Public Sector
Performance Report 2004

AUDITOR GENERAL
for Western Australia

Serving the Public Interest

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THE SPEAKER
LEGISLATIVE ASSEMBLY

THE PRESIDENT
LEGISLATIVE COUNCIL

PUBLIC SECTOR PERFORMANCE REPORT

I submit to Parliament my first Public Sector Performance Report for 2004 pursuant to section 95 of the *Financial Administration and Audit Act 1985* (FAAA). This Report contains six items that have arisen from work undertaken pursuant to section 80 of the FAAA.

D D R PEARSON
AUDITOR GENERAL
May 5, 2004

Contents

Investigation of Breaches of Industrial Laws

Overview

The Building Industry Special Projects Inspectorate (BISPI) of the Department of Consumer and Employment Protection (DOCEP) monitors compliance of industrial laws, awards and agreements primarily in the building and construction industry and investigates and, where necessary, prosecutes when breaches occur.

Key Findings

The examination found:

❑ *The BISPI investigates all complaints received and reaches conclusions based on sound processes and evidence.*

❑ *The effectiveness of the BISPI is impaired by the frequent refusal of individuals to participate in BISPI investigations and by limited pro-active monitoring and education.*

❑ *Procedural improvements are needed to some aspects of BISPI operations including to security over sensitive records and to the investigative review process.*

What is Being Done?

DOCEP has advised that the following changes are being implemented:

❑ Security over access to electronic and paper based records is being tightened.

❑ The decision to close off each investigation will be reviewed by a senior person who is sufficiently independent of the investigation.

❑ Approval for additional staff resources is currently being sought.

❑ BISPI has increased the capability of its complaints and investigation register and a more comprehensive information support system will be available in late 2004 or early 2005.

What Else Should Be Done?

DOCEP should introduce a quality review program of its investigations. DOCEP agrees with this recommendation.

Background

Examination of the BISPI was undertaken in response to public concern raised in late 2003 about their independence.

The BISPI is a branch of the Compliance and Education Directorate (the Directorate) of DOCEP's Labour Relations Division. It was established in March 2001 after the abolition of WA's Building Industry Task Force with the role of:

❏ providing advice to employees, unions, employers, contractors and sub contractors in the building and construction industry primarily on rights and legal obligations under industrial laws, awards and agreements

❏ carrying out regular inspections of time and wages records of employers and sub contractors and visiting building sites to monitor compliance

❏ investigating alleged breaches of industrial laws, awards and agreements

❏ facilitating the laying of complaints by employees, union officials, employers, contractors or sub contractors about trespass, intimidation, threats and any other criminal activity with the appropriate officers within the Police Service.

BISPI currently has one Industrial Inspector and one Senior Investigating Officer. Their powers and authority are provided under *Western Australia's Industrial Relations Act 1979* (IR Act) and the *Commonwealth's Workplace Relations Act 1996*. This allows them to investigate complaints if they relate to a breach of the IR Act such as 'freedom of association' (FOA) and 'right of entry' (ROE) or, of State based awards or agreements. Whilst BISPI does provide advice in respect to Commonwealth awards and agreements, the Federal Interim Building Industry Taskforce investigates FOA and ROE matters relating to Commonwealth legislation.

Although the BISPI has no penalty powers of its own, it can take action against individuals or organisations in the Industrial Relations Commission or the Industrial Magistrates Court if it considers that it has sufficient evidence.

What Did We Do?

The examination assessed whether the BISPI:

❏ has adequate policies, procedure and guidelines in place

❏ takes a logical and consistent approach to their investigations

❏ is fulfilling its mandate.

What Did We Find?

Policies and procedures

All BISPI investigations should be carried out according to established, comprehensive and legally based operational policies and procedures. In this way, the public can have confidence that investigations are conducted fairly and the conclusions reached are reliable.

The examination found:

❑ BISPI's policies and procedures are reasonable though file review and sign-offs should be improved. Prior to an investigation being closed, a senior person who is sufficiently independent of the investigation should review the file and ensure an appropriate decision has been reached. Forty eight per cent of the files in our sample were not subject to this kind of review. The Department has agreed to amend its procedures to provide this kind of assurance.

❑ Overall, BISPI is following its documented policies and procedures. This included:

❖ responding to all complaints and informing complainants of action to be taken

❖ conducting appropriate investigations. Each investigation we examined was conducted in accordance with BISPI's procedures and decisions reached were supported by evidence. However, the capacity of BISPI to investigate was often limited by a reluctance of individuals to participate in formal investigations. This applied in 21 per cent of closed investigations

❖ obtaining legal advice from the State Solicitor prior to commencing any prosecution action and following their recommendations.

Meeting their Mandate

BISPI has two broad elements to its mandate:

❑ handling of complaints and conducting investigations

❑ monitoring compliance on building sites, providing advice and conducting inspections of time and wages records.

The examination found that whilst BISPI is investigating all complaints, it is only partially fulfilling it pro-active monitoring and inspection role. This affects its ability to educate and inform stakeholders in the building industry and to raise its profile with these stakeholders.

During the 18 months to December 2003, BISPI:

❑ received and investigated 67 complaints and instigated five others, comprising 11 FOA, 35 ROE and 26 alleged award/agreement breaches. Of these 28 per cent are still in progress, 30 per cent found no breach had occurred, 22 per cent were closed due to insufficient evidence, 14 per cent resulted in voluntary rectification and six per cent resulted in prosecution action. Three prosecutions were successful (FOA) and two are still in progress (ROE)

❑ carried out two 'time and wages records' inspection programs and four other education campaigns for industry stakeholders. These accounted for an estimated 10 per cent of BISPI resources. DOCEP has not determined what percentage of time the BISPI should be spending on pro-active programs

❑ deferred a campaign of random site inspections and another of educational building site visits due to staff shortages.

The need for monitoring, inspection and education was recognised in the 2003 Final Report of the Royal Commission into the Building and Construction Industry when it commented in regard to the BISPI that *"any regulatory or enforcement agency in this sector must be and must be seen to be pro-active and sufficiently empowered and determined to eliminate the misuse of power by all participants in the industry under its jurisdiction".*

Other Operational Issues

Confidential Data

Many of the persons making complaints have an expectation that the information they provide and their identity will be kept confidential. The Royal Commission noted that *"The building and construction industry in Western Australia is marred by unlawful and inappropriate conduct. Fear, intimidation and coercion are commonplace".*

The examination found that security needs to be improved over BISPI's paper and electronic investigation files. Documents were filed in areas that all Directorate staff could physically access and electronic records were not protected by access controls. The Department has advised it will take immediate action to rectify these weaknesses.

Information Systems and Performance Targets

The BISPI's complaints and investigations register captures some data on the investigation process but its structure and format does not efficiently provide management with comprehensive statistical information that can assist the monitoring and review process.

DOCEP has subsequently made some improvements and has advised that a more sophisticated system will be incorporated into a Departmental wide information system to be implemented in 2004-05.

Quality Review

BISPI does not have a program to review its investigation files and provide assurance as to the quality of the investigation process and documentation. Whilst the decision to close an investigation is sometimes reviewed, no assessment is done of the quality of the investigation or adequacy of documentation for continuous improvement purposes.

The Regulation of Human Organ and Tissue Removal

Overview

During the 1990s there was significant public concern regarding the unauthorised removal and retention of human organs. Since then considerable change has occurred to parts of the regulatory environment and both the Coroner and the Department of Health have changed their processes to keep the next of kin better informed.

Key Findings

The examination found:

❑ *The regulation of human organ and tissue removal is generally well managed. No instances of unauthorised removal of human tissue were found.*

❑ *The Non-Coronial Post-Mortem Examinations Code of Practice, introduced in 2002, combined with the introduction of post-mortem coordinators, gives reasonable assurance that informed consent is provided by the next of kin before any non-coronial post-mortem is authorised.*

❑ *The Anatomy Act 1930 is not consistent with contemporary medical practice.*

What Should Be Done?

The Department of Health should seek Government support for a redrafting of the *Anatomy Act 1930* to address deficiencies and to better reflect contemporary standards.

Background

Public concern regarding cases of unauthorised organ removal and retention in the 1990s led to two reports[1] to Parliament on post-mortem examinations. These reports revealed a lack of records, unauthorised removal and retention of organs and insufficient consultation with family members about post-mortem procedures, in particular about the retention of any organs required for examination. As a result, the following changes were made to the regulatory environment:

❑ enactment of the *Coroners Act 1996*

❑ gazettal of the Non-Coronial Post-Mortem Code of Practice in June 2002.

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[1]   1992 Report of the Committee of Inquiry into Aspects of Coronial Autopsies; and the 2002 Final Report: Removal and Retention of Organs and Tissue Following Post-Mortem Examinations.

The removal and retention of organs and/or tissue from a deceased person may occur for several reasons. If a post-mortem is conducted, organs and tissues may be removed temporarily for further testing or examination, or for longer term medical research and training. In other cases, the deceased or their family may choose to donate organs or tissue for life-saving transplants or for medical training and research.

There are two types of post-mortems. Both involve an examination of the body to determine the cause of death, or to seek further insight to the effects of clinical procedures or the extent of disease and pathological conditions leading to death:

❑ Coronial post-mortems are ordered by the Coroner in cases where the cause of death may be in question. There were 1 362 such examinations in 2002-03.

❑ Non-coronial post-mortems are conducted by hospitals at the request of the supervising doctor and with the agreement of the next of kin. Two hundred and ten examinations were conducted under the new Code of Practice in 2002-03.

All organ and tissue donations, except for whole body bequests to the Universities are coordinated by DonateWest, a branch of the Department of Health. Donations are usually made for transplantation purposes, but more recently DonateWest have made greater efforts to inform the next of kin of their options to donate material for medical, or scientific purposes where it proves unsuitable for transplant. Organ donations include heart, lungs, liver, and kidney. Tissue donations include cornea, bones and heart valves.

