Authority (MAA).

MAA advises that personal injury claims caused by unregistered vehicles:

- represent about two per cent of all CTP claims
- cost on average \$18.5 million each year
- adds approximately \$6 to the average annual CTP premium.

In addition, unregistered vehicles are generally uninsured against property damage. Accidents involving unregistered vehicles impose an unquantified cost on other road users through property damage and ultimately through higher insurance premiums.

### 1.3 How Prevalent is Unauthorised Driving?

#### Unlicensed Driving

Statistical sampling of road users is the most reliable way to determine the extent of unauthorised driving on public roads.

RTA and NSW Police need to know the extent and profile of unlicensed driving. This knowledge could allow these agencies to better plan and evaluate initiatives to improve road safety and reduce trauma.

However, the extent of unlicensed driving in New South Wales is not known. RTA and NSW Police have been unable to identify a way to collect information on the extent of unlicensed driving that observes privacy requirements, is within the bounds of police powers and is statistically valid.

To determine licence status it is necessary to stop the vehicle, establish the identity of the driver and confirm the validity of the driver licence. Police may lawfully stop a motorist:

- where there is a reasonable suspicion that the motorist has committed an offence, or
- as part of a random breath test (RBT).

Police may require the motorist to produce his/her driver licence, and may then carry out licence and registration checks on the driver and the vehicle respectively.

The law does not permit police to randomly stop motorists for the purpose of:

- conducting licence and registration checks
- gathering information for statistical surveys.

NSW Police is authorised to access DRIVES for the purpose of checking licence and registration status. However as discussed in Chapter 3, police on the roadside tend not, as a matter of routine, to check DRIVES because of time and technical constraints.

#### Privacy Issues

The Privacy Commissioner has ruled that the *Privacy and Personal Information Act 1998* prevents police from recording licence details and passing the information to RTA for RTA to verify against DRIVES in relation to a roadside survey of driver licence status.

#### Random Breath Tests

Random breath tests do not provide a statistically valid sample for determining the extent of unauthorised driving. This is because police plan RBT operations to target driving at particular times and places.

We recommend that:

- the Government consider giving police officers the power to conduct random licence and registration operations similar to those conducted for random breath testing
- NSW Police and RTA finalise a *Privacy Code of Practice* to allow the appropriate exchange of information.

## Unregistered Driving

RTA conducts regular surveys of vehicles using the road to determine the extent of unregistered driving.

During each survey, consultants record the plate numbers of over 85,000 vehicles at various times and places, and check the registration status against DRIVES. The exercise is unobtrusive.

Successive surveys indicate that the extent of unregistered driving:

- has remained stable over the last decade at about two per cent of vehicles on the road (approximately 86,000 in 2003)
- is relatively uniform across NSW.

RTA's survey methodology may understate the extent of unauthorised driving. Approximately five per cent of registration plates recorded during the last two surveys were excluded from the results because DRIVES:

- did not recognise the plate numbers, or
- indicated that the plates had been previously returned to RTA.

RTA attributed these anomalies to errors in recording the plate numbers during the survey. Another explanation could be falsified plates. Police in New South Wales and other states are concerned about the use of false plates and the exchange of plates between vehicles.

A Victorian study in 2000, for example, found that 9.7 per cent of vehicles did not have the body type recorded in the registration database for the number plate displayed.<sup>2</sup>

However, RTA has advised however that:

- car park surveys conducted during the 1990s did not find significant numbers of falsified plates or unreceipted or unpaid registrations labels
- improved methodology will reduce the number of vehicles excluded from forthcoming 2003 registration survey.

---

<sup>2</sup> cited in RTA's *Unregistered and Interstate Registered Vehicles Survey:2000*.

## 1.4 Restrictions on the Right to Drive

### How a Licence or Registration can be Lost

Of unregistered vehicles, the vast majority (93 per cent) have simply expired registration that has not been renewed. Registration is cancelled three months after the date of expiry.

In contrast, individuals can be unlicensed in a variety of ways. For example, individuals may have:

- **never** been licensed
- an **expired** licence
- an **inappropriate** licence for the class of vehicle being driven. For example driving a semi-trailer or a motorcycle with only a car driver licence
- an **overseas** or interstate licence when they should have obtained a NSW licence because of their length of stay or becoming a permanent resident of New South Wales
- had their licence **suspended by RTA** for driving more than 30 kilometres per hour over the speed limit or for incurring excessive demerit points. RTA records demerit points on the advice of the Infringement Processing Bureau (IPB) that a traffic infringement notice has been either paid or referred to the SDRO for fine enforcement or on advice by a court when the matter is finalised
- had their licence **suspended** by RTA for non-payment of fines on the advice of the State Debt Recovery Office (**SDRO**). Many of these fines are for speeding and other traffic offences, but they may be unrelated to driving, for example fare evasion or failing to vote. In addition to licence suspension, SDRO may instruct RTA to cancel vehicle registration and to refuse to do business with fine defaulters
- been **disqualified** from driving **by a court** as a penalty for a criminal conviction. On disqualification by the court, RTA automatically cancels the licence
- had their licence suspended or **cancelled** by RTA for reasons including medical grounds, dishonoured cheques and false representations. All cancelled licences remain inactive until RTA's requirements for reinstatement are satisfied
- been **refused** a licence by RTA for non-payment of SDRO fines or failing to meet other RTA requirements.

The imposition and lifting of sanctions has become more frequent in recent years. One licence may attract multiple sanctions due to the 'flow-on' effect of fines, suspensions, disqualifications and cancellations.

For example, a speeding offence may lead to both suspension for demerit point loss and suspension for fine default. Between 1997-98 and 2000-01 the number of requests by State Debt Recovery Office to suspend licences for fine default rose by 223 per cent from 46,398 to 149,888. However many of these requests were not actioned by RTA because the right to drive had already been lost.

Generally, the imposition of the sanctions does not involve the recovery of the number plates, registration labels or licence cards issued by RTA. Instead, sanctions are primarily imposed through the amendment of RTA's vehicle registration and driver licence data base (DRIVES).

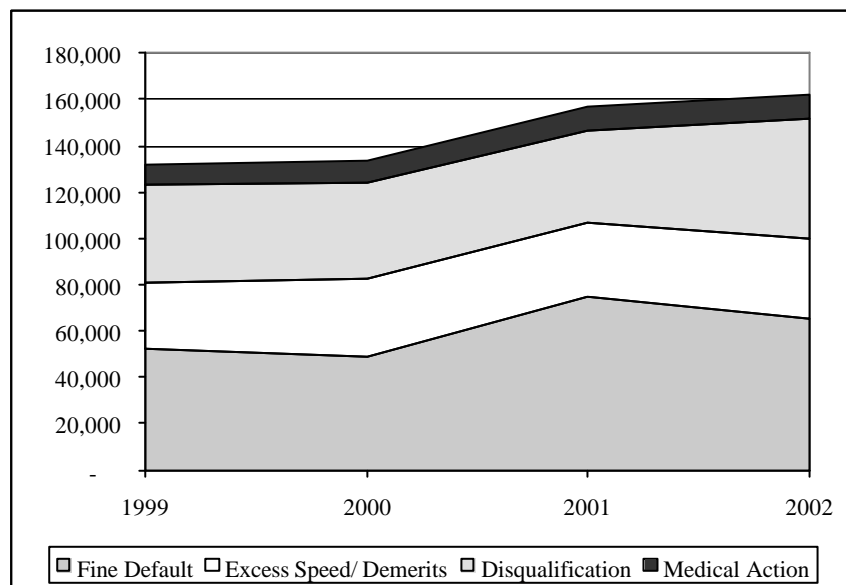
The electronic character of the sanctions affects how unauthorised driving is detected. Exhibit 3 contains data provided by RTA on the number of restrictions placed upon licences between 1998 and 2002. The information is based upon on notifications issued to customers:

- suspended for fine default
- suspended for excess speeding or demerit points
- disqualified
- cancelled on medical grounds.

