

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

PUBLIC ACCOUNTS COMMITTEE

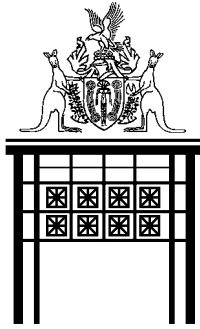
**REPORT ON THE AUDITOR-GENERAL'S MID YEAR AND END OF
FINANCIAL YEAR REPORTS 1995-96 TO 1998**

Inquiry into Fees, Fines and Outstanding Debts

REPORT NUMBER 33

FEBRUARY 1999

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Members (during the course of the Inquiry)

Mr Peter Adamson, MLA	28 November 1996 - 12 August 1997
Mr John Bailey, MLA	Member since 4 December 1990
Mrs Lorraine Braham, MLA	Chairman, 28 November 1996 - 12 August 1987; Member since 27 June 1994
Mr Stephen Dunham, MLA	Chairman, 26 November 1997 - 9 February 1999
Mr Johan Elferink, MLA	14 October 1998 - present
Mr Steve Hatton, MLA	26 November 1997 - 14 October 1998
Dr Richard Lim, MLA	28 November 1996 - 12 August 1997; 16 February 1999 - present
Mr Chris Lugg, MLA	Chairman, 16 February 1999 - present; Member since 26 November 1997
Mr Peter Toyne, MLA	28 November 1996 - present

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Abbreviations

ABS	Australian Bureau of Statistics
ETEP	Enhanced Traffic Enforcement Project
IJIS	Integrated Justice Information System
IAPT	Inter-Agency Project Team
NT	Northern Territory
NTAGO	Northern Territory Auditor-General's Office
PERIN	Penalty Enforcement by Registration of Infringement Notices Court
PICS	Police Internal Communications System
TINES	Territory Infringement Notices Enforcement Scheme
FINES	Fines and Infringement Notices Enforcement System

NORTHERN TERRITORY PUBLIC ACCOUNTS COMMITTEE

Status of the Committee

The Northern Territory Public Accounts Committee was established by provisional Standing Order 21A of the Legislative Assembly on 18 June 1986.

The Committee's status was altered, by way of a motion of the Chief Minister on 23 August 1988, from a Sessional Committee on a trial basis to a Standing Committee of the Parliament.

As a Committee of the Legislative Assembly, its authority is derived from the Northern Territory (Self Government) Act (of the Commonwealth) and the Legislative Assembly (Powers and Privileges) Act (of the Northern Territory).

The Committee is comprised of five (5) members, presently three (3) Government and two (2) Opposition members.

Duties of the Committee

The duties of the Committee under Standing Order 21A are:

- (a) to examine the accounts of the receipts and expenditure of the Northern Territory and each statement and report transmitted to the Legislative Assembly by the Auditor-General, pursuant to the *Financial Management Act*;
- (b) to report to the Legislative Assembly with such comments as it thinks fit, any item or matters in or arising in connection with the receipt or disbursement of the moneys to which they relate, to which the Committee is of the opinion that the attention of Parliament should be drawn;
- (c) to report to the Legislative Assembly any alteration which the Committee thinks desirable in the form of the public accounts or in the method of keeping them or in the method of receipt, control, issue or payment of public moneys;
- (d) to inquire into and report to the Legislative Assembly on any question in connection with the public accounts of the Territory -
 - (i) which is referred to it by a resolution of the Assembly; or
 - (ii) which is referred to it by the Administrator or a Minister; and
- (e) to examine the reports of the Auditor-General laid before the Legislative Assembly with the accounts of a Public Authority of the Northern Territory (including any documents annexed or appended to those reports).

Committee Members

The Members of the Public Accounts Committee at time of tabling report were:

Mr Chris Lugg, MLA - Chairman

Appointed 26 November 1997

Chairman 16 February 1999

Country Liberal Party

Member for Nelson. First elected 1997

Deputy Chairman of Committees

Other Committees: Privileges; Sessional Committee on Legal and Constitutional Affairs

Mr John Bailey, MLA

Appointed 4 December 1990

Australian Labor Party

Member for Wanguri. First elected 1989

Shadow Minister for Attorney-General; Tourism; Parks and Wildlife; Statehood; Work Health

Other Committees: Standing Orders; Sessional Committee on Legal and Constitutional Affairs (Alternate Member)

Mr Johan Elferink, MLA

Appointed 14 October 1998

Country Liberal Party

Member for Macdonnell. First elected 1997

Deputy Chairman of Committees

Other Committees: Subordinate Legislation and Publications; ; Sessional Committee on Legal and Constitutional Affairs

Dr Richard Lim, MLA

Appointed 28 November 1996

Country Liberal Party

Member for Greatorex. First elected 1994

Other Committees: Sessional Committee on the Environment

Mr Peter Toyne, MLA

Appointed 9 October 1996

Australian Labor Party

Member for Stuart. First elected 1996

Opposition Whip and Leader of Opposition Business

Shadow Minister for Education and Training; Aboriginal Affairs; Primary Industry Communications and Advanced Technology

Deputy Chairman of Committees

–
Other Committees: Sessional Committee on Legal and Constitutional Affairs (Alternate Member)

CHAIRMAN'S FOREWORD

I am pleased to present this Report of the Public Accounts Committee. It represents a considerable amount of work from all members of the Committee and I trust the Report's recommendations will provide the basis for ongoing work into debt recovery.

I thank past and present members of PAC and the Secretariat for their efforts.

CHRIS LUGG, MLA
CHAIRMAN

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BACKGROUND

Although this inquiry commenced in early 1997 and public hearings were conducted in Alice Springs during June, with the proroguing of Parliament on 12 August 1997 and a general election on 30 August 1997, a new Public Accounts Committee was appointed on 26 November 1997.

INTRODUCTION

In accordance with Standing Order 21A, the Public Accounts Committee has a standing reference to follow up on matters raised in the reports of the Auditor-General.

The Auditor-General, in his *End of Financial Year Report* of August 1996, advised that:

Office of the Courts Administration

- A system did not exist to record the total of outstanding fines and fees, so as to provide information to enable assessment of whether the total was increasing or decreasing, or to allow assessment of how much was realistically collectible.
- Competing demands for police operational response and service delivery have resulted in the enforcement of warrants being assigned a lower priority than many other tasks ...