Thirty-three whole body bequests to the University of Western Australia's (UWA) School of Anatomy and Human Biology were made during 2002-03. The School accepts donations on behalf of all three University Schools of Anatomy (UWA, Curtin University of Technology, and Murdoch University). Donated bodies are used for training of medical students and doctors and the development of new surgical techniques.

Figure 1 illustrates the roles and responsibilities of the organisations involved in human tissue removal and transplant and the regulatory framework that currently consists of three Acts, one Code of Practice and multiple agencies.
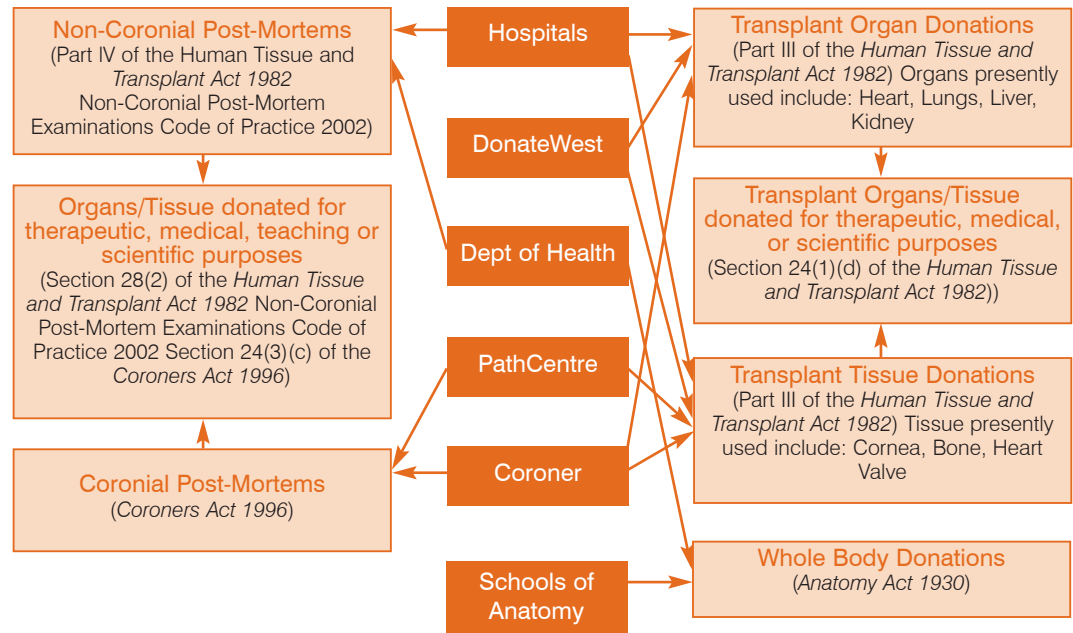
Non-Coronial Post-Mortems (Part IV of the *Human Tissue and Transplant Act 1982* Non-Coronial Post-Mortem Examinations Code of Practice 2002)	**Hospitals**	**Transplant Organ Donations** (Part III of the *Human Tissue and Transplant Act 1982*) Organs presently used include: Heart, Lungs, Liver, Kidney
Organs/Tissue donated for therapeutic, medical, teaching or scientific purposes (Section 28(2) of the *Human Tissue and Transplant Act 1982* Non-Coronial Post-Mortem Examinations Code of Practice 2002 Section 24(3)(c) of the *Coroners Act 1996*)	**DonateWest** **Dept of Health**	**Transplant Organs/Tissue donated for therapeutic, medical, or scientific purposes** (Section 24(1)(d) of the *Human Tissue and Transplant Act 1982*))
	PathCentre	**Transplant Tissue Donations** (Part III of the *Human Tissue and Transplant Act 1982*) Tissue presently used include: Cornea, Bone, Heart Valve
Coronial Post-Mortems (*Coroners Act 1996*)	**Coroner**	
	Schools of Anatomy	**Whole Body Donations** (*Anatomy Act 1930*)

Figure 1: Current Regulatory Framework

Human organ and tissue removal operates under a complex regulatory framework.

What Did We Do?

We examined controls over:

❑ coronial and non–coronial post–mortems

❑ donation of organs and tissue for transplant, scientific, medical or teaching purposes

❑ donation and use of whole bodies by University Schools of Anatomy.

Agencies and Hospitals reviewed included:

❑ the Department of Health, (including the Office of the Chief Medical Advisor Population Health, and DonateWest)

❑ Fremantle Hospital

❑ Royal Perth Hospital

- Women's and Children's Health Services (incorporating King Edward Memorial Hospital for Women, and Princess Margaret Hospital for Children)

- Sir Charles Gairdner Hospital

- The Western Australian Centre for Pathology and Medical Research (PathCentre)

- State Coroner

- The University of Western Australia's School of Anatomy and Human Biology.

The examination covered the period from July 2002 to December 2003.

What Did We Find?

Post-Mortems

Coronial

Bodies subject to coronial investigations are under the legal control of the investigating Coroner, and in almost all cases are taken to the State Mortuary. If the Coroner decides that a coronial post-mortem is necessary, it will be carried out by the PathCentre's Forensic Pathology section under written instructions.

The examination found no evidence of the PathCentre removing organs or tissues which had not been authorised by the Coroner. Procedural controls at the PathCentre enabled it to effectively monitor the removal and movement of organs and tissue, and organs removed for additional examination had either been returned to the body in a timely manner, or were disposed of in accordance with the next of kin's instructions.

Verified records showed that in 2002-03, no organs were retained after completion of the Coronial Investigation without the written approval of the next of kin.

Non-Coronial

From August 2002, all hospitals carrying out non-coronial post-mortems were required to comply with the gazetted Code of Practice, aimed at protecting the interests and rights of the next of kin. Specific responsibility rests with hospital appointed post-mortem coordinators.

We found that all the hospitals had implemented the new Code of Practice. Specifically:

❑ All teaching hospitals had appointed at least one post-mortem coordinator, with all coordinators having the required skills to enable them to undertake their new role.

❑ Post-mortem examinations had been restricted to the areas authorised by the next of kin.

❑ All but two of 210 post-mortem examinations were undertaken after the post-mortem coordinator had discussed the examination with the next of kin to obtain informed consent. These two exceptions both occurred soon after the introduction of the new process at Sir Charles Gairdner Hospital. The hospital has made changes to prevent reoccurrence.

❑ Records maintained by the post-mortem coordinators were found to be both reliable and accurate, although a systemic error was detected by audit at Royal Perth Hospital in the extraction and reporting of this information to the Department of Health. The Hospital has since addressed this issue.

Organ and Tissue Donations

Transplant Donations

Audit found that DonateWest had obtained written permission from the senior next of kin in all 22 organ donation cases where the donor had been on life support (organs can only be obtained from donors on life support).

In respect of tissue donations, we were unable to conclusively confirm that next of kin had given approval in all 63 cases, though discussion with medical staff indicated that verbal authority was always obtained. Written confirmation of verbal approval was obtained in 70 per cent of cases. DonateWest advised that written consent can be difficult to obtain and distressing for donor families, and therefore they do not persist in seeking written confirmation in the case of tissue donations.

Under the *Human Tissue and Transplant Act 1982*, it is not necessary to obtain permission from the next of kin where the donor has expressed the wish for, or consented to the removal of organs or tissue after death. However, it is DonateWest's policy to always obtain permission from the senior next of kin, even where the donor has already given their permission. As a consequence a small minority of donations do not proceed. This included, in 2003, three organ donations and a number of tissue donations including 16 cornea.

Some areas for improvement were identified:

❑ The Coroner was providing verbal instruction but not written confirmation to DonateWest as to the organs or tissues that could be removed from bodies under his control. Both the Coroner and DonateWest have subsequently amended their procedures to ensure compliance with legislation.

❑ The Department of Health had not reviewed the type of qualifications required to certify brain death since 1982. The Act presently requires that at least one of the two doctors certifying brain death holds a specialist qualification in general medicine, neurology or neurosurgery, or has such other qualifications as are accepted by the Executive Director (Public Health). The Department agreed to consider new specialist qualifications that had emerged since the introduction of the Act in 1982, and subsequently gazetted five in February 2004.

Donations for Scientific, Medical, or Teaching Purposes

Before a non-coronial post-mortem examination is undertaken, next of kin are asked if they would agree to the indefinite retention of organs, tissues or fluids for scientific, medical, or teaching purposes. Once use is finished, the organs or tissue should be disposed of in a lawful and respectful manner. The examination found that Royal Perth Hospital had retained several organs at least 12 months after their use in research had finished. The hospital has subsequently agreed to dispose of these organs.

A three year moratorium has been imposed on the disposal of any human organs obtained before the introduction of the 2002 Code of Practice, except where this is done in accordance with the instructions of the next of kin. We found that all hospitals have adhered to the moratorium.

The *Anatomy Act 1930*

The *Anatomy Act 1930* has undergone little change since its enactment and no longer reflects contemporary medical practice. Deficiencies include:

❑ Some doctors are not providing a medical certificate of the cause of death to UWA within 48 hours as required by the *Births, Deaths, and Marriages Registration Act 1998*. Consequently UWA has been unable to provide information from the certificate to the Department of Health within 24 hours as required by Section 14 of the *Anatomy Act 1930.*

❑ The Act does not provide guidance on the importation of cadavers, or part-cadavers from outside the State; or on the management of foetal material held for research. The Department of Health has agreed to consult with local university Schools of Anatomy to develop guidelines, and will monitor holdings at the Schools.

❑ Section 6 of the Act requires the Department of Health to make quarterly returns to the Australian Bureau of Statistics (ABS) on bodies provided for anatomical examination. This information is no longer provided as it is not used by the ABS.