The data excludes unlicensed drivers:

- who have never been licensed,
- who failed to renew an expired licence.

**Exhibit 3: Licence Restrictions Imposed by RTA**



Data maintained by the RTA, NSW Police, IPB, SDRO and the courts are not consistent. Anomalies arise from the use of different definitions and classifications by these agencies. For example:

- the Bureau of Crime Statistics and Research advised that the number of licence disqualifications imposed by courts increased by 35 per cent from 27,908 in 1998 to 37,788 in 2001, while
- RTA (Exhibit 3) indicates that the rate of disqualification fluctuated at around 43,000.



### 1.5 Offence Data

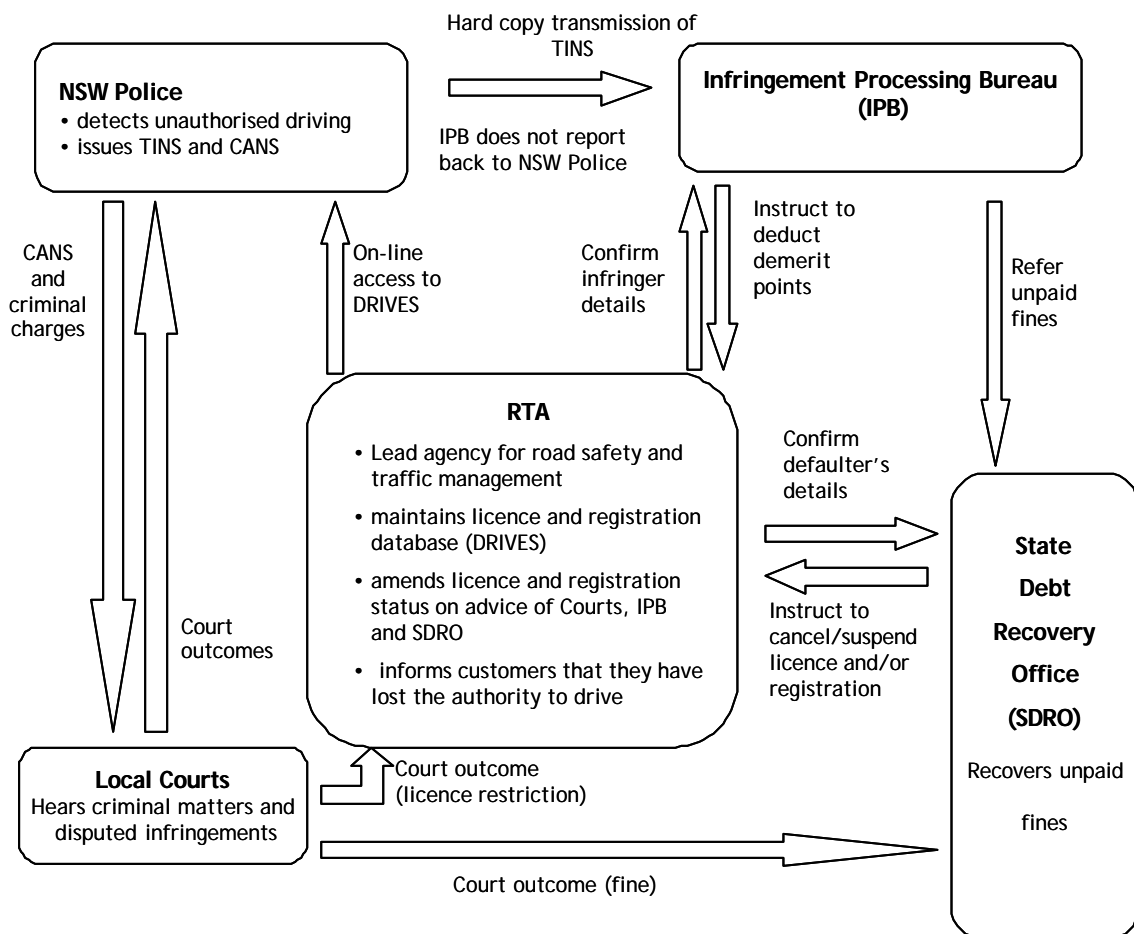
Offence data are a measure of enforcement activity and not a statistically reliable estimate of the incidence of unauthorised driving. Offence data are discussed in Chapter 4, *Enforcement*.

### 1.6 Information Flows in Respect of Unauthorised Driving

Exhibit 4 charts information flows relating to unauthorised driving between the key New South Wales agencies. It excludes many other flows within agencies, and with road users and other bodies including insurers, the MAA, and national and interstate organisations.

The audit found a number of areas for improvement in the flow of information which are discussed in the following chapters.

**Exhibit 4: Information Flows in Respect of Unauthorised Driving**





## 2. Agency Coordination

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## 2.1 RTA and NSW Police

### Road Trauma

The reduction of road trauma is a key priority for both RTA and NSW Police. Working together the agencies have significantly reduced road trauma over the last 40 years through initiatives such as:

- engineering solutions to manage identified 'hot-spots' including lighting, signage, speed limits and road redesign
- legislation and education campaigns to promote appropriate road behaviour such as sober driving, safe speeds, use of restraints and coping with fatigue
- enforcement to support appropriate road use and to proactively police 'hot spots' and 'hot times'. RTA funds numerous road safety initiatives and programs, including funding to the NSW Police for enhanced RBT enforcement during long weekends.

#### Exhibit 5: Reduced Road Trauma in NSW

	1960	2001
Traffic fatalities per 100,000 population	25.5	8.0
Traffic injuries per 100,000 population	591.1	457.9

**Source:** RTA: *Road Traffic Accidents in NSW 2001. Table 1*

**Note:** RTA has yet to finalise trauma data for 2002.

Other factors, including improved vehicle safety have also contributed to reduced road trauma.

### RTA Efficiencies

RTA is introducing new technologies and redesigning processes to support a more efficient and accessible service to its customers most of whom are law abiding.

The improvements, which also reduce transaction costs, include:

- the availability of services over the phone and internet, such as the renewal of registration and change of address
- the issue of licences for longer periods of up to five years
- electronic means to maintain licence and registration details rather than recalling and amending the documents and plates issued to customers.

RTA has a range of consultative arrangements and inter-agency working parties in place. Nevertheless, the changes to licensing and registration systems are proving challenging to NSW Police and courts which:

- are responsible for enforcing the systems
- are not as advanced as the RTA in the adoption and implementation of new technologies
- are not as well placed as RTA to self-fund technological enhancements.

## 2.2 NSW Police Response to Unauthorised Driving

The NSW Police does not specifically target unauthorised driving.

The primary information used by NSW Police to address unauthorised driving consists of:

- accident investigations which provide road trauma data
- reports on the number and type of infringements issued by Local Area Commands (see description of TINs on COPS at section 4.2).

The following factors constrain the use of other information to address unauthorised driving:

- RTA and NSW Police have yet to agree on a way to gather information on the extent of unlicensed driving
- the collection and analysis of statistics relating to unauthorised driving is impeded by the lack of consistent definitions across RTA, NSW Police, the courts, IPB and the Bureau of Crime Statistics and Research
- inefficient information flows between agencies impair the quality of information. For example: IPB does not report to NSW Police on infringements; and, on average, three to six months elapse before a licence is affected by a traffic infringement.

