

### **Auditing For The Australian Capital Territory**

The Auditor-General is head of the Auditor-General's Office. He and his Office act independently of the Government. The Office assists the Auditor-General to carry out his duties, which are set out in the Audit Act 1989, by undertaking audits of management performance and the financial statements of public sector bodies. The aim is to improve public sector management and accountability by firstly, ensuring the Legislative Assembly and the electorate are provided with accurate and useful information about the management of public sector resources and secondly, by providing independent advice and recommendations for improving the management of public resources.

16 May 1996

PA96/02

The Speaker  
Australian Capital Territory  
Legislative Assembly  
South Building  
CANBERRA ACT 2601

Dear Mr Speaker

In accordance with the authority contained in the Audit Act 1989, I transmit to the Legislative Assembly a Report entitled "Collection of Court Fines".

This audit was conducted by Darren Box and managed by Peter Hade of my Office.

Yours sincerely

John A. Parkinson

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# 1. REPORT SUMMARY

## 1.1 INTRODUCTION

This Report presents the results of a review of the effectiveness and efficiency of the recording and collection of court fines<sup>1</sup> within the ACT justice system. The audit was performed over the period from October 1995 to January 1996. In 1994-95, approximately \$1.0m was collected in court fines.

A recent review of fine collection in NSW revealed that nearly 8% of the adult population in NSW is in default of court fines. The collection procedures in place in NSW were found to be ineffective as offenders had no expectations of being apprehended. In light of the NSW situation, it was considered appropriate to review ACT fine collection procedures to ascertain whether similar difficulties were being encountered.

## 1.2 AUDIT OBJECTIVE AND SCOPE

The objective of this audit was to:

*“Provide the Legislative Assembly with an independent opinion on the overall effectiveness and efficiency of recording and collection of court fines imposed.”*

The courts covered by the audit were:

- Magistrate’s Court;
- Children’s Court; and
- Supreme Court.

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<sup>1</sup> For the purposes of the audit, fines include court imposed penalties.

The Coroner's Court and the Small Claims Court do not impose fines. As the Motor Registry (part of the Department of Urban Services) is responsible for the collection of overdue traffic fines which initially were imposed by the Magistrate's Court, the scope of the audit covered the relevant processes employed by the Motor Registry.

Further information on the audit scope and approach is provided in *Chapter 2*.

### **1.3            AUDIT OPINION**

The audit concluded that the *recording of court fines has been effective*, however for the Supreme Court and the Motor Registry, improvements in internal controls could be implemented.

In relation to the *collection of court fines*, the audit conclusion is that collection *has not been effective*.

Due to the lack of available performance information related to the administration of court fines, a conclusion as to the *efficiency of administration has not been reached*.

The audit opinion is based on the following audit findings.

### **1.4            MAJOR FINDINGS**

#### **Recording of Court Fines**

The audit opinion that recording of court fines has been effective is based on the following findings:

## COLLECTION OF COURT FINES

### *Magistrate's Court*

- Adequate controls are in place to ensure the effective recording of court fines in the Case Management System (*Chapter 4*).

### *Children's Court*

- Adequate procedures and controls are in place to ensure the effective recording of court fines (*Chapter 5*).

### *Motor Registry*

- There are inadequate controls to ensure that court-imposed traffic fines which become overdue for payment are completely and accurately recorded on the *TRIPS* system at the Motor Registry, however sample testing during the audit did not disclose any omitted or incorrect recording (*Chapter 6*).

### *Supreme Court*

- All case details are recorded manually in the Supreme Court. There is no review or checking function performed, however audit testing did not reveal any omitted or incorrectly recorded cases (*Chapter 7*).

## **Collection of Court Fines**

The audit conclusion that collection of court fines has not been effective is based on the following findings:

### *Magistrate's Court*

- 53% of fines imposed by the Magistrate's Court are not collected within the time specified, with 30% remaining uncollected after 12 months (*Chapter 4*);

## COLLECTION OF COURT FINES

- At the time of the audit, there were approximately 850 individuals in default of Magistrate's Court fines (amounting to approximately \$200,000) for whom no warrants have been issued, (*Chapter 4*);
- Warrant execution is apparently being delayed due to limited police resources. Consideration should be given to implementing new approaches for executing warrants on defaulters (*Chapter 4*);
- In the ACT, there are currently limited alternatives available for the collection of court fines. Consideration should be given to amending the Magistrate's Court Act 1930 to permit alternatives such as garnishee of wages and asset seizure (*Chapter 4*);
- Unauthorised extensions in time to pay fines are being given to offenders by counter staff. Section 153(1) of the Magistrate's Court Act specifies that extensions can be granted only by the Magistrate, Registrar and Deputy Registrar; and
- There is no formal disaster recovery plan for the Case Management System at the Magistrate's Court (*Chapter 4*).

### ***Children's Court***

- Children's Court fines collection is hampered under the current legislation. Section 53 orders must be served personally upon the offender, often resulting in the utilisation of resources in excess of the fines (*Chapter 5*); and
- No contact is made with the offender between the date of conviction and default of the fine. A reminder notice or "Notice of Conviction" detailing the seriousness of the offence and

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possible consequences may result in less fine defaulting.

### *Supreme Court*

- The Supreme Court does not have the power to set default terms or to issue warrants for arrest of fine defaulters. In practice, no agency takes responsibility for the recovery of fines imposed by the Supreme Court. Offenders who do not pay fines need have no fear of being required to pay (*Chapter 7*).