❑ Section 8 permits the bodies of persons who have died in a public institution to be donated for anatomical research unless they or a relative specifically requires the body to be buried or cremated. However, UWA does not accept bodies under these conditions.

Regulation of Whole Body Donations

The examination found that whole body donations were generally well managed by the UWA School of Anatomy and Human Biology, and that regular inspections undertaken by the Department of Health of the three Schools of Anatomy have provided confidence that:

❑ access to the facilities are adequately restricted

❑ human and animal tissue is segregated

❑ an accurate register is maintained of cadaver, and cadaver parts.

However, some opportunities to improve were noted by Audit, including:

❑ whilst UWA was obtaining verbal consent from next of kin for body donations, it had not obtained the consent in writing, as required by the Act

❑ imported cadavers were not being registered until use commenced, rather than on arrival

❑ UWA was not requiring Curtin University to supply an acknowledgement of receipt of a body nor specifying the required date for return.

UWA has now taken steps to address each of these issues.

Computer Anti-Virus Management

Overview

Computer viruses are becoming increasingly prevalent and sophisticated in their capacity to exploit system vulnerabilities. We therefore examined the preparedness of a sample of Western Australian (WA) government agencies including some key remote divisions to combat two recent viruses. The examined agencies have largely agreed with the findings and are taking corrective action where required.

Key Findings

❑ *Seven of nine sites had services that were affected by the viruses. Had the viruses been of a more malicious nature, disruption to agency operations would have resulted in costs running into the millions of dollars.*

❑ *Only one of the nine sites had adequate policies and procedures for prevention and response to virus attacks and critical software updates. The sites most affected were:*

❖ *lacking processes for the timely identification, assessment and deployment of critical software update including by contractors. The need to apply software updates has been raised previously in reports to Parliament[1]*

❖ *poorly managing the connection of notebook computers and non-standard devices to their computer networks.*

What Should Be Done?

Agencies should:

❑ monitor security alerts and the need for critical software updates such as provided by the WA Computer Security Response Team (WACsirt), a branch of the Department of Premier and Cabinet

❑ monitor their risk and vulnerabilities

❑ install the latest anti-virus software in a timely manner and ensure that settings cannot be changed

❑ define the roles and responsibilities of persons involved in assessing virus related risks and deploying of anti-virus updates and software updates

❑ ensure that contractors have sound security practices and that contracts adequately cover software updates, security matters and contractor liability.

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[1] Report No 8 of October 2000 and Report No 8 of September 2001.

Background

The stereotypical image of hackers as adolescents plotting to cause mischief is misleading. The hackers responsible for many of the recent wide-scale exploits generally have far more sinister motives and the viruses they create are sophisticated, not simple 'hacks'.

The two viruses we investigated took advantage of known vulnerabilities in the Windows operating system to flood agencies' networks and infect other computers. This caused disruption to computer services and information systems by over loading the network with unnecessary traffic and causing various side affects.

What Did We Do?

The examination assessed the preparedness against virus attack of five agencies and four remote independent or semi independent divisions of those agencies. Three of the agencies chosen for examination were known to have been infected. For security reasons, the sites we examined are not identified.

The examination assessed whether the agencies had:

❑ adequately documented security policies and procedures

❑ effective processes covering incident response, disaster recovery, physical security, connection of Laptops and non-standard devices, virus protection, software updates, risk assessments and monitoring and logging of information

❑ implemented and adequately managed security devices and mechanisms and had adequate reviews of security related incidents.

What Did We Find?

Instances of Attack

All of the sampled sites we examined had been subject to attack from either the MSBlaster or Nachi worm viruses. Seven of the nine sites were significantly affected and one was slightly affected. The total clean up and lost productivity costs cannot be easily determined but would have been substantial. Had the particular viruses been of a more malicious nature, the outcome could have involved the loss of large quantities of data and far more lengthy disruption to operations with costs running into the millions of dollars.

The main impact of the two recent viruses was to cause very slow and unresponsive computer system performance. Other effects included machines (PCs and Servers) rebooting, users continuously receiving error messages and the inability of users to log on to networks and applications. Most services were restored within three days though some services remained unavailable for over two weeks.

Review of Virus Infection Incidents

Seven of the sites infected by the viruses had not undertaken adequate reviews that identified how they were infected, the extent of infection within the network and whether the virus was passed onto external networks. Consequently, they were not able to formulate appropriate action to prevent recurrence.

One site undertook a comprehensive review of the virus incident and engaged private consultants to conduct a workshop for senior managers on required good practice.

Factors Contributing to Virus Infection

Virus Protection and Software Updates

Costly virus infections were found to have occurred at seven sites as a consequence of them not applying known critical software updates in a timely manner. This was despite all infected agencies being aware of the availability of software updates to prevent virus infection a month prior to infection.

We found sites:

- ❑ that had not applied software updates to any of their critical servers. At one agency over 200 servers and a multitude of personnel computers (PCs) were infected

- ❑ that did not have anti-virus protection software installed

- ❑ where end users were able to configure and even turn off anti-virus software

- ❑ where hundreds of dormant and old viruses were detected on PCs and servers once updated anti-virus software was installed. These viruses constituted a range of threats from minor ongoing disruptions to major future attacks.

Consultants, Contractors and Outsourcing

The examination found that IT contractors have been responsible for inadvertently infecting two agency networks. In these cases, the contractors infected the agencies by connecting laptop computers containing the virus to the agency's network. One of the agencies was unaware that a contractor was the cause of the infection. The contractors should have taken precautions against the virus as the need to apply software updates had been well known for around a month prior to the infection. At the time of the examination, no action had been taken against the contractors though both agencies have since raised the matter with the contractors.

Agencies allowing contractors and consultants to access their networks increase their security risk, particularly with regard to viruses and unauthorised access. Agencies should ensure that these groups have sound security practices and that contracts with these providers adequately cover software updates, security matters and contractor liability.

Incident Response

The examination found that seven sites were not prepared for the virus attacks and were in 'crisis management,' reacting to the multitude of problems inflicted on their computer networks. This meant that the overall response times of the sites were slow, leading to further spread of the virus and disruptions. The examination revealed:

❑ The lack of incident response plans compounded by the absence of key staff at one site meant that the incident was not managed in a timely or effective manner. As a consequence, the entire network was affected.

❑ Contractor personnel at one site did not know how to respond to the virus and simply escalated information to senior management of the site.

❑ Network communications were heavily compromised at seven sites with no plans on how they should be handled. It took several days for one of the agencies to establish communications with all remote agency sites to inform them of the situation. Some sites were unaware that a situation was at hand.

Risk Management and Monitoring

Risk management involves assessing IT resources in terms of potential threats and vulnerabilities and planning the means for counteracting or mitigating identified risks.

We found inadequate security risk assessments by several agencies including the following:

❑ A high risk activity at one site was inadequately managed and became a source of virus infection. The risk involved the implementation of new technology that had never been used in Australia before. Failure to adequately identify risks, test the new equipment and to develop contingency plans led to disruption of services after implementation. With no fall-back position, the device was stabilised by turning off critical functions and radically increasing the agency's security risks. Minutes later the device became an avenue for the network infection.

❑ Five sites failed in the timely and proactive identification, assessment and deployment of critical software updates. Monitoring for software updates is imperative and normally involves less than 10 minutes per day.

Firewalls and Intrusion Detection Systems

Firewalls

Firewalls are essential in preventing the transmission of viruses and preventing external attacks from the Internet as they act as a barrier between two or more segments of a network. The examination found that:

❑ As previously mentioned, a contractor of one agency infected the network by connecting a laptop with a virus. Because the agency had no protective devices between divisions, the virus was able to spread across the divisions, jamming the entire network within minutes and severely affecting public services.

❑ One of the agencies was allowing a remote division with its own unsecured Internet connection, to connect to the agencies computer network without going through the firewall.

❑ A site was infected within minutes of disabling one of its firewalls, in so doing significantly increasing the risk to all connected networks.

❑ Three sites were infected by viruses through agency laptop computers that were connected to external networks by staff and then reconnected to the agency network. These sites have not yet developed a strategy to control or mitigate the risks associated with mobile devices such as laptops.

Intrusion Detection Systems (IDS)

Only two of the examined sites were running IDS. One of these was able to observe the virus attempting to penetrate the firewall. The other site was able to track the virus within its internal network and its spread to other networks and to identify weaknesses in its network architecture.

IDS monitor and record suspicious network or computer activity, look for known attack patterns, and respond and issue immediate alerts if such activity is detected. IDS provide another layer of security to a network. Relying on the one security device or mechanism will not suffice in today's technological environment. In this regard, IDS are a relatively inexpensive security measure.

Logging of Information

Virus log files are essential to troubleshooting, security and investigating the events occurring on the network. The examination found sites that:

❑ did not log virus infections and so were unable to advise of historical infections and their source

❑ were not reviewing or assessing their virus logs for purposes of identifying security weaknesses on their network. In one instance this directly contributed to the site's network being infected by a virus introduced by a staff member's home personal computer

❑ had inadequate control over log information. At one site we were unable to locate a log relating to a specific virus incident.

Policies and Procedures

The examination found that all sites had inadequate security policies and procedures, thereby increasing their vulnerability to virus attacks and the consequent disruptions to business processes. Weaknesses found included:

❑ one remote site was unable to provide any evidence of network administration whilst the policies of seven sites did not define security roles and responsibilities

❑ none of the sites had specified the logging requirements for network devices and mechanisms.

Formal IT security policies help establish standards by assigning management responsibilities and providing basic rules and guidelines for the agency. Policy helps prevent inconsistencies and serves as a basis for the enforcement of more detailed rules and procedures. Policy should be of sufficient breadth to include all of an agency's IT resources such as:

- virus protection – scanning and updates
- timely updates of critical software
- laptops joining the network
- connection of new or non-standard devices
- security risk assessment
- clearly defined roles and responsibilities.