NSW Police indicated a nexus between some unauthorised drivers and other criminal activity. Operational officers indicated that at particular Local Area Commands (LAC):

- high profile traffic operations significantly reduced the incidence of street offences and other crimes for up to six weeks after the heightened police activity
- disqualified drivers commit a significant proportion of other crime. For example, at one LAC 60 per cent of domestic violence offenders were identified as disqualified drivers
- police check a criminal's driving record to determine whether he or she is also a disqualified driver, but do not check whether persistent unlicensed drivers are also committing other crimes
- there are too many unauthorised drivers to pursue with existing resources and priorities, even if police knew their identity and address
- systems for enforcement are not adequate (see chapter 4, *Enforcement*)
- targeting of unauthorised driving is limited to persons on bail for serious offences. The majority (80 to 90 per cent) of these offenders are disqualified drivers and if caught driving (when reporting for bail) will attract heavier sanctions including imprisonment.

RTA has indicated to NSW Police that it is willing to provide regular information on unauthorised drivers by postcode.

NSW Police advises that from July 2003, the *Targeting Disqualified Drivers* project will provide Local Area Commands with the details of disqualified drivers living within the area. The information will be developed from monthly downloads of court outcomes.

NSW Police will focus on disqualified drivers because they:

- are known to pose the greatest risk to road users (see Exhibit 2)
- are disqualified for a fixed time from one month to 38 years. The average period of disqualification is currently 30 months. In contrast one in four suspensions for fine default in 2002 were lifted within seven days of being imposed, following payment of the fine
- are believed to be more likely to commit other crimes
- have difficulty in establishing either lack of knowledge or mistaken identity as a defence.

### **Other Jurisdictions**

Queensland Police targets unlicensed driving, which is estimated at between five and ten per cent of all driving in Queensland.

Police are provided with information on unlicensed drivers in their local area on a monthly basis. The data are extracted from a download of the licence database and correlated with Department of Justice records.

As in New South Wales the licence status in Queensland is dynamic and the monthly report dates quickly as administrative suspensions of short duration are imposed and lifted.

Nevertheless, the data are analysed to support traffic and general policing. The disqualification data are the most useful, but Queensland Police also match suspensions and other licence restrictions for individuals and groups who are 'of interest'.

The National Road Policing Strategy, *Joining Forces for Safer Roads*, requires English and Welsh Police to use road policing resources and skills to support crime prevention:

The targeted use of traffic enforcement resources, supported by appropriate intelligence, provides a means to detect and deter criminal offences. ... Targets can be identified for disruption. A criminal who has disregard for the law is as likely to disregard traffic law as any and by targeting these offences the criminal will eventually become disqualified. A disqualified driver will find a life of crime particularly difficult, if she/he is to avoid detection.

We recommend that NSW Police improve the integration of traffic policing with other policing activities in order to better target and reduce unauthorised driving.

### **3. Detecting Unauthorised Driving**

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### 3.1 Detection

Licence enforcement in New South Wales is supported by the law, which requires every driver to carry a photographic licence and to produce it when lawfully requested by police to do so.

The detection of unauthorised driving depends on the ability of a police officer to establish driver identity and registration status. Where police are not satisfied as to identity of an individual, he/she may be escorted to a police station for further questioning.

RTA has introduced new technologies to streamline service delivery, in conjunction with other Australian transport agencies. As a result, and for effective enforcement of unauthorised driving, NSW Police require:

- immediate electronic access to accurate registration and licence records (DRIVES)
- systems within NSW Police to relay the information to front-line officers.

#### Visual Inspection

In enforcing the law, NSW Police has traditionally relied on a visual examination of the number plate and registration label of the vehicle and the licence card of the driver.

Today visual examination is less effective in detecting unauthorised driving because:

- licence and registration status is dynamic as driving sanctions are imposed (and lifted) more frequently
- most drivers who have lost the right to drive retain their licence card
- most vehicles for which registration has been cancelled retain number plates. Only 39.2 per cent of the 446,746<sup>3</sup> plates cancelled in calendar 2002 were surrendered
- the format of the registration label does not facilitate the identification of expired registrations by clearly identifying the month of expiry
- where registration is renewed by credit card using the internet or the telephone, the registration label does not bear RTA receipt marks. This allows a dishonest person to attach an unpaid registration label to a vehicle, thereby giving the appearance that the vehicle is validly registered.

RTA has advised that 90 per cent of motorists renew their registration in person at a motor registry. Where registration is renewed by internet or telephone the customer is required to write the receipt number on the certificate of registration. However, drivers are not required to carry the certificate of registration.

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<sup>3</sup> The RTA provided the quoted figure. The RTA subsequently advised that 225,412 plates were surrendered in 2002 representing 50% of cancelled registrations. See RTA's response at page nine.



NSW Police continues to express concerns with current RTA practices that:

- allow, or may even tempt, unauthorised drivers to drive motor vehicles and produce what appears to be a valid licence if called upon to do so
- make it far more difficult to ... visually identify an expired vehicle travelling within a stream of traffic.

As a consequence

NSW Police supports:

- the physical confiscation of licences by the RTA
- the redesign of registration labels and administrative systems relating to their issue.

### 3.2 DRIVES

#### Access

RTA provides NSW Police with 24-hour on-line access to DRIVES except for maintenance downtimes of:

- about ten minutes every day near midnight
- about three hours on Sunday mornings to coincide with NSW Police system maintenance.

This service is provided free of charge to NSW Police.

RTA can make DRIVES available during these periods for special events at NSW Police request.

NSW Police has entered into a *Memorandum of Understanding* with RTA governing access to DRIVES. Under the memorandum the NSW Police acknowledges that the RTA does not represent or warrant:

- the accuracy, completeness, or fitness for purpose of ... any information or advice provided by ... RTA in connection with DRIVES; or
- that NSW Police will be able to connect to or use DRIVES; or
- that DRIVES ... will be or remain error free.

Operational police officers advised the Audit Office that DRIVES is often unavailable on weekends and public holidays, which are the times when police tend to conduct more vehicle stops.

The private sector company that maintains DRIVES does not report to RTA on the availability of the system to external stakeholders (such as NSW Police) outside of normal business hours. However, RTA advises that:

- it has received no calls from police regarding any outage
- RTA data on the availability of DRIVES does not support the claims of operational police whose difficulty in accessing DRIVES may be related to systems within NSW Police.

The Chief Information Officers of RTA and NSW Police advise that:

The performance of the DRIVES/COPS interface to provide driver and vehicle data for operational policing has been significantly improved over the years. Currently the interface is robust and provides the data quality and performance to adequately support this police work. It is also anticipated that improvements will continue to be made as both DRIVES and COPS change over the coming years.

#### **Adequacy of Information**

Police officers indicated some concern that DRIVES does not:

- indicate the reason a licence restriction has been imposed. Such information would assist police in questioning drivers and determining whether drivers were aware of their licence status
- always clearly indicate when a period of disqualification ends. This problem arises from the way courts record and transmit decisions to RTA
- indicate the date records are amended. Such information would assist police in ascertaining the driver's current residential address.

RTA maintains that DRIVES does contain information relating to the reasons, periods and amendment dates but that:

- police officers may need training in navigating DRIVES
- NSW Police has not asked RTA for access to that part of DRIVES which contains historical information about records.