While the total of outstanding fines and fees could not be accurately determined, information from Police records in relation to unexecuted warrants at 30 June 1995 indicated that at least \$4.4m was outstanding.

The 1994/95 Annual Report of the Office of Courts Administration disclosed that court fines and fees collected for the year was approximately \$2.5m. Of this, the 1994/95 Annual Report of Northern Territory Police disclosed that \$519,000 was collected on behalf of the Office of Courts Administration during the year ...

A manual card system was used to record fees and fines and to track subsequent action. The manual card system was labour intensive. Courts Administration have been attempting, together with Consultants, to establish a computerised debtors system within IJIS¹, but such efforts have not yet been successful ...

Financial and statistical data in relation to the number and value of fines outstanding had not been maintained, nor was such information able to be reliably produced in a cost effective manner.

No attempt had been made to determine the quantum of unextinguished fines at any particular point in time and the manual card system maintained by Courts Administration does not include any form of "control account". While the amount outstanding can be determined for each person no total outstanding can be readily determined. The cost/benefit of doing so was questioned by Courts Administration given the lack of resources devoted to enforcement of collection.

¹ Integrated Justice Information System

Once a warrant has been issued enforcement of extinguishment of debts is outside the control of Courts Administration. Correct and timely recording by Courts of cash settlement, community service or imprisonment arising from a warrant is dependent on advice from Police or Correctional Services. Police have a separate computerised system for the monitoring of warrants as the information contained on IJIS was not considered adequate for their purposes ...

Police Statistics Unit had carried out a special exercise of collation of information in relation to warrants up to 30 June 1995. From this information it appears that the value of annual outstanding court fines and fees is increasing. Commitment warrants that were not executed for the years 1986 to 1995 total 20,860, representing \$4.4m in outstanding fines and fees. Competing demands for police operational response and service delivery have resulted in the enforcement of warrants being assigned a lower priority than many other tasks.

METHODOLOGY

The Committee in taking the decision to investigate the issue raised by the Auditor-General took the view that it would not be restricted to concentrating only on the issue of outstanding fines and fees, but would expanded the inquiry to include all forms of debt across Government agencies.

The Chairperson of the Public Accounts Committee issued a press release (Attachment A) foreshadowing the expanded inquiry and this was repeated through public advertisements (Attachment B) in the *Centralian Advocate* on 16 and 20 May 1997 and in the *Northern Territory News* on 15 and 17 May 1997.

The Committee also wrote to all Government agencies inviting them to provide a submission addressing the expanded reference for the Inquiry.

The advertisements advised that the Committee would be conducting a public hearing in Alice Springs on Wednesday, 11 June 1997. It also sought submissions from individuals who wished to contribute relevant information to the inquiry. As a result of this advertisement, the Committee received a submission from the following:

- George Laurens (NT) Pty Ltd - 30 May 1997

The following Agencies appeared before the Committee in Alice Springs:

- Office of Courts Administration
- Northern Territory Police
- Department of Housing and Local Government
- Territory Health Services
- Power and Water Authority

Mr John Flynn, Chief Executive Officer of the Office of Courts Administration, appeared in relation to the Auditor-General's comments in his August 1996 report and not as a result of the Committee's expanded Terms of Reference. Mr Robin Bullock, Commander of the Northern Territory Police Force, on the other hand was required to address the overall issue of outstanding debt as well as advise the Committee on the matter of outstanding warrants and how it related to the Auditor-General's comments.

DEBT AND RECOVERY PROCEDURES ACROSS AGENCIES

Department of Housing and Local Government

At the Committee hearing conducted in Alice Springs on 11 June 1997, Mr Ronald Hunter, Regional Director, Department of Housing and Local Government, advised the Committee that within the Alice Springs region the Department was able to control the level of debt of its clients. The debt occurred in the home loans area and in public housing under the categories of rent, maintenance costs and water rates. There are procedures in place that ensure substantial liaison occurs with all tenants and the use of a Departmental salaried position as a dedicated recovery officer alleviates the necessity of having to employ outside debt recovery agencies. Where an opportunity exists, the Department is prepared to request tenants enter into a 'time to pay agreement'. If it becomes necessary to proceed to the Small Claims Court, bailiffs are utilized to serve the notices. In the opinion of Mr Hunter, the Department only has one real area of concern and that is the procedure of obtaining interstate judgements against defaulters who have left the Northern Territory. The action in southern courts requires the use of solicitors, and can only guarantee the judgment in favour of the Department, not payment of any outstanding amount.

Territory Health Services

Territory Health Services was represented by Ms Susan Korner, Acting Regional Director, Central Australia; Ms Marjorie Bowen, General Manager, Alice Springs Health Services; and Mr Gerald Burrows, Finance Manager, Alice Springs Hospital. The Committee was advised that where the Department has a debt to pursue and all reasonable attempts to obtain the payment have failed, a commercial debt collection agency is utilised. When questioned on possible areas of concern in the recovery of debt, the Committee was advised that there are two distinct categories that can be classified as at risk:

- compensable patients, which can also include third party interstate claims, where the matter could be extensively delayed for various legal reasons prior to proceeding to court; and
- overseas visitors who are admitted to hospital and lack sufficient cash resources to pay the bill on being discharged.

Power and Water Authority

Mr John Baskerville, Regional Director, Power and Water Authority, advised the Committee that, if all else failed, the Authority placed the recovery of outstanding debts in the hands of a commercial debt collection agency.

Mr Baskerville stated it is generally accepted that, within the domestic area, there are a large number of individuals who are the recipients of some form of benefit. The Authority treats each overdue account on a case by case basis and, if it is considered appropriate, a time to pay process is approved which allows the client a further five working days in which to lodge the outstanding amount. He went on to say that the Authority applies a further two days to allow for any unexpected delays through Australia Post. The implementation of this process has resulted in a payment rate of 90%. If the time to pay procedure is not adhered to, normal recovery action is then taken. A suggestion that was raised in conversation was the requirement for a security deposit as each application is made. The Committee acknowledges a deposit could act as a deterrent but this approach would have to be processed by the Authority through the normal ministerial channels.

An innovative approach to the control of bad debt by the Authority has seen the introduction of pre-paying electricity meters both in the rural areas and around the Alice Springs township itself. The phasing in of these meters in the public housing area, and acceptance by the tenants, was facilitated by the Department of Housing and Local Government.