### *Motor Registry*

- Offenders who are from interstate cannot have their licences or registrations suspended and so the only alternative available is to suspend their right to drive in the ACT, which is difficult to enforce.

## **Efficiency of Administration of Court Fines**

For the period covered by this audit, the courts had not identified specific levels of required outputs or established performance indicators associated with the administration of fines recording and collections. Without this type of performance information, it was not practical, as part of this audit, to determine whether or not the court administration function was being performed efficiently.

The introduction throughout the ACT Government Budget Sector from 1996-97 of “outputs” based accrual budgeting and reporting supported by appropriate performance measures should ensure information for assessing the efficiency of court administration is readily available in the future.

## **1.5 DEPARTMENT’S COMMENTS**

## COLLECTION OF COURT FINES

The Attorney-General's Department has advised that it is considering the feasibility of centralised arrangements for the collection of fines imposed by all courts. The scheme would be administered by the Registrar of the Magistrate's Court and involve a range of options for enforcement (*Chapter 4*).

## **2. AUDIT OBJECTIVE, SCOPE AND APPROACH**

### **2.1 AUDIT OBJECTIVE**

The objective of the audit was to:

*“Provide the Legislative Assembly with an independent opinion regarding the overall effectiveness and efficiency of:*

- *recording of court fines imposed; and*
- *collection of court fines.*

### **2.2 AUDIT SCOPE**

The judicial system within the ACT operates five courts:

- Magistrate’s Court;
- Children’s Court;
- Supreme Court;
- Coroner’s Court; and
- Small Claims Court.

Of the five courts, the Coroner’s Court and Small Claims Court do not impose fines.

Following the decriminalisation of traffic infringements, the Motor Registry (part of the Department of Urban Services) is now responsible for the collection of overdue traffic fines which initially were imposed by the Magistrate’s Court. The scope of the audit extended to review the processes employed by the Motor Registry in the recording and collection of decriminalised traffic infringement fines.

## COLLECTION OF COURT FINES

The audit reviewed the recording and collection of court fines imposed during 1994-95 and the collection of fines owing from previous years.

### 2.3 AUDIT APPROACH

In accordance with the audit objective, the audit was conducted in two parts as follows:

- recording of court fines to be collected; and
- actual collection of court fines.

The audit processes used were designed to provide an indication as to the effectiveness of the above functions.

### 2.4 AUDIT PROCESSES USED

#### **Recording of Court Fines**

Cases listed for hearing before the Magistrate's Court and the Supreme Court were checked to ensure all cases had been accurately and completely recorded. The following audit processes were used:

- to ensure accurate recording, judgements handed down and fines imposed were traced from the magistrates' or judges' documentation to the court records;
- traffic infringement details were traced from the Magistrate's Court to the Motor Registry to ensure all details were correctly recorded;
- a review was conducted of the processes and internal controls present for the recording of court fines in all courts; and

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- a review was performed of the utilisation and functionality of the computerised systems in place.

### **Collection of Court Fines**

To assist in forming an opinion on the collection of court-imposed fines, the following audit processes were conducted:

- the collection rates for fines imposed were reviewed;
- collection procedures were reviewed to identify possible alternatives; and
- collection procedures in place were compared with alternatives used in NSW.

### **3. BACKGROUND INFORMATION**

#### **3.1 COURT STRUCTURE IN THE ACT**

The court structure within the ACT can be split into two main areas:

- Magistrate's Court; and
- Supreme Court.

The *Magistrate's Court* has both civil and criminal jurisdiction under the *Magistrate's Court Act 1930* and the *Magistrate's Court (Civil Jurisdiction) Act 1982*. Under the criminal jurisdiction, the court tries offences punishable summarily. It also holds preliminary inquiries into indictable offences to determine whether they should be heard before a jury in the Supreme Court.

The Magistrate's Court is also known as the Children's Court, the Small Claims Court or the Coroner's Court when it exercises its authority under the relevant legislation.

Traffic fines imposed by the Magistrate's Court are passed to the Motor Registry for collection if an offender defaults on payment of the fines by the due date.

The *Supreme Court* of the ACT was established by the *ACT Supreme Court Act 1933*. It is a superior court of record of unlimited jurisdiction in respect of matters arising under laws of the ACT, both criminal and civil.

#### **3.2 REVENUE COLLECTED FROM COURT FEES AND FINES**

The court system within the ACT collected approximately \$1.0m in court fines in 1994-95. The

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Magistrate's Court collects the majority of the revenue at 89% or \$0.893m. Revenue collected from court fines by each court are provided in the following table.

<b>Court</b>	<b>Fines Collected 1994-95 \$'000</b>	<b>%</b>
Magistrate's Court	893	89
Supreme Court	26	3
Motor Registry	75	7
Children's Court	13	1
<b>Total</b>	<b>1007</b>	<b>100</b>

## **4. MAGISTRATE'S COURT**

### **4.1 INTRODUCTION**

The ACT Magistrate's Court has both criminal and civil jurisdictions. The Magistrate's Court is responsible for the administration of the *Magistrate's Court Act 1930* and the *Magistrate's Court (Civil Jurisdiction) Act 1982*. Fines are imposed by the court in relation to criminal matters. Approximately 40% of convictions in the Magistrate's Court result in fines rather than custodial sentences.

For 1994-95, approximately 62,000 matters were listed before the ACT Magistrate's Court, while revenue collected from court fines by the Magistrate's Court totalled \$893,000.