#### **Accuracy of Information**

NSW Police internal reports indicate that criminal prosecutions have failed due to errors in DRIVES. Examples include cases where police have charged individuals with unlicensed driving on the basis of the DRIVES record, but the accused was able to satisfy the court that:

- RTA had issued a second valid licence without amending the record of the earlier cancelled licence
- the unpaid fines which had led to licence suspension had been fully paid before the date of the offence
- RTA had sent the notice of licence suspension to the wrong address even though the accused had advised RTA of a change of address.

RTA advised the Audit Office that:

- problems with the issue of a licence not being accurately recorded on DRIVES have not been reported to RTA
- suspensions are lifted promptly after the payment of fines and that SDRO advises the defaulter not to drive until notified by RTA
- enhancements are being made to RTA processes for maintaining accurate address records.

We recommend that the Memorandum of Understanding specify the level and quality of access to DRIVES that RTA will provide to NSW Police.

### 3.3 Communications Systems

#### NSW Police

The radiotelephone network (**VKG**) is the primary communication system used by NSW Police for enquiries and to respond to emergencies and crime.

A police officer will use VKG to enquire about licence and registration status of a vehicle. The inquiry is directed to the NSW Police Communications Group which interrogates DRIVES and advises the police officer.

The VKG is used to make 70,000 licence and registration checks each month. On Thursdays, Fridays and Saturdays officers find it difficult to get a response to routine registration and licence enquiries because the VKG is normally busy with more urgent calls at these times. VKG is supplemented by mobile data terminals (**MDTs**) that are currently installed in 541 front-line police cars and support:

- email and all functions of the COPS (Computerised Operational Policing System) mainframe available in police stations
- an additional 39,000 licence and vehicle enquiries each month to interrogate DRIVES through COPS.

The introduction of MDTs has not diminished the use of VKG for enquiries, thus indicating a substantial demand for greater access to DRIVES.

Police also use MDTs to access DRIVES directly, which is a quicker way to check licence and vehicle status. Senior police advise that this is not good practice for vehicle stops because it fails to provide cautions which are automatically provided when DRIVES is interrogated through COPS.

Cautions support police officer safety by providing available warnings to a police officer, for example, that the vehicle is stolen or that the driver has a history of firearm use or violence against police.

The potential benefits of MDTs are not being fully realised:

- the telecommunication system used for MDTs covers only parts of the metropolitan area. As a result, only ten (of more than 200 police teams using MDTs) are responsible for 59 per cent of all MDT enquiries
- even in areas with telecommunication coverage, the MDTs are not reliable and prone to "drop out". Neither of the two units examined by the Audit Office at Auburn were able to make a connection

- on average each MDT makes only 2.4 enquiries a day
- as at May 2003 approximately ten per cent (60) of the acquired MDTs were awaiting installation
- to date, NSW Police has not reviewed the reliability of MDTs in the field.

Vehicle and licence checks against DRIVES are not routinely conducted during vehicle stops because the VKG and MDT systems can take over ten minutes to respond to an enquiry.

Requiring police to check DRIVES every time a vehicle is stopped would:

- consume police resources and reduce the number of drivers stopped
- inconvenience law-abiding citizens detained while the checks are run.

As a consequence:

- police check DRIVES for only four per cent of vehicles stopped at RBTs, usually when some other offence has been detected or police suspicions have been otherwise aroused
- 45 per cent of people charged or infringed for unlicensed driving were detected because they were caught committing some other offence or had been involved in an accident.

In the absence of routine checks of licence and registration status against DRIVES, it is probable that a significant amount of unauthorised driving is not detected.

NSW Police advise that further development and enhancement of communications for police in the field:

- depends upon emerging technology and whole-of-government decisions in regard to wireless communications
- is being considered as part of the larger COPS2 project to upgrade police technology overall during the coming decade.

<p>We recommend that NSW Police improve the information available to target and detect unauthorised driving and in particular enhance technologies that will enable police on the roadside to verify licence and registration status against RTA's database.</p>
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### 3.4 Other Detection Systems

#### RTA MDTs

RTA operates MDTs obtained under the same contract as NSW Police.

RTA uses 45 MDTs for ancillary detection and enforcement in respect of heavy vehicles (that weigh more than 4.5 tonnes when loaded). On average each RTA MDT makes nine enquiries each day.

RTA has improved MDT reliability and performance by:

- moving to technologies that provide more reliable and extensive coverage (at twice the cost) than the original telecommunication system still used by NSW Police
- adapting the MDT applications to the needs of the in-car inspector. In contrast, NSW Police MDTs seek to provide all the COPS functions available on a police station computer
- redesigning work processes to eliminate unnecessary paperwork and processes.

In addition to MDTs, RTA's mobile inspectors use mobile and satellite phones to access DRIVES for real time validation of driver and vehicle registration status.

#### Cameras

In New South Wales red light and speed cameras may only be used to detect red light and speeding offences respectively.

Similarly Safe-T Cam may only be used to detect offences involving heavy vehicles. State law imposes these restrictions, which are not related to the technology itself.

#### Other Jurisdictions

Other states use camera technology to detect and enforce unregistered driving. Queensland, Victoria and Western Australia use red light and speed cameras to record number plates, which are then scanned against registration databases to detect and infringe unregistered vehicles.

ACT and Tasmanian Police have recently tested digital camera technology linked to the motor registry database to identify unregistered vehicles. A roadside camera captures and transmits the number plates of passing vehicle to the database. The vehicle details are matched and if the vehicle is unregistered, the information is immediately relayed to nearby police who can then intercept the vehicle.

Initial feedback indicates that ACT Police is pleased with the results and intends to adopt the technology to target areas frequented by known offenders.

<p>We recommend that the Government review whether the law should be amended to permit the use of cameras to detect unregistered vehicle use.</p>
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## 4. Enforcement

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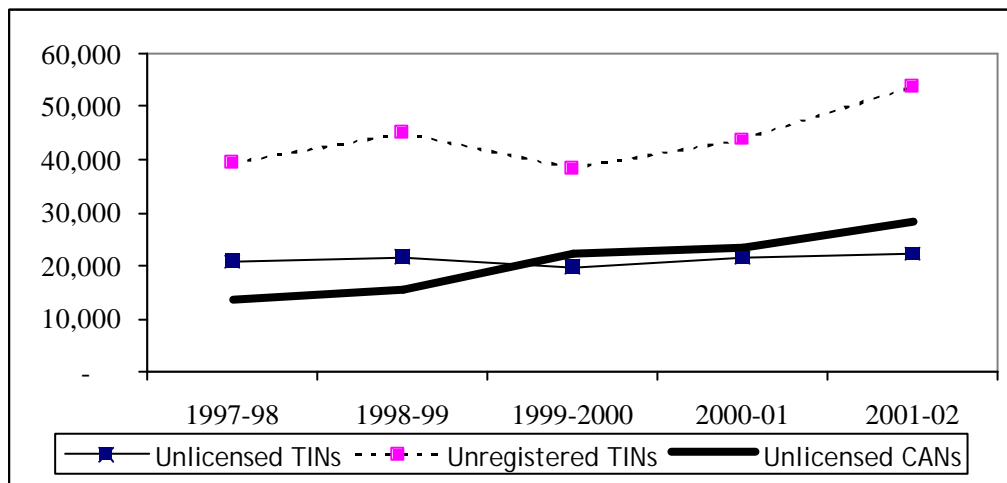
### 4.1 Enforcement

On detecting an unauthorised driver, police respond by issuing either:

- a Traffic Infringement Notice (TIN) to pay a specified fine, or
- a Court Attendance Notice (CAN) requiring the offender to attend court on a criminal charge. In addition, the police may take the offender into custody where he or she is suspected of other offences, is hindering police or is unable to establish identity.