Northern Territory Police

Mr Robin Bullock, Commander, Southern Region Operational Services Command of the Northern Territory Police appeared before the Committee and spoke to the submission signed by the acting Commissioner, Mr Dave Moore. This submission not only covered the current outstanding debt referred to by the Auditor-General, but internal debt owed to the Police as a result of a number of chargeable services for which the users pay.

Normal issue of debit notes, followed by written reminders and eventually appropriate legal action ensures that the latter level of debt is contained and controlled.

Conclusion

After completing the hearing session in Alice Springs, the Committee was in a position to thoroughly review all agency submissions lodged during its absence. Committee members generally agreed that all agencies had a form of debt recovery process in place and there would not appear to be an abnormally high percentage of outstanding debt across the board. There are write-off procedures that must be strictly adhered to and each individual agency has the capacity to thoroughly investigate each debt to determine the realistic opportunity for recovery. The Committee also noted at the time of the initial inquiry a common thread through a number of agency submissions was that the efficiency in the recovery of debt had been limited by the forced closure of two debt collection agencies in Darwin.

WARRANTS, FINES AND FEES ISSUES

Northern Territory Police

At the public hearing in Alice Springs, Commander Bullock provided the Committee with the following table:

Table 1 Outstanding Amounts for Warrants

Year	Number	Amount (\$)	Average	Minimum	Maximum
87	903	203,747.40	225.63	30.00	20,025.00
88	1352	249,078.20	184.23	25.00	1,050.00
89	1561	358,003.95	229.34	29.00	425.00
90	1208	287,653.60	238.12	10.00	5,025.00
91	1333	324,446.92	243.40	30.00	2,025.00
92	1640	378,674.50	230.90	35.00	2,350.00
93	766	175,712.87	229.39	30.00	2,045.00
94	3273	633,785.20	193.64	35.00	2,045.00
95	2120	483,710.50	228.16	30.00	7,525.00
96	5056	1,171,635.10	231.73	20.00	5,045.00
97	1916	583,089.20	304.32	30.00	2,585.00
Total		4,849,537.44			

This table depicted the amount of outstanding warrants from 1987 through to June 1997. A covering note to the table explained that the 'figure should not be considered a fixed amount recoverable by the Government, as some warrants relate to failure to appear on bail and the court has a discretion whether to order forfeiture of the full amount of the warrant'.

Commander Bullock, while presenting the submission, explained that:

[I]t's important to recognise that if a person fails to appear on bail and there is an issue of estreatment of the money, the Court has a discretion to decide whether or not that money will be estreated or claimed. So that money may not in actual fact be recoverable by the Government. Warrants of commitment can also be issued, among other things, in default of payment of a sum of money ordered to be paid, whether by way of fine or otherwise. The warrant of commitment document itself requires a person named in the warrant, such as a member of the Police Force, to apprehend and convey the defendant to the nearest jail and deliver him/her to the keeper thereof and the keeper is commanded to receive the defendant into custody for a set period unless the set monetary sum inclusive of a warrant fee be sooner paid.

Commander Bullock also stated:

I think it's relevant to note that in many instances the subject of a warrant will elect not to pay the fine and will either do the appropriate term in custody or perhaps be granted a community service order. So while there is a monetary figure, the point we're trying to make is that it is not necessarily recoverable by Government.

The Committee acknowledged the reality and importance of the make-up of the overall debt figure, and considered it is certainly an issue that must be closely examined prior to the publishing of any future financial figures implying level of debt to Government.

In attempting to come to grips with this intangible amount, the Committee was also aware of the make-up of individual debts, in that when the warrants are issued the financial components comprise a base fine, relative to the offence committed, plus a significant additional cost which accrues as a result of non action by the individual. The second layer of debt has no link to the original offence.

Upon further questioning, Commander Bullock advised that there are three methods by which the debt can be expiated. These methods are either by a period of custody, a community service order or by payment of the full amount.

In considering these three issues, the Committee was provided at a later date with advice that Section 33 of the *Sentencing Act*, in conjunction with Division 2A of Part IV of the *Justices Act*, takes away the option of community service orders for any offence involving the Territory Infringement Notices Enforcement Scheme (TINES). The only option available after the issue of a warrant for non payment of a fine for an offence under this scheme is imprisonment or full payment of the amount outstanding. This issue will now become crucial as the Northern Territory moves to the introduction of red-light and speed cameras, as they also fall within the TINES.

The submission by the Northern Territory Police clearly sets out the following procedure by which the debts are pursued:

In relation to outstanding fines the process commences with the input of all warrants issued by the court, into the Police Information and Control System at the Central Warrants Bureau, located at the Peter McAulay Centre. All Police Officers then have access to this data, with a hard copy of the warrant details forwarded to the appropriate Police Station for execution. In Darwin and Alice Springs there are dedicated members tasked to execute warrants, checks also occur on a regular basis where appropriate.

Commander Bullock was able to advise the Committee that in the Alice Springs area there is a warrants and inquiry section with two officers dedicated to court processes including the processing of warrants. When the Committee investigated the opportunity of deploying other resources into the area, in particular the use of auxiliary personnel rather than taking police off-line, Commander Bullock explained that the role and function of the auxiliaries would need to be reviewed as under current employment conditions they do not have the power of arrest. He stated:

They are specifically tasked and trained in the areas of front-counter, communications and watch-house duties. One of the real issues is that a warrant by its very nature confers the power of arrest, which is a Police power under legislation.

The Committee made the observation that although the Police have responsibility under legislation to carry out certain functions, the community perception would appear to be that their primary role should be crime prevention and law enforcement rather than petty debt collection.

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The Police submission raised a further issue in that '(t)he execution of warrants is a resource intensive activity ... (and therefore) ... it may be worthwhile considering the privatisation of this function'. This matter was discussed at length with Commander Bullock, but it proved to be an issue that could not be adequately addressed in the isolation of the Public Accounts Committee inquiry. The Committee is of the opinion that the matter is a significant shift in the cultural approach to the execution of warrants and as such it will require the involvement of a number of agencies in the early stages to consider all aspects in the outsourcing of this function. The Committee viewed it as essential that Government gives consideration to appropriate agencies being tasked with the responsibility of investigating this aspect.