### **4.2 SIGNIFICANT FINDINGS**

- *Adequate procedures are in place to ensure the effective recording of court fines;*
- *53% of fines imposed by the Magistrate's Court are not collected within the time specified by the Magistrate with 30% remaining uncollected after 12 months;*
- *Collection procedures available within the ACT are limited compared to those available in NSW. Alternatives such as civil enforcement and garnishee orders are available in NSW;*
- *The timely execution of warrants is apparently hampered through insufficient police resources being applied to the task. Alternative collection procedures could be considered to reduce demands upon police resources and improve collection rates;*

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- *Unauthorised extensions in time to pay fines are being given to offenders by counter staff. Section 153(1) of the Magistrate’s Court Act specifies that extensions can be granted by the Magistrate, Registrar and Deputy Registrar;*
- *At the time of the audit, there were approximately 850 individuals in default of Magistrate’s Court fines for whom no warrants have been issued, amounting to approximately \$200,000; and*
- *there is no disaster recovery plan for the Case Management System and user documentation is not readily accessible by operational personnel.*

### 4.3 RECORDING OF COURT FINES

The ACT Magistrate’s Court utilises a software package for the management of court fines. The package, known as the “Case Management System”, is designed to track case details through the court from listing of details prior to hearing to issue of sentences and collection of fines.

As cases are determined, the Magistrate records conviction details on “benchsheets”. The results of the cases are subsequently entered to the Case Management System from the benchsheets. All details entered into the system are checked by a second officer to ensure accuracy and completeness.

In addition to the checking performed by officers at the Magistrate’s Court, an independent review is performed. Case lists detailing the results of cases are sent to the police and the Director of Public Prosecutions. The details are checked by these agencies to ensure details entered agree with their records.

To ensure the controls over recording of court fines were being performed adequately, a sample of case

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details was checked from the benchsheets. It was found that all details had been correctly recorded to the Case Management System.

Court fees are charged to each offender at a set rate. The controls over the recording of these are the same as for court fines. The details are recorded at the same time. For the sample of court fines traced to the Case Management System, the recording of court fees was also reviewed. It was found that all court fees had been recorded.

### *Audit Comments*

It has been concluded that the procedures and controls over the recording of court fines at the Magistrate's Court are working effectively.

#### **4.4 EFFECTIVE COLLECTION OF COURT FINES**

A review of collection rates for the Magistrate's Court found that 53% of fines imposed are not collected within the time specified by the Magistrate and 30% of fines imposed during 1994-95 remained uncollected after 12 months from the date of conviction.

The process of collecting court fines is a two-step process as detailed below:

- Issue Notice of Conviction which sets out the judgement including the fine payable (issued following court appearance if convicted of offence); and
- Issue of Commitment Warrant (issued if default occurs in payment of fine).

The procedure is that once an offender is in default of payment of a fine, a warrant is prepared by the court

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and sent to the police. Collection of the fine is then in the hands of the police. The police are responsible for executing the warrant by arresting the individual. The person either pays the amount in the warrant to the police or goes to gaol.

The successful collection of court fines is therefore dependent upon the timely issue of Notices of Conviction and Warrants of Commitment by the Magistrate's Court and the timely serving of the warrants by police.

### **Issue of Notices of Conviction**

In relation to the timely issue of Notices of Conviction upon offenders, the Magistrate's Court is currently performing effectively. A review was performed of the issue of notices upon offenders. It was found that Notice of Conviction orders are currently issued within one week of the court appearance.

A review was also made of the issue of Notice of Conviction orders for convictions made prior to 1995. It was found that in 1995, notices were often not issued until after the fine was due to be paid. The untimely issue of notices in the past created a significant backlog. The court has advised that the main cause for the backlog was a lack of available staff.

### **Issue of Commitment Warrants**

Once an offender is in default of payment of a fine, a warrant should be issued. The timely issue of warrants is an important factor in the successful collection of defaulted fines. There are currently 2,149 individuals in default of Magistrate's Court fines. Of these offenders, warrants have not been issued for 850, totalling to \$212,749 in outstanding

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finer. 26% of these offenders have been in default of fines for greater than one year.

A review of all warrants issued for 1995 found that the average length of time to issue a warrant from the time of default was six months. This is due to the effect of a backlog of processing from prior years. The Magistrate's Court had planned to increase the collection rate of court fines through the use of more staff to improve the timely issue of warrants and notices. The court has advised that this was not implemented, due to the Government's general staff freeze implemented across all ACT agencies.

The Department advised that:

*“Changes to the case management software (which were being conducted at the time of the audit) required that the issuing of warrants be put on hold for a length of time while these changes were being made. These changes have now been made and warrants are being issued again. This delay was the primary reason behind the 850 individuals not having a warrant issued and the backlog has now been substantially cleared.”*

The collection of overdue fines is also affected by the availability of police resources to serve warrants. Under current arrangements, warrants are sent to the police station closest to an offender's residence. The pursuit of the offender to serve the warrant is then dependent upon priorities within the station. Some offenders may be aware of the insufficient police resources available to the task and the possibility of remaining undetected. As a result, the motivation for these defaulters to pay is reduced.

Under previous ACT arrangements, the serving of warrants upon offenders was the responsibility of a central police unit. The unit was recently disbanded, which has apparently contributed to the amount of

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finest collected falling well short of that budgeted by the Attorney-General's Department.