Exhibit 6 depicts the trends in recorded offences between 30 June 1997 and 30 June 2002. During this period the number of licences on issue increased by 7.5 per cent and the number of registered vehicles by 12 per cent.

**Exhibit 6: Recorded Incidents of Unauthorised Driving**



Source:

1. Unlicensed and Unregistered TINs: Audit Office analysis of IPB records
2. Unlicensed CANs: Bureau of Crime Statistics and Research

### 4.2 Infringements

#### NSW Police

Between July 1997 and June 2002, police issued 326,132 TINs for unauthorised driving worth \$136.2 million to 156,404 individuals.

The number of infringements issued remained relatively stable over the five-year period apart from a jump in 2001-02 for unregistered driving.



The basic infringement process entails a police officer:

- stopping a vehicle and detecting unauthorised driving
- issuing a written TIN to the driver
- manually entering the TIN into COPS (the main NSW Police database), and then
- forwarding a copy of the TIN (usually by mail) to the Infringement Processing Bureau (IPB) where it is entered using scanning technology.

The manual entry of 'TINs on COPS' was introduced in 2001 because:

- manual returns from Local Area Commands regarding TINs were found not to be timely or accurate.
- IPB was not providing useful and timely information (to police) on infringements. For example IPB provided no reports on infringements to NSW Police between July 2002 and April 2003.

The entry of 'TINs to COPS':

- is separate from and duplicates the entry of certain fields of an infringement by IPB to its system
- can delay the transmission of TINs to IPB and contribute to the three to five weeks which elapse between the issue of a TIN and its entry into IPB systems
- is often done by the issuing police officer who could otherwise be performing operational duties. Each TIN takes between five and ten minutes to enter. For this reason some stations have non-operational personnel enter the TINs
- does not ensure appropriate follow-up action is taken if, during entry of a TIN to COPS, a speeding driver is also found to be unlicensed and unregistered
- involves the creation of a Central Names Index (CNI) number for anyone who is issued an infringement by a police officer and is not already known to COPS. The CNI number is the key identifier for criminal history records
- is not integrated with other systems. There is no process to update TINs on COPS data when an infringement is withdrawn, waived, dismissed, paid or 'spent'.

NSW Police advised us of the following developments to improve the processing and exchange of information:

- Traffic Branch is modifying TINs on COPS to make data entry easier and quicker and to improve the reporting function
- IPB is developing a report for Traffic Branch that lists the aggregate number and value of the 20 most frequently issued TINs each month. Such a report was provided prior to 2002

- Business and Technology Services (BTS) of NSW Police has a new process to manage requests to develop management information. As at April 2003, BTS had received no requests from IPB, or other elements of NSW Police, to develop reports and applications relating to infringements.

We recommend that NSW Police:

- revisit the Enterprise Data Warehouse project to make better use of existing information possessed by NSW Police, including that held by IPB
- ensure that appropriate enforcement action is taken against drivers who have committed a traffic offence and later found to have been unlicensed or unregistered at the time.

### **Infringement Processing Bureau**

IPB is an administrative unit of NSW Police. It was recently announced that IPB would become part of the Office of State Revenue (OSR) on 1 October 2003.

In addition to processing all infringements issued by NSW Police, IPB handles fines and infringements issued by other state and local government agencies. During 2002, IPB managed three major impacts on its operations. These were:

- relocation from Parramatta to Maitland
- turnover of over 80 per cent of its staff
- implementation of a new computerised processing system.

In respect of a TIN issued by a police officer to a driver, IPB:

- sends a reminder notice if necessary, after checking the accuracy of names and addresses with RTA
- responds to representations by the driver
- accepts payment of the fine
- refers unpaid TINs to the State Debt Recovery Office (SDRO)
- provides offence information to the RTA to record the offence and allocate demerit points against a licence when a relevant fine is either paid or referred to SDRO.

On average, three to six months elapse between the issue of a TIN and the subsequent adjustment of driver records by RTA. This is due in part to statutory requirements to allow individuals the opportunity to respond to, and make representation regarding, the infringement.

We recommend that NSW Police and IPB develop a Service Level Agreement to facilitate the exchange of information and the development and funding of necessary Management Information Systems. The pending transfer of IPB to the Office of State Revenue highlights the need for such an Agreement.

**Data Matching**

The processing of infringements, demerit points and enforcement action for unpaid fines is a high volume process, which depends upon accurate data matching between IPB, RTA and SDRO. For example, RTA needs to ensure that the correct licence record is updated as a result of an infringement on a recordable offence.

The agencies meet regularly to consult on a range of issues and data matching has improved as a result. Nevertheless, there is still room to improve in several respects, for example:

- no system exists to pursue an unauthorised driving offence that becomes known to RTA or IPB through the processing of some other traffic infringement. The law prevents such follow-up in the case of camera-generated infringements
- each year RTA is unable to match approximately 80,000 TINs because of insufficient data. This occurs where RTA is unable to identify a licence holder who should incur demerit points for a TIN, for example where the driver has never held a licence. RTA assigns a customer number to an unlicensed but identifiable individual once he or she has incurred five unmatched TINs.

**4.3 Criminal Charges**

Police will usually issue a court appearance notice (CAN) instead of a TIN for unauthorised driving for more serious offences or where:

- other charges are being laid against the accused, or
- where the officer is aware of a history of unlicensed driving.

Between 1997 and 2001 the courts finalised 104,404 charges relating to unlicensed driving. The number of unlicensed driving charges rose by 107 per cent from 13,424 in 1997 to 28,285 in 2001.

**Difficulties in Prosecution**

Under current Australian law, an honest and reasonable mistake of fact is a valid defence to a regulatory offence.<sup>4</sup> This means that a charge of unlicensed driving is likely to fail if the accused can establish reasonable doubt that he or she was not advised that the right to drive had been withdrawn.

This can be an issue where RTA advises customers by mail that their right to drive has been withdrawn, for example where:

- a licence is suspended for excessive speeding or demerit points
- a registration is cancelled or a licence is suspended for the non-payment of fines (which may be unrelated to traffic offences) on the advice of the SDRO.

<sup>4</sup> The decision of the High Court in Proudman v. Dayman (1941) 67 CLR 536.

According to reports of police prosecutors the courts are dismissing charges of unlicensed driving because:

- the prosecution cannot rebut doubt that RTA has failed to notify the driver of his or her suspension
- the defence has been able to establish that RTA has sent the notification to the wrong address.

Courts currently dismiss more 'driving while suspended' charges (13 per cent) than any other matter. The dismissal rate for local court matters overall is less than eight per cent.

Consequently, police can be reluctant to bring charges for suspended driving unless the driver admits knowing that he or she was unlicensed. NSW Police advised the Audit Office that it has:

... concerns over the manner in which RTA deals with the administration of unauthorised drivers, specifically that the systems in place do not adequately provide for the notification of drivers and is a major contributor to the failure of prosecutions for unauthorised driving offences.

The mobility of the people of New South Wales contributes to the difficulties RTA has in ensuring that customers are always notified when the right to drive is withdrawn.

Each month approximately 80,000 or nearly two per cent of licence and registration customers inform RTA of a changed address. Many others, including those with outstanding TINs and fines, change address without advising RTA of the move.

We recommend that the Government review the regulations requiring customers to notify RTA of changes to address. For example, customers who have moved without notifying RTA might be precluded from relying upon RTA's failure to notify them as a defence against unauthorised driving offences.