Any consideration of outstanding warrants will need to take into account the fact that although the record provided by the Police covers the period 1987 through to 1997, under section 91(4) of the *Justices Act*, a warrant of Commitment becomes null and void if not executed within 10 years of being issued. In later evidence, the Committee was advised that procedures were available to have a further warrant issued if it was appropriate. The question which must be considered is how the overall recorded debt figure is reduced if there is no mechanism in place to take into account the 10 year life cycle of a warrant.

The Police report also highlighted what was considered to be a major deficiency in the recording mechanisms which are available to support the warrants process in

the limitations of the computer system caused by the incompatibility of the Police Internal Communications System (PICS) and the Integrated Justice Information System (IJIS). Advice has been received that programs can be developed to provide scanning capabilities. Scanning capabilities will for example, provide the ability to flag outstanding warrants during licence renewals.

Commander Bullock advised that the only 'scanning' occurring at the moment is where a member of the public is spoken to in the course of the conduct of police duties for whatever legitimate reason.

The Auditor-General made specific mention of the IJIS in his *End of Financial Report 1996* in that:

previous audits by the NTAGO have reviewed various aspects of the Integrated Justice Information System (IJIS) and the latest audit of IJIS in November 1995 identified controls that could be incorporated into IJIS for utilisation of the system as a debtors system. Courts Administration however had indicated that IJIS was not intended to be a debtors system, because that would require an interface to the Government Accounting System which was not considered feasible.

Office of Courts Administration

Mr John Flynn, Chief Executive Officer of the Office of Courts Administration, appeared before the Committee at the public hearing in Alice Springs on 11 June 1997.

Mr Flynn advised that he had occupied the position for approximately four years and his first task in commencing with the Department was to initiate a procedure that ensured the issue of warrants occurred within a time frame of one month after the court order was made. Prior to that there were situations where they had not been produced for two or three years after the period during which they should have been issued.

Mr Flynn expressed the view that in his experience, and after consulting with his counterparts interstate, the earlier the turn-around was achieved, the greater the chance of payment being made. One aspect Mr Flynn advised he had no control over, and by which this early processing could not be sustained, was where the courts provided individuals with time to pay. Although the average period granted was two months, there had been instances where magistrates had allowed an application for six months. Despite the fact that he was unable to provide statistical data to outline the extent of this problem, the Committee appreciated that there would have been numerous instances where this option was made available.

The Committee heard evidence that the local shifting population (although more stable than in years gone by) presented the Police with difficulties in locating individuals throughout the Northern Territory. This information certainly supports Mr Flynn's views on the advantage of the early issue of warrants.

Mr Flynn provided a financial summary sheet indicating that as at 23 May 1997 there was a total of \$1.3m in outstanding court orders/fines. He advised this figure would be indicative of a normal six week period.

Table 2 Warrants to be Issued as of 23/05/1997

DARWIN - NICHOLS PLACE			ALICE SPRINGS			KATHERINE		
CODE	LOCALITY	AMOUNT	CODE	LOCALITY	AMOUNT	CODE	LOCALITY	AMOUNT
NP	NICHOLS PLACE	971562.67	AS	ALICE SPRINGS	149595.22	KA	KATHERINE	66566.10
AL	ALYANGULA	22010.00	AC	ALI-CURUNG	2500.00	BE	BESWICK	810.00
BA	BARUNGA	0.00	EL	ELLIOTT	675.00	BO	BORROLOOLA	1380.00
DR	DALY RIVER	0.00	HE	HERMANNSBURG	7820.00	KAL	KALKARINGI	1200.00
GA	GALIWINKU	1370.00	PA	PAPUNYA	4755.00	LA	LAJAMANU	8660.00
JA	JABIRU	8110.00	TC	TENNANT CREEK	18135.00	NGK	NGUKURR	4180.00
MA	MANINGRIDA	5710.00	YUE	YUENDUMU	8680.00	TK	TIMBER CREEK	1300.00
MI	MILIKAPITI	0.00	YUL	YULARA	4170.00			
NG	NGUIU	320.00						
NM	NUMBULWAR	200.00						
NU	NHULUNBUY	26205.00						
OE	OENPELLI	2780.00						
PU	PULARUMPI	6145.00						
RA	RAMINGINING	0.00						
WA	WADEYE	14570.00						
YIR	YIRRKALA	10630.00						
	TOTAL	\$1,069,612.67			\$196,330.22			\$84,096.10
							ALL COURTS	\$1,350,038.99

When questioned on the annual revenue through the timely payment of fines, Mr Flynn suggested that 70% of offenders actually paid their fines, and this netted approximately \$3m in revenue to the Office of Courts Administration.