The Department advised that:

*“The experience of the Attorney-General’s Department is that AFP (ACT Region) resources have been re-directed away from actually executing the warrants causing a significant reduction in monies recovered by the Territory.”*

#### **4.5 ALTERNATIVE COLLECTION PROCEDURES**

Under current ACT guidelines, once a fine imposed by the Magistrate’s Court becomes overdue, a warrant is to be issued. However, if the offender is unable to pay the fine and makes application by the due date, a time extension may be granted in certain circumstances. The offender may also reduce the fine by serving a period of detention. There are no other alternatives available to the offender.

In NSW, there are several alternatives in the collection of fines imposed by courts. The main alternatives available in NSW currently not available in the ACT are:

- community service applications;
- civil enforcement; and
- periodic detention.

Current national political and social opinion is that detention of offenders in default of fines is not desirable. Bearing this in mind, the pursuit of civil enforcement alternatives may be productive.

Civil enforcement alternatives may include garnishee orders, and the seizure of personal assets. Garnishee orders would allow wage payments or bank account balances to be directed toward the repayment of fines.

Although the introduction of alternative collection procedures may not result in a substantial decrease in the number of fine defaulters, it should lead to a

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higher collection rate of the defaulted fines. The knowledge that personal assets may be seized if fines are not paid may be sufficient to increase collection rates.

The Department advised that:

*“As a Department, we are cognisant of the need for reform and are currently developing a proposal for Government on alternatives to the present system of imprisonment for fine defaulters. This was, in part, stimulated by a recommendation of the Royal Commission into Aboriginal Deaths in Custody.*

*The proposal under consideration is that fines, and possibly restitution orders imposed by all courts will be enforced in a scheme to be administered by the Registrar of the Magistrate’s Court. The scheme provides that persons who fail to pay a fine will be sent a warning letter and, if they still do not pay, they will be required to appear before the Registrar. The Registrar will have the following options:*

- to issue a writ of execution against the defaulter’s personal property;*
- to issue a garnishee order against the defaulter’s earnings;*
- to direct the defaulter to perform community service under the direction of ACT Corrective Services;*
- to issue an order for periodic detention (where the court has ordered this as an option); and*
- to issue a warrant of commitment to prison.*

*The issue of appropriate ‘collection procedures’ is being considered in this context. The Registrar of the Magistrate’s Court supports the initiative and believes that the ACT Bailiff’s Unit could be*

*effectively utilised to recover court fines and would do so in a more timely manner than presently being experienced. The possible resource impact of any change along these lines will also have to be considered. Broadening the options for enforcement may increase the administrative resources necessary to support these options.*

*The Criminal Law Consultative Committee considered this proposal and has agreed that there is a need for alternatives to imprisonment for fine defaulters. The Committee gave ‘in principle’ support for the proposed scheme.”*

#### **4.6 EFFICIENCY OF COLLECTION PROCEDURES**

For the period covered by this audit, the Magistrate’s Court had not identified specific levels of required outputs associated with court administration, nor established performance indicators. Without this type of performance information, it was not practical, as part of this audit, to determine whether or not the court administration function was being performed efficiently.

For the audit to have developed a conclusive opinion on efficiency, a time-consuming work analysis would have been required. This analysis would have needed to cover the procedures and tasks being undertaken by court staff and the effort and duration associated with each task. It also would have been necessary to determine why the tasks were done and what value their performance actually added.

A benchmarking study was conducted recently across Australian State and Territory jurisdictions. This study attempted to compile cost data for courts for efficiency measurement purposes. The result of the study, which was conducted in 1994, found that the national average of the “cost per criminal offender” was \$344. It was found that the ACT cost per

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criminal offender was \$458. Whilst these figures indicate that the ACT may be less efficient in processing criminal proceedings than the national average, the following factors would have an impact which was not quantified in the study:

- the ACT has approximately half the number of offenders per head of population; and
- larger States have greater opportunity to spread fixed costs.

It should be noted that the methodology and the data from the national benchmarking study has not been validated or verified by the Audit Office. The study may, however, serve to indicate that there could be benefit in reviewing the court's present work practices.

In responding to a draft of this Report, the Department advised that:

*“This section quotes incorrect figures from a recent benchmarking exercise which involved a national costing of services provided by courts of all jurisdictions. The figures were a first attempt to compare the various jurisdictions. We would caution against relying on these figures to give an accurate assessment of the costs of court services in the ACT as differences in the types of cases between jurisdictions can result in substantial differences in case costs. For example, some jurisdictions handles tens of thousands of minor traffic matters by electronic means. Comparing the ACT - where most traffic matters are handled administratively - with such jurisdictions gives a false impression of considerable unit cost differences.*”

*Figures for the ACT were also artificially inflated by wrongly attributing Departmental overheads, notional accommodation costs based on market rental rates and court reporting costs translated into*

*average staff numbers. In respect of the ACT, the actual cost per case would be considerably less than that published in the final report. Accrual accounting methods, when used in future, will give a far clearer indication of the overall costs.*

*Additionally, there were wide discrepancies in case definition and, therefore, in actual case numbers per head of population between the various States and Territories. For example, the Northern Territory was reported as having four times the number of criminal offenders in the ACT with half the population. These definitional problems will be rectified in future years.*

*The Magistrate's Court considers that the most important finding from the exercise was the fact that per capita expenditure for dealing with criminal offenders through the court system was lower in the ACT than in all other jurisdictions apart from Victoria and was only two-thirds the national average (\$12.66 per head of population as against an overall national average of \$18.37).*

*The Supreme Court also rejects the suggestion that the benchmarking exercise accurately reflects the ACT position and considers the figures meaningless. It notes that one major criminal trial can distort the whole outcome - especially in small jurisdictions."*

#### **4.7 EXTENSIONS IN TIME TO PAY**

An offender may be granted an extension in time to pay a fine imposed by the Magistrate's Court in accordance with Section 153(1) of the *Magistrate's Court ACT 1930*. Under the legislation, the extensions may only be granted by a Magistrate, Registrar or Deputy Registrar.