All the examined agencies have acknowledged the need to improve their current policies and procedures and have committed to making the necessary improvements.

Internal Audit in Government Agencies

Overview

The importance of Internal Audit (IA) as an integral part of a good corporate governance framework has been highlighted most recently by national and international corporate collapses and by improper investment practices and large frauds involving the banking industry. In Western Australia, Accountable Officers and Authorities of government agencies are required by the *Financial Administration and Audit Act 1985* to ensure that they maintain an effective IA function.

Key Findings

❑ *Overall, five of the six agencies reviewed had an effective IA function when assessed against criteria including:*

❖ *an actively functioning audit committee*

❖ *an adequate level of resourcing*

❖ *an annual audit plan prepared using a risk-based approach*

❖ *audits of a satisfactory standard that included explicit review and quality assurance processes*

❖ *reports reviewed by the audit committee and timely responses to findings.*

❑ *The Botanic Gardens and Parks Authority has not had an effective IA function since July 2002.*

❑ *Enhancements should be made across the public sector for the:*

❖ *retention of the working papers of IA contractors – none of the four examined agencies that wholly contracted out the IA function retained working papers*

❖ *inclusion of independent members on audit committee – 60 per cent of surveyed medium to large departments did not have an independent member.*

What Should Be Done?

❑ Agencies that outsource IA services should retain the contractor's working papers.

❑ Government departments, particularly medium to large departments, should appoint an independent member to their audit committee.

Background

Accountable Officers and Authorities have a responsibility under the *Financial Audit and Administration Act 1985* (FAAA) (section 53 and 55) to ensure the "*…development and maintenance of an effective system of internal control and … an effective internal audit function"*. Agencies should also comply with three Treasurer's Instructions dealing with the establishment and maintenance of an effective IA function (Numbers 1201, 1202 and 1203).

In maintaining an IA function, agencies also need be cognisant of professional standards established by the Institute of Internal Auditors – Australia. The Institute's Professional Practice Framework (PPF), defines internal audit as:

> *"…an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes".*

This definition and the FAAA highlights the fact that IA is intended to be a key component of an agency's corporate governance framework and has a broader role than merely examining the regularity of financial transactions. Its role should extend to the evaluation of the efficiency and effectiveness of an agency's operations.

What Did We Do?

We examined the IA function at six agencies for the period July 2001 to June 2003 to ascertain whether:

❑ appropriate corporate governance practices had been adopted

❑ the agency's function was adequately resourced and independent

❑ the annual plan had been developed using a risk-based strategy and provided adequate coverage of the agency's finances and operations

❑ the work was subject to proper review and quality assurance processes

❑ reports were reviewed by the Audit Committee and findings acted upon

❑ the agency's contract management processes were adequate where services had been partially or wholly outsourced

❑ performance measures were used to assess the effectiveness of the IA function.

The selected agencies represented a cross-section of departments and statutory authorities, of varying size and diversity of operations. The agencies reviewed were:

❑ Botanic Gardens and Parks Authority (BGPA)

❑ Department of Agriculture

❑ Department of Local Government and Regional Development (DLGRD)

❑ Murdoch University

❑ Western Australian Land Authority (LandCorp)

❑ Western Australian Treasury Corporation (WATC)

The Department of Agriculture and Murdoch University employed in-house IA staff, with some IA assignments outsourced. The other four agencies had outsourced their entire IA function to private sector accounting firms.

Sixty other agencies were also surveyed to gather contextual information about their audit committees and the level of resources applied to IA functions.

What Did We Find?

Corporate Governance – Audit Committees

Establishment of Audit Committee

The audit committee, through its various functions, reinforces the standing and enhances the effectiveness of the IA. Committee functions will vary across organisations but will normally include:

❑ contributing to the agency's risk identification and management processes

❑ determining the level of resources to perform the IA function

❑ overseeing the engagement of outsourced IA services

❑ reviewing and approving the annual audit plan and audit objectives, scope and approach

❑ reviewing internal and external audit reports and ensuring audit recommendations are acted upon by management

❑ reviewing and evaluating key disclosures in an agency's annual report, including annual financial statements and key performance indicators

❑ monitoring the performance of the agency's IA function (regardless of whether the function is in-house, partly or wholly outsourced).

Audit committees should be established under a formally endorsed audit committee charter which details its objectives, membership, roles and responsibilities, including the reporting framework by which it reports to the Accountable Authority or Officer. Members of the committee should be suitably qualified and experienced, with members meeting regularly and maintaining formal minutes of meetings held.

Four of the agencies reviewed had formally established audit committees that were performing their functions as set out in their endorsed charter.

The examination found that the audit committee of the BGPA had not met since July 18, 2002.

The Board was in abeyance from August 2002 until reconstituted in December 2002. At its first meeting in February 2003, the Board delegated audit committee responsibilities to the BGPA's Finance Committee, which comprises all members of the Corporate Executive. However, as a result of this examination, the audit committee was re-established in March 2004.

In the absence of a formal audit committee, IA work was not conducted between January 2003 to October 2003, and no action was taken on the findings from audits undertaken between July 2002 and December 2002.

The DLGRD also does not have a formal audit committee that operates in accordance with an endorsed charter. However, a group comprising the Director General, senior departmental staff and the contracted internal auditors meets regularly to consider IA issues.

Composition

Good practice principles suggest that committees should include at least one member who is external to the agency. Independent members are in a better position to challenge the views of management and to provide an alternative perspective.

Our survey found that 79 per cent of the statutory authorities had at least one independent member on their audit committee compared to 40 per cent of departments (including the Department of Agriculture).

It appears that departments are less likely to include independent members on their audit committees as they do not have boards from which to routinely source members. However, five of the departments surveyed had sourced independent audit committee members from other public sector agencies.

It was also found that agencies' audit committees usually include the Accountable Officer of the department or Chief Executive Officer of the statutory authority. Ideally, the membership of audit committee should be independent of these persons. Some public sector agencies are currently reviewing the membership of their committees.

Resourcing the Internal Audit Function

Five of the six agencies examined adequately resourced their IA function. These agencies allocated an appropriate level of financial resources and used persons with relevant qualifications and skills to perform the audit assignments to a professional standard.

What constitutes an appropriate level of resources to provide an effective IA function should be determined by the audit committee in consultation with agency management. There are a number of factors to be considered including the complexity of the agency's operations, the agency's identified risk exposures, its size and geographical location(s), as well as the complexity and volume of transactions under review. Because of these many factors, the optimum level of resources will vary greatly across agencies.

Tables 1 and 2 provide an indication of the level of expenditure incurred to maintain the IA function in 66 of the State's public sector agencies in 2002-03. This represents only the direct salary cost of in-house staff and/or the contract value of outsourced IA services. Analysis of the figures showed that the resources allocated to the IA function varied considerably and was not directly related to agency size.

Agency Size – No of Employees	Departments		Statutory Authorities	
	IA Resources		IA Resources	
	Lower Range	Upper Range	Lower Range	Upper Range
< 99	$3 000	$27 000	$1 000	$83 000
100-249	$4 000	$182 000	$5 000	$328 000
250-999	$90 000	$635 000	$31 000	$535 000
1000-1499	$182 000	$1 288 000	$106 000	$1 050 000

Table 1: IA Resourcing by Agency Size (No of Employees)

Agency Size – 2002-03 Expenditure	Departments		Statutory Authorities	
	IA Resources		IA Resources	
	Lower Range	Upper Range	Lower Range	Upper Range
< $9.9m	$3 000	$27 000	$1 000	$17 000
$10m-$49.9m	$4 000	$167 000	$5 000	$328 000
$50m-$199.9m	$90 000	$635 000	$31 000	$317 000
$200m+	$182 000	$1 288 000	$30 000	$1 050 000

Table 2: IA Resourcing by Agency Size (2002-03 Expenditure)

The tables indicate the level of internal audit resources allocated by agencies in 2002-03, categorised by total expenditure and staffing levels. This information is provided for contextual purposes and is not intended to reflect the optimum level of resources that should be allocated to an agency's IA function.

Source: Surveyed agencies

Audit committees should also contribute to decisions about skills, qualifications and experience required to effectively undertake the IA function. Of the six agencies examined in detail, two used in-house staff to provide IA services. These staff were professionally qualified, skilled and experienced and received sufficient ongoing professional development.

At the four agencies where IA services were wholly contracted, the contract auditors were professionally qualified and were working under the supervision of senior managers. Whilst the accounting firms tended to assign fairly junior staff to perform much of the work, they were able to draw on persons with a wide range of specialist skills and experience.

Planning and Conduct

Annual Audit Plans

Agencies face a range of financial and operational risks. Treasurer's Instruction 825 'Risk Management and Security' requires agencies to periodically identify, assess and manage risks. IA should use the agency's risk management plan, in consultation with senior and line management when developing its annual audit plan. The audit committee's role is then to approve the plan after reviewing the agency's risk exposures and specifying necessary audit resources.

All of the agencies reviewed except the BGPA demonstrated they had used a risk-based approach when setting the annual audit plan. The audit plans of these agencies were clearly linked to the identified risks of the agencies and had been reviewed and endorsed by their audit committees. BGPA have advised that their Risk Management Register will be used in future audit planning.

Conduct and Quality

The examination found that the work carried out by internal auditors at the agencies reviewed met professional standards which require that:

❑ a written audit program was prepared and approved applying professional standards and practice for each assignment

❑ working paper documentation recorded the audit testing completed

❑ a clear link was evident from the work completed to the conclusions drawn

❑ a senior manager had reviewed the working papers for quality assurance purposes

❑ report findings were adequately supported by audit testing and included identified weaknesses and recommendations for improvements

❑ reports were written in a clear manner and assisted the user in reading the report by explaining the audit's objectives, scope and approach

❑ planned work was completed in accordance with the approved annual audit plan.