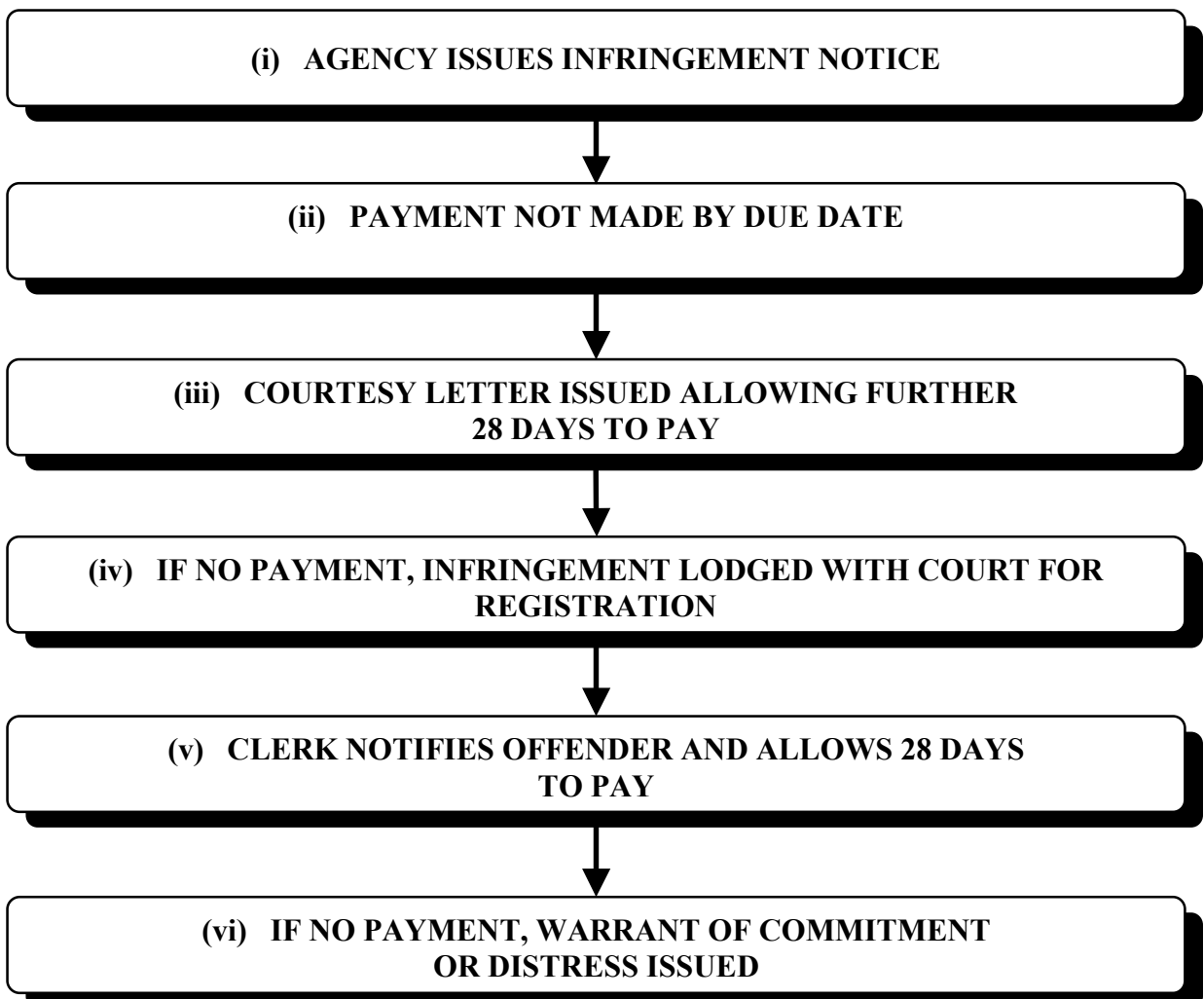
An innovation for the payment of any outstanding fees has been the ability to pay all outstanding fines at any Australia Post Office, as well as the introduction of EFTPOS facilities within the Court precincts.

In seeking to clarify the various issues associated with warrants, the Committee was made aware of the impact the Territory Infringement Notices Enforcement Scheme (TINES) has on the court process. These notices can be issued by many Agency representatives, examples being:

- Members of the Northern Territory Police Fire and Emergency Services
- Inspectors of the Darwin City Council
- Conservation Officers of the Parks And Wildlife Commission
- Veterinary Officers and Stock Inspectors of the Department of Primary Industries and Fisheries
- Work Health Inspectors
- Parking Inspectors of the Northern Territory University who can issue a notice for unauthorised parking on their campus

In regard to the payment of TINES, Mr Flynn provided the following flow chart:

TERRITORY INFRINGEMENT NOTICES (TINES)



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It should be noted that the only time a TINES matter would appear in court is where an offender challenges the notice by the Clerk [point (v) above].

When considering the impact of the TINES, it is important to note the information previously provided to the Committee, ie. that if non payment occurs and a warrant is issued, Community Service Orders are not an option to expunge the outstanding amount. An appropriate jail term or full payment of the warrant amount are the only alternatives available to the offender.

When asked to provide the Committee with his thoughts on how the whole process could be improved, Mr Flynn raised the issue of attaching a sheriff's office to the Office of Courts Administration, with one officer in Alice Springs and two in Darwin. He was of the opinion that instead of warrants being forwarded to the Police, they would be taken up by the sheriff's office with the Police still having access to the warrants, through the IJIS system.

He considered that if this model was accepted, the benefit would be in the fact that all facets of the debt collection process could be monitored and remain accountable within the Office of Courts Administration. When questioned on the prospect of privatisation of the whole process, Mr Flynn stated he would have difficulty supporting the notion because of its sensitive nature.

Throughout the hearings, no one witness was able to provide the Committee with any substantiated evidence to confirm that there was a link between the different methods of expiation of the debt and a corresponding deletion of the name and amount from the outstanding warrants listing. Mr Flynn was able to take some comfort in the fact that 'if someone has paid a fine and then they are served with a warrant, we then hear about it'. The absence of any recorded process to ensure the warrant listing accurately reflects the current status is of concern to the Committee in light of the matter being raised by the Auditor-General in his report of August 1996, just over two years ago.

A refinement Mr Flynn considered an essential tool in the management of the warrant process was the ability of IJIS to automatically issue receipts upon payment of a fine. When questioned further, he advised that he had made a recommendation seeking inclusion of this facility approximately three years ago but despite some considerable effort to have a suitable program implemented, nothing was achieved. He was also able to advise the Committee that he had been recently informed that within four months the IJIS program was to be enhanced to a stage where, upon payment of a fine, a receipt would be issued and the debt would be deleted.

In April 1998, Mr Martin Toohey, Chief Executive Officer of the Office of Courts Administration, and Mr John Flynn (who had vacated the position) appeared before the Committee.

As a follow up to the previous hearing in June 1997 in which Mr Flynn stated that he had been provided information that IJIS was to be upgraded within a period of four months to actually produce the receipt and delete that debt, the Committee was advised by Mr Toohey that the upgrade had still not been accomplished. He did however advise that he was led to believe

that the upgrade was to be completed in the current financial year. The Committee can report that they have since been advised by Ms Gaye Ramsay, IJIS Administrator, Office of Courts Administration, that a receipt and debt deletion enhancement has been completed and is in operation.

The subject of outstanding fines (prior to the issue of a warrant) and the number of offenders actually paying the fine in the first instance, was raised again by the Committee as a result of the financial summary sheet provided by Mr Flynn at the hearing in Alice Springs on 11 June 1997 (Table 2, p. 12 refers). Mr Toohey advised the Committee that he had downloaded a current set of figures from IJIS that morning and the outstanding amount was \$629,686. He considered that was a realistic sample of a six week period of outstanding fines.