A review of procedures at the Magistrate's Court found that extensions in time to pay were being granted to offenders by counter staff. Under the

relevant legislation, these officers are not authorised to grant extensions in time to pay.

## **4.8 UTILISATION OF CASE MANAGEMENT SYSTEM**

### **Introduction**

The Case Management System is a software package which has been developed for the ACT Magistrate's Court. The software runs over three AS/400 computers in different buildings.

The audit review of the Case Management System included controls present, security, functionality and disaster recovery.

### **Security**

The system has restricted password access, which limits officers without the necessary authority accessing sensitive data. In-built controls are present which require passwords to be changed periodically. Adequate controls were found to exist in the system to ensure case data is not manipulated or deleted.

### **Functionality**

It was noted that users of the system experience functionality problems on occasions. These are recorded in a log and reported to the system administrator.

The Case Management System has a "user's manual" which details the capability of the system. The manual, however, was not readily accessible by officers responsible for the day-to-day use of the Case Management System. When a problem is experienced by system users, the difficulty is recorded in a log for action to be taken by the system administrator. Many

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of the problems experienced by operational staff could be alleviated if users had access to the manual.

It was also noted that only one officer at the Magistrate's Court had detailed knowledge of the functional capability of the Case Management System. Problems may be encountered in the future if the officer leaves the Magistrate's Court. Consideration should be given to providing other officers with training sufficient to ensure future problems are not encountered.

In response to this part of the Audit Report, the Department advised that:

*“While it is accepted that only one officer has complete knowledge of the whole system, there are any number of people who have a detailed knowledge of the system as it relates to their area of work. Were any problem to arise, there would be a sufficient level of knowledge present amongst officers of the court to allow any potential problems to be satisfactorily rectified. A training officer position is also being investigated at the present time. The creation of such a position would address the issues concerning training for users of the Case Management System.”*

### **Disaster Recovery**

In order to ensure the security of data, daily back-ups are performed and stored off-site. These procedures should ensure that in the event of a major incident involving the Case Management System, the data will be available for recovery. It was found that other than the back-up procedures, there is no formal “*disaster recovery plan*” in place at the Magistrate's Court for the Case Management System.

A formal disaster recovery plan is vital to ensure that disruption to the smooth running of the Magistrate's Court is minimised.

The Department advised that:

*“At the time of the audit, the plan had not been completed. A first draft has been produced and other agencies have sought copies. Any comments received will be taken into account in the finalisation of the plan.”*

#### **4.9 CONCLUSION**

The recording of court fines was being performed effectively. All necessary controls to ensure the accuracy and completeness of data in the Case Management System were present and no errors were noted in the verification of the test sample.

The procedures employed for the collection of fines are not effective, with 53% of fines not collected within the time specified in the judgement and 30% remaining uncollected after 12 months of the court date.

The issue of Notice of Conviction orders was being performed effectively and in a timely manner.

Warrants for fine defaults have not always been issued in a timely manner. This is mainly due to a backlog in the recording of case details in the Case Management System from prior years.

The serving of warrants on fine defaulters is apparently hampered by the lack of police resources. The Department has advised that it is considering implementation of a scheme which would involve the Registrar of the Magistrate’s Court having a wider range of options to deal with fine defaulters.

In the ACT, there are currently limited alternatives available for the collection of court fines. Consideration should be given to amending the

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*Magistrate's Court ACT 1930* to permit alternatives such as garnishee of wages and asset seizure.

The Case Management System was generally being effectively managed. However, operational users do not have easy access to system documentation, such as the user's manual. This could result in a loss of functionality as the users are not fully aware of the full capabilities of the system.

There is no formal disaster recovery plan or contingency plan in place for the Case Management System. The seriousness of this is increased as there is only one officer with a detailed knowledge of the Case Management System.

## **5. CHILDREN'S COURT**

### **5.1 INTRODUCTION**

The Magistrate's Court, when exercising jurisdiction under the *Children's Services Act 1986*, is known as the Children's Court, and hears and determines criminal matters involving children and applications relating to the care and supervision of children.

For 1994-95 approximately 7,000 matters were listed for hearing before the Children's Court. Revenue collected from fines imposed by the Children's Court totalled \$13,000 for 1994-95.

### **5.2 SIGNIFICANT FINDINGS**

- *Children's Court fine collection is hampered under current legislation. Section 53 orders must be served personally upon the offender, often resulting in the utilisation of resources far in excess of the fine imposed; and*
- *No contact is made with the offender between the date of conviction and default of the fine. A reminder notice or "Notice of Conviction" detailing the seriousness of the offence and possible consequences may result in fewer fine defaulters.*

### **5.3 RECORDING OF COURT FINES**

The procedures used for the recording of Children's Court fines are the same as those employed by the Magistrate's Court. A review of the procedures used was conducted, and a sample selected with the details traced to the Case Management System. All details were found to be correctly recorded.

**Audit Finding**

As was found with the ACT Magistrate's Court (*Chapter 4*), the procedures for the recording of fines at the Children's Court are working effectively.