Measuring Effectiveness

Apart from the BGPA, all agencies reviewed had appropriate performance measures to monitor and evaluate the effectiveness of their IA function (refer Table 3).

Some of the more notable measures being used by the agencies reviewed were:

❑ **Acceptance of Audit Recommendations** – The DLGRD, LandCorp and Murdoch University seek to have 90 to 100 per cent of recommendations accepted within a specified period. Actual results for 2002-03 ranged from 95 per cent to 100 per cent.

❑ **Quality of Recommendations Made** – The Executive of the Department of Agriculture assess the degree to which they believe audit observations are of value to the Department. Line management are also surveyed as to the quality of recommendations.

❑ **Post Audit Evaluation** – The Department of Agriculture's Internal Audit undertake a post audit evaluation with the Department's Executive and relevant line management on the completion of each audit. This provides an opportunity to gain feedback to improve the performance of its audit services. Murdoch University undertook a formal client satisfaction survey, with an overall result of 86 per cent satisfaction in 2002-03.

❑ **Peer Review** – Murdoch University appointed an external consultant to undertake a peer review of its IA function in accordance with the Institute of Internal Auditors Professional Practice Framework.

Another measure emerging elsewhere in the public sector is self evaluation by the audit committee of its own effectiveness.

Performance Measures Used by Selected Agencies								
	1	2	3	4	5	6	7	8
Agency	Percentage of recommendations implemented within a specified time	Assessment of the quality of recommendations made	Formal client feedback or satisfaction survey	Peer review or self evaluation	Issue of IA reports within specified time period	Monitoring budget versus actual time and/or cost	Percentage of time spent on audit assignments by in-house staff	Monitoring completion of audit plan
Agriculture		✔	✔	✔	✔	✔	✔	✔
Landcorp	✔		✔[1]			✔	N/A	✔
DLGRD	✔		✔[1]			✔	N/A	✔
Murdoch	✔	✔	✔	✔	✔	✔	✔	✔
WATC			✔[1]			✔	N/A	✔

[1] Feedback is provided informally on completion of internal audit assignments and at audit committee meetings.

Table 3: Performance measures used by the agencies reviewed. BGPA is excluded as the IA was not functioning for much of the period examined.

Indicators 1 to 4 are the more important performance measures of the effectiveness of an agency's IA. Agencies with partly in-house IA functions have a wider range of performance measures and a more formal reporting process than those with wholly outsourced functions.

Contracting IA Services

Contract Establishment

Contracting out of IA services can represent better value for money than maintaining a wholly in-house audit function, particularly for small to medium sized agencies. It can also enable agencies to access a level of skills or experience not normally available in-house, such as in the area of information technology.

All agencies included in the examination had contracted out either part or all of their IA services. Five of the six agencies were able to demonstrate that the contracts for IA services were awarded based on open and effective competition.

These agencies had written contracts establishing the respective rights and obligations of both parties, particularly in terms of contract performance.

The BGPA was unable to demonstrate it had publicly tendered or sought written quotations from other firms prior to engaging an accounting firm to perform its IA services in 1997. The BGPA was also unable to provide evidence that a written contract existed between it and the contract firm. The absence of a contract increases the likelihood that required services will not be delivered and any disputes between the parties would be more difficult to resolve.

BGPA have advised that a new contract was awarded in February 2004 after a competitive tendering process.

Retention of Working Papers

The standard government request for tender document includes a provision that ensures the State of Western Australia retains all documents and other materials arising from work performed under any subsequent contract. However, the examination found that the four agencies with wholly outsourced IA functions were not retaining custody of their IA working papers.

Retention of working papers allows agencies to monitor the work of the contractor for information and quality assurance purposes. Retaining working papers should also increase the efficiency and reduce the cost of future internal audits where the contracted auditor changes. All agencies should retain the IA working papers at the completion of the annual audit or upon expiry of the contract.

Most accounting firms now retain much of their audit documentation using electronic working paper management systems. As these systems form part of the firms' intellectual property, the ability of agencies to directly access the information is limited. To overcome this, agencies need to obtain a complete copy of key documentation from the firms.

Maintaining Objectivity

Treasurer's Instruction 1201 states that "*internal auditors should not be involved in the agency's day to day operations or have executive or managerial powers, other than those related to the IA function. Auditors should also not be significantly involved in the development or implementation of new or changed systems*". Similarly, the International Standards for the Professional Practice of Internal Auditing (Standard 1100 – Independence and Objectivity) says that "*internal auditors should have an impartial, unbiased attitude and avoid conflicts of interest*".

These principles apply regardless of whether the IA function is undertaken by in-house staff or is contracted out.

The examination did not find any evidence of in-house IA staff undertaking a significant level of non internal audit work. However, we noted that two of the agencies that fully contracted out their IA function were also using the same firm to provide other services. These other services were primarily financial, information technology and management consultancy services.

Whilst there was no evidence to suggest the objectivity of the internal auditors had been compromised by the provision of this work, agencies need to mindful of the potential risk and implement appropriate safeguards.

Objectivity may be compromised when other work generates a significant level of fees. Firms may be reluctant to issue unfavourable internal audit reports in case criticism of senior line managers jeopardises the awarding of future work. Objectivity may also be compromised if the firm is required to undertake internal audits in areas in which their firm has provided consultancy work.

Safeguards can include:

❑ Use of different firms to provide 'other' services.

❑ Where using the same firm, an agency's audit committee should be informed of the other services provided and of the fees charged to enable an appropriately informed assessment of the firm's objectivity when performing the IA services and when reporting findings. The appropriate disclosure of potential conflicts of interest of auditors is consistent with recommendations arising from the Commonwealth Government's Corporate Law Economic Reform Program (CLERP 9) and the HIH Royal Commission.

Management of Tree Plantations

Overview

The establishment of tree plantations is a key strategy to address salinity concerns in the South West of the State and to meet the State's long term timber needs. The Forest Products Commission (FPC) has responsibility for developing and managing tree plantations.

Key Findings

❑ *State tree farming targets represent 13 per cent of the estimated three million hectares of revegetation required to address salinity in the State's South West.*

❑ *Annual plantings by FPC have fallen from 11 000 hectares in 2000 to 1 700 hectares in 2003. This situation combined with the relatively small planting targets limits the achievement of environmental and regional development objectives.*

❑ *Incentive payments to farmers to plant trees do not incorporate payments for salinity benefits despite FPC recognition that incentives based on timber values alone are insufficient to encourage wide spread adoption of plantings in low to medium rainfall areas.*

❑ *FPC is generally managing operational aspects of tree farms and plantations well, though some aspects can be improved:*

   ❖ *key data is not being collected to monitor and manage tree growth and environmental impacts in the newly established low to medium rainfall plantations*

   ❖ *some significant differences exist between CALM and FPC records of contract tree crop areas for share farms and plantations. These records are the basis for payments to farmers, harvest scheduling, and reporting of plantation resources.*

What is Being Done?

❑ FPC is investigating funding sources that would enable the incorporation of a salinity component into incentive payments to farmers to encourage more tree planting.

❑ FPC has agreed to establish a coordinated program of monitoring tree growth and environmental impacts in the newly established plantations.

❑ FPC has begun reconciling all records of contract tree crop areas for share farms and plantations held by their regional offices and those held by CALM.

Subsequent to the completion of the examination, FPC has advised that it has initiated a range of new strategies to increase annual plantings. These include:

❑ a more rigorous approach to identifying suitable areas (cells) for planting of trees

❑ analysis of alternative land acquisition strategies

❑ targeted market research to understand what influences land holders to plant trees.

What Else Should Be Done?

Government and FPC should refine its goals and current strategies for tree plantation areas taking into account environmental and regional development objectives and competing land use demands that may restrict land availability.

Background

The State's 'Action Plan for Tree Farming', released in September 2002 states that "*The development of plantations is an integral part of the State Government's overall environmental strategy focused on greenhouse, salinity, protection of old growth forests and sustainability*".

The agency responsible for the 'Action Plan', the Forest Products Commission (FPC) implements the Plan by entering into tree share farming agreements with farmers. The FPC can act on behalf of both the government and private investors when negotiating agreements with farmers.

The Department of Conservation and Land Management (CALM) pioneered the use of tree share farming agreements in the mid 1980s to encourage farmers to plant Blue Gums on cleared farm land in the high rainfall areas of South Western Australia. The plantations provided an alternative timber resource to native forests while the share farming agreements gave farmers secure annual payments and a share of final harvest returns. The plantations also help to address environmental issues such as salinity, wind and soil erosion and provide 'carbon sink' offsets for greenhouse gas emissions. CALM stopped planting Blue Gums in the high rainfall regions in the mid 1990s because private plantation investors had begun to plant large areas of plantation timber. By that time, around 150 000 hectares of Blue Gums had been planted.

CALM turned its attention in the mid 1990s to developing commercially viable plantations in low to medium rainfall regions that could also address salinity. Tree species considered included Oil Mallees and Maritime Pine.

The State Salinity Strategy of 1996 estimated that around three million hectares of cleared agricultural land needed to be revegetated with deep-rooted woody perennials to address the water imbalance that causes the spread of salinity. CALM's Maritime Pine share farming project formed a key part of the 1996 Salinity Strategy with a target to establish 150 000 hectares of Maritime Pine share farms over 10 years.

FPC took over commercial forest and plantation management activities from CALM in November 2000. The 'Action Plan for Tree Farming' reduces original targets by 85 000 hectares to give a total of around 400 000 hectares of total harvestable timber resource in WA. This represents 13 per cent of the three million hectares estimated to be needed for revegetation in the State's South West under the Salinity Strategy.