Based on the known annual revenue of the Office of Courts Administration, the latest figures provided by Mr Toohey would indicate 58% of fines were paid without any form of recovery action, which is well below the 70% indicated by Mr Flynn during his first appearance before the Committee. As a further check, a request was given to the IJIS Administrator to provide a report on a current six and a half week period. The report provided to the Committee was for the period 15 August 1998 to 30 September 1998 and the value of outstanding fines for that period was \$280,850. This latest amount does little to assist in determining actual percentages paid to the courts prior to a warrant being issued. What it does show however is a major reduction in the figures over an 18 month period. The reason for this decline cannot be determined by the Committee at this stage of the report writing process, but it is a matter of significance which can be followed up in the context of the recommendations contained within this Report.

SPEED CAMERAS AND RED LIGHT CAMERAS

Because of the experience in other States of a substantial increase in infringement notices through the introduction of red light and speed cameras, the Committee took the decision to consider this aspect within the framework of the outstanding fines and fees inquiry.

At this stage, the Northern Territory is the second last State/Territory to introduce the cameras. The major benefit in the timing of their introduction has been the ability to purchase the most technically advanced digital equipment available in Australia.

Statistical data provided by the Office of Courts Administration indicates that in the 10 week period since the introduction of the speed cameras (1 November 1998 to 14 January 1999) there has been a total of \$329,765 in infringement notices issued and the amount of \$222,000 has been paid. This represents an achievement of 67% payment of the fines without any recovery action being implemented.

The \$329,765 also includes a victim levy fee (a flat \$5.00 per notice) of \$25,960 of which \$17,325 has been paid. This indicates that over the 10 week period 5,192 infringement notices were issued and 3,465 have been paid.

To provide appropriate administrative support to address the additional payments, Mr Toohey advised that the Office of Courts Administration has taken the decision to establish a

dedicated unit with the sole responsibility of processing the speed camera infringement notices. While this may overcome the required clerical arrangements to service this new area of debt recovery, there still remains the long term impact unpaid speeding fines will have on the outstanding warrants schedule. On the figures provided to the Committee, there is every indication that there could be in excess of 100 new warrants a week that will be required to be processed.

The Committee is convinced that the current warrant processing procedures have been ineffective to date and the additional workload imposed as a result of the speed and red light cameras must be addressed by Government as a matter of priority.

There is a real need to look at a complete overhaul of the debt collection process where agencies issue infringement notices. Current procedures have the courts and the Police operating as the debt collectors for individual agencies. To date no attempt has been made to critically examine the cost efficiency of the whole process, nor to look at the inefficiencies of the system from the courts' point of view where it is dependent on the resources of another agency over which it has no control. There would appear to be a distinct lack of ownership of the current process.

Issues which need to be considered include:

- (a) whether user agencies should be required to pay the courts and the Police a processing fee;
- (b) if a separate dedicated work unit, similar to those already operating within Victoria, South Australia and Western Australia, should be established with responsibility for all aspects of enforcement of court fines and TINES,;
- (c) the practicalities of permitting payment of warrants by credit card, either across the counter or by telephone;
- (d) acceptance of payments at any police station; and
- (e) introduction of a sustainable policy to recognise the point at which it is no longer financially viable to pursue an outstanding warrant. This policy could include issues such as the age of the warrant, the value and the history of any attempted service details.

In addition to the above, the Committee has been aware of the problems associated with the service of interstate warrants within the Northern Territory. Examples have been provided where individuals have either not known nor received formal advice of any outstanding infringement notices. The responsibility of serving any resulting warrant lies with the Northern Territory Police. It has been suggested to the Committee that in cases where there has been no previous notification received, a physical confrontation is likely to occur when the Police attempt to serve the warrant. The individual is informed that the only two avenues available are an immediate cash payment of the full amount or in default the person is arrested and brought before a magistrate who then deals with the matter under local jurisdiction.

In addressing many of the issues arising from the introduction of speed and red light cameras, the Committee was able to draw on the experiences of a number of other States as they too sought to rationalise their individual court fines and infringement notices procedures.

Victoria

On 4 July 1997, the Committee was fortunate enough to have Professor Richard G. Fox, Professor of Law at Monash University, appear before them. Professor Fox is the author of *Criminal Justice on the Spot: Infringement Penalties in Victoria* (copy of the background pages are at Attachment C) and was attached to the Victorian committee investigating outstanding fines and fees within the Victorian Court system. In talking with the Committee, Professor Fox provided an insight into what the Northern Territory Government may well encounter as a result of an increase in infringement notices through the proposed introduction of speed and red light cameras

Professor Fox described the Victorian experience in which all categories of fines and infringement notices are combined into the 'Infringement Notice System' which operates through the Penalty Enforcement by Registration of Infringement Notices (PERIN) Court. He advised that the principal aim of the Victorian system was to keep people out of court at every level thus reducing the court resources and the magistrates' time.

The Victorian process for enforcement of infringement notices consists of:

- the issue of an infringement notice;
- a reminder letter posted out with an invitation to pay the fine; (Previous action was to have the agency appear in court to have a summons issued. That procedure was considered too cost inefficient and not effective.)
- if payment is not received, the issuing agency approaches the Registrar of the Court and registers the unpaid notices as if they were fines imposed by a Court;
- a letter is then forwarded from the Registrar demanding payment on behalf of the Court; and
- if there is still no payment, the Sheriff has the authority to demand property, with the alternative being a period of jail.

Professor Fox stressed to the Committee that the major benefit, as far as the Victorian Government was concerned, was that at no point in time would a Magistrate or formal court procedure be used to process the matter.

Western Australia

On 1 January 1995, the Government of Western Australia implemented an enforcement strategy system that combined court fines and infringement notices. The Fines and Infringement Notices Enforcement System (FINES) was designed to increase the number of infringement notices and court fines being paid by minimizing costly enforcement actions.

This initiative had the flow-on effect of reducing the number of people going to jail.

The system was also designed to release police officers from fine enforcement allowing them to concentrate on their perceived core function.

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A major change of approach for non payment of infringement notices and/or court fines saw the replacement of imprisonment with the suspension of driver's or vehicle licences. For ease of operation, suspension notices are served by post to the offender's last known place of residence (as registered on their driver/vehicle licence), or the address most recently provided to the court. To address the issue of individuals driving while suspended, the penalty for driving under a fine default has been set at a minimum of nine months cumulative driver's licence suspension. This penalty is similar to that imposed for driving while under a court driving suspension.