**5.4 COLLECTION OF COURT FEES AND FINES**

There are currently \$16,200 in overdue fines imposed by the ACT Children's Court.

The ACT Children's Court is experiencing problems in the collection of fines. The problems are mainly due to the legislation under which the court operates. Under the *Children's Services Act*, once an offender is in default of a fine, an order must be served on the child under Section 53. The offender must either then pay the amount outstanding or appear before the court to explain why the fine has not been paid.

The average time lapse between a fine being overdue and the Section 53 order being issued was 70 days.

If the offender does not go to court, then a warrant is issued for the commitment of the offender. As is the situation with the Magistrate's Court, the issue of the warrant becomes the responsibility of the police service.

Orders under Section 53 must be served personally upon the child, or the parents of the child if they give consent. It can take several trips for the police to actually serve a Section 53 order on a child.

As the Section 53 order must be served personally upon the offender, there are no further collection procedures available to the courts to enforce payment if the offender cannot be located. There are currently approximately 500 outstanding Section 53 orders which have not been served on offenders. Several of these orders date back to 1988.

The need for frequent visits to offenders' residences results in the utilisation of police resources often in excess of the court fines imposed. Many fines are issued for less than \$100. The cost of serving the Section 53 orders and subsequent warrants is likely to be considerably in excess of the revenue from the fines.

## **5.5 POSSIBLE ALTERNATIVES**

The current legislation under which the Children's Court operates, the "*Children's Services Act*", is restricting the successful collection of fines imposed by the court. There are currently no alternatives if the Section 53 order cannot be served, which is often a difficult task.

An alternative mentioned during the conduct of the audit was the possibility of licence or vehicle registration cancellation. Many of the offenders in default of fines, with outstanding Section 53 orders and warrants would now be over 17 and could hold drivers' licences and vehicle registrations. It may prove to be an effective deterrent if the offender was aware that failure to pay a fine could result in the cancellation of their licence.

The cost of this measure would not be great as the same measures are taken for traffic offenders prosecuted in the Magistrate's Court. In these cases, details are passed to the Motor Registry, who proceed to collect the fine or cancel the offender's licence. For more details on measures employed by the Motor Registry, refer to *Chapter 6* of this Report. The ability to carry out such measures would require amendments to current legislation.

The Department has advised that children's fines would be included in the proposed centralised arrangements mentioned in *Chapter 4*.

**5.6 COMMUNICATION WITH OFFENDERS**

As mentioned in Section 5.5, if an offender defaults on a court fine, a Section 53 order is issued, which requires the offender to pay the fine or reappear before court. Prior to the issue of the Section 53 order, there is no communication with the offender. Once the conviction has been made and the fine imposed, there is no contact with the child until the fine is overdue, when the Section 53 order is issued.

In the Magistrate’s Court, a “*Notice of Conviction*” is forwarded to the offender soon after the date of conviction to advise them of the result and the fine payable. The timely issue of a similar style of notice to child offenders, detailing the seriousness of conviction and the possible consequences, may prove to be an effective motivation for payment of the fine.

After the completion of the audit, the Department advised:

*“Steps have been taken to modify the Case Management System to allow for the automatic production of a notification of fine to be forwarded to all young persons who attend before the court. In the past, letters were only forwarded to young persons convicted in their absence, with verbal advice being given to those who attended.”*

**5.7 UTILISATION OF CASE MANAGEMENT SYSTEM**

The Children’s Court uses the same Case Management System used by the Magistrate’s Court. A review was conducted of the controls over the system, as was performed for the Magistrate’s Court. The same system weaknesses were present at the Children’s Court as were present at the Magistrate’s Court.

**5.8 CONCLUSION**

The recording of court fines was found to be performed effectively. All necessary controls to ensure that accuracy and completeness of data in the Case Management System were present and no errors were noted in the verification of the test sample.

The efficient collection of court fines is being hampered by current legislation. Fine defaulters must be served with an order under Section 53 of the *Children's Services Act 1986* before any action can be taken. These orders must be served upon the offender personally. This results in the utilisation of resources in excess of the revenue from the small fines imposed. Possible alternatives may include the cancellation of the offender's licence or vehicle registration once the child reaches the age of 17. This would require amendments to current legislation.

## **6. MOTOR REGISTRY**

### **6.1 INTRODUCTION**

As the Motor Registry (part of the Department of Urban Services) has responsibility for collection of overdue traffic fines imposed by the Magistrates Court, the scope of this audit extended to include procedures employed by the Motor Registry.

Following changes, which decriminalised traffic offences, to the *Motor Traffic Act 1936*, on-the-spot fines were introduced. Prior to these changes, all traffic offences were heard before a Magistrate.

Some traffic offence cases are still heard before a Magistrate if the offence is sufficiently serious or at the request of the offender. If a fine imposed by the Magistrate as a result of these hearings is unpaid at the due date, the case details are passed to the Motor Registry within the Department of Urban Services for collection.

### **6.2 SIGNIFICANT FINDINGS**

- *No reconciliation process exists to ensure that all cases transferred from the Magistrate's Court for collection are completely entered into the TRIPS system; and*
- *Offenders who are from interstate cannot have their licences or registrations suspended and so the only alternative available is to suspend their right to drive in the ACT, which is difficult to enforce.*

### **6.3 RECORDING OF TRAFFIC FINES**

Fines collectable by the Motor Registry relate to:

## COLLECTION OF COURT FINES

- unpaid traffic fines issued prior to introduction of the “*on-the-spot*” fine system - 18 May 1992;
- unpaid fines awarded against an offender, arising from a case heard before a Magistrate at the instigation of the Federal Police or the offender; and
- unpaid fines awarded against an offender as the result of a case heard by a Magistrate as the offence was too serious for an “*on-the-spot*” fine.