In June 2003, FPC launched the Infinitree™ program with funding of $21 million over four years to provide incentive payments to farmers to plant tree crops and to enter into tree share farming agreements in the low to medium rainfall agricultural areas of the State. Since 2000, FPC has spent on average $34 million each year planting, managing and harvesting the trees. Revenue to the State from harvested plantation trees is around $41 million per year.

What Did We Do?

The objective was to assess the adequacy of FPC's management and progress in establishing tree plantations. This involved examining FPC's management practices against legislative, policy and operational guidelines and included:

❑ identifying areas to be planted and setting annual targets for planting

❑ calculation of incentive payments to farmers

❑ promotion of share farm agreements

❑ establishing share farm agreements

❑ management of contractors

❑ baseline data on tree growth and environmental impacts

❑ Oil Mallee contracts.

Table 1 shows how the examination objectives link to the stages in the management of tree plantations.

Stages of Share Farm/Plantation Management	Responsibility
Negotiate and establish share farm agreement with landowner (and investor)	FPC
Establish plantation	FPC through contractors
Maintain plantation (firebreaks, weeds, pests)	FPC through contractors or the landowner
Monitor growth (yield prediction, water use, carbon, biodiversity)	FPC in conjunction with CALM Forest Management Branch
Schedule harvesting	FPC
Harvest plantation	FPC through contractors
Sale of timber (auction or tender)	FPC

Note: FPC also acts as an agent in this process for plantation investors who have been encouraged to invest in plantations through various State Agreement Acts.

Table 1: Roles and responsibilities in tree share farming agreements and plantation management.

What Did We Find?

Identifying Areas to be Planted and Setting Annual Targets

The 2002 Action Plan identifies five tree planting 'cells' covering the South West of WA. The cell boundaries are determined by soil type and rainfall and for each cell a range of tree species with commercial potential has been identified. The Action Plan sets annual targets for tree plantings which if achieved will expand the existing plantation estate by about 65 000 hectares to a total of 400 000 hectares by 2008.

The Action Plan estimates that an estate of 400 000 hectares will enable 90 per cent of the State's timber demands to be met from plantations within the next decade. However, its environmental impact will be less significant given that it would represent only about 13 per cent of the 1996 estimate of three million hectares of revegetation required to address the spread of salinity in the southern and western parts of the State.

The examination found that the number of hectares planted each year has consistently fallen well short of targets. This is particularly the case for the planting of Maritime Pines where the focus is in on low to medium rainfall areas. Table 2 below shows actual plantings compared to that targeted under the 1996 State Salinity Strategy. Table 3 shows that plantings for all species after 2000 has represented only 66 per cent of FPC's targets.

Actual (ha) 1996 to Dec 2003	Salinity Strategy Target (ha) 1996 to 2005
14 775	150 000

Table 2: Actual plantings of Maritime Pine compared to the target set under the 1996 State Salinity Strategy – (10 year Strategy)

After eight years only 10 per cent of the originally intended 150 000 hectares of Maritime Pine has been planted.

Year (to Dec 31)	Actual Area Planted (ha)	Action Plan Target (ha)
1996-1999	31 872	N/A
2000	11 256	N/A
2001	7 194	9 700
2002	5 279	6 587
2003	1 702	5 000

Table 3: Plantings – all species 1996 to 2003

Annual plantings have declined since 2000 largely reflecting the challenge of encouraging farmers in medium to low rainfall areas to take up share farming.

Several factors are contributing to the challenges that FPC faces in achieving tree planting targets:

❑ an improvement in returns to farmers for traditional agricultural commodities making the incentive packages to plant trees less attractive

❑ those farmers attracted to the scheme have already offered the land on which they are prepared to plant trees under current contractual terms.

Calculation of Incentive Payments to Farmers

FPC conducts an annual review of the incentive payments it can offer farmers for tree planting. It uses a tiered system of payments based on the area of trees planted, site productivity, the tree species and the distance to processing plants. In determining the incentive payments, FPC must balance the requirement to make an economic return on the plantation while at the same time offering enough incentive to achieve planting targets.

The examination found that:

- ❑ FPC accurately accounts for the potential financial returns from timber harvesting through the use of detailed economic models.

- ❑ Share farm agreements incorporate a provision to share any future payment for carbon credits, although carbon credits currently have no value.

- ❑ FPC does not reflect salinity benefits in the incentive payments offered to farmers. Payment of salinity credits was reliant on funding under a 2000 Intergovernmental Agreement on the National Action Plan for Salinity. However, Commonwealth approval has not been forthcoming.

- ❑ FPC recognises that incentive payments based on timber value alone are unlikely to be enough to encourage sufficient planting in low to medium rainfall areas (the focus of current plantings) to have any significant broadscale impact on salinity.

Contracts with farmers comprise an upfront incentive payment of between $125 and $1 200[1] per hectare depending upon species, site type and area planted. As plantings in recent years have mostly been in low to medium rainfall areas, payments have been at the lower end of the range reflecting the poorer land offered, increased distance to markets and consequent smaller predicted timber returns.

Farmers also receive 15 to 20 per cent of the value of the logs at harvest. Farmers can take up an option to share in any potential future revenue from carbon credits, though this will result in a fall in their share of the value of logs.

Subsequent to the completion of the examination, FPC has advised that they have started looking at broadening the range of financial incentives.

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1   Prior to 2004, the incentive payments ranged from $75 to $1 200 per hectare with a $75 per hectare fencing allowance.

Promotion of Share Farm Agreements

In June 2003 the FPC launched its Infinitree™ campaign. This is aimed at raising community and investor awareness to encourage the uptake of share farm agreements, especially in the low to medium rainfall areas.

FPC has employed professional marketing consultants to plan, implement and evaluate the campaign. Over one million dollars has been budgeted for the campaign. Results of initial evaluations indicated that the campaign had been very effective in raising general awareness of the Infinitree™ brand though it is too early to determine if this has translated into new land being offered for tree share farming agreements.

We noted that even though marketing the Infinitree™ brand has been professionally managed, FPC has never conducted any targeted market research to assess issues that may influence farmer uptake of share farms. Such research was proposed in August 1999 but never proceeded.

Given the difficulties that FPC is currently experiencing with meeting annual planting targets, the original proposal for some basic market research appears warranted.

Establishing Share Farm Agreements

When a farmer expresses an interest in entering into a share farming agreement with FPC, the following steps are taken:

❑ initial site inspection by FPC

❑ FPC search of title deeds to establish ownership

❑ FPC site evaluation including soil sampling, salinity testing and determination of plantation area

❑ offer of letter of intent to farmer to enter a share farm agreement

❑ share farm agreement drawn up and signed by landowner

❑ payment to landowner within 30 days of signing

The examination found that generally this process was well managed, though some aspects could be improved:

❑ There were some significant differences between CALM and FPC records of contract tree crop areas for share farms and plantations. The differences arose as a consequence of two independent datasets being maintained with insufficient reconciliation between the two. These records are the basis for payments to farmers, scheduling for harvesting and reporting of plantation resources.

❑ The process by which FPC has allocated share farm agreements to different plantation investors in the same region is not transparent. FPC can enter into a share farm agreement with farmers or they can act as an agent for investors. In the situation where there is more than one interested party and in the absence of documented policy or procedure for allocating agreements, FPC leaves itself open to accusations of favouritism or conflict of interest.

FPC has begun to reconcile differences between records held by CALM and those held by FPC. They have also agreed to document their procedures for allocating agreements where there is more than one interested party.

Management of Contractors

FPC uses contractors extensively in the management of the plantation estate to:

❑ establish and maintain (weeding, pruning, fire breaks, thinning) the tree crops

❑ road construction for logging

❑ logging

❑ transport of harvested timber.

FPC has implemented an Environmental Management System (EMS) that complies with international standards (ISO 14001). This management system provides a good process to ensure appropriate management of the works and services contracts. The EMS includes regular on site inspection of contractors to ensure compliance with codes of practice. The EMS also requires regular independent audit of all practices associated with the management of works and services contracts.

Baseline Data on Growth and Environmental Impacts

The examination found that FPC does not currently have a coordinated programme for monitoring tree growth or environmental impacts in the low to medium rainfall areas.

In addition to its contract management role, FPC also needs to strategically manage the plantation estate to match the future demand and supply for various timber products. Plantations grown for high value sawlogs are managed differently to those grown for paper pulp. They require thinning at different ages, different pruning regimes and so on. Failure to appropriately manage plantations can affect how the harvested timber can be used and can reduce their potential value. An important part of FPC's strategic management role is monitoring tree growth, maintaining inventories of the resource, predicting yields, and setting plantation harvest schedules to match demand. There is also a need to monitor the environmental impacts of plantations so that achievement of environmental objectives can be assessed.

FPC recognises the need for coordinated plantation monitoring programmes in the low to medium rainfall regions, and has begun to investigate options for implementation.

Oil Mallee Contracts

As part of the ongoing implementation of a memorandum of understanding signed in 2000, FPC has recently taken over management of 400 Oil Mallee share agreements established by CALM between 1994 and 1996. The examination found that many of these contracts are not signed and/or CALM's interest is not registered on the land title:

❑ Approximately 170 contracts are signed and registered on the land title. These contracts cover approximately 2.3 million trees with a value of about $400 000.

❑ Thirty contracts are signed but not registered on the land title. These contracts cover approximately 0.5 million trees with a value of about $70 000.

❑ Two hundred contracts are not signed or registered on the land title. These contracts cover approximately 2.6 million trees with a value of about $330 000.

The original agreements required the landowners to reimburse CALM for the cost of the trees at the time of first harvest with provision for CPI increases and or interest. No market for the trees currently exists. Consequently, no Oil Mallees have been harvested and no money has been reimbursed to CALM or FPC. However, Western Power Corporation has plans to establish a bio energy plant at Narrogin and it is likely that some of the trees could be harvested as fuel for the plant.