To ensure sufficient options are available to the courts, the system allows for the prospect of seizure of goods, compulsory community work or imprisonment where a licence is not available, or more importantly where a suspension has been deemed ineffective.

Prior to the introduction of the FINES, it was found that the use of work and development orders, as a default option, was both costly and ineffective particularly where fine defaulters had the capacity to pay but inappropriately sought a work and development order. Community work orders were intended as an alternative to imprisonment and not as an alternative to the payment of a fine. Closer scrutiny of individuals at the time of assessment, has seen a marked improvement in this area.

Previously, many court orders exercised the power of veto to prevent unpaid fines being converted to a work and development order, and this left imprisonment as the only option. This power has been removed under the new system and this measure, along with other options now available, has seen a significant reduction in the rate of imprisonment for fine defaulters.

According to a report entitled *Review of Fines and Infringement Notices Enforcement in Western Australia*²:

[the] system is now recognised as the benchmark for fine enforcement systems in Australia. New South Wales has recently tabled similar legislation Queensland and South Australian Governments are also considering the adoption of Western Australian legislation.

The Australian Bureau of Statistics (ABS) has provided figures in the above report which show that the current system achieves a 75% payment of all court fines prior to the need to issue a warrant. This was recorded at 40% prior to the implementation of FINES. Under the new scheme, the ABS report that 95% of police traffic infringement notices are now paid before enforcement by a purposely established Fines Enforcement Registry.

The Western Australian Government has taken this one step further with the introduction of an inter-agency service agreement known as the Enhanced Traffic Enforcement Project (ETEP) with the signatories being the Commissioner of Police; the Director-General, Transport; the Director-General, Ministry of Justice; and the Managing Director, Insurance Commission of Western Australia.

² Supplied by the Ministry of Justice and Western Australia Police Services

The overall objective of the ETEP is to:

... provide the detection and enforcement capacity to positively modify road user behaviour to achieve identified road safety outcomes. This is to be achieved by the development and implementation of a fully integrated system that links the detection, processing and enforcement functions of offences detected by speed and red light cameras.

The target of the ETEP is the same as that set by the Ministerial Council on Road Safety and Road Safety Council which is:

a reduction of road death and serious injuries by more than one third of the 1994-96 average by the year 2001. The flow-on from reaching this target in addition to the lives saved and reducing serious injuries, would be the realisation of substantial savings in the health system, third party insurance costs and in reduced loss of productivity. The savings in third party insurance payout, hospitalisation costs and loss of productivity when the year 2001 targets are met, are in the order of \$630 million.

South Australia

In September 1998, new legislation entitled Statutes Amendment (Fine Enforcement) Bill 1998 was enacted.

This legislation came about as a result of an Inter-Agency Project Team (IAPT) formed at the request of the Attorney-General on 24 October 1997.

Mr Wayne Johns, Chairperson of the IAPT, in conversation with the Secretary of the Northern Territory Public Accounts Committee, provided the following information.

The task of the IAPT was to develop the details for a system of collection of fines and expiated fees based on recommendations contained in the *Report of the Review of the Collection of Fines and Expiated Fees in South Australia*³.

The agencies involved in this project were:

- Department of Treasury and Finance – Revenue and Costs
- Police Department – Detection, Prosecution and Enforcement
- Courts Administration Authority – Collection and Enforcement
- Department for Correctional Services – Enforcement
- Family and Community Services – Enforcement (Youth) and Social Justice
- Division of State Aboriginal Affairs – Social Justice and Enforcement
- Department of Transport, Urban Planning and the Arts – Enforcement Sanctions
- Local Government Associations – Prosecution and Enforcement
- Aboriginal Legal Rights Movement – Social Justice (Observers)

³ Supplied by Mr Wayne Johns, Attorney-General's Department, South Australia, dated October 1997.

The group considered the following outcomes essential if Government's objectives were to be achieved:

- ensure that Government's commitment to provide for those that can pay do pay;
- strengthen the integrity of fines and expiation fees as penalties;
- rely on fines and expiation fees to secure compliance with road traffic laws as part of the Government's road safety programs;
- improve the rate of payment of fines and fees;
- ensure the minimisation of enforcement actions;
- remove imprisonment as a sanction for default in payment;
- restrict the availability of community services as an alternative to payment to those who genuinely cannot pay;
- ensure that systems are socially just and culturally sensitive by providing adequate options to those who are in real hardship and have special needs or are unable to pay; and
- improve the range of payment options available.

Mr Johns advised that an area of concern to the IAPT was the previous imprisonment factor which the group considered was an outdated and inappropriate sanction as many defaulters did not see imprisonment as a deterrent and were prepared to use it to expiate unpaid fines. The IAPT considered this mentality took away the purpose of the primary sanction, and the consequences were that fines were not collected and individuals were imprisoned not for a crime but as a penalty against the non recovery of a debt.

In considering the community service issue as an alternative to payment, the group was of the opinion that along with imprisonment, community service was not seen as a deterrent but an easy method of erasing unpaid fines. There was also considered to be a public perception that current methods were ineffective and inefficient. They were perceived as soft options allowing defaulters to claim hardship and thereby frustrate the system by converting fines to community service.

In a similar vein to Western Australia, the primary sanction for defaulting on a payment was the suspension of a driver's licence, and failing that, the issue of a warrant for the seizure and sale of goods. In considering a form of licence suspension, the Western Australian model of allowing a suspension to remain in place until the fine was paid in full was discounted and the decision was taken to introduce a suspension for a fixed term. Mr Johns advised that in taking this decision, the volume of licence suspensions in Western Australia was taken into account.

In an effort to further address the problem experienced in Western Australia, and to discourage any increase in driving without a licence, two new offences were created, comprising 'drive whilst licence suspended for fine default' and 'drive whilst licence cancelled for fine default'. Mr Johns emphasised the fact that the principle behind targeting

licence suspension was 'that it must be recognised as one of the alternatives to a sentencing option'.

In a similar approach to the Victorian model, they saw that the collection and enforcement of fines and expiation of fees would be best served by the establishment of a dedicated unit with a specific focus on collection.