Court lists of traffic fines imposed by the Magistrate’s Court which are overdue are periodically forwarded to the Motor Registry. The court lists detail the nature of the offence, court date, fine, costs and the address of the offender. Each case is manually allocated a sequential number prior to entry into the *TRIPS* computer system utilised by the Motor Registry.

It was found that there is no review of the sequential numbers allocated to the traffic fines entered into the *TRIPS* system to ensure all cases have been entered. An alternative procedure to ensure all cases forwarded from the Magistrate’s Court have been accounted for is a reconciliation of the number of cases or “batch totals” between the court lists from the Magistrate’s Court and those details entered to the *TRIPS* computer system.

A review was conducted of the details entered onto the *TRIPS* system from court lists. A sample of cases were selected from court lists and traced to the *TRIPS* system to ensure details were accurately recorded. For the sample of traffic fines selected, it was found that all details had been correctly updated to the *TRIPS* system.

**6.4 COLLECTION OF TRAFFIC FINES**

The Motor Registry collected \$75,000 in revenue from the collection of overdue court-imposed traffic fines during 1994-95. There is currently \$37,311 overdue in traffic fines forwarded from the Magistrate's Court. About 70% of this amount has only been outstanding for a month.

Once traffic fine details have been recorded on the *TRIPS* system at the Motor Registry, the administration of traffic fines is a three-step process comprising:

- "Final Notice" sent to the offender detailing the fine payable and the consequences of non payment, such as licence and registration cancellation;
- "Courtesy Letter" sent to the offender if payment is not forthcoming, advising the offender that action will be taken in two weeks if payment is not made; and
- "Suspension of Licence or Vehicle Registration" actioned if payment is not received. A letter is sent to the offender advising that action has been taken.

Once the offender's licence or registration has been cancelled, the *TRIPS* system will not allow renewal until the fine has been paid in full.

The procedures employed by the Motor Registry for the collection of overdue traffic fines are as effective as possible for offenders with ACT licences and registrations. If an offender is not an ACT resident, the maximum penalty possible is the cancellation of the individual's right to drive within the ACT. This has not been seen as effective as there is only a small possibility of the offender being detected driving

within the ACT. As offenders are aware of this, there is little incentive to pay.

## **6.5 CONCLUSION**

The recording of decriminalised traffic fines from the Magistrate's Court on the *TRIPS* computer system at the Motor Registry is effective. It was found, however, that there is no reconciliation or review process over the entry of fines into the *TRIPS* system to ensure completeness and accuracy.

The procedures used by the Motor Registry for the collection of traffic fines imposed by the Magistrate's Court are effective for offenders who reside within the ACT. The effectiveness of current procedures is reduced for offenders who are not ACT residents. The only deterrent for offenders who are not ACT residents is the cancellation of the right to drive in the ACT. This measure is not effective as it is very difficult to enforce. Unfortunately, available alternatives are limited.

## **7. SUPREME COURT**

### **7.1 INTRODUCTION**

The Supreme Court was established by the *ACT Supreme Court Act 1933*. It is a superior court of record of unlimited jurisdiction in respect of matters arising under laws of the ACT, both criminal and civil.

A total of 28 criminal trials were heard before the Supreme Court during 1994-95. A total of \$26,300 in fines was collected in that year. A further \$603,500 was collected as court fees.

### **7.2 SIGNIFICANT FINDINGS**

- *No agency takes responsibility for the recovery of fines imposed by the Supreme Court. There is currently approximately \$22,000 in outstanding fines imposed by the Supreme Court;*
- *All case details are recorded manually with no review or checking function performed; and*
- *The Supreme Court is currently reviewing the feasibility of implementing a new computerised system for the management of all Supreme Court operations, including the option of adopting the Case Management System currently utilised by the Magistrate's Court.*

### **7.3 RECORDING OF COURT FINES**

The recording of fines imposed by the Supreme Court is performed manually. Benchsheets are completed by the judge once a judgement has been made, and

## COLLECTION OF COURT FINES

these are registered into the Criminal Jurisdiction Registration Book. If a fine has been imposed in lieu of a custodial sentence, case details are then entered into the Suitors Payment Book. It was found that there is no review of the details entered into the Suitors Payment Book to ensure accuracy or completeness. To ensure all cases are entered correctly, a review should be conducted, along with a reconciliation of the cases entered to the number of benchsheets used, by a second officer.

An audit of details entered into the Suitors Payment book was conducted. It was found that all details had been correctly recorded. Although no errors were noted from the small sample selected for audit, the controls present are not sufficient to provide the necessary confidence that the risk of errors is minimised.

The Supreme Court is currently considering the implementation of a new computerised management system. Consideration has been given to the adoption of the Case Management System utilised by the Magistrate's Court, with necessary modifications. The adoption of the system already operational within the Magistrate's Court may prove to be the most efficient option. The implementation of the new system and the associated controls over data entry and information access may resolve the issue of accurate and complete recording of case details.