Under the contracts, FPC has the responsibility to arrange for harvest of the Oil Mallees if they deem them economically viable to harvest. FPC has advised that they are currently considering three options to address this situation:

❑ withdraw from existing agreements

❑ seek to transfer or sell the resource to third parties

❑ secure existing rights.

Surrender Arms? – Firearm Management in Western Australia

Overview

Key Findings

The Western Australian Police Service has largely implemented the OAG recommendations contained in the 2000 report Surrender Arms? Firearms Management in Western Australia, except that:

❑ *decisions regarding the issue of licences to persons with a criminal record are not documented*

❑ *consistent procedures for inspecting secure storage of firearms have not been implemented*

❑ *the Firearm Licensing System (FLS) still does not have the capacity to produce summary management information to help WAPS effectively manage and monitor firearm licensing.*

Key Recommendations

WAPS should:

❑ *improve the way it identifies and assesses the criminal histories of firearm applicants*

❑ *implement a consistent, risk-based procedure across districts to inspect firearm storage by licence applicants*

❑ *improve the Firearm Licensing System's capacity to produce summary management information to capitalise on technology, streamline processes, and achieve more timely updates of system performance*

❑ *consider giving write access to police stations to enable issuing officers to enter licence and registration details directly onto the FLS when data integrity issues have been fully resolved.*

Why We Did This Report

This report is a follow-up of the September 2000 performance examination *Surrender Arms? Firearms Management in Western Australia*. That examination was undertaken to assess the implementation of the national gun control strategy introduced after the 1996 murders of 35 people at Port Arthur by a gunman armed with semi–automatic weapons.

The strategy, which was endorsed by all States and Territories and resulted in amendments to the *Western Australian Firearms Act 1973*, included:

❑ a nationally coordinated approach to regulating firearms

❑ the effective ban of self-loading rifles and self-loading and pump-action shotguns

❑ nationwide registration of firearms

❑ introduction of stringent limitations on firearm ownership

❑ a 'Buy Back' scheme, where compensation would be paid to people voluntarily surrendering certain categories of firearms and ammunition during a 12 month amnesty.

The 'Buy Back' scheme resulted in the surrender of 53 000 firearms in Western Australia and corresponding compensation payments of $19 million. A similar buy back scheme for handguns is currently in place. To date, this has resulted in the surrender of 3 115 handguns and compensation payments of $1 918 239. There have been delays in valuations and compensation payments under this scheme though WAPS is addressing these with assistance from the federal valuation team.

The 2000 examination found that the legislative provisions to tighten controls over firearm ownership, safety training, and storage had not been fully implemented. It also found that the effectiveness of the *Firearms Act* was hampered by administrative difficulties and made a number of recommendations in relation to:

❑ eligibility for firearms ownership

❑ inspection of licensed firearms and firearms storage

❑ safety training

❑ the Firearms Licensing System

❑ monitoring of trends in firearm registration and crime.

Trends In Firearm Related Crime

Number of Licensed Firearms

The main objective for tightening firearm controls across Australia was to reduce firearm related crime by decreasing the number of weapons in the community.

The 2000 examination observed that there were 259 540 licensed firearms in Western Australia in 1999 (See Figure 1).

In the five years to 2004, this has fallen primarily in the number of high-powered firearms (Category C and D: see Table 1) which have decreased from 20 803 to 7 159 in 2004 and the number of handguns (Category H) which have more than halved from 25 031 in 1999 to 10 263 in 2004.
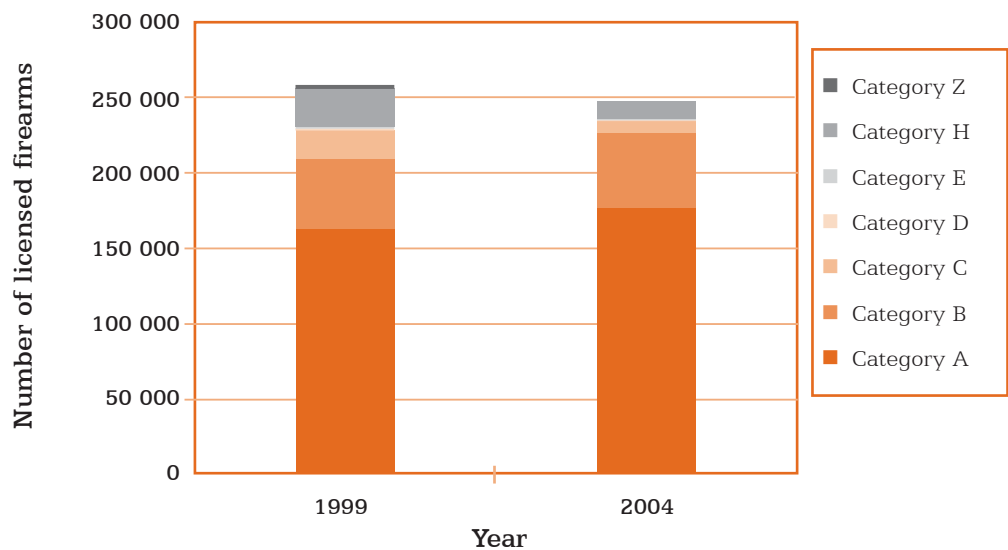
Figure 1: Number of licensed firearms by category: 1999, 2004.

Firearm Related Crime

Firearms are used in six per cent of crimes in Western Australia. This has been constant over the past five years (See Figure 2). The most common type of weapon used in robberies in Western Australia is a knife (21 per cent of robberies in 2003).

In the five years to 2002, the percentage of homicides involving a firearm varied between zero per cent and eight per cent per year (See Figure 2). This number jumped in 2003, when 69 per cent (18) of the 26 reported murders in Western Australia involved a firearm. It is not possible to determine if this represents the start of a trend in increased use of firearms in homicide.
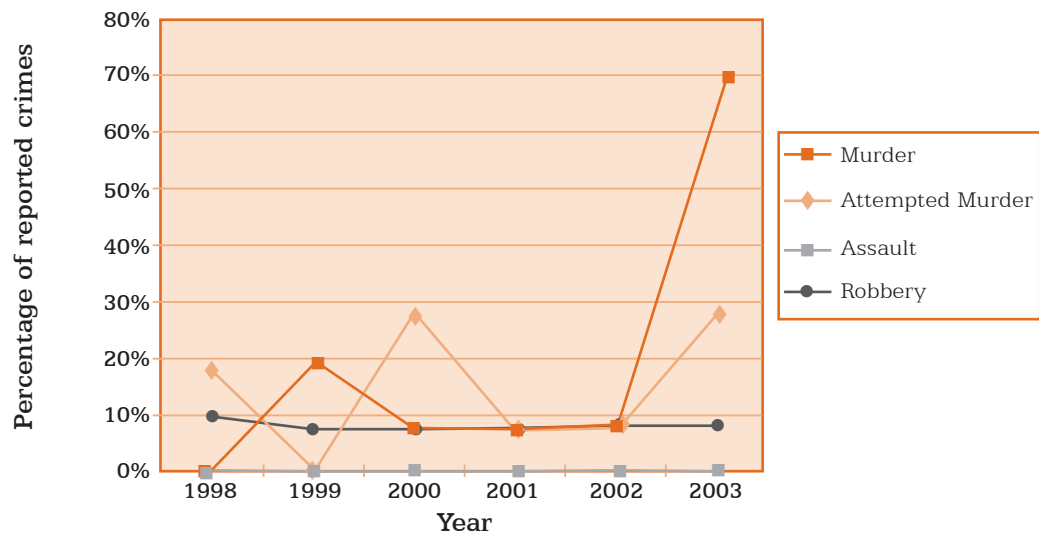
Figure 2: Percentage of reported murder, attempted murder, assault, and robbery in Western Australia involving a firearm, 1998-2003.

Firearm Licensing

Findings

❑ *WAPS has implemented the recommendations to:*

❖ *ensure that all licence holders of restricted and prohibited firearms comply with current licence eligibility requirements*

❖ *ensure that assessment of Category B licence applications is consistent with the Firearms Act*

❖ *enforce the requirement that firearm licence applicants supply statutory declarations regarding secure storage of firearms.*

❑ *WAPS has not implemented the recommendations to:*

❖ *ensure that decisions regarding the issue of licences to persons with a criminal record are documented*

❖ *implement consistent procedures for inspecting secure storage of firearms.*

Recommendations

❑ *WAPS should improve the way it identifies and assesses the criminal histories of firearm applicants by:*

❖ *providing all staff who process firearm licence applications with clear guidelines for checking criminal histories and identifying potential risks*

❖ *attaching all criminal history records to firearm application records*

❖ *establishing protocols for clerical staff to escalate queries regarding firearm licence application to sworn officers and return queried applications to the issuing station.*

❑ *WAPS should implement a consistent, risk-based procedure across districts to identify and inspect firearm storage facilities.*

Licence Eligibility Requirements

Restricted and Prohibited Firearms

The *Firearms Act* imposes restrictions and prohibitions on categories of high-powered and military-style firearms (See Table 1).

The 2000 examination reported that the WA Police Service did not have enough information describing 1 894 of the 259 540 licensed firearms in Western Australia to correctly categorise and restrict their use. It also found that some licensed holders of restricted and prohibited firearms (Categories C and D) had not been assessed against current licensing requirements.

WAPS has since taken steps to identify and restrict or prohibit all licensed firearms in accordance with the *Firearms Act.* This has involved identifying 30 996 licensed firearms that warranted reassessment. Of these, WAPS has physically inspected and confirmed the classification and eligibility of 29 942 (97 per cent). WAPS has seized, destroyed, or disposed of 1 605 (five per cent) of these firearms and rendered a further 38 innocuous. WAPS will examine the remaining three per cent after the completion of the hand-gun buy back scheme in June 2004.