With a population base similar to that across the Northern Territory, the IAPT found it necessary to critically address the cultural requirements of Aboriginal communities. This requirement was met by employing Aboriginal Justice Officers in an educative role to inform the Aboriginal communities of the new penalty management procedures and to assist Aboriginal offenders to satisfy their fine obligations through the most appropriate options. The officers also took on a general educative role to provide links between the courts and the Aboriginal communities.

Finally, Mr Johns spoke about the perennial problems all States face with the backlog of outstanding debts through overdue warrants. He maintained that:

... for the successful enforcement of any proposed new scheme, it is essential an equitable write-off policy for outstanding existing fine be implemented. The policy should provide for the administrative culling of appropriate outstanding fines and unexecuted warrants so that the new system is not overburdened with debt which is not recoverable. The policy needs to recognise debt which is no longer economically viable to pursue.

CONCLUSIONS

1. Every indication given to the Committee is that the current method of enforcing warrant expiation is ineffectual and does not keep pace with the rate of output.
2. As indicated by the Auditor-General in his *End of Financial Year Report* of August 1996, there currently exists an unacceptable level of outstanding fines and fees. In investigating this issue further, the Committee is convinced that the process has been ineffective to date and the additional workload imposed as a result of the introduction of the speed and red light cameras will only compound the problems.
3. The volume of warrant numbers and their monetary value is such that only a co-ordinated and consistent approach to reducing the level will have any chance of an acceptable level of success.
4. The Committee is of the opinion that a change in structure will be necessary to achieve any level of success in addressing the cost efficiency of the whole process. The option presented by Mr John Flynn of the Office of Courts Administration to create a separate Sheriff's Office is just one avenue that could represent a practical alternative method of operation.
5. The lack of an appropriate "write-off" policy for outstanding fines based on a limit of time associated with the realistic viability of pursuing minor levels of debt would appear

to be a major area of deficiency. If an appropriate scheme is to be considered it must also have the flexibility to rely as a basic principle on a common sense approach.

RECOMMENDATIONS

1. That Government acknowledges the fact that despite the Auditor-General's detailed report in 1996 into the level of outstanding debt through unexecuted warrants, there has been no significant reduction in the level of debt.
2. That Government acknowledges the long term impact on the debt collection procedures as a result of the introduction of speed and red light cameras.
3. That Government acknowledges the requirement for an appropriate process of debt collection which addresses the volume of infringement notices within TINES and the cost ineffective use of the Courts and the Police.
4. A task force comprising the Attorney-General's Department, the NT Police, Fire and Emergency Services, the Office of Court Administration and the NT Treasury be formed to consider appropriate strategies to reduce the level of outstanding debt. A number of key issues which will need to be considered include:
 - the current use of courts to process infringement notices which are incurred as a result of an executive decision of government. Other States' experiences are that these matters are removed from the court process which is supported by appropriate procedures/strategies and legislation;
 - the possible use of independent units to manage the complete collection process with responsibility for those outcomes based on the philosophy of securing payment early in the process;
 - the introduction of a sustainable policy to recognise the point at which it is no longer financially viable to pursue an outstanding warrant. This policy could include issues such as the age of the warrant, the value and the history of any attempted service details; and
 - the introduction of specific legislation to deal with the issues of increasing fine collection without enforcement action which would result in defaulters going to prison. This particular issue has been debated at length in other States.
5. The task force be responsible for providing status reports to the Minister responsible for the NT Police, Fire and Emergency Services and the Minister responsible for the Office of Court Administration.
6. That consideration be given for the task force to review the appropriateness of current resources to ensure existing procedures will not promote any expansion of the list of outstanding warrants and subsequent level of debt in the interim.

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ATTACHMENT A



**Legislative Assembly
of the Northern
Territory**

PUBLIC ACCOUNTS COMMITTEE

INQUIRY INTO OUTSTANDING FINES, FEES AND DEBTS

The Public Accounts Committee has a responsibility under Standing Order 21A to report to the Legislative Assembly with such comments as it things fit, any item or matters in or arising in connection with the receipt or disbursement of the moneys to which they relate, to which the Committee is of the opinion that the attention of Parliament should be drawn.

As a result of the Auditor-General's End of Financial Year Report of February 1996, the Committee is currently conducting an inquiry into the issue of outstanding fines within the Northern Territory Courts Administration System.

The Auditor-General, in his report, indicated that unexecuted warrants through the Court process (associated with outstanding fines and fees), held by the Northern Territory Police Force totalled approximately \$4.4 million. He also suggested that it appeared the value of annual outstanding court fines and fees was increasing.

The Committee, in considering this, took the decision to expand the area of review by also involving the issue of outstanding fees and other related debts throughout all Government agencies.

The Committee has reason to believe that the figure of \$4.4 million in outstanding fees may be substantially more if all Government agencies responsible for the administration of fines and fees are considered.

It is essential that the Committee be in a position to clearly identify and determine the gross monetary value of all areas where fines, fees and other related debts are outstanding. The Committee's goal is to be in a position to report to Parliament with meaningful recommendations to overcome any areas of deficiency.

The Chairman of the Committee wants to make it clear that this inquiry is not one seeking to find fault but is aimed at addressing current procedures with the view of introducing appropriate mechanisms to reduce the overall debt due to Government.

The Committee will be conducting a hearing in Alice Springs on Wednesday, 11 June 1997, with a further hearing in Darwin late June/July and, if required, hearings in other centres at dates to be determined.

Any individual who wishes to provide the Committee with a submission on the issue of outstanding fines, fees and other debt related issues can do so by writing to:

The Chairman
Public Accounts Committee
Legislative Assembly of the Northern Territory
GPO Box 3721
DARWIN NT 0801

The Committee will consider all submissions and may invite parties to give supporting evidence at public or *in camera* hearings. Proceedings of the Committee and its witnesses are protected by Parliamentary privilege.

Submissions will be accepted until **Friday, 30 May 1997**. Further information may be obtained from Mr Terry Hanley or Mrs Judy Herring on 89461 438 or 89461 465 or fax 89816 158.

Loraine Braham, MLA
Chairman

ATTACHMENT C

EXTRACT FROM

CRIMINAL JUSTICE ON THE SPOT
Infringement Penalties in Victoria

by Richard G. Fox

ISBN 0 6452 22987 2