The Department advised:

*“As a result of the preliminary findings of the audit review, the court, on 13 March 1996, introduced a manual checking system to ensure the accuracy of details entered into the Suitors Payment Book.*

*This manual checking system includes checking the benchsheets, receipts and payments and will continue pending the introduction of a computerised management system.”*

**COLLECTION OF COURT FINES**

**7.4 COLLECTION OF COURT FINES**

If an offender fails to pay a court fine imposed by the Supreme Court, no formal collection procedures are in place to follow up payment. A letter is sent periodically to the Director of Public Prosecutions advising of the number and details of offenders in default of fines, however no action is taken on these offenders by the Director of Public Prosecutions. There is approximately \$22,000 in fines imposed by the Supreme Court currently outstanding. The most recent letter sent to the Director of Public Prosecutions was dated 20 February 1995, detailing \$16,000 in overdue fines and penalties.

There are no formal procedures for the collection of fines imposed by the ACT Supreme Court. The Supreme Court believes that the initiation of collection procedures such as warrants against fine defaulters is the responsibility of the Director of Public Prosecutions (DPP). Officers at the DPP have advised that any action is the responsibility of the Government Solicitor's Office. It was found, however, that no communication has been made between the DPP and the Government Solicitor's Office in relation to action against fine defaulters. The Government Solicitor's Office has advised that it has no responsibility in criminal matters.

As no procedures are employed to ensure fines are collected, there is limited motivation for offenders to pay fines imposed by the Supreme Court. Revenue collection from fines could be increased if a system similar to the Magistrate's Court's was to be implemented. All fine defaulters should be served with warrants and advised of their options.

The Department has advised that Supreme Court fines would be included in the proposed centralised arrangements mentioned in *Chapter 4*.

**7.5 CONCLUSION**

Control weaknesses were noted with the recording of case details in the Suitors Payments Book. There is a lack of independent review to ensure accurate and complete recording of case details. The problems noted should be resolved with the introduction of the new computer system, or the adoption of the Case Management System currently utilised by the Magistrate's Court.

There are no formal procedures employed for the collection of fines imposed by the ACT Supreme Court. If an offender does not pay a fine, no action is taken. This has resulted from a lack of communication and knowledge of responsibilities. The Supreme Court believes that the collection of overdue fines is the responsibility of the DPP, whilst the DPP believes that action is the responsibility of the Government Solicitors Office. As a result of parties believing that it is another party's responsibility, no action is taken.

A conclusion as to the efficiency of collection procedures cannot be formed as no collection procedures exist.

## Annexure

### *Reports Published in 1992*

- 1 Information Technology Management Policies in the ACT Government Service
- 2 Financial Audits with Years Ending to 30 June 1991
- 3 GAO Annual Management Report for Year Ended 30 June 1992
- 4 ACT Board of Health - Management of Information Technology
- 5 Budget Outcome Presentation and the Aggregate Financial Statement for the Year Ended 30 June 1992
- 6 Financial Audits with Years Ending to 30 June 1992

### *Reports Published in 1993*

- 1 Management of Capital Works Projects
- 2 Asbestos Removal Program
- 3 Various Performance Audits Conducted to 30 June 1993
  - Debt Recovery Operations by the ACT Revenue Office
  - Publicity Unaccountable Government Activities
  - Motor Vehicle Driver Testing Procedures
- 4 Various Performance Audits
  - Government Home Loans Program
  - Capital Equipment Purchases
  - Human Resources Management System (HRMS)
  - Selection of the ACT Government Banker
- 5 Visiting Medical Officers
- 6 Government Schooling Program
- 7 Annual Management Report for the Year Ended 30 June 1993
- 8 Redundancies
- 9 Overtime and Allowances
- 10 Family Services Sub-Program
- 11 Financial Audits with Years Endings to 30 June 1993

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12 Reports were issued prior to 1992. Details can be obtained from the Government Audit Office.

### ***Reports Published in 1994***

- 1 Overtime and Allowances - Part 2
- 2 Department of Health - Health Grants  
- Management of Information Technology
- 3 Public Housing Maintenance
- 4 ACT Treasury - Gaming Machine Administration  
- Banking Arrangements
- 5 Annual Management Report for Year Ended 30 June 1994
- 6 Various Agencies - Inter-Agency Charging  
- Management of Private Trust Monies
- 7 Various Agencies - Overseas Travel - Executives and Others  
- Implementation of Major IT Projects
- 8 Financial Audits with Years Ending to 30 June 1994
- 9 Performance Indicators Reporting

### ***Reports Published in 1995***

- 1 Government Passenger Cars
- 2 Whistleblower Investigations Completed to 30 June 1995
- 3 Canberra Institute of Technology - Comparative Teaching Costs and Effectiveness
- 4 Government Secondary Colleges
- 5 Annual Management Report for Year Ended 30 June 1995
- 6 Contract for Collection of Domestic Garbage / Non-Salary Entitlements for Senior Government Officers
- 7 ACTEW Benchmarked
- 8 Financial Audits With Years Ending to 30 June 1995

### ***Reports Published in 1996***

- 1 Legislative Assembly Members - Superannuation Payments / Members' Staff - Allowances and Severance Payments
- 2 1995 Taxi Plates Auction
- 3 VMO Contracts
- 4 Land Joint Ventures

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12 Reports were issued prior to 1992. Details can be obtained from the Government Audit Office.

### **Availability of Reports**

Copies of Reports issued by the ACT Auditor-General's Office are available from:

ACT Government Audit Office  
Scala House  
11 Torrens Street  
BRADDON ACT 2601

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CIVIC SQUARE ACT 2608

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