Category	Description	Restrictions and Prohibitions Qualified applicants must show…
A	Air and rim rifles and single shot and repeating shotguns with a lever or bolt action.	…'genuine reason' for owning a firearm.
B	Centre fire rifles and muzzle loading longarms.	…'genuine reason' and a 'genuine need' for which a Category A firearm is inadequate or unsuitable.
C	Semi-automatic firearms and automatic self-loading and pump-action shot guns and rifles with a magazine capacity of five rounds or less.	…'genuine reason' and a 'genuine need' for which Category A or B is inadequate or unsuitable. Restricted to certain applicants.
D	Automatic self-loading and pump-action shot guns and rifles with a magazine capacity of more than five rounds.	Acquisition, sale, possession, or use is prohibited unless the applicant is able to satisfy the Commissioner that the firearm is required for Commonwealth or State Government purposes.
E	A cannon, captive bolt, line thrower or tranquilliser device.	Conditions and restrictions are based on the individual requirements of the application.
H	Handguns and underwater explosive devices.	…'genuine reason' and a 'genuine need' for which Category A or B is inadequate or unsuitable. Restricted to certain applicants.

Table 1: Firearms categories and associated restrictions and prohibitions.

Category B Firearms

The 2000 examination also noted that the WAPS practice for assessing whether shooting could be conducted safely when approving Category B firearm applications was not consistent with the Act.

WAPS has since issued operational instructions to all police stations requiring that assessment of licence applications be conducted in accordance with the Act, and the Firearms Branch screens all licence approvals for compliance.

Criminal History

The Commissioner for Police may decide if the nature of an existing criminal offence makes a person unsuitable to hold a firearm licence.

The 2000 examination found procedural weaknesses in the way WAPS checks the criminal history of licence applicants. In 10 per cent of the approved applications examined, it was found that applicants did have a criminal record and that this fact was not noted in WAPS' approval documentation.

This situation has not changed. While WAPS requires officers issuing firearms licences to check criminal histories, there is no requirement to record whether a criminal history was identified, the nature of the criminal history, or its relevance in approving or rejecting a firearm licence application.

This follow-up examination included a review of an indicative audit sample of 40 successful firearm licence applications for low and high powered firearms. The results showed that eight per cent of the successful applicants had a criminal history that was not noted in WAPS' approval of the application. All police officers issuing the licences recorded that they had checked applicants' criminal histories. Few officers attached supporting documentation to indicate whether applicants had criminal histories, the nature of the offences committed, or the reasons why it was considered appropriate to grant a firearm licence.

The Firearms Branch also checks the criminal histories of all approved applicants. This checking is done by unsworn clerical staff as they enter the licence details in the Firearm Licensing System. When clerical staff identify criminal histories that they believe might represent a potential risk, they consult with sworn police officers at the Firearms Branch and return applications to the issuing police station for reconsideration.

A criminal history does not necessarily make a person unfit to hold a firearm. For example, the criminal history of one of the successful licence applicants reviewed above included a single, seven year old conviction for careless driving. By contrast, however, other criminal histories reviewed during the examination that were not recorded in the application and approval records, included unlawful wounding and possession of a weapon. A rationale for granting a firearm licence in these instances is warranted. WAPS has advised that issuing officers will now be required to document the rationale applied in issuing a firearms licence when a criminal history is identified.

Secure Storage

The *Firearms Act* requires licence holders to store firearms and ammunition in secure cabinets and to complete a statutory declaration that the cabinet meets the prescribed specifications. The requirement aims to reduce firearm theft.

The 2000 examination found that the incidence of reported theft of firearms had decreased by 46 per cent since the secure storage requirements were introduced in 1996.

Current figures indicate that this trend has levelled off in recent years. There were 206 reported incidences of firearm theft in 2002-03 (See Figure 3).
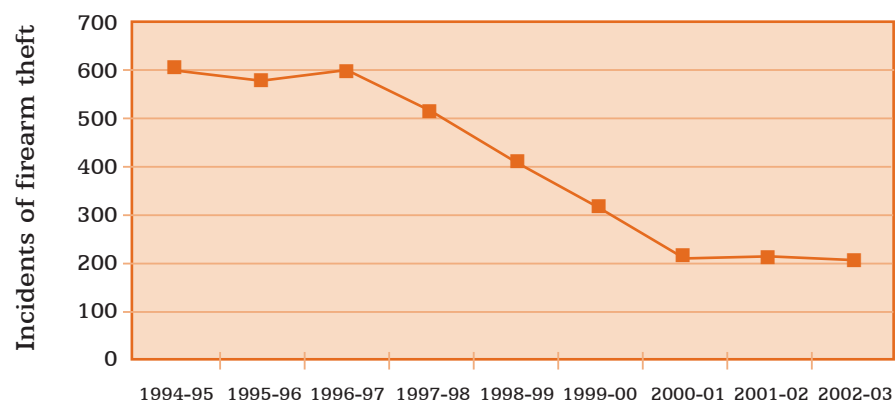
Figure 3: Number of reports of firearm theft 1994-95 to 2002-03.

The 2000 examination also found that WAPS' procedures for ensuring secure storage are not consistently applied to new licence applications. In particular:

❑ *for 17 per cent of issued licences examined by this Office, a statutory declaration regarding secure storage had not been supplied by the applicant*

❑ *actual inspection of storage facilities had taken place for only eight per cent of new applications examined and these were not based on documented inspection criteria*

❑ *inspections for existing licence holders were not carried out consistently across police districts.*

WAPS now enforces the requirement that licence applicants submit a statutory declaration. WAPS has also reinforced the option to inspect storage facilities with a directive to district offices. However this is still patchy in practice as current WAPS operational procedures require inspection of storage facilities only 'if considered appropriate'. There are no parameters in the operational procedures for making decisions to inspect storage facilities on the basis of assessed risk.

Of a sample of 40 successful new applications received by the Firearms Branch in October and November 2003, most indicated they would be using standard storage facilities. Only 18 per cent of these had been inspected and approved by WAPS before issuing the firearm licence. Six applicants indicated that they would be using non-standard or unspecified storage facilities. WAPS had inspected and approved only two of these before issuing the firearm licence.

Since the 2000 examination, WAPS has reinforced the inspection of storage facilities with police districts

Firearm Safety Training

The 2000 examination found that firearm safety training for new applicants had not yet been implemented as the Commonwealth, States and Territories were yet to agree on a national training framework. The examination subsequently recommended that WAPS be in a position to implement a safety training course immediately upon endorsement of the national framework by the APMC.

WAPS has since advised that, while a national framework has been developed, the States have not endorsed the framework, believing that the proposed course was too onerous on applicants and was impractical. Western Australia has since introduced a firearm safety training and use package and firearm safety test for applicants based on a New South Wales program.

Firearm Administration

Findings

❏ *WAPS is addressing concerns regarding the accuracy and completeness of FLS information.*

❏ *The FLS does not produce summary management information and FEMIS has limited capacity to report summary information.*

Recommendations

WAPS should:

❏ *consider giving write access to police stations to enable issuing officers to enter licence and registration details directly onto the FLS when data integrity issues have been fully resolved*

❏ *improve capacity to produce summary firearms management information that will assist in more effectively managing and monitoring firearm licensing.*

Firearm Licensing System

The 2000 examination found that the WAPS' Firearm Licensing System (FLS) contained inaccurate and incomplete data, which had seriously impacted on the overall efficiency and effectiveness of firearm control procedures.

The FLS records details of all firearm licences and registered firearms. Details are entered into the FLS by non-sworn officers at the Firearms Branch on receipt of hard copy application and approval records from the issuing police station. Officers at police stations can access the FLS to check details, for example, the number of firearms already registered to an applicant, but are unable to enter or change details recorded on the system. WAPS has advised that write access to the FLS has been contained to the Firearms Branch as it may interfere with the integrity of system data, and will reconsider implementing write access for issuing officers after they have completed a full firearm audit of all licence holders.

WAPS has largely addressed the concerns in the 2000 report through the physical audit of high-powered firearms described earlier. WAPS is planning to conduct a second audit of all licensed firearms after the current handgun buy back ends in June 2004. While the FLS has provided a useful tool for interrogating firearms licence and registration records, this has not extended to producing useful summary information to both manage and monitor the effectiveness of firearm licensing. The FLS cannot, for example, report the number of firearm licences by type of licence. This information is produced by a second management information system – the Firearm

Executive Management Information System (FEMIS) – which is populated from weekly downloads from the FLS. FEMIS provides a snapshot of current data only, and cannot produce historical information, for example, the number of applications approved and rejected in 2001.

Firearms Branch

The Firearms Branch of the WA Police Service is responsible for

❑ maintaining the FLS

❑ providing firearms licensing advice

❑ administering licensing procedures, including firearms and dealers licences

❑ processing infringements

❑ notifying WAPS district offices when action is required to revoke or seize firearms.

The 2000 examination observed that the Firearms Branch was either not performing many of these duties or they were not being performed in a timely manner, including:

❑ *seizing or alternative licensing of firearms belonging to deceased licence holders*

❑ *following-up infringement notices returned to WAPS marked 'not at this address'*

❑ *inspecting and monitoring compliance by firearms dealers*

❑ *inspecting firearm ranges*

❑ *checking licensing procedures at police stations.*

These problems were attributed due to faults and deficiencies in the FLS and low staffing levels.

These problems have now been resolved, largely as a result of addressing the incomplete and inaccurate data in the FLS. The single exception is inspection of firearm ranges, which WAPS has advised will be addressed in 2005 under a planned program to assess all country and metropolitan ranges.

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