#### *Western Australia*

In some states, including Western Australia, there is a standard procedure for police confronted by a suspended driver who claims to be unaware of his or her licence status:

- the police officer issues a written caution to the driver notifying them of the suspension and warning them not to drive
- the transport authority records the caution on the licence database
- the court accepts the caution as appropriate notice in subsequent charges of unlicensed driving.

A similar procedure is not routinely in place across NSW. NSW Police advises that this is because current legislation only allows RTA (not NSW Police) to notify a driver that his or her licence is invalid.

We recommend that the Government:

- consider whether police offices should have the authority to formally notify drivers that their licence has been suspended or cancelled
- review the current arrangements for notifying drivers of licence cancellation and suspension or the onus of proof concerning due notification.

We recommend that RTA review the arrangements to ensure that customers are informed of licence and registration suspension and cancellation.

#### 4.4 Non-conformance with Enforcement Action

##### Repeat Infringements

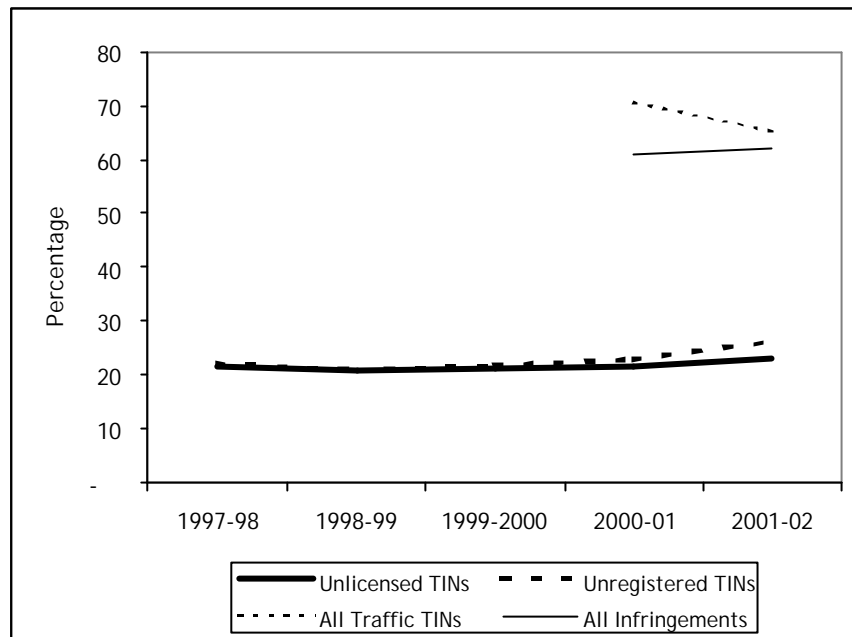
Enforcement data indicate a high level of repeat offending. In respect of TINs issued between July 1997 and June 2002:

- nearly one third (34,192) of the 106,063 unlicensed driving TINs related expressly to second or subsequent offences. This understates repeat offending as certain infringements, such as "unlicensed driver never held a licence", do not currently differentiate between first and subsequent offences
- five individuals incurred 166 licence and registration infringements with a value of \$72,931
- 2,009 individuals received more than three infringements for unlicensed driving
- 29,303 individuals received infringements for both unregistered and unlicensed driving and accounted for 36.8 per cent of all unauthorised driving infringements issued.

##### Unpaid Infringements

TINs are currently not an effective way to enforce laws against unauthorised driving. As shown in Exhibit 7:

- only 22.3 per cent (72,857) of the 326,132 infringements issued for unauthorised driving between 1997-98 and 2001-02 were paid
- the payment rate for unauthorised driving TINs is very low, and less than a third of the payment rate for all traffic TINs.

**Exhibit 7: Payment Rates of Infringements Processed by IPB****Source:**

TINs for unlicensed and unregistered driving: Audit analysis of IPB records  
 All traffic TINs and all infringements: IPB report

There are currently few effective sanctions to compel people who have lost the right to drive to pay infringements. In 2002 RTA did not act upon 94,756 or 40 per cent of all SDRO requests to impose driving sanctions because there was no active licence to sanction.

SDRO may also recover fines through civil enforcement orders (CEOs) for, amongst other things, the seizure of property. Such sanctions are more expensive to impose and have low success rates. For example, in respect of matters referred to SDRO between July and December 2002, SDRO had (at 31 March 2003):

- initiated CEOs for four per cent of all fines
- recovered 6.3% of the fines for which CEOs were imposed.

The Audit Office examined the current licence status of 19 individuals who, between 1997 and 2002, had incurred many TINs for unauthorised driving. Eleven had incurred more than 10 TINs for unlicensed driving and nine had incurred more than 19 TINs for unregistered driving. (One individual fell into both groups).

As indicated in Exhibit 8:

- all but four had attracted other police intervention for unauthorised driving that led to criminal charges, court appearances and disqualifications
- five had more than one RTA customer number because they had used aliases.

In addition, all 19 individuals are banned from doing any business with RTA.

**Exhibit 8: Licence Status of Unauthorised Drivers with Multiple TINs**

Active Licence	Period of Disqualification	Multiple customer numbers (aliases)
Yes	none	no
Never licensed	none	no
Never licensed	none	no
No	none	3
Never licensed	12-Sep-2005	3
No	13-Aug-2010	no
No	13-May-2025	no
Never licensed	16-Feb-2009	no
Never licensed	16-Mar-2006	no
Never licensed	18-Apr-2005	no
Never licensed	18-Apr-2014	3
Never licensed	18-Apr-2038	no
Never licensed	20-Jan-2016	no
No	22-Aug-2024	no
No	22-Feb-2004	no
No	23-Feb-2024	4
No	2-Jan-2013	no
No	3-Mar-2042	2
Never licensed	8-Apr-2038	no

### Disqualified Drivers Continue to Drive

Bureau of Crime Statistics and Research data indicate that convicted unlicensed drivers continue to drive. In respect of the 104,404 charges of unlicensed driving heard by Local Courts between 1997 and 2001:

- at least 70 per cent involved second and subsequent offences
- repeat offenders tend to be penalised with heavier fines and longer disqualifications
- an offender with three convictions for serious driving offences within five years can be declared a Habitual Offender. On the third and subsequent convictions, a Habitual Offender is disqualified for five years in addition to any disqualification resulting from the offence. As seen in Exhibit 8, disqualifications of twenty years or more are not uncommon
- the proportion of unlicensed drivers sentenced to prison for driving licence offences is small but increased from 5.7 per cent in 1997 to 7 per cent in 2001 and the average length of imprisonment rose from 4 to 5.6 months.

In 2001 Local Courts sentenced 935 persons to imprisonment for driving licence offences. This accounts for 13 per cent of all prison terms handed down by Local Courts. In the same period, the Court sentenced 399 persons to periodic detention for driving offences. This was 29 per cent of all periodic detentions handed down.

Current arrangements to manage unauthorised driving are not:

- effective in reducing the extent of unauthorised driving as indicated by the significant rate of reoffending
- efficient as one incident can give rise to a cascading flow of activity by agencies to suspend, disqualify and cancel licences when the right to drive has already been lost.

#### 4.5 Implications and Alternatives

During the audit court staff, prosecutors and police officers expressed concern with current arrangements to enforce the laws against unauthorised driving.

#### Licence Loss and Fines

Licence loss was a relatively uncommon and serious penalty used to sanction dangerous driving including drink driving. Fifteen years ago a person who defaulted on the payment of a fine (for traffic and other offences) could be imprisoned to 'work off' the outstanding fine. Conversely licence sanctions were not used to enforce payment of fines.

Following the case of Jamie Partlic, licence suspension has replaced imprisonment for fine default in New South Wales (Mr Partlic, a young fine defaulter suffered serious brain injury after being assaulted while serving a sentence in gaol for the non-payment of a traffic offence).

Licence suspension has been effective in improving the revenue-collection associated with fines.<sup>5</sup>

But as discussed above at 4.4, the extent of repeat offending suggests that licence sanctions are not as effective in changing behaviour and achieving compliance with laws and regulations.

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<sup>5</sup> see Audit Office of NSW *Performance Audit Report 94, State Debt Recovery Office: Collecting Outstanding Fines and Penalties*.



*Western Australia* Western Australia adopted licence sanctions to enforce fines two years earlier than New South Wales.

Western Australia has found that many fine defaulters continue to drive after having their licence suspended and has experienced the following trends in its prison population:

- an initial and temporary fall in the number of fine defaulters entering prison, followed by
- a marked increase in the numbers of people incarcerated for driving offences. By 2001 driving offences were the most serious offence committed by almost one fifth of people entering full-time custody in Western Australia
- the length of sentence imposed for unlicensed driving is significantly longer than was previously served for fine default.

We recommend that transport and justice agencies should:

- maintain regular statistics on the number of licence restrictions arising from traffic offences and non-payment of fines
- monitor fine payment rates more closely so that declines in compliance rates for particular offences can be detected and addressed. Agencies need to identify trends so that alternative enforcement strategies can be considered.

### **Confiscating Number Plates**

NSW Police may confiscate number plates from unregistered vehicles using public roads. However, police officers advise that the use of this power is inhibited by other regulations which provide that:

- registration may be renewed for up to three months after the expiry date. Number plates may be retained during this period although it remains an offence for unregistered vehicles to use public roads. The registration of any vehicle expired for more than three months is automatically cancelled
- an unregistered vehicle may be driven for the 'purposes of registration' (including repair and inspection) to the nearest 'convenient place'.

### **Vehicle Impoundment**

New Zealand and several of the United States of America impound vehicles used for unauthorised driving. Some of these jurisdictions, and in particular New Zealand, report that these measures have significantly reduced road trauma.

NSW Police has various powers to impound vehicles including unregistered vehicles used or standing on a public road.

Police officers advised the Audit Office that their ability of police to impound cars is constrained by the cost (\$6 per day for storage in the open) and the length of time to get authority to dispose of the vehicle (three to five years). Because of these constraints police tend not to seize vehicles worth less than \$10,000.

England and Wales are introducing measures to make impoundment more cost-effective by wheel-locking vehicles used for unauthorised driving on the offender's premises.

### **Diversion**

The Government Agencies Road Safety Council has developed the *Sober Drivers Program*, an educational intervention targeting repeat drink driver offenders. The nine-week program conducted by Probation and Parole Service staff complements other sanctions imposed by courts.

A pilot project conducted at three sites in 2002-03 has been positively evaluated. RTA and the Attorney General's Department advise that the program will be rolled out to 38 sites in 2003.

No diversionary program exists for other repeat unauthorised driving offenders. There may be merit in examining the potential for other educational interventions. For example, drivers who face disqualification for fine default may benefit from court ordered programs on life-skills.

RTA advises that it is currently in discussions with agencies and the NRMA to review the issue of *serial serious offenders*, that is people who are disqualified and continue to drive.

We recommend that the Government review:

- the effectiveness of current arrangements to enforce laws relating to unauthorised driving
- the effectiveness of licence and registration sanctions for fine default
  - in changing behaviour and achieving compliance with traffic laws
  - on the long-term impact on licence and registration sanctions as an effective deterrent.

## Appendices

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## **Appendix 1: Audit Objective and Approach**

**Audit Objective** The aim of the audit was to examine whether RTA and NSW Police deal with unauthorised driving in an efficient and effective way.

**Criteria** **1. RTA has systems to effectively and efficiently deal with unauthorised driving**

Issues examined:

- quality and currency of information RTA uses to deal with unauthorised driving
- current strategies to deal with unauthorised driving
- inter-agency coordination to plan and manage the enforcement of registration and licensing regulation.

**2. NSW Police have timely access to the information needed to detect and police unauthorised driving**

Issues examined:

- information exchange between RTA and NSW Police
- quality and accuracy of DRIVES
- communication systems within NSW Police to provide information to police in the field.

**3. NSW Police coordinates and plans activities to reduce the extent of unauthorised driving**

Issues examined:

- integration of traffic policing with other policing activities
- targeting of offenders and hot spots.

**4. The implementation of sanctions support the reduction of unauthorised driving**

Issues examined:

- information flows, relating to unauthorised driving infringements and offences, between operational police, IPB, RTA, SDRO and the Local Courts
- extent of repeat offending
- barriers to effective enforcement/prosecution
- effectiveness of enforcement mechanisms
- payment rate of infringements.

### **Exclusions**

The audit did not:

- examine the demographics of the population who drive while unlicensed or unregistered
- examine the Criminal Records data base maintained by NSW Police
- evaluate alternative enforcement options.

<b>Audit Approach</b>	<p>The audit approach included undertaking</p> <ul style="list-style-type: none"><li>▪ research, review and analysis of relevant literature and related studies undertaken in other jurisdictions (nationally and internationally)</li><li>▪ review of detection and enforcement practices in other jurisdictions including telephone interviews with relevant agencies in Western Australia, Victoria and Queensland.</li><li>▪ discussions with representatives of RTA, NSW Police, IPB, SDRO, Local Courts, the magistracy and MAA</li><li>▪ analysis of key documents of key agencies</li><li>▪ analysis of unauthorised driving traffic infringement records from July 1997 to June 2002</li><li>▪ review of licence, registration, offence, prosecution and fine enforcement data provided by RTA, NSW Police, SDRO and the Bureau of Crime Statistics and Research</li><li>▪ visits to two NSW Police Local Area Commands and two Courts</li><li>▪ inspection of two NSW Police and one RTA MDT-equipped cars.</li></ul>
<b>Cost of the Audit</b>	<p>The cost of the audit is estimated at \$180,000. This figure includes the estimated cost of printing the report (\$5,000).</p>
<b>Acknowledgement</b>	<p>We wish to express our appreciation for the cooperation and assistance extended by staff of the NSW Police, the Roads and Traffic Authority, Local Courts, Infringement Processing Bureau, Motor Accidents Authority, State Debt Recovery Office, Bureau of Crime Statistics and Research and the University of Western Australia's Crime Research Centre.</p>
<b>Audit Team</b>	<p>Michael Johnston, Steve Sullivan, David O'Brien and Denis Streater.</p>

## Appendix 2: Bibliography

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## **Performance Audits by the Audit Office of New South Wales**

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## Performance Auditing

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### What are performance audits?

Performance audits are reviews designed to determine how efficiently and effectively an agency is carrying out its functions.

Performance audits may review a government program, all or part of a government agency or consider particular issues which affect the whole public sector.

Where appropriate, performance audits make recommendations for improvements relating to those functions.

### Why do we conduct performance audits?

Performance audits provide independent assurance to Parliament and the public that government funds are being spent efficiently and effectively, and in accordance with the law.

They seek to improve the efficiency and effectiveness of government agencies and ensure that the community receives value for money from government services.

Performance audits also assist the accountability process by holding agencies accountable for their performance.

### What is the legislative basis for Performance Audits?

The legislative basis for performance audits is contained within the *Public Finance and Audit Act 1983, Part 3 Division 2A*, (the Act) which differentiates such work from the Office's financial statements audit function.

Performance audits are not entitled to question the merits of policy objectives of the Government.

### Who conducts performance audits?

Performance audits are conducted by specialist performance auditors who are drawn from a wide range of professional disciplines.

### How do we choose our topics?

Topics for a performance audits are chosen from a variety of sources including:

- our own research on emerging issues
- suggestions from Parliamentarians, agency Chief Executive Officers (CEO) and members of the public
- complaints about waste of public money
- referrals from Parliament.

Each potential audit topic is considered and evaluated in terms of possible benefits including cost savings, impact and improvements in public administration.

The Audit Office has no jurisdiction over local government and cannot review issues relating to council activities.

If you wish to find out what performance audits are currently in progress just visit our website at [www.audit@nsw.gov.au](http://www.audit@nsw.gov.au).

### How do we conduct performance audits?

Performance audits are conducted in compliance with relevant Australian standards for performance auditing and operate under a quality management system certified under international quality standard ISO 9001.

Our policy is to conduct these audits on a "no surprise" basis.

Operational managers, and where necessary executive officers, are informed of the progress with the audit on a continuous basis.

### What are the phases in performance auditing?

Performance audits have three key phases: planning, fieldwork and report writing.

During the planning phase, the audit team will develop audit criteria and define the audit field work.



At the completion of field work an exit interview is held with agency management to discuss all significant matters arising out of the audit. The basis for the exit interview is generally a draft performance audit report.

The exit interview serves to ensure that facts presented in the report are accurate and that recommendations are appropriate. Following the exit interview, a formal draft report is provided to the CEO for comment. The relevant Minister is also provided with a copy of the draft report. The final report, which is tabled in Parliament, includes any comment made by the CEO on the conclusion and the recommendations of the audit.

Depending on the scope of an audit, performance audits can take from several months to a year to complete.

Copies of our performance audit reports can be obtained from our website or by contacting our publications unit.

#### **How do we measure an agency's performance?**

During the planning stage of an audit the team develops the audit criteria. These are standards of performance against which an agency is assessed. Criteria may be based on government targets or benchmarks, comparative data, published guidelines, agencies corporate objectives or examples of best practice.

Performance audits look at:

- processes
- results
- costs
- due process and accountability.

#### **Do we check to see if recommendations have been implemented?**

Every few years we conduct a follow-up audit of past performance audit reports. These follow-up audits look at the extent to which recommendations have been implemented and whether problems have been addressed.

The Public Accounts Committee (PAC) may also conduct reviews or hold inquiries into matters raised in performance audit reports.

Agencies are also required to report actions taken against each recommendation in their annual report.

To assist agencies to monitor and report on the implementation of recommendations, the Audit Office has prepared a Guide for that purpose. The Guide, *Monitoring and Reporting on Performance Audits Recommendations*, is on the Internet at [www.audit.nsw.gov.au/guides-bp/bpglist.htm](http://www.audit.nsw.gov.au/guides-bp/bpglist.htm)

#### **Who audits the auditors?**

Our performance audits are subject to internal and external quality reviews against relevant Australian and international standards. This includes ongoing independent certification of our ISO 9001 quality management system.

The PAC is also responsible for overseeing the activities of the Audit Office and conducts reviews of our operations every three years.

#### **Who pays for performance audits?**

No fee is charged for performance audits. Our performance audit services are funded by the NSW Parliament and from internal sources.

#### **For further information relating to performance auditing contact:**

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## Performance Audit Reports

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64*	Key Performance Indicators	<i>Government-wide Framework Defining and Measuring Performance (Better practice Principles) Legal Aid Commission Case Study</i>	31 August 1999
65	Attorney General's Department	<i>Management of Court Waiting Times</i>	3 September 1999
66	Office of the Protective Commissioner Office of the Public Guardian	<i>Complaints and Review Processes</i>	28 September 1999
67	University of Western Sydney	<i>Administrative Arrangements</i>	17 November 1999
68	NSW Police Service	<i>Enforcement of Street Parking</i>	24 November 1999
69	Roads and Traffic Authority of NSW	<i>Planning for Road Maintenance</i>	1 December 1999
70	NSW Police Service	<i>Staff Rostering, Tasking and Allocation</i>	31 January 2000
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72	Hospital Emergency Departments	<i>Delivering Services to Patients</i>	15 March 2000
73	Department of Education and Training	<i>Using Computers in Schools for Teaching and Learning</i>	7 June 2000
74	Ageing and Disability Department	<i>Group Homes for people with disabilities in NSW</i>	27 June 2000
75	NSW Department of Transport	<i>Management of Road Passenger Transport Regulation</i>	6 September 2000
76	Judging Performance from Annual Reports	<i>Review of Eight Agencies' Annual Reports</i>	29 November 2000
77*	Reporting Performance	<i>Better Practice Guide A guide to preparing performance information for annual reports</i>	29 November 2000
78	State Rail Authority (CityRail) State Transit Authority	<i>Fare Evasion on Public Transport</i>	6 December 2000
79	TAFE NSW	<i>Review of Administration</i>	6 February 2001
80	Ambulance Service of New South Wales	<i>Readiness to Respond</i>	7 March 2001
81	Department of Housing	<i>Maintenance of Public Housing</i>	11 April 2001

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88*	E-government	<i>e-ready, e-steady, e-government: e-government readiness assessment guide</i>	19 September 2001
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90*	Intellectual Property	<i>Better Practice Guide</i> <i>Management of Intellectual Property</i>	17 October 2001
91	University of New South Wales	<i>Educational Testing Centre</i>	21 November 2001
92	Department of Urban Affairs and Planning	<i>Environmental Impact Assessment of Major Projects</i>	28 November 2001
93	Department of Information Technology and Management	<i>Government Property Register</i>	31 January 2002
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98	Risk Management	<i>Managing Risk in the NSW Public Sector</i>	19 June 2002
99	E-government	<i>User-friendliness of Websites</i>	26 June 2002
100	NSW Police Department of Corrective Services	<i>Managing Sick Leave</i>	23 July 2002

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101	Department of Land and Water Conservation	<i>Regulating the Clearing of Native Vegetation</i>	20 August 2002
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103	NSW Public Sector	<i>Outsourcing Information Technology</i>	23 October 2002
104	Ministry for the Arts Department of Community Services Department of Sport and Recreation	<i>Managing Grants</i>	4 December 2002
105	Department of Health Including Area Health Services and Hospitals	<i>Managing Hospital Waste</i>	10 December 2002
106	State Rail Authority	<i>CityRail Passenger Security</i>	12 February 2003
107	NSW Agriculture	<i>Implementing the Ovine Johne's Disease Program</i>	26 February 2003
108	Department of Sustainable Natural Resources Environment Protection Authority	<i>Protecting Our Rivers</i>	7 May 2003
109	Department of Education and Training	<i>Managing Teacher Performance</i>	14 May 2003
110	NSW Police	<i>The Police Assistance Line</i>	5 June 2003
111	E-Government	<i>Roads and Traffic Authority Delivering Services Online</i>	11 June 2003
112	State Rail Authority	<i>The Millennium Train Project</i>	17 June 2003
113	Sydney Water Corporation	<i>Northside Storage Tunnel Project</i>	24 July 2003
114	Ministry of Transport Premier's Department Department of Education and Training	<i>Freedom of Information</i>	28 August 2003
115	NSW Police NSW Roads and Traffic Authority	<i>Dealing with Unlicensed and Unregistered Driving</i>	September 2003

\* Better Practice Guides

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